
**OPEN SOCIETY
U.S. PROGRAMS BOARD
MEETING**

New York, New York
May 15 - 16, 2014



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U.S. Programs Board Meeting Agenda

May 15 -16, 2014

Thursday, May 15

- 9:00 - 9:30 a.m. Welcome and Director's Report (Steve Coll and Ken Zimmerman)
- February 2014 board meeting minutes approval
- 9:30 - 11:00 a.m. **Strategy Discussion (Part 1): Introduction, Core values, and New Elements**
- Introduction, Ken Zimmerman
 - Core values/operating principles (led by Bryan Stevenson)
 - Equitable future economies goal (Steve Coll to introduce)
- 11:00 - 11:15 a.m. Break
- 11:15 - 12:30 p.m. **Strategy discussion (Part 2): Review of Continuing Elements**
- Review and report from global board meeting (Steve and Ken)
- 12:30 - 1:30 p.m. **Lunch: Board-led conversation on the U.S. Programs Opportunities Fund**
Board-led discussion of current matters that might present opportunities for the USP Reserve Fund (now called USP Opportunities Fund)
- Yochai Benkler: FCC Commissioner proposal and net neutrality
 - Bryan Stevenson: Oklahoma execution fall-out
 - Andy Stern: minimum wage proposals
 - Jonathan Soros (dependent on technology): public finance and next Supreme Court frontier
- 1:30 - 1:45 p.m. Break
- 1:45 - 2:00 p.m. Chris Stone Update and Introduction to Portfolio Reviews
- 2:00 - 3:15 p.m. **Portfolio Review: Death Penalty Abolition**
Moderator, Leonard Noisette
Presenter, Terrence Pitts, Program Officer, Justice Fund
Discussants: Yochai Benkler and David Cole, Georgetown Law Professor and Open Society Fellow (by video)
- 3:15 - 3:30 p.m. Break
- 3:30 - 4:30 p.m. **Discussion with U.S. Secretary of Labor, Tom Perez**
- 4:30 - 5:30 p.m. Executive Session

U.S. Programs Board Meeting Agenda

May 15 -16, 2014

Friday, May 16

9:00 - 9:30 a.m.

U.S. Programs Opportunities/Reserve Fund Update:

- Update (Steve and Ken)
- 2013 Reserve Fund evaluation summary, Ira Goldstein and Joshua Freely, The Reinvestment Fund

9:30 - 10:45 a.m.

Immigration: Review of Investments and Impact

Deepak Bhargava, Moderator

Micheal Hill, U.S. Conference of Catholic Bishops

Angela Kelley, Center for American Progress

Doris Meissner, Migration Policy Institute (by video)

Angelica Salas, Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)

10:45 - 11:00 am

Break

11:00 - 12:00 p.m.

Case Study in “Place”: Municipal Broadband

Steve Coll, Moderator

Mayor Andy Berke, Chattanooga, Tennessee

Mayor Joey Durel, Lafayette, Louisiana

Maya Wiley, Counsel to Mayor de Blasio, New York City

12:00 - 12:45 p.m.

Lunch: Executive Session

12:45 - 1:00 p.m.

Executive Session without Director

Note from U.S. Programs' Chair and Director

U.S. Programs board members:

We look forward to seeing you at the upcoming board meeting and are writing with thanks for the substantial work you have participated in since the February board meeting.

We are eager to engage with you one more time around the proposed 2015-2018 strategy. It now reflects the substantial work of both board and staff in the past months. As you know, this strategy takes as a starting point the board's previous work on strategy. It also incorporates structural and programmatic shifts of the past two years. It is best understood as a refinement and reinforcement of the direction we have started down. It does expand our core goals to include one related to economic equity (currently termed "future economies").

Our agenda also includes discussion of current issues and opportunities. We are very pleased to be joined by the United States Secretary of Labor, Tom Perez, who previously served as the Assistant Attorney General for Civil Rights. We will also host a panel of mayors and mayoral representatives working on the issue of municipal broadband, both because it is an important line of work, especially in light of the recent decision on net neutrality, and because it illustrates an approach to work in local places that we intend to build on in the coming year.

We will also follow through on an idea proposed at the last meeting by setting aside a full session over lunch on Thursday to allow board members to raise matters that may warrant more immediate responses through the Opportunities Fund (formerly known as the Reserve Fund).

Finally, we will devote time to reflect on past practice as a means of informing future direction. Portfolio reviews are a new tool intended to allow us to review thoughtfully a portfolio of past grants, and several of you have participated in the four others we have done to date (written materials developed for them are included in the board materials). On Thursday, we will engage in a portfolio review of our work on the death penalty, and on Friday host a panel on the status of immigration reform efforts to review past investments and inform a discussion of our future efforts.

All told, the meeting should allow us to take a significant step in charting our future direction and offer insights about current practice and challenges. We look forward to your participation on May 15 and 16.

Steve and Ken

FEBRUARY 2014 BOARD MEETING MINUTES

**Minutes of the Meeting of the U.S. Programs Board
of the Open Society Institute
February 26, 2014**

A meeting of the U.S. Programs (“USP”) Board (the “Board”) of the Open Society Institute (“OSI”) was held at the offices of OSI in New York, New York on February 26th, 2014. There were present Board members Yochai Benkler, Deepak Bhargava, Leon Botstein, Rosa Brooks, Geoffrey Canada, Steve Coll, Sherrilyn Ifill, Eli Pariser, Jonathan Soros, Andy Stern, Bryan Stevenson and Christopher Stone. Attending portions of the meeting by invitation were Maria Cattai, Ivan Krastev, Andrea Batista Schlesinger, Herbert Sturz, Leonard Noisette, Laleh Ispahani, Diana Morris, Gail Scovell, Leslie Gross-Davis, Bill Vandenberg, Lisa Magarrell, Mustafa Qadri, Amrit Singh, Chris Rogers, Tom Hilbink, Trevor Potter, Kima Joy Taylor, Maureen McDonnell, Pam Rodriguez, Amy Solomon, Melody Barnes, Damon Hewitt, Shawn Dove.

Board Chair Steve Coll opened the meeting by welcoming the Board members and other attendees to the meeting.

A motion to approve the minutes of the December 17 and 18, 2013 meeting of the Board was duly made, seconded and unanimously approved.

Director Ken Zimmerman briefly reviewed highlights of recent USP initiatives. Mr. Zimmerman noted in particular OSI-Baltimore’s work on school discipline reform in Maryland and positive steps in criminal justice reform. He discussed the work of Soros Justice Fellows and of anchor grantees, noting the success of the Center on Budget and Policy Priorities’ successful efforts to preserve access to food stamps for people with criminal records in the recent Farm Bill.

Next, Mustafa Qadri, Pakistan Researcher for Amnesty International, opened a discussion of drones and targeted killings by the U.S. Military in Pakistan. There is a need to focus on the broader strategy to deal with the insurgency in Pakistan—drones cast a spotlight on a broader situation that is very complicated, but that can (and needs to be) understood and addressed.

The Board discussed what role U.S. civil society groups can play in Pakistan. It was noted that the backbone of success here has been high quality research that gave people a human connection to attacks they had heard about. There is a need for a way of communicating these issues that ordinary people can understand, such as bringing victims’ families to the US. It’s also important to embrace new media to help empower people who care about these issues, and to think more about how to hold governments accountable.

Although it was noted that the drone discussion had built up a lot of momentum, there was concern that as strikes have begun to decrease in number that momentum may fade in face of other pressing needs such as law enforcement, justice and capacity building, it was agreed that it would be a mistake to shift totally away from the drone subject to focus on these other concerns. It is a critical moment to address questions about signature strikes and justifications for drone use.

Drones and their impact are an immediate concern, while general rule of law issues require a longer fight. Currently, drones in Yemen and the likelihood that their use in Africa will expand is a big concern. Drones represent a high-profile issue that we should focus on now while doing other, longer-term work on the side. We need to focus on the U.S. as the primary user of lethal drones, but in talking about the problem OSF can invoke China and Iran, for example, to illustrate the dangerous precedent-setting potential.

There is no proper legal framework regulating the involvement of Germany, the UK, and other countries in their cooperation on drone strikes. Corporate power and private interests are also having more of an influence. All of these new technological tools can be used obfuscate accountability.

The ever-expanding use of lethal force across the globe by the US is a big concern of Justice Initiative. Drones are not illegal; the broader issue is the killing of people in secret without due process. Justice Ini-

tiative's documentation efforts (a report on targeted killing in Yemen) are about transparency and accountability but also intended to help people connect to the human impact of drone strikes. They have collected very credible accounts of civilian deaths, and there is a blatant lack of compensation and acknowledgment.

The Justice Initiative is also bringing cases in Germany and Denmark to get legal rulings and help hold Europe accountable for cooperation.

Chris Rogers discussed that the Regional Policy Initiative is focusing on civilian harm in Pakistan and connecting international and US advocacy efforts. Unique challenges of the issue include: intense secrecy and political and security concerns. The policy and legal questions at stake are highly contested and their outcomes matter a lot—will set precedents. Civil society voices on the drones issue have been marginalized and it's now critical to bring civil society groups from other countries to connect with US groups. He continued by saying that there is a need to keep up with the fast pace of drone technology, policy, and practice. These things have changed and will continue to change extremely quickly, and OSF's strategy or Shared Framework needs to be agile enough to adapt with it.

Lisa Magarrell spoke about the December 2013 poll, showing that 69% supported and only 24% opposed “the US using unmanned aircraft or ‘drones’ to carry out missile attacks against suspected terrorists in foreign countries”.

Two conclusions were reached by the committee tasked to evaluate the shared framework idea. The first conclusion found that there is a formulation of a shared goal: “rein in unlawful, secret, and unaccountable use of lethal drones by the US and ultimately by other states.” OSF has been asked whether we should focus on transparency, given OSF's global capacity in this field. Transparency is a problem in itself that also makes advocacy on the subject that much more difficult but we reasoned that this is something that most advocates in the U.S. agree on and have already prioritized, with OSF support. We may be able to add value by globalizing that effort – developing a global database on drone acquisition and use was one suggestion we heard – but we also recognize that transparency alone is not enough.

The second conclusion found that a question exists as to whether USP aims should be more global or should focus primarily on moving US policy and action. USP believed that in a 4-year time frame, the US – as the state currently leading the practice and the problem - was the best focus, but there are differing views about this, and about how quickly proliferation will take hold, by what actors, in what forms. It was noted that there should be active collaboration across the OSF network, but suggested placing the emphasis of the work in slightly different areas. There is a need to understand this problem as a fundamental rearrangement between individuals and states. The use of coercive force, the war paradigm, and a range of new technologies have changed the picture and dramatically reduced accountability.

It may not make sense to challenge the unlawful use of drones (in that terminology) because we have legal frameworks that justify their use—something can be legal but still wrong. We need accountability and oversight. OSF has allies in the military and intelligence communities who are deeply troubled by the way this has all gone down. Fundamentally this is a policy issue, not a legal one. We have bad legal frameworks that don't assure accountability; that has to be changed at the policy level. The technology is evolving too fast to come up with new norms governing drone use—we need to address bigger problems not tied directly to a particular technology. “Drones” and “Unlawful” may be red herrings.

It was suggested that a question to ask is whether it is worthwhile in the 4-year shared framework time period to go after robotic weapons as a category (like biological weapons are a category). We can imagine a shared framework focused on learning about these weapons. If it is more advocacy-oriented, do we look at an international effort to limit robotic weapons?

It was noted that there is a need for military and intelligence people to talk to the U.S. government (as lead messengers) about this issue but those people do not seem to be materializing. We need a clear set of

framings that arise from the context in which the rules we are pushing against have been set. George Soros stated that with drones, there is a danger that states lose their monopoly on lethal weapons. That has implications that need to be explored. It's unclear if we can make a contribution there, but we need to explore it.

The view was expressed that OSF is doing things already while thinking through how to do more/more impactful things. We can learn from the Stop and Frisk success in this regard. We could have a good conversation about why Stop and Frisk is the wrong category (there are much worse law enforcement abuses) but by focusing on that one issue we were able to change a lot. We changed the nature of the public debate. The challenge is to find how drones discussion fits into this lesson. Can we do something on drones that would dramatically change the conversation?

The conversation concluded by noting that the focus of this issue is about ending the silence around thousands of deaths that are unaccounted for and ending the silence around the decisions that led to these deaths. Human Rights work and transparency work as applied to drones can be extremely powerful. What we want to do is well defined: It's about getting global civil society to be heard on a global human rights problem, and it's hugely important.

Next, Director Zimmerman led the board into a discussion regarding the U.S. Programs strategic planning process and presented the preliminary draft Strategic Framework that USP staff has begun to discuss. Board members responded to the proposed core values and operating principles section. One board member asked whether the proposed language could be refined to be more meaningful and specific and less general. Another asked whether the strategic plan would include big goals, like the target of reducing incarceration levels by 50%. George Soros expressed the desire for a core values and mission statement for OSF. Zimmerman presented a plan for next steps including the formation of board-staff working groups on each of the areas in the strategy to meet over the next two months. George Soros reminded USP to be mindful of how their initiatives would affect OSF's global activities.

Jonathon Soros introduced the session on foundation-led concepts by describing the strategy for the Money in Politics initiative. Trevor Potter, Founder, President and General Counsel of the Campaign Legal Center provided background concerning regulation on campaign financing and the need to lay a foundation in the field now. Laleh Ispahani, Director of the Democracy Fund, described USP's early activities which focused on funding a number of different strategies to combat Citizens United. Ms. Ispahani explained that it was critical find a balance between too many and too few strategies. Tom Hilbink Senior program Officer, compared the campaign to other significant campaigns to modify constitutional interpretation. The board then discussed how the Money in Politics initiative could effectively lay a foundation now to prepare for future opportunities.

Leonard Noisette, Director of the Justice Fund, introduced USP's foundation-led concept plan to take advantage of the Affordable Care Act's Medicaid expansion by focusing on enrollment of jail populations. Amy Solomon, Senior Advisor for the Office of Justice Programs at the U.S. Department of Justice then gave the board some background and data regarding the medical expenses of the incarcerated populations. Pam Rodriguez and Maureen McDonnell of Treatment Alternatives for Safe Communities-Illinois described Cook County's process to successfully initiate early Medicaid enrollment of jail populations in 2012. Kima Joy Taylor, Director of the National Drug Addiction Treatment and Harm Reduction program, then outlined the Justice Fund's three year plan to initiate jail enrollment in 2-3 early adopter localities as well as 5-10 new localities, The ultimate goal would be to use ACA funded health services such as addiction and mental health services to decrease first entry into the justice system.

Overall the Board supported the new initiative. A few Board members cautioned staff about privacy concerns and the need to monitor for possible unintended consequences. For instance, it was noted that enrollment in the face of current punitive drug policies could mean particular pregnant women who use substances could be at risk of losing their child. Another board member encouraged the Fund to work where we have other efforts underway such as California. It was noted that our grantee Californians for

Safety and Justice is actively engaged in enrollment efforts in that state. Finally, the issue of OSF and pharmaceutical companies having a shared Medicaid enrollment goal but different reasons for the goal could lead to complications in future efforts to decrease the price of new Hepatitis C drugs. The staff and panel highlighted the fact that most of our populations without insurance would die early due to lack of the most basic care, much less Hepatitis C care. In addition, in the U.S. there are many systematic barriers even outside of price that prevent our clients from having cost-effective care. These issues must be addressed and will likely require a different set of partners, but should not impede current enrollment work.

Shawn Dove, Campaign Manager for the Campaign for Black Male Achievement (“CBMA”), described the spinoff of the Institute for Black Male Achievement and provided some background. During the December board meeting Ken Zimmerman introduced the prospect of spinning off the Institute for Black Male Achievement (IBMA) in order to institutionalize the work of the Campaign for Black Male Achievement (CBMA) and sustain the Open Society Foundations’ commitment to investing in improving the life outcomes of black men and boys. Following a January planning meeting, CBMA board advisors consented to a spin-off planning process for IBMA, a national membership organization that will serve as the catalyst for the field-building, leadership development, and capacity-building support of organizations focused on black male achievement. We intend to have a plan before the board by the May meeting for spin-off approval.

Mr. Dove continued by stating that the nation is currently experiencing unprecedented activity and engagement in the private and public sectors to improve the life outcomes of black males, and more broadly, boys and men of color. Two notable examples of this engagement happened at last year’s Council of Foundations annual meeting when 26 foundation presidents and senior executives made a pledge to increase engagement and investments to support boys and men of color. The group has since grown to more than 30 foundations and is now formally known as the Executives Alliance to Expand Opportunities for Boys and Men of Color. The second example occurred after President Obama’s July 2013 speech responding to the not-guilty verdict of George Zimmerman in the murder of 16-year-old Trayvon Martin. This resulted in a number of foundations working to design a partnership with the federal government that will serve as a national public-private initiative designed to reduce the disparities boys and men of color are facing. President Obama announced this partnership during his January State of the Union Address and the formal launch of the national public-private initiative, called “My Brother’s Keeper,” will be officially announced by the White House on February 27.

CBMA—in partnership with core grantees PolicyLink, Root Cause, and several other funding partners—has laid a solid foundation to parlay Open Society’s commitment to black male achievement into an independent organization that will lean into the issue of black male achievement over the next generation to make lasting change. The current IBMA membership of more than 2,200 leaders and 1,400 organizations has far exceeded our expectations and further highlights the value that IBMA brings to the field as a capacity-builder and connector for field leaders. IBMA membership consists of cross-sector leaders and organizations that engage in activities ranging from research, to community organizing, to educational reform, and more.

The proposed IBMA spin-off will ensure a sustained effort to respond to the historic challenges that have faced the development and durability of a field for black male achievement. IBMA is currently the only effort in the country with a targeted focus on the leaders and organizations that have committed to improving life outcomes of black men and boys. This unique position within the field is invaluable as IBMA serves to elevate the issue across the sectors of philanthropy, government, and private sector; bridge the direct service and policy advocacy communities around the work; and serve as the catalyst for movement-building and organizing activities amongst its members.

Damon Hewitt, Senior Advisor, described USP’s recent collaboration with multiple other foundations and the White House’s My Brother’s Keeper initiative, including a 90-120 day effort to undertake four key bodies of work: (1) identifying the most impactful program and policy interventions that can improve

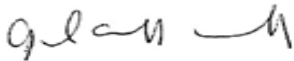
outcomes and serve as rallying points for strategic focus and alignment of resources to improve outcomes for boys and young men of color; (2) developing a framework for place-based efforts focused on boys and men of color; and (3) developing a strategy to change the often-damaging narrative about boys and men of color in recognition of the heavy influence of public perception and both conscious and implicit racial bias. He explained that the effort would directly engage the federal government's own inter-agency task force on these issues.

This short-term planning phase will ideally culminate in the development of a sustainable structure for long-term, multi-sector engagement to improve life outcomes for young men of color. Melody Barnes, CEO of Barnes Solutions LLC, explained the various types of public-private collaborations from her perspective as a former chief domestic policy advisor for the White House.

The board then discussed how OSF could assist and the potential to have CBMA spin off.

The Board then entered executive session, following which the meeting was adjourned.

Dated: 5/15/2014

A handwritten signature in cursive script, appearing to read "Gail Scovell".

Gail Scovell
General Counsel

PROPOSED STRATEGIC FRAMEWORK 2015 - 2018

U.S. Programs Proposed Strategic Framework 2015 - 2018

Director's Note

To: USP Board Members
Fr: Ken Zimmerman
Re: 2015-2018 USP Strategy
Date: May 12, 2014

I am pleased to provide you with the proposed 2015-2018 USP strategy. Thank you for your contributions over the past months through the small board-staff teams that have allowed us to revise significantly the draft document presented at the February board meeting. We will be devoting the Thursday morning of the board meeting to it and look forward to your review and directional approval so that it may be submitted to the OSF President and Global Board sub-committee by June 2. We have had a preliminary discussion with the global board subcommittee on an earlier draft, and they responded very positively to our proposed direction and efforts.

A few key points as you review it:

- The key takeaway of the strategy is reaffirmation of our intent to make a meaningful difference in the direction of American democracy.
- On a strategic level, the proposed plan reflects the multiple steps we have taken in the past 22 months. It incorporates the direction the board has approved in recent years, including reducing mass incarceration, promoting racial justice and full participation for immigrants, and the array of issues needed to address distortions in our democracy. It also builds upon new mechanisms that are critical to how we go about our work, including our expanded use of the Reserve Fund and our focus on anchor and core grantees. There is a “cheat sheet” attached that reflects the areas of continuity and those of refinement and/or change.
- Among the new elements and approaches, the strategy includes a new goal related to issues of economic equity. As a mechanism for orienting our work, the strategy also takes an important step toward using USP-wide goals to focus our work rather than build up based on our existing internal structure. We also lift up two internal cross-cutting undertakings: an expanded focus on work in local places and a longer-term project devoted to 2020. Finally, the proposed strategy highlights our development of tools beyond grant-making and fellowships, such as social impact investing (being developed with SEDF), expanded alignment with c4 grant-making, broadened partnerships with government, and more robust engagement with other parts of OSF.
- For purposes of our discussion, we will discuss separately the “core values/operating principles” which we have pulled out of this document for now and which are being worked on by a board sub-committee led by Bryan Stevenson.

I look forward to seeing you on Thursday.

Ken

U.S. Programs Proposed Strategic Framework 2015 - 2018

Overview and Highlights

May 12, 2014

New Elements:

- Focus on goals rather than building up from internal structure to organize our work and describe our mission
- Addition of future economies goal to reflect our actual work, position us for partnerships and opportunities
- Introduction of “internal shared framework” around 2020 as a longer-term state-based strategy to seize opportunities to inform democratic practice
- Expansion of work in “places” to complement existing efforts by focusing on building partnerships with and capacity of local government actors to advance shared priorities
- Sharpening of “equality” goal: discrimination in access to assets;; unsettled immigration reform and potential significance of immigrants and communities of color; public discourse with embedded racism; challenges facing civil rights field
- Build out of “opportunistic “ capacity through use of USP Opportunities Fund (formerly called Reserve Fund, approximately 20% of USP budget)
- Explicit attention to new tools including advocacy, impact investing, strategic communications, fellowships, and greater collaboration with other OSF components (e.g. international ones)
- Reform of grant making operations to support culture of nimbleness and rigor

Continuity of Existing Work:

- **Anchors:** 10 organizations (approximately 15 – 20% of programmatic budget)
- **DEMOCRACY:** continue
 - Voting and civic engagement (advance electoral reform, combat suppression)
 - Money in politics (both field and concept about changing S. Ct. jurisprudence)
 - Technology and media: open access (internet regulation), investigative journalism, other forms (municipal broadband)
 - Independent judiciary (especially state court independence and nominations)
 - National security and human rights

Refinement: Shift current national transparency portfolio in light of questions about effectiveness

- **JUSTICE:** continue
 - **Reduce mass incarceration:** years 3-6 of 10 year goal of reducing mass incarceration by 50%. Include focus on specific states (California as model) with broadened efforts to other states, new players (e.g., law enforcement), and strengthened field
 - **End/Combat extreme punishment:** death penalty and harsh treatment of children.
 - **Justice system accountability:** police accountability (stop and frisk)
 - **Drug policy:** continue support for reform efforts, use of ACA (both substance abuse benefit) and to apply to those in prison and jail, local models

Refinement: Focus public defender support/strategy in light of limited opportunities.

- **EQUALITY:** continue
 - Build racial justice/immigration field (core support, including new leaders)
 - Black Male achievement: spin-off of CBMA and use of My Brother's Keeper to move policy reform, cultural change, and local practice (building on YMI)
 - Distinct policy areas of opportunity and particular concern:
 - Housing and credit
 - School Discipline Reform
 - Immigration, including 4-year goal of CIR
 - 21st century narrative

- **PLACES:** continue
 - Baltimore (\$4m/year)
 - Open Places Initiative (Buffalo, Puerto Rico, San Diego)(\$3m/year total)
 - Open issue: potential expansion of approach

U.S. Programs Core Values and Operating Principles

To: USP Board
Fr: Bryan and Ken
Re: USP Core Values and Operating Principles

As you know, we began a discussion at our February board meeting regarding core values and operating principles for USP. Since that time, we have received helpful feedback from members of a board subcommittee that Steve Coll appointed and asked Bryan to chair (including Leon, Rosa, and Eli). We intend to continue the discussion at this board meeting and then redraft this section of the strategy. At a recent meeting of the global board subcommittee on strategy and budget, its members expressed great interest in this effort potentially as a basis for an OSF-wide undertaking.

A few notes:

- The development of such a document is challenging. In fact, it can devolve into an almost impossible task. Nonetheless, we believe the effort to set out core values and operating principles (even if aspirational) can have value—for the board, for staff, and for others.
- There was consensus within the subcommittee about a number of core values (even if the wording needed to be improved or clarified), including:
 - “We believe in the equal application of just laws that uphold human dignity and protect individual rights.”
 - The importance of maximizing the ability of all persons to fully participate in civic, political, and economic life, which requires overcoming barriers and biases particularly those related to race and ethnicity but also gender, sexual orientation, religion, and ethnicity.
 - The importance of the “public sphere” even though the concept needs to be defined and there was a question regarding whether this was the object or a means.
- There were other elements where there was general support but where the exact contours of the concept required more attention. This was particularly the case with how we view the role of government and the private sector. In one case, it was suggested we should emphasize that government is “indispensable” and our task is to make it an instrument of “excellence, quality, and fairness.” Others noted the importance of government in responding to market fundamentalism.
- One area that was the subject of particular challenge involved the reference to pluralism as a goal. As several members noted, we have strong views on core elements of what an open society should include and take stands to further these, including vigorously opposing others when we think they operate in a fashion inconsistent with those views. Some suggest that pluralism is a consequence, not a goal at all. So how do we clarify what is the value at issue, especially given our recognition of imperfect human knowledge and fallibility more generally? Is it about combating ideological rigidity and a commitment to be open to challenge?
- The value statement as a whole should be framed as positively as possible, and drafted in terms that are accessible and clear. Other values need to be included, such as the concepts of fallibility and imperfect knowledge, and potentially we should reference our interest in disruptive strategies.

- We want the core values to indicate what motivates our work and provides a framework that helps explain why we take on certain matters but not others. The core values should be a living document.
- Operating principles: These require more attention. They are intended to be aspirational —what we desire to be, even if we do not (yet) achieve some or all of them.

USP CORE VALUES AND OPERATING PRINCIPLES: DRAFT LANGUAGE [May 13, 2014]

A. CORE VALUES:

Language Around Which There is Support:

We believe in the equal application of just laws that uphold human dignity and protect individual rights.

Language Where There is Support for the Concept But Desire for Further Clarification/Refinement:

We believe that the disparities by race and citizenship on many measures that define healthy lives and communities remain too stark, and that we must pay attention to the ways that implicit and explicit biases affect our policies, our systems, and our communities.

We believe that growing economic inequality is a threat to democracy.

We believe that government is an important vehicle to advance the collective good when it protects individual rights and liberties, facilitates broad civic engagement in its decision-making, and incorporates sound practice and evidence in its decision-making. We recognize the importance of the private sector but believe that when it has excessive influence over public policy this runs counter to the common good.

Language Around Which There is Concern:

We believe in a healthy and dynamic pluralism, characterized by participation, inclusivity, and openness.

B. OPERATING PRINCIPLES

The initial draft identified several principles that were viewed as legitimate starting points as long as they were recognized as aspirational. While there was consensus that they could be wordsmithed further, they included the following:

- (a) a commitment to listening to and holding up voices of those that are marginalized and whose lives we intend to affect,
- (b) a recognition of the significance of the differences between places (cultural, political, etc.) and a desire to support action that is sensitive to these differences ,
- (c) a sensitivity to the United States' role in the world,
- (d) a desire to approach our work in a fashion that is rigorous, opportunistic, and recognizes our imperfections and acknowledges the power dynamic of being a funder; and
- (e) a desire to develop an organizational culture that supports staff, encourages appropriate risk-taking, critical thinking, professional growth, constant learning, and fosters accountability.

U.S. Programs Proposed Strategic Framework 2015 - 2018



U.S. PROGRAMS
PROPOSED STRATEGIC FRAMEWORK
2015 - 2018

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U.S. Programs Proposed Strategic Framework 2015 - 2018

Part One: Overview

EXECUTIVE SUMMARY

[TO BE DRAFTED FOLLOWING BOARD MEETING]

MISSION

The Open Society Foundations work to build vibrant and tolerant societies whose governments are accountable and open to criticism, whose laws and policies are open to debate and correction, and whose political institutions are open to the participation of all people. We seek to strengthen justice and the rule of law; broaden respect for human rights, including the rights of minorities; encourage pluralism and a robust diversity of opinion; deepen democratic practice and participation; expand economic equity; support effective governance; and invest in individuals, public and private organizations, and social movements that advance these goals.

As part of a global network of foundations committed to local knowledge and national expertise, U.S. Programs embraces OSF's overall mission and is committed to building a vibrant, democratic, inclusive, and just society in the United States. To achieve this, we believe all individuals must be able to participate fully in the nation's civic, political, and economic life. We work to address those challenges that most place these aspirations at peril and to seize the opportunities for their fulfillment.

CORE VALUES AND OPERATING PRINCIPLES

[See separate materials developed for board discussion by board subcommittee]

CONTEXT/LANDSCAPE ANALYSIS

U.S. Programs recognizes that our aspirations of a meaningful, participatory and inclusive democracy are affected by current fundamental challenges and opportunities, among them:

The increasing private influence over the public sphere, as reflected in the outsized role of money in politics and exacerbated by growing regulatory capture and economic inequality;

The growing challenges to full and effective participation and representation, illustrated by the perils of redistricting and voter suppression and the outsized influence of those with extreme views in the political debate;

The potential significance of the New American Majority even as racial barriers remain highly relevant, demonstrated in the short run by the growing influence of immigrants and over the longer term by the ways in which key conduits for opportunity like schools and civic institutions respond to the nation's growing diversity;

The impact of new technology on democratic practices, the challenges and opportunities presented by "big data" for equal opportunity and justice, and the importance of high-quality journalism for a functioning open society;

The contested role and ability of government, which ranges from the long-term challenges to its fiscal viability at all levels to the more specific questions about its capacity to effectively deliver services, set the rules of the road in diverse fields, and protect individual rights and liberties; and

The extreme marginalization of certain vulnerable populations, as the impact of excessive incarceration and harsh punishment erodes basic individual rights and challenges long-held notions about upward mobility, redemption and full participation in American society.

While we may not choose to tackle each of these challenges in our work, awareness of them informs how we understand the context in which we operate and the ways in which these challenges are interrelated. It also enables us to appreciate and support the work of our peers.

STRATEGIC GOALS

The following four goals form the scaffolding of U.S. Programs' work:

1. An American democracy strengthened through increased meaningful participation, inclusive practice, and accountability
2. A fair criminal justice system which respects individual rights **through** policies that ensure community safety, eliminate the use of the justice system to address issues of poverty, mental illness and drug addiction, and promote the limited use of incarceration.
3. Full political, economic, and civic participation of immigrants and communities of color by dismantling the barriers and strengthening the conduits to opportunity.
4. An equitable economy that generates opportunity and mobility and provides for the broad participation for all residents.

HOW WE ADVANCE OUR WORK

Before setting forth specific objectives and strategies in the next Section, we note four points about how we further our objectives as an organization that is primarily a grant-making one.

Anchors: we have developed a roster of multi-issue organizations which we view as “anchors” because they are involved in virtually all areas of our concern, they are amongst the largest of our grantees, and we seek a different relationship with them. We seek to provide them with multi-year, general operating support since they are effectively key proxies of ours. We currently have ten anchors¹ and expect that these will comprise between 15-20% of our budget in each of the next four years. In that period, we will assess and, as appropriate, change this set of institutions as our work and external conditions evolve.

Opportunities Fund: even as we set out strategies for the next four years, we are aware that many issues will arise that we cannot anticipate but where we can significantly advance our goals through an immediate infusion of funds. Building on our successful experience in 2013-2014 with the Reserve Fund (which we are retitling “United States Opportunities Fund”); we will continue to devote 20-25% of our budget to this opportunistic capacity.

An Expanded Tool Kit: In the coming four years, USP will expand the tools we use to advance our goals beyond the grant-making, strategic communications, and fellowships² that have been its historic mainstays. Based on a process we are undertaking with SEDF, we intend to use social impact investing to support geographic ar-

1 Our current anchor organizations are: ACLU, Advancement Project, American Constitution Society, Brennan Center for Justice, Center for American Progress, Center for Community Change, Center on Budget and Policy Priorities, Drug Policy Alliance, Leadership Conference on Civil and Human Rights, and the NAACP.

2 USP runs three fellowship programs: Justice Fellows, Baltimore Community Fellows, and the Black Male Achievement Fellows

eas we prioritize, initiatives we believe hold promise, and organizations which may prove sustainable. This will be part of a commitment to identify and support new leaders, ideas, and organizations with promise. Finally, we aim to bolster our partnerships, especially with local governments, in part out of recognition that supporting the effectiveness and capacity of government is a key element in reestablishing public trust and understanding in government's role and potential.

Politics: The ability to effectively participate in and influence executive, judicial, and legislative (as legally permissible) decision-making is fundamental to advancing our objectives. This does not mean that we have a partisan orientation but rather an understanding of the ways in which political factors further or hinder the development of policies, programs, and ideas we believe are important. In the coming four years, we will focus on deepening the capacity of individuals, organizations, and communities we care about to engage meaningfully in public sector decisions, including supporting partnerships with government and key progressive actors and pipelines to public service. We will continue to expand our relationship with the Open Society Policy Center, and other c4 funders more broadly, noting that OSPC's capacity to make c4 grants will be of even greater significance given the wind-down of Atlantic Philanthropies (the only other major philanthropic entity with significant c4 capacity).

U.S. Programs Proposed Strategic Framework 2015 - 2018

Part Two: Goals and Strategies

GOAL 1: Strengthen the quality of American democracy through greater inclusion, participation & accountability

Strategies:

- Achieve greater and more inclusive participation & meaningful representation, and build municipal and local civic capacity to achieve engagement
- Support the free flow of high-quality civic information necessary to a broader informed and engaged public
- Promote the rule of law, including an independent judiciary, and standards that define the appropriate role and limits of government and corporate power in an open society.

4 Year Objectives (selected):

- Enlarge electorate by at least 10 million voters through modernization of voter registration systems, and through expanded constitutional/legislative protections;
- Establish a governing interpretation of the Constitution that allows for sensible regulation of money in politics to promote a vibrant and inclusive democracy; and
- Seek national security and privacy reforms that include limits on use, and accountability measures related to non-battlefield targeted killing, indefinite detention, and mass surveillance.
- Maintain Internet neutrality, and expand Internet access (including in broadband deserts), build municipal broadband networks, and get stronger on-line privacy protections.

Context:

American democracy is threatened. Broad ideological (and geographic) polarization is reflected in a decline in fact-based discourse, and deeply divided federal and state government institutions. Fueled by misguided Supreme Court decisions, our public life and politics have been flooded by the undue influence of wealthy interests acting for their own benefit even as voting by historically marginalized constituencies is challenged. Corporate interests dominate the media and communications infrastructure and threaten the potential of the Internet to be broadly available means of communication, access, and information. The Executive branch, especially in the national security context, shrouds important policies in secrecy and avoids accountability measures with exhortations that we look forward, not back. One result is that Americans are losing trust and confidence in public institutions and engagement, and internationally, the U.S. is losing stature as a model for human rights and the rule of law.

Democracy issues have been at the core of U.S. Programs' mission since its inception. Distinct efforts were united in 2008 under a 'transparency and integrity' banner, with an affiliated campaign on national security and human rights. In 2012, the U.S. Programs Board reaffirmed the value of this set of work, even as it pushed us to meaningfully narrow our goals and strategies. Since that time, we limited journalism-related goals (to focus on supporting innovation), closed down our local transparency work in New Orleans and are refocusing our strategic approach to federal transparency work. As reflected in board decisions in 2013, we refined our national security-related strategy to ensure: 1) accountability and adherence to the rule of law in counterterrorism policy, and 2) civil liberties and equality are not sacrificed in the name of security. Even as we continue our focus on

access to the ballot, one area of expansion involved steps to promote other forms of civic engagement with the public sector, including through our Open Places Initiative as well as OSI-Baltimore, our nascent efforts involving municipal broadband, and our Talking Transition experiment.

The period from 2015-2018 will include two election cycles (including the Presidential race of 2016) which will highlight money in politics and access to the ballot. In addition, the final years of the Obama Administration will offer significant opportunity and challenges related to the institutionalizing of new regimes related to national security, privacy, and surveillance. In addition to our ongoing support for our anchor partners, we are focusing on changing the legal framework for money in politics and expanding our work on voting to include both system change and rights-related work. One subject of reconsideration is whether to reorient the state fair courts field following a recent portfolio review.

Strategies

A. Achieve greater and more inclusive participation & meaningful representation, and build municipal and local civic capacity to achieve engagement.

Recognizing that a healthy democracy requires broad, meaningful, and inclusive participation in the many forms of debate, deliberation, and decision-making, we will continue our core strategies of expanding participation in voting and further explore non-electoral forms of engagement with government. These include our substantial efforts in the aftermath of the Supreme Court's *Shelby* decision to develop a coordinated approach to litigation, legislative engagement and field mobilization, addressing money in politics through the foundation initiative to reform Supreme Court jurisprudence, and the effort to develop new models of civic capacity to effectively influence local government in three sites through our Open Places Initiative. We continue to see the substantial role government plays as a source of social innovation, and cities in particular as laboratories that hold potential for scalable reform.

Tactics:

- More fully equip those with less voice - including African Americans, Latinos, Native Americans, APIA communities, and Middle Eastern, Arab, South Asian and Muslim communities – to effectively influence public policy issues, including those concerning the rule of law, public access to information and voting, internet regulation, and criminal justice.
- Broaden the electorate by lowering barriers to voter registration through the various forms of modernization and increased ballot access, while sustaining and expanding the franchise by establishing strong protections against vote suppression, denial and dilution.
- Give more equal weight to the speech of all who influence elections and policymaking, by reducing the undue influence of the few wealthy interests influencing politics and policy, including ongoing support for anchors and through developing and seeding alternative legal theories that support regulation of political spending in elections.
- Improve effectiveness and participatory capacity of municipal governments, especially in places experiencing demographic shifts or without significant civic capacity.

B. Support the free flow of high-quality civic information necessary to create an informed and engaged public

Tactics:

- Revive and protect net neutrality, broadband equity (including municipal networks), secure privacy rights, and build international movement to end excessive government surveillance.
- Use White House Commission's report on the policy and legal implications of big data to address is-

sues of fairness and risks of discrimination, including specifically to have relevant federal government agencies expand their technical expertise to be able to identify discriminatory impacts on protected classes, and develop plans to resolve legal violations

- Support emerging noncommercial models of news and information that creatively fill gaps caused by the decline in news media, and specifically see support for innovation and experimentation lead to one or more models of increasingly viable news and information conduit

C. Promote the rule of law, including an independent judiciary, and standards that define the appropriate role and limits of government and corporate power in an open society.

In recent years, federal and state governments have failed to fulfill their proper roles both through inaction and through overreach. In the civil rights arena, courts have done too little to protect equality, abdicating their essential role as defender of fundamental rights and freedoms. Congress, beholden to wealthy donors, is unwilling to rein in corporate power and has virtually abandoned its oversight role in checking executive power. And, especially in the national security context, the executive branch's conduct (including torture and mass surveillance) has gone all but unchecked by government oversight or court enforcement of Constitutional and international law standards.

Tactics:

- Develop and disseminate Constitutional theories that respect individual rights, governmental power to address inequality, and humane justice policies.
- Advance reforms that provide for state court independence and allow sufficient resources for broader access to state courts
- Promote transparent rules, new limits on use, and more effective accountability measures with respect to targeted killing outside of battlefield contexts, indefinite detention, and the use of mass surveillance, through judicial, legislative and policy actions.
- Develop and promote a new public narrative against torture, indefinite detention, overdependence on the use of force and a war paradigm, accompanied by practical and clear-sighted reform initiatives to protect privacy, prohibit torture, and strengthen accountability mechanisms
- Protect whistleblowers who reveal matters of public interest, including official misconduct, through policy change and ensuring strong legal representation in order to promote accountability when other mechanisms to ensure compliance with the law fail

Categories of Work:

Fields: Security sector reform, judicial system reform, government integrity, political participation of citizens, public interest media.

Foundation-led Concepts: Drones policy, campaign finance jurisprudence

Shared Frameworks: Post-2015 Millennium Development Goals; Drones policy may become a shared framework in 2014

Anchor: American Constitution Society, ACLU, the Advancement Project; Brennan Center for Justice

Cores: Government Accountability Project, Demos, Lawyers' Committee on Civil Rights under Law, Project on Government Oversight, Center for Public Integrity, Human Rights First, National Security Archive Fund

Goal 2: A fair criminal justice system which respects individual rights through policies that ensure community safety, eliminate the use of the justice system to address issues of poverty, mental illness and drug addiction, and promote the limited use of incarceration.

Strategies:

1. Reduce Incarcerated Populations
2. Challenge extreme punishment
3. Promote justice system accountability
4. Drug policy reform

4 year objectives (selected):

1. Reduce national level of incarceration by [12%] through strengthened national actors (e.g., progressive law enforcement left/right alliance), and ongoing targeting of states where opportunities exist and which can serve as national exemplars;
2. Reduce use and application of death penalty through abolition in selected states and overall reduction by addressing targeted areas of high use;
3. Reduce punitive response to drug use through large scale policy reform to incorporate a health-based response to drugs in mainstream health and justice system policies at the federal level and in selected state and local jurisdictions, including a strengthened and broadened field of actors who adopt this framework and an expanded model of community-based diversion practices.
4. Expanded social safety net for those involved in criminal justice system, including expanded medical insurance through Medicaid enrollment and diminished barriers to employment and education.

History and context

Decades of increasingly punitive criminal justice policies have resulted in unprecedented levels of incarceration, making the United States by far the leading jailer among democratic societies. There are over two million citizens in our jails and prisons, another five million people under parole or probation supervision and countless millions affected by aggressive policing practices. This expansive use of the criminal justice apparatus—which we refer to as mass incarceration—falls disproportionately on people of color and individuals of low income, perpetuating historic patterns of racial discrimination and class control, stigmatizing individuals with criminal records that impede their ability to fully participate in society long after their official punishment has ended, and destroying the social fabric and economic stability of entire communities. And, the expansion of the reach of law enforcement and punitive practices into the realms of immigration and national security policy, issues of equal importance to U.S. Programs, raises new challenges and concerns.

Increasingly, policy makers across the political spectrum acknowledge that these excesses are fiscally unsustainable and counter-productive to promoting community safety and family integration. Combatting the country’s current punitive mindset and comfort with extremely long sentences for more serious offenses has, moreover, proved to be particularly difficult. Openness to dealing less harshly with drug offenses, however, presents the opportunity to address our concerns about the misuse of the justice system to address drug addiction and to push a paradigm shift to treat such problems outside of the justice system entirely. The Obama administration has recently been more vocal on these issues, further raising the visibility of the issue in the national discourse. And, the passage of national healthcare reform presents a tremendous opportunity to build the infrastructure and capacity to address drug addiction and mental health issues largely outside of the criminal justice system.

While we have developed active partnerships with a variety of peer funders, such as the Ford Foundation, Public Welfare Foundation and The Atlantic Philanthropies, among others, OSF remains the largest supporter—in

terms of total philanthropic dollars—of criminal justice reform advocacy in the U.S.³ Through our Baltimore field office, we engage in activities at the state and local level to advance criminal and juvenile justice reform, and promote the expansion of access to addiction treatment. The justice reform work in Baltimore is intentionally aligned with our national priorities and a number of key grantees are active there. Local work on substance use treatment in Maryland has informed our national strategy.

In 2012, the U.S. Programs board approved the following programmatic priorities for our national work:⁴

- Reduce levels of incarceration, specifically, reduce incarcerated populations 50% by 2023;
- Challenge extreme punishment through continued support of the Campaign to End the Death Penalty by 2025 and efforts to end the prosecution and sentencing of children as adults;
- Promote justice system accountability, with a focus on discriminatory policing and an assessment and refinement of activities related to public defense reform; and
- Reform drug policy, through a series of activities to promote health-based and non-punitive alternatives to current prohibitionist approaches to drug addiction.

We propose in large part that we stay the course approved by the board in 2012 but propose strategic refinements in the following three areas of our work: targeted state-based investments to advance reduction in incarcerated populations; death penalty abolition; and public defense reform, as more fully set forth below.

Strategies

1. Reduce Incarcerated Populations

For 2015-2018, to advance our goal of reducing incarcerated populations 50% by 2023⁵, we will continue to provide field support to key partners working nationally, particularly those that have the capacity to advance reform directly in the states. We will seek to build on growing interest in the field for more cohesive and impactful national effort to reduce incarceration by supporting efforts to promote greater strategic alignment among national organizations and groups working in specific states, as well as addressing gaps in capacity, such as communications and messaging, needed to advance a truly national effort. We will intensify our direct efforts in 3-5 jurisdictions with the goal of achieving a 10% reduction in incarcerated populations in those places. We will continue our efforts to develop New Voices for Ending Mass Incarceration among faith communities and communities of color and expand this work to more explicitly foster demand for reform among crime survivors and victims and law enforcement.

We will also continue to support efforts to challenge barriers faced by people with criminal records, both to reduce the likelihood of re-incarceration and to expand their capacity for full participation in society, a priority more directly pursued in Baltimore and as part of our Democracy, Equality and Future Economies goals. Further development of our foundation concept to enroll those involved in the criminal justice system in Medicaid will reduce pre-trial detention and return to jail or prison as well by providing access to health services.

Tactics

- Continued support of a Foundation Concept to reduce incarceration in the state of California

³ The Pew Charitable Trusts devote substantial resources to provide direct technical assistance to states seeking to reduce their correctional spending, the Arnold Foundation is focusing on research and technical assistance to jurisdictions to reduce unnecessary pretrial detention, and the MacArthur Foundation expects to receive board approval later this year for new work on front-end systems reform at the local level.

⁴ OSI-Baltimore's criminal and juvenile justice and drug addiction treatment goals are aligned with these national goals.

⁵ In 2010, for the first time since 1973, state prison populations decreased and have continued to drop (through 2012), since. However, the aggregate, annual percent reduction over this three year period has been modest, at less than 2%. In 2012, over half the 1.8% reduction to state prison populations were accounted for by the 10% reduction California achieved that year, (where our initiative has played a role). Over the past decade, large reductions in a handful of states have been offset by continued growth in others, and in the federal system.

- Targeted field investments in 1-3 jurisdictions well-positioned for reform in the near-term through reduction in incarceration of people convicted of low-level drug and nonviolent offenses;⁶
- Maintain investments in key grantees working nationally for sentencing and corrections reform, particularly those with the capacity to directly advance reform in the states;
- Support strengthened collaboration among state-based efforts and national advocacy organizations;
- Develop New Voices for Ending Mass Incarceration, including faith communities and communities of color, and seed efforts in at least five jurisdictions to engage law enforcement and crime victims and survivors in efforts to reduce incarcerated populations;
- Sustain support for work challenging barriers to employment for people with criminal records
- Continued support of Foundation Concept to take advantage of Medicaid expansion to enroll criminal justice involved populations for health care coverage in at least five new jurisdictions
- Support community-based alternatives to punitive approaches to drug use and addiction in three new communities;

2. Challenge Extreme Punishment

While we have since 2008 been a lead funder of the national campaign to abolish the death penalty, there are a number of dynamics that will likely lead to modifications to the strategy from 2015-2018. We propose targeted investments to maximize the impact of recent U.S. Supreme Court victories limiting the sentencing of children to life without the possibility of parole and to advance state-based reform related to prosecuting children as adults. We will continue to explore opportunities to broaden the discussion about the need to respond differently to young people in conflict with the law.

Tactics

- Continued support of the Campaign to Abolish the Death Penalty with goal of repealing capital punishment in at least two-three states;⁷
- Challenge life without parole sentences through targeted investments to support effective resentencing for eligible individuals, to limit negative legislative responses to recent U.S. Supreme Court rulings and to sustain litigation and policy advocacy activities of core grantees
- Sustain national advocacy and technical assistance capacity for state advocates seeking to raise the age of criminal prosecution, with targeted investments in New York and possibly North Carolina.

3. Promote Justice System Accountability

Our Foundation Concept to challenge discriminatory policing in New York City, launched in 2012, has been successful to date. We are exploring opportunities to advance police reform beyond New York, including addressing discriminatory practices targeting Arab Middle Eastern Muslim and South Asian (AMEMSA) communities and racial profiling more generally.⁸

Tactics

- Support field capacity of New York City advocates to engage with the new City administration around implementation of the function of the new Inspector General and the federal court-ordered remedial process through declining investments over the next two years.
- Maintain national infrastructure to advance public defense reform through support to a limited number of key partners to sustain important recent gains and seize opportunities to support new and creative approaches to reform.

⁶ This work is in addition to OSI-Baltimore's targeted efforts in Maryland. We include here our work with OSI-DC to reduce levels of incarceration in the federal system.

⁷ We will hold a portfolio review of this work at our May board meeting through which we will engage the board on some of the critical questions that these changes present related to our future investments in this work.

⁸ OSI-Baltimore will continue to partner with the Baltimore Police Department and non-profit organizations to reduce youth arrests and associated racial disparities.

4. Drug Policy Reform

U.S. Programs seeks to establish a new paradigm for U.S. drug policy that addresses actual harm to individuals and communities, promotes health and social stability, ensures public safety and justice, and advances equality and the freedoms of an open society. We propose three interrelated strategies: (1) grant making to sustain key organizations in the field, (2) grant making and direct engagement with the field to build the polices, practices and capacity to respond to drug abuse from a health centered approach, and (3) grant making and direct engagement with stakeholders, including local law enforcement, municipal government, the business community, treatment and social service providers and advocates, to establish community-level alternatives to punitive drug policies. This work will take place nationally and through work supported by OSI-Baltimore, which will serve as a local laboratory which will inform our approach elsewhere, as well as benefit from lessons in other jurisdictions.

Tactics:

- Maintain capacity of core of organizations to sustain reform efforts in the field and to respond to emerging opportunities
- Take advantage of national health care reform and opportunities to reduce barriers to access by drug users to health care systems and harm reduction services, with the goal of establishing a health centered approach to drug use and addiction
- Support the development and implementation of alternative, more effective, more efficient and less punitive response to drug use and subsistence driven drug distribution in 3-5 jurisdictions

Categories of Work

Fields: Criminal Justice Sector Reform, Drug Policy Reform

Concepts: ACA implementation to advance drug policy reform; ACA Implementation to expand Medicaid coverage for the incarcerated; California campaign for sentencing and corrections reform; New York City policing accountability; Reduce Incarceration in Maryland through revising parole polices/practices; End the automatic prosecution and detention of youth as adults in Maryland; ACA implementation to advance drug policy reform, Close the Addiction Treatment Gap and Expand Medicaid Coverage for the Incarcerated in Maryland.

Shared Frameworks: Fostering a New Era in Drug Policy; the 2016 United Nations Special Session on drugs

Anchors and Cores

ACLU, Drug Policy Alliance, Center on Budget and Policy Priorities, Brennan Center for Justice, Center for Community Change, Leadership Conference on Civil and Human Rights; NAACP; Equal Justice Initiative; The Sentencing Project; Southern Center for Human Rights; Juvenile Law Center; Council of State Governments; Campaign for Youth Justice

Goal 3: Promotion of full political, economic, social, and civic participation for immigrants and communities of color by eliminating the systemic barriers that perpetuate inequality and increasing access to the structural conduits for opportunity.

Strategies

- a) Reduce the racial wealth gap by increasing access to fair and responsible financial services and quality housing for low-income immigrants and communities of color
- b) Expand and protect the rights of immigrants by securing pathways to citizenship through federal immigration reform and curtailing harsh immigration enforcement policies.
- c) Strengthen the racial justice field by increasing institutional effectiveness, changing public discourse, and building political will, and

- d) Address barriers to quality educational opportunities for communities of color, including specifically through ongoing initiative related to school discipline

4 year objectives (selected):

- Reduce the racial wealth gap by increasing access to fair and responsible financial services and quality housing in communities of opportunity for low-income immigrants and communities of color.
- Expand and protect the rights of immigrants by securing comprehensive federal immigration reform and advancing state-level policies that reflect immigrant interests, including preventing anti-immigrant policies and fostering stronger field that includes recognition of immigrant growth.
- Establish the Campaign for Black Male Achievement as independent, national leader; develop leading approaches for the Boys and Men of Color initiative; improve the institutional effectiveness of national racial justice organizations and field; and widespread usage of a 21st century racial narrative.
- Reduce suspension, expulsions, and arrests by 25% over five years through a multi-faceted approach that prioritizes comprehensive reform in six states (Colorado, Illinois, Maryland, New York, Pennsylvania, and Texas) in concert with federal policy guidance, education stakeholder buy-in, and funding for positive demonstrations.

Context

The U.S. will not fully realize its potential as a vibrant, democratic, and inclusive society if it fails to afford its immigrants and communities of color equal access to the full economic, political, educational, and social opportunity structures that define success.

Racial justice has been and remains a core value of USP. The translation of this value into practice has incorporated long-term investments (e.g., George Soros' creation of the \$50 million Emma Lazarus fund in 1997 onward), opportunistic responses (e.g. the Neighborhood Stabilization Initiative, which started as a strategy to address the foreclosure crisis) and work to place racial justice issues on the national agenda (e.g., the Campaign for Black Male Achievement). The core value of racial and ethnic justice is not just represented in this goal area: it infuses all of U.S. Programs' work so that, for example, even though voting rights or criminal justice reform are not listed in this goal, our approach to both stem from our central belief in the ways that racial bias infuse structures in U.S. society today.

One of the dynamics in this area of work over the past several years has been that the portfolio and approach was diverse without a coherent theory or focus. Recognizing that there is still more work to do, the following attempts to tighten and organize our work. We are no longer funding low-wage worker rights unless it is specifically through an immigrant lens and we have chosen to discontinue our foreclosure prevention work by terminating funding to the Neighborhood Stabilization initiative. We are no longer supporting gender or LGBT focused grants that do not also recognize the intersectionality of race. As we have focused more explicitly on immigration reform, we have tied off support for naturalization, citizenship, and immigrant integration work.

Strategies

- A. **Reduce the racial wealth gap by increasing access to fair and responsible financial services, and quality housing for low-income immigrants and communities of color.**⁹

Failing to address the racial wealth gap not only limits opportunities for communities of color, it also inhibits economic growth for the nation as a whole. The Great Recession of 2007-2009 devastated the wealth of im-

⁹ For context, the gap has remained relatively constant over time. A 20% decrease in the gap would essentially require doubling average African-American wealth in four years, assuming white wealth remained stable. Even 10% reduction in the disparity would require unprecedented increases in minority wealth over a short period of time.

migrants and communities of color¹⁰ and exacerbated existing disparities: from 2004 to 2010, whites lost one percent of their wealth, while blacks lost 23% and Hispanics lost 25%.¹¹ As a result of these trends, African Americans and Latinos are more likely to be unemployed, earn significantly less income, and have 18 to 20 times fewer assets than their white counterparts.¹² Moreover, even though non-urban areas of the country are becoming increasingly diverse, housing patterns continue to limit opportunity for our communities of focus. Over three quarters of those places of extreme poverty (greater than 40% below the poverty line) are disproportionately communities of color.

Tactics

- Address public policies that reinforce existing patterns of racial and ethnic segregation and limit family mobility, including those related to anticipated regulations requiring that recipients of federal housing funds take steps to maximize opportunity for communities of color.
- Increase access to responsible credit and ensure that lack of financial services is not a barrier for immigrants to achieve citizenship or legal status.
- Advance state and federal policies that expand 21st century family supportive wage work opportunities for black males and single parent households headed by women of color.

B. Expand and protect the rights of immigrants by securing pathways to citizenship through federal immigration reform and curtailing harsh immigration enforcement policies.

According to estimates from the U.S. Census Bureau, the U.S. immigrant population stood at almost 40.8 million, or 13% of the total U.S. population. According to Department of Homeland Security's Office of Immigration Statistics (OIS), an estimated 11.5 million unauthorized immigrants resided in the United States in January 2011. We will continue our efforts to empower immigrant communities and ensure their full political and civic participation.

Tactics

- Promote federal reform, in conjunction with OSPC, through policy advocacy, communications, grassroots advocacy, and field building to increase the capacity of immigrants' policy advocacy capacity.
- Curtail racial profiling and "criminalization" of immigrants and people of color by state and local law enforcement and federal enforcement policies that use national security as pretext for discriminatory enforcement.
- Secure proactive state-level protections for immigrants, in conjunction with OSPC.
- Ensure the full implementation of Deferred Action for Childhood Arrivals policies (DACA) that immediately improve the lives of immigrants and strengthen the infrastructure needed for future immigration reform efforts.

C. Strengthen the racial justice field by increasing institutional effectiveness, changing public discourse, and building political will.

While the contours of inequality have transformed, much of the traditional civil rights infrastructure and the racial justice field has not, causing a generational disconnect and decreasing the change capacity of communities of color. In part, this must be addressed by strengthening and helping evolve existing organizations and by

¹⁰ In 2009, the median wealth of white families in the U.S. was \$113,149, compared with \$6,325 for Latino families and \$5,677 for black families. Rakesh, Kochar, *Wealth Gaps Rise to Record Highs Between Whites, Blacks, Hispanics*, Pew Research Center (July 2011). The Great Recession exacerbated this disparity: from 2004 to 2010, whites lost 1 percent of their wealth, while blacks lost 23 percent and Hispanics lost 25 percent.

¹¹ Urban Institute, *The Racial Wealth Gap Is Not Improving*, <http://www.urban.org/changing-wealth-americans/lost-generations-interactive-race.cfm> html (accessed April 29, 2014).

¹² Federal Reserve Board, 2007 Survey of Consumer Finances, "Full Public Data Set" (Washington: The Federal Reserve Board, 2009), <http://www.federalreserve.gov/pubs/oss/oss2/2007/scf2007data.html> (accessed March 4, 2009).

cultivating the next generation of leadership. For USP, there is a particular opportunity based on the inflection point that has arisen with President Obama's embrace of the boys and men of color frame (even as we seek to retain focus on African-American males). Beyond this, part of the challenge is to develop and share a new narrative regarding race and ethnicity in the new America of the 21st century.

Tactics

- Strengthen racial justice organizations through technical assistance and enhanced focus on capacity, cultivating next generation of racial justice leadership, and enhanced engagement with others potentially involved in shared efforts (e.g., organized labor).
- Successfully institutionalize Campaign for Black Male Achievement (by 2018, OSF funding should be no more than 1/3) and leverage policy and program reform specifically related to boys and men of color possible due to My Brothers' Keeper Initiative, including potential place-based initiative to expand comprehensive effort to deal with racial disparities faced by young men of color with Bloomberg Philanthropies.
- Develop and advance a narrative that acknowledges the country's racial and ethnic realities and is effective in the 21st century by commissioning research, partnering with high-profile influencers, and engaging media.

D. Address barriers to quality educational opportunities for communities of color, including specifically through ongoing initiative related to school discipline

Emerging from the insight that high stakes testing increasingly used throughout U.S. public school systems provides perverse incentives for the exclusion of boys and young men of color, USP has for several years invested (with Atlantic Philanthropies) in a multi-faceted campaign to address inappropriate and unnecessary school suspension policies and practices. The effort has resulted in increasing attention on the issue among a broad range of key players (national teachers unions, juvenile justice leaders, judges, the federal government) with several places, including Baltimore and the State of Maryland, serving as models for good practice. In the upcoming four years, we believe this effort can transform the practice nationally, and we have a plan by which by 2018 over half of public school children should be educated in systems in which school discipline policies, accompanied by supports for teachers and students, should promote not hinder educational engagement.

Tactics

- Take next steps in coordinated school discipline campaign, aligned with Atlantic Philanthropies, that furthers local and state-level policy and practice reform and strengthens federal policy to address problematic and support appropriate disciplinary practices
- Increase awareness of effective alternatives to suspension among key stakeholders, especially state and local policymakers, teachers' unions, judges, and the general public;

Categories of Work

Fields: Equality & Inclusion: Access to Economic Opportunity; Equality & Inclusion: Equal Access to Quality Primary & Secondary Education; Equality & Inclusion: Migrant & Immigrant Rights; Equality & Inclusion: Rights of Ethnic, Racial & Religious Minorities; Pluralism & the Public Sphere: Arts & Culture for Social Change; Pluralism & the Public Sphere: Improving Technological Skills of Activists; Pluralism & the Public Sphere: Political Participation of Citizens; Youth Engagement for Social Change; Arts & Culture for Social Change; Political Participation of Citizens

Concepts: US Programs: School discipline pushout; US Programs: Long-Term Idea Generation; Shared Frameworks
Youth Initiative; Inclusive Education

Anchors and Cores: American Civil Liberties Union Foundation, Advancement Project, Center for Community Change, Center on Budget and Policy Priorities, American Constitution Society, Leadership Conference Education Fund, National Association for the Advancement of Colored People, Color of Change, National Association of Latino Elected Officials, PICO National Network, Mexican American Legal Defense and Educational Fund, Opportunity Agenda, Center for Social Inclusion, National Council of La Raza, The Kirwan Institute; Asian Americans Advancing Justice

Goal 4: Promote equitable future economies

Strategies:

1. *Increase the capacity of localities to create high-road approaches to economic development and policy that result in higher employment and fairer distribution of municipal revenue*
2. *Advance longer-term efforts to promote policies that recognize the shifting nature of jobs and work*
3. *Provide opportunistic support of campaigns that will advance economic equity and improve lives in the immediate term, such as raises in the minimum wage*
4. *Change policy on the state level on fiscal equity, such as targeted revenue increases and expansion of the Earned Income Tax Credit to childless workers, and influence federal debates on raising revenue and closing corporate tax loopholes*

History and Context

This proposed goal on fair and just future economies is a new one for U.S. Programs, and its addition reflects four assumptions: 1) jobs matter and thus so do shorter-term efforts to develop inclusive growth strategies and longer-term approaches that acknowledge potentially disruptive dynamics posed by technology; 2) that the growing gap in income and wealth/assets compromises open society values (and other core areas of our work) by diminishing the ability of all residents to full economic, political, and civic participation, and that increasing concentration of economic and political power are intimately intertwined; 3) that our central partners within the USP network already engage heavily in economic issues and we can make more of an impact by better incorporating and engaging economic issues with our other priorities which are inextricably linked; and that 4) mindful of the broad trends, there are actions we can take that can be important and can make a measurable impact on both lives and policy in the short- and long-term.

Since the U.S. Programs Board convened a working group on economic equity under co-chairs Deepak Bhargava, Geoffrey Canada and Bill Vandenberg more than two years ago, USP has engaged in questions regarding how to pursue work in this arena. At that time, the group concluded that economic inequality was a driving issue affecting all other issues that USP sought to tackle, but that USP “lacked a cohesive strategy that is unified across USP.” The Board saw value in continuing support of research institutions through our anchor and core portfolios, reaffirmed support for housing and fiscal equity advocacy, and recommended embarking upon more future oriented inquiries that could represent a niche for USP going forward.

The 2015-2018 Strategy addresses the questions posed by the Board about scope, impact and the way to think about U.S. Programs’ participation in a crowded philanthropic and organizational field through:

- a focus on local economies that heeds the Board’s call to focus on executive and community-based work (both advocacy and program development) to advance changes that might set the stage for broader developments even during a period of partisan gridlock
- the incubation of longer-term strategies that address the changing future of work and the potentially transformative impact of technological change on jobs

- the continuation of support for actors who have and continue to play leading roles in current economic policy and practice debates, especially to ensure commitment to our communities of focus, including through opportunistic support on pressing issues;

Collectively, USP invests nearly \$15 million a year in activities or grantees that have some orientation toward economic issues, but the lack of an explicit focus means we have not coordinated our work well nor been well-positioned to join with philanthropic and other partners around strategy¹³ or deploy our Opportunities Fund on pressing matters. It also means that we are not applying new tools in the OSF arsenal, such as social impact investing, fellowships, and technical assistance to governments, in ways that might strengthen the fields and places in which we work. U.S. Programs has significant relationships and partnerships to draw upon: INET, several anchor grantees (CBPP and CAP), our growing relationships with progressive labor, local efforts developing through our Open Places Initiative and Campaign for Black Male Achievement/My Brother's Keeper Initiative.

The three initial strategies presented here will be fleshed out further. The adoption of the larger goal and areas of focus will enable us to strengthen our existing efforts, such as the ways in which economic efforts can and should promote employment opportunities for those returning from prison, and develop better ways to further our core values, whether through local efforts to realize “high road economic strategies” or public policy shifts needed to ensure our communities of focus are adequately advanced. Since this is a new goal, the strategies and objectives reflect our intended direction with refinements over time.

Strategies

1. *Increase the capacity of localities to create high-road approaches to economic development and policy that result in higher employment and fairer distribution of municipal revenue*

Three factors combine to compel U.S. Programs to turn to local economies as a level of intervention. The first is that the national paralysis around the economy means that one of the few places for real impact by shifts in policy and opportunity is at the local level. Secondly, we have learned already from the experiences of the Open Places Initiative sites, where cities such as Buffalo and San Diego are looking for new models to both generate and attract revenue and invest while protecting the quality of life and working conditions of residents and their families. Finally, we fear an increasing divide into tiers where larger cities with greater financial and civic infrastructure and capacity become laboratories for economic policy and development models, and others are bereft of additional investment and attention from national foundations and organizations. We are also aware of the increased attention that the 2013 elections of mayors including de Blasio and Walsh has placed on urban efforts to address inequality: a core challenge to localities, and in the period from 2015-2018 involves the extent to which they cannot promote economic opportunity for our communities of focus.

The following preliminary tactics are indications of future direction, to be refined over the remainder of 2014.

- Support increased capacity in localities to generate equitable economic growth models and policies, with a particular interest in southern and southwestern places where we have been less active at the local level
- New investments in intermediary organizations that develop ideas to strengthen local economies and advance alternative models for economic development, potentially including new ways to partner with or advance ideas for local governments (e.g., Future Local Economies Fellows)
- Introduction of new tools to support economic development including impact investing and fellowships

¹³ OSF's closest present day economic advocacy and research partnerships are with the Bauman, Ford, and Stoneman Foundations on fiscal policy and with Ford and Rockefeller on emerging future of work interests. On equitable economic development, there is the potential for significant partnership with the Ford, Surdna, and Nathan Cummings Foundations and SEIU.

2. *Advance longer-term efforts to promote policies that recognize the shifting nature of jobs and work*

Building off our existing inquiry into the Future of Work, we will develop and promote policies and practices that acknowledge the potential significant changes in what work will be and what it will mean in the future. Among the core questions that will drive the development of specific programs and policies are the following:

- Which specific emerging technologies and their use could significantly impact the jobs, types of work, and structure of work that advocates for our communities of concern are relying on to improve and grow?
- What is the range of likely possibilities for how the relationship between employees and employers will transform given the use of emerging technologies?
- What models in business, policy and community life could alleviate the negative impact and increase the positive impact of the way work and jobs will transform given the use of emerging technologies?

In developing our strategies going forward, two core principles involve (1) ensuring that attention to our communities of focus is integrated into the broader research and policy development agendas, and (2) we take full advantage of the diverse array of actors engaged in the “future of work” inquiries (both those within our network and those outside). This strategy may lend itself less to a traditional grant making portfolio and more to the seeding of pilot programs and models and the support of ongoing new thinking.

3. *Provide opportunistic support of campaigns that will advance economic opportunity for our communities of color, including people with criminal records, young boys and men of color, communities of color and immigrants*

While we do not see U.S. Programs developing a permanent funding area to support organizing and advocacy around low-wage work, where our research indicates that several large institutional funders are well-represented, we do want to provide support where there are opportunities for victories that would immediately improve lives while advancing the larger policy debate nationally. These requests would be evaluated on a case-by-case basis out of the Opportunities Fund.

4. *Change policy on the state level on fiscal equity, such as targeted revenue increases and expansion of the Earned Income Tax Credit to childless workers, and influence federal debates on raising revenue and closing corporate tax loopholes*

Tactics

- Support state-based advances on fiscal equity states via continued investment in the State Priorities Partnership (aka State Fiscal Analysis Initiative), the state-based complement to the federal focus of the Center on Budget and Policy Priorities, an anchor grantee;
- Maintain sharply focused investments in narrative and messaging work that provides strategic communications support to federal and state level advocates leading campaigns to raise revenues, an area where, historically, progressives have lost consistently over the past two decades; and
- Provide targeted field support to increase engagement on federal and state level revenue increases from small business and faith-based leaders.

Categories of Work

Fields: Access to Economic Opportunity, Campaign finance jurisprudence, political participation of citizens, criminal justice sector reform

Concepts: Open Places Initiative

Anchors and Cores: Center for Community Change, Center on Budget and Policy Priorities, Center for American Progress, Center for Working Families, PICO National Network, National Council of La Raza, Roosevelt Institute, Center for Responsible Lending, Economic Policy Institute, National Employment Law Project

Part Three: Internal Shared Frameworks and Initiatives

For the period of 2015-2018, U.S. Programs will look to create “internal shared frameworks” that capture areas of interest for USP on efforts that are timely and around which there are several programs and new initiatives operating.

2020 and Distortions in American Democracy:

Taking up the challenge presented by George Soros’s memo on distortions in democracy,¹⁴ USP is developing an internal shared framework to organize our work around USP, OSPC, and Soros priorities in relation to the demographic, advocacy, and electoral opportunities presented by the year 2020. To be successful, this work must also extend beyond an election-only emphasis, involving OSPC, to include broader priorities on the development of new political and community leadership and on-the-ground civic capacity.

The 2020 Project is intended to connect the interests of nearly all programs, from voting rights to immigrant political engagement to confronting prison-based gerrymandering to the development of civic capacity through the Civic Core and local Open Places efforts, among others. The project will feature significant consultation and engagement with our anchor and core grantees, Democracy Alliance partners and other donors, and field leaders, such as Planned Parenthood, progressive labor, and other allies. More than 25 interviews with field and funder leaders have occurred to date to begin to help identify a distinct OSF niche.

Beginning in 2015 with initial investments, USP could seek to have national impact in 2020 through targeted work in a small number of states. States such as Arizona, Georgia, or North Carolina, are quickly changing demographically and rising in political significance. They are often where the most compelling opportunities to confront distortions in democracy exist. New USP investments would complement existing work on voting rights, voting systems reforms, and money in politics and, in a small number of states, our options, in conjunction with OSPC, could include:

- Changing redistricting processes to create fair redistricting policies that ensure diversity in elected representation, lead to more competitive congressional and legislative elections, and challenge prison gerrymandering.
- Securing a more “complete count” in the decennial census, targeting census outreach in metropolitan areas with the largest numbers of people who are likely to be undercounted, including undocumented immigrants, very low-income people, and formerly incarcerated persons;
- Increasing rates of voter participation from constituencies that comprise the so-called Rising American Electorate and that may be underrepresented in voter turnout relative to population share. This includes Latino, African American, Asian American, and youth communities;
- Enhancing leadership pipelines to grow the number of open society leaders, elected or otherwise, from the Rising American Electorate; and
- Building the civic capacity of community-based organizations to catalyze political engagement throughout the year and not solely around elections.

The Project would begin in 2015 and likely run through 2022, when the first elections under newly redistricted seats would occur. The year 2020 reflects the convergence year for the census, presidential, congressional, and legislative elections, and redistricting, forming the “North Star” around which USP and OSPC could organize and assess its work. USP board and staff are currently working to identify big ideas and develop a concise strategic focus to propose for the board’s future consideration.

14 George Soros, *US Strategy* (August 16, 2013)

Places:

While U.S. Programs is a national foundation working toward a vision for the United States, we have often thought about the role of specific (local) places in advancing our broader priorities. The commitment to establishing a Baltimore field office in 1997 was the result of George Soros' desire to understand the political, social and economic dynamics, including the impact of national policies, in urban centers. U.S. Programs chose to establish a field office in Baltimore precisely because of the recognition of the complexity of achieving change in a federalist society.¹⁵

The Open Places Initiative (OPI) launched formally in 2013 is similarly dedicated to providing a platform for the transformation of local places by supporting enhanced civic capacity.

U.S. Programs' has also engaged in significant local grant making as we have invested in the local applications of national strategies such as in the areas of policing reform (New York City), transparency and government accountability (New Orleans), ending mass incarceration (California), journalism (Wisconsin), and civic engagement (North Carolina). Sometimes we have invested in one place through multiple avenues, such as New Orleans or New York City, which comes with its own set of consequences, including the potential for both larger scale change than had been imagined and false expectations of ongoing support.

For the 2015-2018 strategy, U.S. Programs will seek to advance its thinking about "places" by experimenting further with efforts to

- Develop a new portfolio designed to improve the capacity of local government actors to advance policy and program in areas of core concern to U.S. Programs, and to invest in a meaningful pipeline of new voices into government
- Establish a new tranche of place-based investments building upon our experience with the Open Places Initiative that focuses more intentionally on portions of the United States that are experiencing demographic shifts but may lack civic capacity (e.g., the South and Southwest).
- Make opportunistic investments at the local level where there are key moments to advance our priorities, particular in localities where there is under-investment

Part Four: Operational Strategy

We recognize in this plan that a successful operations strategy is essential if we wish to accomplish our programmatic goals. To that end, the 2015-2018 operations strategy will be guided by the following objectives:

- Support and cultivate the skills of staff and create a work culture that is positive, respectful, challenging and reflective, and that embodies the values that drive us as an institution.
- Support the work of programmatic staff through the creation of more efficient grant making processes, including decentralization of grant making authority, and enhanced access to resources for professional development.
- Enhance our capacity to measure the impact of our work by strengthening our evaluation capacities.
- Provide strategic communications support to program staff initiating foundation concepts, improve the capacity of our grantees, and improve the capacity of program staff to evaluate the communications capacity and effectiveness of their grantees.

¹⁵ In the early years, OSI-Baltimore's criminal justice, urban debate league and community justice programs related to national USP initiatives as well as local priorities, but its other programs—workforce& economic development, drug addiction treatment, and education & youth development—responded solely to local imperatives.

- Create an operations structure that accomplishes the above goals, that can respond to new opportunities and challenges and that works to distribute human and fiscal resources in ways that advance our mission.

To accomplish the above, we have begun to orient our fiscal and human resources appropriately. We have recently hired a Director of Operations, intend to strengthen our communications team by bringing on a Senior Communications Officer and Associate, and will strengthen our relationship with the Grant Making Support and Strategy Units while rethinking what kind of capacity we need within U.S. Programs to most effectively support our grant making processes, portfolio reviews, and evaluate our impact.

APPENDIX A: FIELDS AND FOUNDATION-LED CONCEPTS OF U.S. PROGRAMS

FIELDS

We seek to identify strong and trusted partners within each of these fields who share our values and our aspirations. We recognize the critical perspectives and insights these groups bring to advancing work in each of these fields, and believe that their on-the-group experience and expertise position them to identify the actions that need to be taken to advance our shared goals.

U.S. Programs supports the following Open Society Foundations fields: access to economic opportunity, challenging the health establishment to advance human rights, combating xenophobia and racism, equal access to quality primary and secondary education, human rights monitoring and documentation, migrant and immigrant rights, civic reform infrastructure, drug policy reform, government integrity, security sector reform, criminal justice sector reform, judicial system reform, political participation of citizens, and public interest media.

FOUNDATION-LED CONCEPTS

School Push-Out: Ensure strength and coordination of field of educational reform, juvenile justice, and civil rights advocacy groups devoted to combating school push-out policies by increasing networking and rapid response communications capacity.

Campaign for Black Male Achievement: Recognizing the failure of past philanthropic efforts to provide enduring support for the field of black male achievement, CBMA exercises leadership in mobilizing donors and field partners to establish new anchor institutions and resource hubs to ensure that the black male achievement field is sustained beyond OSF's initial investment.

ACA Implementation to expand Medicaid Coverage for the Incarcerated seeks to use the expansion of Medicaid in the states to encourage jurisdictions to develop policies and practice to enroll into for Medicaid coverage individuals with some level of justice system involvement, with the ultimate goal of reducing future contact with the justice system.

The California Campaign for Sentencing and Correctional Reform was developed to reduce incarceration in the state of California through a campaign designed to take advantage of the opportunity in the state to reduce prison populations created by the combined pressures of the financial crisis, a federal court order and strong public sentiment that the justice system is broken.

ACA Implementation to Advance Drug Policy Reform seeks to take the fullest possible advantage of national health care reform and the opportunities it provides to reduce barriers to access by drug users to health care systems and harm reduction services, with the goal of establishing a health centered approach to drug use and addiction.

The New York City Police Accountability Campaign was designed to build on the growing public concern about excessive stop and frisk practices to force a series of policy and practice changes to reduce discriminatory policing and promote greater public engagement and accountability.

ACA to Advance Drug Policy Reform. Believing that accessible, high quality treatment in the community is an essential component of any alternative policy to the War on Drugs, OSI-Baltimore is taking advantage of the Affordable Care Act to close the addiction treatment gap in three ways: 1) we are leading an effort to work with the Maryland Department of Corrections and Public Safety and the Maryland Department of Health and Mental Hygiene to enroll prisoners in Medicaid so that, upon their release, they will be enrolled in health care insurance (Medicaid), almost always for the first time; 2) we are ensuring that certain modalities of treatment, in particular buprenorphine which is effective in treating heroin and other opiate addiction, is made widely available, both through Medicaid and people enrolling in insurance through the Health Exchange; and 3) through a program related investment (a loan guarantee), we are supporting one of the 27 non-profit CO-OPs (Consumer Operated and Oriented Plan Programs) established by the federal Department of Health and Human Services under the Affordable Care Act to ensure that health care is, in fact, affordable to low-income people who earn too much to be eligible for Medicaid. The latter program also, through its four clinics, will also provide care that integrates addiction treatment with mental health and somatic care, taking advantage of provisions in the Affordable Care Act that facilitate integrated care.

End the automatic prosecution of youth as adults in Maryland: In 2009, OSI-Baltimore launched a multi-year campaign to end state officials' practice of automatically prosecuting youth as adults for certain crimes and housing them in adult jails pretrial. By supporting research, youth organizing, advocacy, and communications strategies, OSI-Baltimore and its grantees have contributed to the reduction of the youth population at the Baltimore City adult jail from over 100 in 2009 to less than 40 in 2013. This year, OSI's grantees successfully advocated for a change in state policy that will allow more youth to have their cases transferred to the juvenile justice system.

Reduce the prison population in Maryland through reform of parole policies and practices. For over a decade, OSI-Baltimore has partnered with the Maryland Parole Commission and the national non-profit JFA-Institute to revise, implement and monitor new parole guideline to increase the number of people who could be released on parole. This work has contributed to an increase in the number of people who are granted parole from 25% to 40%. Additionally, these parole releases have contributed to a 10% reduction in the prison population.

Drones. The NSHR Campaign is contributing to a foundation led concept on drones policy, which may become a shared framework this year. The overarching goal is to decrease the resort to the use of lethal drones outside of battlefield contexts, and by doing so, to contribute to preserving the rule of law, promoting peaceful resolution of conflicts, protecting human life, and promoting accountability with respect to the use of force.

Specific objectives include: Limiting the use of lethal drones for targeted killing by the United States in its counterterrorism efforts; developing support for more restrictive policies for use of lethal drones/targeted killing in Europe and by other allies; promoting transparency with respect to agreements between states for the use of lethal drones; helping to demonstrate the real cost of using lethal drones by generating critiques from diverse and credible voices, including democratic countries; and promoting accountability through redress for harms,

public acknowledgment, and credible investigations of drone strikes.

Money in politics. Given how Supreme Court doctrine has constrained the ability to address the undue influence of money in politics, we have developed and are now implementing a multi-year campaign to challenge and transform existing campaign finance jurisprudence. To achieve this goal, OSF and its allies will engage in work to develop and disseminate new thinking about the Constitution in the campaign finance area, bring cases to test and adopt new theories, reshape the composition of the Federal courts, and engage Americans in advocating for a Constitutional interpretation that promotes a diversity of voices in political debates and decision making. This effort entails coordinated efforts to use idea generation, communications, litigation, policy advocacy, public education, and organizing.

The Open Places Initiative grows out of the realization that the ability of communities to respond to the challenges of devolution, shifting demographics, and Congressional infighting requires increased civic capacity, especially for efforts that attempt to further the full inclusion of those with low incomes, people of color, and other marginalized communities in civic, economic, and political life. By investing in collaborations among nonprofit organizations and by supporting their partnerships with government, business, and community, we aim to expand the potential of select local places (cities and regions) to pursue effective responses to the profound demographic, economic, and technological changes that are taking place throughout the country in order to increase equality, justice and democratic practice. As part of the new initiative, we have awarded collaborations of organizations in Buffalo, San Diego, and Puerto Rico \$1.9 million each over two years, with the understanding that we will invest in these municipalities for at least three years and up to ten years. Our long-time commitment to these sites reflects our assessment that building new civic capacity—new relationships, skills and resources—will take time.

APPENDIX B: SHARED FRAMEWORKS IN WHICH U.S. PROGRAMS MAY PARTICIPATE

Shared frameworks are projects with high-priority goals and a limited time frame to which multiple OSF programs and foundations contribute their own programming. A shared framework allows multiple programs and foundations to reconceive a complex problem in a new way--one that would not yield to the efforts of any one program or foundation. U.S. Programs currently contributes to two shared frameworks, indications of our growing interest in collaborating across the OSF network.

Post-2015 MDG's (Approved)

The report of the High Level Panel on Post-2015 Development Goals represents a high-water mark in process leading to the General Assembly's adoption of new development goals in late 2015, and gives us an opportunity now to begin to pursue the goals most closely aligned with Open Society's objectives—on safety, justice, and governance-- on the ground in several countries. Our aim would be to demonstrate that these ambitious goals set by the High Level Panel are measurable and achievable, making their inclusion in the final General Assembly resolution more likely and, regardless of the outcome of the debates at the UN, galvanizing domestic and international commitments to pursue them. U.S. Programs' country plan aims to demonstrate how indicators on homicide reduction, with a focus on black men and boys in cities; citizen participation in governance; and, access to justice would strengthen the work in these areas on the ground and the ultimate success of policy or programmatic interventions.

Fostering a New Era in Drug Policy - the 2016 United Nations Special Session on Drugs

As the 2001 AIDS UNGASS was a focal point for coalescing international will towards providing access to HIV treatment, the 2016 United Nations Special Session on drugs (the "Special Session") represents a unique and transformational inflection point for nations of the world to articulate – individually and in unison - the

harms of the current global drug policy regime, and to imagine and describe alternative policies that reflect Open Society principles of democracy, human rights, respect for the rule of law, public health and the dignity of individuals. OSF's aim would be to leverage the resources and prestige of the Open Society Foundations to mobilize an international movement that would have the momentum and force to effect substantive change in global drug policy. There is now evidence that the long-held consensus supporting current drug policies (the "war on drugs") is beginning to crack. These policies have led to a widespread global public health crisis of HIV/AIDS and hepatitis C epidemics, mass incarceration, organized criminal violence, environmental degradation, and draconian law enforcement measures - including the death penalty - for drug offences. These impacts have been disproportionately experienced by the most marginalized groups in society, including the world's poorest individuals and minorities. A strategic effort across the regions and programs represented by OSF targeted at the Special Session, however, has the potential to tip the balance in the drug policy debate in the right direction and lead to substantive change at the international level.

UNITED STATES GENERAL
RESERVE AND
U.S. PROGRAMS
OPPORTUNITIES FUND

United States General Reserve and U.S. Programs Opportunities Fund

TO: U.S. Programs Board
FR: Ken Zimmerman
RE: U.S. General Reserve/USP Opportunites Fund
DATE: May 7, 2014

We have no requests of the board to modify the 2014 USP budget, and thus only provide an update on requests from the Reserve Fund.

Update on Reserve Fund Framework and Operations

As mentioned at the February board meeting, the USP experience with reserve funds has been used as a model for OSF as a whole. Effective March 1, 2014, eight reserve funds have been created which range in size between \$4m and \$7m. Seven of these are geographically aligned (Africa, Asia, Eurasia, Latin America, Middle East & North Africa, Europe, and the United States) with one reserve fund for those matters that do not have a natural geographic locus. These funds are intended to be available for any component of OSF that wishes to propose opportunistic work in one, or across several, particular geographic areas. They are to be reviewed expeditiously by the director for the area (in the case of the United States, me) and approved by a global board member (in the case of the United States, Steve Coll). A listing of the initial uses of these funds is included in the attached materials.

For USP, the establishment of these reserve funds has had two immediate consequences: (1) the allocation of a portion of the USP Reserve into a fund to be used consistent with the new policies, and (2) a more formal opening of conversations with non-USP components about potentially working in the United States. More specifically, as anticipated in our February meeting, we have set aside \$5m of the \$25m in the USP Reserve Fund to be used in a manner consistent with the new policies. For sake of clarity, this \$5m reserve fund is now called the United States General Reserve, and the remaining \$20m is called the United States Opportunities Fund. The first request from the United States General Reserve (which we expeditiously approved) was for \$210,000 to create an online resource to help make operational a newly established office in the State Department designed to implement the Leahy Law: the piece of legislation that prohibits the United States government from funding military units where evidence suggests that they have violated human rights and related legal standards. The complete write-up is attached.

U.S. Opportunities Fund

We continue to believe that these funds are providing us with the desired ability to move opportunistically. At the board session, we will begin our discussion with an assessment of our use of these funds in 2013. This assessment sheds light on some of the dynamics involved in attempting to respond to time-sensitive issues. This will also serve as a jumping off point for the subsequent session when we discuss the use of a portion of last year's fund to support CIR advocacy.

Since our last board meeting, we have had two requests for what is now called the U.S. Opportunities Fund. First, with the support of Bryan Stevenson and Leon Botstein, Steve Coll approved my recommendation that we authorize up to \$500,000 to support an effort to create a meaningful publicly supported means of higher education in New York State prisons. It is unclear whether we will ever use these funds given the difficulty the Cuomo Administration has had in completing the fund-raising challenge we made. The supporting documentation is attached.

Second, we are considering a request of \$250,000 from Media Matters to provide half of the support to set up a Spanish-language media monitoring operation prior to the 2014 elections. The proposal is summarized in the attached material.

USP Opportunities Fund Proposal

Higher Education in Prisons in New York State

To: U.S. Programs Board
Fr: Leonard Noisette
Re: USP Opportunity Fund Request
Date: March 31, 2014

I write to alert you to a potential Reserve Fund request. As you may recall from the last board meeting, in February Gov. Cuomo announced an ambitious plan to significantly expand access to college education in prison, building on work US Programs has supported such as Bard Prison Initiative and the Pathways to Secondary Education Project (both mentioned by the Governor in his public announcement). While the plan was hailed in many quarters, the administration has encountered fierce opposition to the initiative by a number of upstate legislators, who have successfully blocked the inclusion of funding for the plan in the soon to be passed State budget for FY2015, which begins on April 1. The Cuomo administration believes that in order to blunt this opposition and position it to secure funding for its plan in future years, it is important to push forward with the initiative, and has asked OSF to be one of a handful of foundations to provide \$500,000 in support to do so. We have over the past week endeavored to assess the political and programmatic dynamics related to this request and, for the reasons described more fully below, we recommend that the board authorize use of up to \$500,000 in reserve funds to allow us to respond to this request.

U.S. Programs has long included in its criminal justice reform work support for efforts to remove barrier to and expand opportunities for successful reentry of formerly incarcerated individuals and others with criminal records. Among this work has been support for advocacy for restoration of funding for college education in prison, as well as support for programs providing such services. Most recently, we supported Bard Prison Initiative's work to expand its model to other states through a 5 year matching grant that ended in December of 2013, and through the Special Fund for Poverty Alleviation partnered with other foundations to launch expanded in-prison secondary education programs in three states, New Jersey, Michigan and North Carolina. While the success of these efforts, along with the refinement of our priorities, has led us to limit our funding in 2014 to policy advocacy in this area, we believe maintaining robust educational services in prison, including access to a college degree, is critical to increasing the likelihood of prisoners having meaningful and productive lives when they return to their communities. New York has been a national leader in this area despite the lack public dollars, and the Cuomo initiative presents the potential to demonstrate the value of a significant public investment.

Our assessment of the state's request reveals that it undoubtedly made some missteps and badly underestimated the likely opposition to its plan and the need to build political support before making its bold announcement – a point which high level officials in the Administration concede. We also learned from trusted sources, however, that there is widespread concern that both current in-prison college programming as well as the ability to expand such opportunities in future are at risk if the state cannot demonstrate strong support for these services by launching the initiative notwithstanding current opposition within the legislature. We also learned that the faltering of the Cuomo plan is having negative reverberations in other states, like Minnesota, that are considering similar in-prison college education efforts. The Administration seeks private support for one year to allow it to move the initiative forward and to give it the opportunity to shore up the support it needs to secure public dollars to sustain the program long-term.

We have made it clear to the administration that in order to respond favorably to its request we would need

a clear commitment from Governor Cuomo of his intention to aggressively seek public funds to sustain the initiative long-term. We also would expect to be involved, along with other funder partners, in the shaping of the short-term plan for rolling out the initiative. We have learned that the Ford Foundation has already agreed to provide support subject to the state securing other partners, and there are conversations planned with a number of other potential partners over the next several days. Our support would be one-time funding, with no expectation of longer term funding, the actual amount to be determined after further due diligence.

We have consulted with Bryan Stevenson, who noted the importance of sustaining efforts to provide such opportunities for prisoners and who was generally supportive of our recommendation to use reserve funds for this purpose. We have also spoken with senior staff at Bard Prison Initiative, who strongly urged OSF to play a role here, and I expect to speak directly with Leon Botstein to seek his views as well.

USP Opportunities Fund Proposal

Media Matters (Spanish Language Monitoring)

To: Ken Zimmerman
Fr: Laleh Ispahani
Re: Opportunity Fund Request
Date: May 8, 2014

U.S. Programs requests \$300,000 from the Opportunities Fund to support Spanish-language media monitoring work proposed by Media Matters for America. Media Matters is a web-based research and information center dedicated to comprehensively monitoring and correcting misinformation in the U.S. media. Given the 2016 elections, and in response to conservative efforts to court the Latino vote and tap into the growing Latino media market, Media Matters wants to respond to a need to ensure fair and accurate coverage in Spanish-language media. If funded, it would be the first time Spanish-language commercial media would be monitored and held accountable.

Specifically, Media Matters proposes to: 1) monitor influential Spanish-language news programs and outlets to identify and correct misinformation, and to correct any misinformation in both mainstream and conservative media; 2) focus on a set of specific issues: immigration reform, voting rights, criminal justice and LGBT rights; and 3) expand bilingual communications and outreach to Spanish-speaking media outlets, advocacy groups, bloggers, strategists, pundits and policy experts.

Spanish language media experts with whom we consulted advised that Media Matters' facts on viewership and listenership by commercial media are correct, and confirm that the panorama Media Matters describes is accurate. They add that the deliverables they set are on target, with some caveats, as follows.

The proposed project is strongest in laying out the initiatives to track and publicize misinformation. Media Matters would fill an urgent need for monitoring and reporting on conservative information campaigns aimed specifically at Spanish-language media. It may, however, be taking on too many specific topics, some of which are currently and adequately being addressed in Spanish-language media. On immigration reform, for example, Spanish-language media is usually ahead of the curve and has many allies such as National Immigration Forum, Center for American Progress and others. With respect to voting rights, with USP support, the Brennan Center and the Advancement Project have expanded their efforts to help Spanish language media track developments and work with New American Media to collect information from Spanish-language media.

The distinction between these two approaches is important: a weekly roundup of the conservative movement's media initiatives on Spanish-language outlets and how they are specifically reaching Hispanics offers something unique to the field, while additional immigration reform coverage is unlikely to add this same value. We would caution Media Matters' framing of Hispanic media as "right" or "left." The landscape of Hispanic media is more complex than such a framework allows. A project of this scope must begin with understanding Spanish-language media on its own terms, as opposed to seeing Spanish-language media as being easily manipulated and talk radio "breeding misinformation" (a common generalization). With this in mind, we suggest that Media Matters build on its strength to monitor, track and analyze rather than position itself purely as a left-oriented media watchdog.

The proposed project could be sharper in explaining how Media Matters will actually penetrate Spanish-language media to reach their audiences with "counter-information." Therefore, we would suggest Media

Matters include an advisory committee, or similar intermediary, of leaders in Latino and other ethnic media, to ensure that Media Matters' findings reach Spanish-language media audiences.

Overall, it is our assessment, after having consulted with experts on Spanish language media, that with the caveats on issue breadth and capacity for maximum reach, Media Matters' research, will help to make more accurate and representative Spanish-language media coverage, and the potential reach of its findings will be of great value. OSF support would be one-time funding, \$250,000 to Media Matters and \$50,000 to Radio Bilingue and New America Media to serve as advisors. This project connects to the work of our existing Democracy and Equality Funds as well as our work toward a 2020 strategy.

USP Opportunities Fund Proposal

BYMOC Places Initiative

To: Ken Zimmerman
Fr: Damon Hewitt and Emma Oppenheim
Re: BYMOC Places Initiative
Date: May 14, 2014

This is a request for approval to spend an amount that may be up to \$5 million from the Opportunities Fund to develop a place-based initiative focused on boys and young men of color in partnership with Bloomberg Philanthropies, with the potential for involvement from additional interested funders.

Background

Inspired by the President's call to action in *My Brother's Keeper*, and in light of the emerging focus on multi-issue and system-oriented approaches, Bloomberg Philanthropies and OSF are developing a place-based initiative to improve the life chances for boys and young men of color in select cities. Building on the active interest from mayors and community actors to make a real difference for their young men, the initiative will focus on facilitating the collaboration of leaders both inside and outside of government to more effectively drive policy and administrative changes and improve program delivery in the local systems that most impact boys and young men of color—especially those related to public schools, juvenile justice, probation, health care, and workforce development.

Strategic Considerations

The following are implementation recommendations developed by PolicyLink based on its scan of a diverse range of place-based projects across the country:

- Build on existing work and leverage federal funds
- Focus on driving policy and systems reform, in addition to access to critical services
- Create opportunities for learning and technical assistance to improve outcomes for boys and young men of color
- Support committed public sector leadership to focus on boys and young men of color in a sustained and focused way
- Resource local intermediaries to engage community organizations, advocates, young people, and local government in joint planning for comprehensive reform
- Support implementation and evaluation
- Provide sustained, multi-year funding

Structural Components

Based on those strategic considerations, we anticipate our BYMOC Places work will include the following structural components:

1. *Local government leadership.* Using Bloomberg Philanthropies' Innovation Delivery model, the initiative will provide local governments with resources to hire an innovation team made up of creative thinkers and effective operators to be situated inside a mayor's office, as well as a range of technical assistance to boost that team's effectiveness. Support will focus on helping government leaders develop ideas that are genuinely responsive to community needs and concerns and understanding government's self-reflective role in

systems change and program delivery.

2. *Community leadership.* The initiative will also provide resources and technical assistance to community organizations, advocates, and youth leaders to boost their ability to help government achieve meaningful outcomes. Support will focus on helping community leaders, experts and representatives to develop solution-oriented ideas that are within local government's purview and ability to implement, and further community organizations' role in helping local government meet the shared goals of the initiative.
3. *Local intermediaries.* Core operational functions of the local efforts will be overseen by a credible intermediary, including convening local municipal, community, youth, and community foundation leaders to jointly determine goals, targets, and activities to be undertaken, as well as day-to-day functions such as data analysis, evaluation, and participating in a community of practice across sites. The intermediary will serve as a hub for the work being undertaken by all of the participating stakeholders and closely engage with the work of the innovation teams within city government. Some cities will have an organization that is a natural convener; for cities that don't, resources may be used to help build that capacity.
4. *A lead organization* will work with each site to determine how local efforts can be strengthened, including helping selected sites conduct gap analyses and develop action plans, facilitating intensive technical assistance, and managing network-wide trainings and peer learning opportunities. In particular, the lead organization will determine clusters of technical assistance needs, such as helping sites with a comprehensive approach to identify BMOC-targeted efforts or helping sites that take a narrow approach broaden to work across systems. The National League of Cities currently plays this role as the lead for the BMA Cities initiative which supports 11 local black male achievement-focused initiatives.
5. *Support for experiential learning* will ensure rigorous research, evaluation, and sharing is embedded into new models being tested to help build the evidence base for future work. Funding will be available to accelerate the development and tracking the results of efforts that advance new arenas of practice or policy but for which there has been insufficient practice, policy development, and evaluation.

Funding Options

The initiative will begin by supporting three sites for \$10 million over 3 years with the above structural components. Sites will be selected through a process that builds upon existing national and federal place initiatives and prioritizes municipal-community-local philanthropy collaboration, to be rolled out in late summer or early fall.

The current funding structure does not make extensive funds available for programmatic expenses. We intend to actively engage local philanthropy as a full partner with local initiatives, and expect local foundations may wish to provide programmatic funds.

Support from other national funders would enable the inclusion of additional sites or support for additional components. Other funders may also wish to support the expansion of the community of practice to include promising sites not awarded the full grant in trainings and network learning opportunities.

Federal Role

Federal contributions, while not yet solidified, may include prioritization in federal grant solicitations, support for alignment with existing grant programs, use of AmeriCorps VISTA members to support local efforts, use of the White House's bully pulpit to raise awareness and procure support, support for a learning community among cities and the dissemination of best practices, or the expansion of Performance Partnership Pilots to allow for braiding and blending of funding within these initiatives.

2014 USP Opportunities Fund and U.S. General Reserve Tracking Sheet

USP OPPORTUNITIES FUND* 2014 \$20 MILLION**

	Referred to OSPC	C3 Funding	Total
I. PROPOSED/APPROVED SINCE FEBRUARY BOARD MEETING			
• Higher Education in Prisons in New York State		\$ 500,000	
• Media Matters (Spanish Language Monitoring)		\$ 250,000	
• BYMOC Places Initiative		\$ 5,000,000	
II. Authorized and Expended			
• Latino Enrollment and the Affordable Care Act		\$ 500,000	
• White House Black Male Achievement Initiative		\$ 250,000	
• Leadership Conference on Civil and Human Rights	\$ 50,000		
Total			\$ 6,550,000
Remaining 2014 Opportunities Fund			\$ 13,450,000

* Note: fund has been renamed to avoid confusion with new global reserve funds

**Note: \$5 million of previous \$25 million has been allocated to United States General Reserve

U.S. GENERAL RESERVE 2014 \$5 MILLION

	Applicants	Total
I. Authorized and Expended		
• Online Resource for the Leahy Law	OSPC, Justice Initiative, Information Program	\$ 210,000
Total		\$ 210,000
Remaining 2014 USP General Reserve Fund		\$ 4,790,000

U.S. General Reserves Proposal

Leahy Law

To: Ken Zimmerman, U.S. Programs
Fr: Lora Lumpe, OSPC
Elizabeth Eagen, Information Program
Jonathan Horowitz, OSJI
Re: US General Reserve Fund Proposal
Date: April 9, 2014

(1) The amount requested: \$210,000

(2) The unforeseen opportunity:

In early 2014 the State Department significantly increased its support for implementation of the Leahy Law,¹ which prohibits U.S. military assistance to security force units committing gross human rights violations, by creating a new office dedicated to this purpose. This new office, headed by a rising star in the Foreign Service, can play an important role in extending human rights protections by improving screening of the \$15 billion in annual US military assistance.²

To succeed in this daunting task, however, the office will need help from civil society. The vast amount of human rights information currently available is not optimized for this purpose. Human rights researchers and journalists often fail to connect abuses they document to specific security force units or commanders, instead using generic terms (e.g., “the army” or “government security forces”). This information gap weakens the impact of human rights reporting and advocacy, hampers prosecution efforts, and undermines human rights restrictions on security assistance. In particular, to give effect to the Leahy Law, high quality human rights information linked to specific military and police units is required.

A year ago we began discussing a plan to address this gap, which involves commissioning a specially-tailored database that will help researchers worldwide link their information on human rights violations to specific units and to submit their information in a consistent, readily searchable form. We would also help familiarize human rights researchers with this database and the Leahy Law. We would help researchers learn how to link their information to specific military units as required by the law. As a global foundation with deep experience and unique insights about the implementation of the Leahy Law and the need to improve civil society’s use of data, OSF is in an ideal position to develop and launch this database.

Armed with this information, officers in the new State Department unit will be in an unprecedented position to block U.S. military assistance from reaching gross human rights abusers and to press for prosecutions and security sector reform. Such a database would also empower broader civil-society efforts to hold security forces around the world accountable. But we need to move swiftly to take advantage of this unprecedented opportunity.

¹ The Leahy Law prohibits the U.S. government from providing assistance to foreign security force units that are credibly alleged to have committed gross human rights violations -- such as murder, torture and rape -- until the host nation government takes effective steps to bring the responsible persons within the unit to justice.

² The United States is by far and away the world’s leading bilateral provider of assistance to military, paramilitary, and police forces around the world.

(3) The activities proposed:

If approved, Tony Wilson (currently a member of US Programs/NSHR) would work full time over a year (after completing his current contract, which ends on June 30, 2014) to pilot an online resource to provide detailed information on security forces, including charts of the command hierarchies of various branches of the security services; names, ranks, dates of service and other relevant details on commanders; maps of police stations and other security force bases; and maps of the zones of jurisdiction/areas of responsibility for various branches of the security forces.³ According to the Foreign Service officer setting up the State Department's new Security and Human Rights unit, a database with this information is "exactly what we need." And according to our interviews with key partners in the human rights field, an accessible source of

information like this would greatly lower the barriers to them for collecting the information required to link abuses to perpetrators.

Tony has already created two case studies (Bahrain and Nigeria) to demonstrate the concept, and he would replicate this research over the coming year in 3-4 more countries, refining a template on how to gather this sort of detailed information through open source research. Sustainability of the project would be facilitated by creation of materials that will educate other researchers about how to gather this information on other countries.

At the end of the year a database will have been built, populated and promoted, allowing researchers and human rights activists to submit detailed findings to the State Department on violations by specific units in a consistent, searchable manner that maximizes impact. In addition, staff will have created a "how to" template for conducting this research, and 5-6 countries' security forces will be mapped in the database. Finally, project staff will have explored institutional homes for the project and sustainable foundation support. Early conversations with MacArthur Foundation were encouraging.

(4) Contributions expected from OSF and partners or grantees:

In addition to OSF-DC and the Information Program, numerous OSF regional and thematic programs have expressed enthusiasm for the project (e.g., AfRO, Rights Initiative, Justice Initiative). OSF supports dozens of grantees that focus on security sector accountability, including those working on pretrial detention, torture, prison standards, and military justice. This resource will be useful to those grantees, in addition to a wider universe of advocates, academics, and journalists.

(5) Who would lead the work:

Lora Lumpe (OSF-DC), Jonathan Horowitz (OSJI) and Elizabeth Eagen (Information Program and Human Rights Initiative) would jointly serve as an informal board to advise the project, with Tony Wilson serving as the primary staff lead.⁴ Lora would serve as the management lead for Tony's time and performance. This group has undertaken an extensive pre-development scan and has established the parameters of the database and the team to build it. Over the course of the year, this database will be programmed and implemented. Funding requested would support hiring Tony, a programmer and technical support.

³ The attached slide deck is a visualization of the types of information the site would provide.

⁴ Tony, who currently splits his time 80% as a Temporary Program Officer for USP and 20% focused on this project, would dedicate 100% of his time as project lead beginning in July 2014.

2014 Open Society Foundations General Reserves and Central Reserves Tracking Sheet

GENERAL RESERVES		UNITED STATES		Starting Balance	5,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF11	OSPC, Justice Initiative & Information Program	14-Apr-2014	Online resource for the Leahy Law	210,000	210,000
				General Reserves subtotal	210,000
GENERAL RESERVES		UNITED STATES		Available Balance	4,790,000
GENERAL RESERVES		GLOBAL		Starting Balance	7,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF14	Public Health Program	2-May-2014	Affordable Access to New Hepatitis C Treatments	800,000	800,000
				General Reserves subtotal	800,000
GENERAL RESERVES		GLOBAL		Available Balance	6,200,000
GENERAL RESERVES		AFRICA		Starting Balance	6,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF8	Washington D.C.	8-Apr-2014	US-Africa Leaders Summit, August 2014	126,000	126,000
				General Reserves subtotal	126,000
GENERAL RESERVES		AFRICA		Available Balance	5,874,000
GENERAL RESERVES		ASIA		Starting Balance	4,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
				General Reserves subtotal	-
GENERAL RESERVES		ASIA		Available Balance	4,000,000
GENERAL RESERVES		EURASIA		Starting Balance	5,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF12	Eurasia Program & Soros Foundation - Moldova	22-Apr-2014	Communication Campaign in Support of Moldova's EU Association	630,200	630,200
RF13	Eurasia Program, Public Health Program, & International Renaissance Foundation - Ukraine	22-Apr-2014	Support for Relocation of Opioid Substitution Patients from Crimea	227,370	227,370
				General Reserves subtotal	857,570
GENERAL RESERVES		EURASIA		Available Balance	4,142,430
GENERAL RESERVES		EUROPE		Starting Balance	7,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF15	Kosovo Foundation for Open Society (KFOS)	2-May-2014	"Vote and Watch" — Empowering every Kosovar citizen to uphold the integrity of the June, 2014 Parliamentary Elections	130,000	130,000
				General Reserves subtotal	130,000
GENERAL RESERVES		EUROPE		Available Balance	6,870,000

2014 Open Society Foundations General Reserves and Central Reserves Tracking Sheet

GENERAL RESERVES		LATIN AMERICA & THE CARRIBBEAN		Starting Balance	4,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF6	Justice Initiative & Latin America Program	8-Apr-2014	Justice Sector Reforms in Guatemala in 2014	375,000	375,000
RF9	FOKAL, Justice Initiative & Latin America Program	8-Apr-2014	Jean-Claude Duvalier Trial	400,000	400,000
RF10	Youth Exchange & Latin America Program	8-Apr-2014	"No a la Baja," a campaign to oppose lowering the minimum age for criminal responsibility in Uruguay	199,000	199,000
General Reserves subtotal				974,000	974,000
GENERAL RESERVES		LATIN AMERICA & THE CARRIBBEAN		Available Balance	3,026,000
GENERAL RESERVES		MENA, & SOUTHWEST ASIA		Starting Balance	4,000,000
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
General Reserves subtotal				-	-
GENERAL RESERVES		MENA, & SOUTHWEST ASIA		Available Balance	4,000,000
GENERAL RESERVES TOTAL				Amount Requested	Amount Approved
				3,097,570	3,097,570
SHARED FRAMEWORK					
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF1	Africa Regional Office	12-Nov-2013	Food Security	2,500,000	2,500,000
Shared Framework Total				2,500,000	2,500,000
PRESIDENT'S & CHAIRMAN'S RESERVES					
ID	Applicant	Approval Date	Description	Amount Requested	Amount Approved
RF2	Scholarship Programs	14-Feb-2014	Targeted MA awards for Burma	500,000	500,000
RF3	Eurasia Program (budget allocation-IRF)	5-Mar-2014	Crisis in Ukraine	1,000,000	1,000,000
RF4	Board Development	20-Feb-2014	Board Development	47,021	47,021
RF5	Office of the President	18-Mar-2014	HESP - BRAC Legal Empowerment	2,000,000	2,000,000
RF7	Fiscal Governance Program	7-Apr-2014	Revenue Watch Institute Spin-Off	2,315,000	2,315,000
President's & Chairman's Reserves Total				5,862,021	5,862,021
SUMMARY OF CENTRAL RESERVE FUNDS TOTAL				Amount Requested	Amount Approved
				11,459,591	11,459,591

DEATH PENALTY
ABOLITION
PORTFOLIO REVIEW
MAY 15, 2014

U.S. Programs Portfolio Reviews

TO: U.S. Programs Board
FR: Ken Zimmerman
RE: Portfolio Reviews
DATE: May 7, 2014

The attached materials reflect our first effort at the board level to conduct a new mechanism used to promote assessment and reflection of past performance: a portfolio review. Through a mechanism established by Chris Stone to allow a retroactive examination of a set of grants in a particular area (typically between 10-15 grants), the review is intended to look back typically for 3-4 years and examine what did and did not work, with a particular focus on expectations staff had as they entered into a grant-making strategy and what led to departures from those expectations. While these reviews are intended to be retrospective, they obviously can and should inform future practice and decision-making.

The attached materials pertaining to the death penalty portfolio review follow the same format we are trying to universalize: an 8-10 page memo undertaking the retroactive examination, attachments that provide more information about particulars of the grant-making and external events, and other relevant material. The session is similarly structured, starting with a presentation by the staff member who undertook the review followed by a discussant who responds to the material and presentation. In this case, we have invited Soros Fellow and Georgetown Law professor David Cole, and board member Yochai Benkler to join us as discussants. After the presentations (anticipated to be no more than 5-6 minutes each) we will have an open discussion.

To date, USP has done four portfolio reviews (see tab 7 for the materials related to these reviews). As you will see, we are emphasizing the importance of candor about past practice—the necessary prerequisite for developing a more sustained culture of inquiry and learning. The several board members who have participated in these have found them a more effective way to get a sense of actual practice, and have been universally appreciative.

I thank Terrence Pitts and Leonard Noisette for agreeing to undertake the work involved, and look forward to the conversation.

One-Page Overview

Death Penalty Abolition Portfolio Review

A portfolio review is a newly initiated process that allows OSF staff, senior management and advisory boards to analyze the Foundation's grantmaking within a particular thematic area. This portfolio review provides U.S. Programs' staff and board with an opportunity to reflect upon OSF's death penalty abolition grantmaking from 2007 - 2013.

USP first initiated its death penalty grantmaking in 1998. In 2007, OSF, along with other foundations and leaders in the field, mapped out a coordinated, movement-wide strategy that became known as the Campaign to End the Death Penalty in the U.S. by 2025 ("2025 Campaign"). The originating goal of the national 2025 Campaign was to support multi-pronged advocacy strategies leading to a Supreme Court decision that would rule capital punishment a cruel and unusual punishment, therefore banning the practice in violation of the Constitution. The Justice Fund has led OSF's death penalty abolition grantmaking with an average annual commitment of \$3 million over the past several years.

Moderator: Leonard Noisette, Director, Justice Fund

Presenter: Terrance Pitts, Program Officer, Justice Fund

Discussants: David Cole – Hon. George J. Mitchell Professor in Law and Public Policy, Georgetown Law and Yochai Benkler – Jack N. and Lillian R. Berkman Professor for Entrepreneurial Legal Studies, Harvard Law School

Questions for board engagement

- How can OSF staff address the challenge of taking part in a complex advocacy campaign when our views do not always align with our funder colleagues?
- How can OSF best address tensions, turf issues and disagreements about strategic choices among key national abolition organizations?
- What role can OSF play to address the impact of the spend-down of The Atlantic Philanthropies in the death penalty abolition field?
- What role can OSF play to ensure the newly structured Campaign's leadership has the support to succeed?

Death Penalty Abolition
Portfolio Review

US Programs – Justice Fund
Open Society Foundations
May 15, 2014

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I. BACKGROUND

The death penalty has no role in a democratic society. Its use in the United States violates principles of justice, government transparency, and equality. Capital punishment can never be practiced in a way that is fair or unbiased. Time and time again, the death penalty has been proven to be racially discriminatory, used arbitrarily, error-prone and a waste of government resources. Abolishing the death penalty advances the core values of an open society and all of the principles that United States Programs (“USP”) of Open Society Foundations (“OSF”) supports. Fortunately, the use of capital punishment is on the decline in the United States and OSF has played a role. This narrative provides an overview of OSF’s grantmaking efforts aimed at abolition.

USP developed the Gideon Project in 1998 as a grantmaking effort to support death penalty abolition and indigent defense reform. The Gideon Project’s grantees engaged in work that included research, infrastructure support for national organizations, grassroots advocacy and litigation.¹ One year later, Open Society Institute (“OSI”) helped to launch the funding collaborative Funders for Alternatives to the Death Penalty (“FADP”) to support more coordinated and strategic investments in anti-death penalty advocacy. Current FADP members include OSF, The Atlantic Philanthropies, Fund for Non Violence, Butler Family Fund, and the newly formed Themis Fund at Proteus.²

In 2007, OSF increased its commitment in the death penalty abolition field. That year, OSF along with The Atlantic Philanthropies and other FADP members convened a series of meetings with leaders in the field to develop a strategic plan for a comprehensive campaign to end the death penalty. Litigators, organizers, policy experts, researchers, and communications professionals were asked to provide extensive consultation to the funders. Collectively, the group analyzed options and, in consensus, mapped out a coordinated, movement-wide strategy that became known as the Campaign to End the Death Penalty in the U.S. by 2025 (“2025 Campaign”). OSF staff played a lead role in forming the new 2025 Campaign.³ For purposes of this portfolio review, we evaluate OSF’s death penalty abolition funding from the time the 2025 Campaign began in 2007 until 2013.

II. WHY A NATIONAL ABOLITION CAMPAIGN?

The originating goal of the national 2025 Campaign was to support multi-pronged advocacy strategies leading to a Supreme Court decision that would rule capital punishment a cruel and unusual punishment, therefore banning the practice in violation of the Constitution. To make this determination, the Court would determine if there was a national consensus against the use of capital punishment based upon a history of Eighth Amendment jurisprudence.⁴

The 2025 Campaign sought to demonstrate a national consensus against the use of capital punishment through two main strategies - legislative repeal campaigns and litigation strategies to reduce usage of the practice.⁵ These

¹ The Gideon Project was eventually folded into the newly formed Criminal Justice Fund (CJF) in 2008 and indigent defense became a separate portfolio. (CJF became the Justice Fund in 2103.)

² Early members included - The Wallace Global Fund, The Maverick Lloyd Foundation. Before its closure, the JEHT Foundation coordinated closely with FADP but was not a member.

³ Jackie Baillargeon (wife of USP Director Ken Zimmerman) was a lead staff member directing OSF’s abolition grantmaking at that time, serving from 2000 – 2007. Tanya Coke led OSF’s grantmaking in this area from 1998 – 2003. Along with other funders, Ms. Baillargeon and Ms. Coke played significant roles leading to increased coordination in the field and enhanced capacity to develop a national abolition campaign.

⁴ *Furman v. Georgia*, 408 U.S. 238 (1972) (Court rules the death penalty, as it was practiced, violated the 8th Amendment and begins to lay the framework for a consensus analysis); *Gregg v. Georgia*, 428 U.S. 123 (1976) (Court allows the death penalty to be reintroduced with reconstituted capital sentencing guidelines that were less arbitrary). Only two Justices in the *Furman* Court agreed that the death penalty was inherently unconstitutional).

⁵ In a series of cases since *Furman*, the Court has based its consensus analysis on several factors including: number of states that legislatively abolish the practice - and the direction of legislative change; number of sentences imposed; number of executions performed; and geographic isolation in sentencing and executions.

two strategies would be bolstered by complementary strategies including communications, grassroots organizing, policy advocacy, and research. The 2025 Campaign sought to impact the public's awareness of the arbitrary, error-prone, and discriminatory nature of the death penalty, focus on issues such as innocence and wrongful convictions, and highlight the expense and futility of maintaining costly capital punishment regimes.

When the 2025 Campaign formed, the primary assumptions of USPs' involvement were: 1) funders would have to incentivize advocates to increase coordination across sectors to make advances towards abolition; 2) USP and other funders would have to significantly increase existing investments and play an active role in the Campaign's progress; 3) national organizations would have to work with state-based groups and the work would have to advance state repeal efforts and reduce usage; and 4) USP would prioritize funding the Campaign's litigation efforts.

Although the 2025 Campaign came together formally in 2007, its development was the result of years of work and several culminating factors including: 1) increasing coordination among advocates since the mid-1990s, particularly after a foundation-initiated meeting with advocates in 2000 to encourage them to coordinate their work and funding requests; 2) momentum gained from a judicial decision invalidating New York's capital punishment statute in 2004 and growing momentum for abolition in New Jersey resulting from a moratorium and study commission initiated in January 2006; 3) the entry of the JEHT Foundation and the Atlantic Philanthropies in the field of abolition grantmaking in 2003 and 2004; and 4) a shifting political environment and changes in public opinion about capital punishment resulting from growing attention to issues related to innocence and wrongful convictions, including the commutation of 167 death row inmates by Gov. Ryan of Illinois and a major study by Columbia Law School Professor James Liebman exposing serious problems and errors with the system of capital punishment.

Critical Issues That Framed the 2025 Campaign's Development

The 2025 Campaign hired its first director in 2007 and was governed by a nine-member rotating nine-member Steering Committee of field leaders. Much of the work of the 2025 Campaign was also supported by five "Affinity Groups" (litigation, policy, communications, research and organizing), which were led by about two dozen leaders in their respective fields. The 2025 Campaign's leadership had extensive interaction and collaboration with FADP to support the fundraising goals. Three key issues that emerged during the formation of the 2025 Campaign and later impacted the Campaign's progress were:

- Who would have authority to make funding recommendations?
- Would participating foundations be able to meet the 2025 Campaign's funding goals?
- Who would have authority to set and adjust the Campaign's targets in response to changing events and trends in the field?

Section IV of this narrative provides a more comprehensive discussion of these issues.

III. BROADER TRENDS IMPACTING THE MOVEMENT TO ABOLISH THE DEATH PENALTY

Momentum Forward

Since 2007, six states abolished the death penalty with Maryland being the most recent state to abolish the practice in 2013. In April 2014, New Hampshire came one vote away from repeal. Currently, advocates in Delaware are doing their best to secure legislative support for repeal. Additionally, over the past few years, the Governors of Colorado, Oregon and Washington have put a halt on executions citing the arbitrary nature in which the death penalty is pursued. At the same time, usage of the death penalty has declined from a peak of 98 executions in 1999 to 39 in 2013, and from 315 new death sentences in 1994 and 1996 to 80 in 2013. Despite these measureable gains, many jurisdictions continue to use capital punishment, with 32 states still authorizing its use.

Moreover, there are pockets in the country where local officials continue to vigorously seek new death sentences and carry out executions. In 2013, all of the new death sentences came from only 2 percent of the counties in the United States. California (24) and Florida (15) represented almost half of these death sentences. In 2013, 82 percent of all executions were in the South.

Shifts in public opinion

According to a recent Gallup poll, almost 60 percent of Americans favor the death penalty for an individual convicted of murder. Sixty percent represents the lowest support for the death penalty since 1972 when support was 57 percent. A 2013 report by Pew Research Center confirms a trend of decreasing support for the death penalty. One favorable measure of progress is the increase in the percentage of Americans who favor alternatives to the death penalty. According to Gallup, Americans who favor life without parole as an alternative to capital punishment grew from 34 percent in 1985 to 46 percent in 2010. Moreover, 64 percent of Americans do not think the death penalty acts as a deterrent and only a slim majority (52 percent) believes the death penalty is applied fairly. National opinion polling conducted in 2010 revealed other key findings: fairness, cost, victims' needs and innocence are important to voters thinking about the death penalty.

Trends Supporting a Decline in Usage and Legislative Change

There have been a variety of interrelated trends which researchers and other experts attribute to the decline in usage of the death penalty including:⁶ a lower murder rate nationally,⁷ the growing availability of life without parole,⁸ increasing exposure to stories of innocence and wrongful convictions,⁹ a softening of public opinion in favor of the death penalty, juries that are less willing to give death sentences,¹⁰ prosecutors who are seeking death less, and sophisticated litigation strategies which prevent new death sentences and executions.

⁶ See *A Matter of Life and Death: The Effect of Life-without-Parole Statutes on Capital Punishment*, Harvard Law Review, Vol. 119, No. 6 (Apr., 2006), pp. 1838-1854; *Life Goes On: The Historic Rise in Life Sentences in America*, 2013, Sentencing Project, Ashley Nellis.

⁷ The murder rate nationally decreased from 10.2 percent in 1981 to 4.7 percent in 2011.

⁸ According to The Sentencing Project, the number of individuals serving LWOP increased from 12,453 in 1992 to 49,081 in 2012. LWOP is currently available in every state except Alaska. Over the past four years, there has been a 22% rise in the LWOP population. Between 1971 – 1990 26 states enacted LWOP. Seventeen other states did so between 1991 – 2012.

⁹ As of March 2014, 144 individuals have been placed on the Death Penalty Information Center's innocence list. They have been acquitted of all charges related to a crime placing them on death row; had all charges related to the crime that placed on death row dismissed by the prosecution; or been granted a complete pardon based on innocence.

¹⁰ Over the past six years in Texas, death-qualified juries have rejected the death penalty in more than 20 capital murder trials. See *Texas Death Penalty Developments in 2013: The Year in Review*, Texas Coalition to Abolish the Death Penalty.

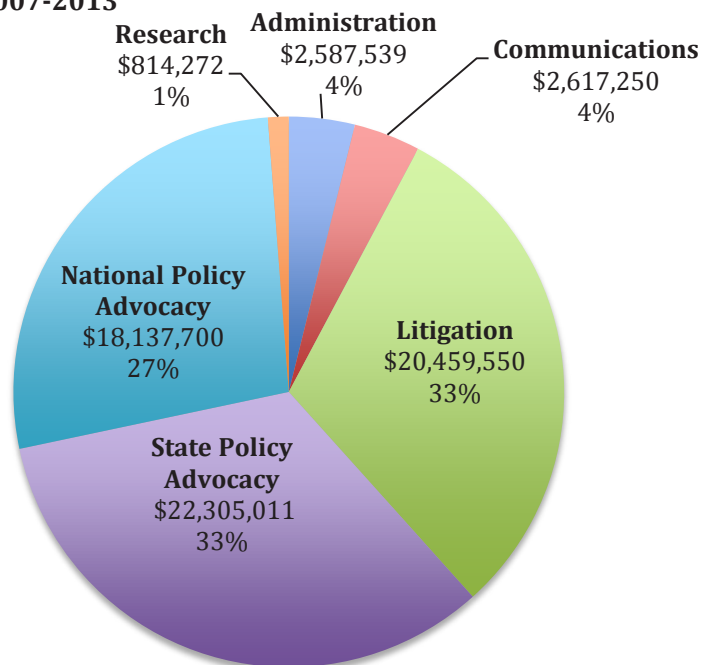
Although it may be impossible to determine with certainty the magnitude that each of the above factors has had in decreasing usage, many experts agree the increasing public exposure to the arbitrary and error prone system¹¹ of capital punishment has raised doubts about its fairness and utility. A set of other factors has contributed to successful state repeal campaigns including:

- Long-term work by advocates who have developed increasingly sophisticated strategies;
- Opportune political moments including shifts in the composition of state legislatures;
- Research and study commissions which expose problems with the death penalty;
- Integration of unlikely allies in state campaigns including law enforcement and victims’ family members; and
- Support of key allies such as faith communities, and local affiliates of national organizations such as the NAACP and the ACLU.

IV. 2025 CAMPAIGN AND USPS’ GRANTMAKING ASSESSMENTS

FADP Abolition Funding, 2007-2013

Total: \$66,921,322



2025 Campaign

The 2025 Campaign’s successes include a more coordinated and collaborative approach to field-building and funding that has helped to achieve two important goals:

- Advance legislative repeal; and
- Support key organizations that are working to prevent new death sentences and executions.

¹¹ A forthcoming study by Samuel Gross indicates 4.1% of death-sentenced defendants would be exonerated if they remained under a death sentences. *See The Rate of False Conviction of Criminal Defendants Who Are Sentenced to Death*, Proceedings of the National Academy of Sciences of the USA, at <http://www.pnas.org/content/early/2014/04/23/1306417111>.

In particular, funders made significant investments in all of the states that repealed the death penalty since 2007 and to organizations working in traditionally high-use and “hot spot” jurisdictions including states like Texas, Georgia, Alabama, and Pennsylvania. Funders made new investments in Pennsylvania and Arizona to address new death sentences in those states.

FADP made grants totaling almost \$67,000,000 to support death penalty abolition from 2007 – 2013. (Please see the appendix for additional details.) Three FADP members, including OSF, also took part in the Death Penalty Mobilization Fund (“DPMF”) - a pooled grantmaking fund at the Tides Foundation designed to support state repeal campaigns. Since 2000, DPMF has made grants totally more than \$3.1 million to organizations working towards legislative repeal.

A Real Campaign?

One of the 2025 Campaign’s main challenges has been the lack of clarity about the decision-making structure. Some vocal critics believed a true campaign should have a narrowly tailored set of strategic priorities and that funders should come into alignment and only fund organizations or strategies to achieve those priorities. The problem was – not everyone agreed about the priorities and no one was making the tough calls about what priorities should be de-emphasized and others elevated. For example, some field leaders believed that funding expensive legislative repeal campaigns in low-use states was not a strategic priority and wasted valuable resources that could have been allocated to reduce usage in high-use jurisdictions.

A subsidiary problem was a lack of complete buy-in from all sectors of the movement about the utility of the 2025 Campaign. Through numerous conversations, we learned that many litigators did not always see the Campaign’s benefit to their work unless resources were directed to their states to support driving down usage. Litigators were also consumed with defending their clients and did not always have time to take part in the Affinity Group structure on a regular basis.

These problems are partly rooted in the 2025 Campaign’s structure. At the formation of the 2025 Campaign, the Coordinator was never given authority to make decisions about where the Campaign should shift its strategic priorities to address emerging needs in the field. The Coordinator was charged with facilitating communication among the 2025 Campaign’s many stakeholders. Instead Steering Committee members were given the responsibility to develop strategic priorities. Despite this charge, many field leaders were concerned that strategic priorities were not identified clearly or narrowly enough, and, as a result, funding was not directed to where it was needed the most.

A related challenge was the 2025 Campaign’s lack of staffing capacity to carry out regular and intelligence gathering and analysis about the complex set of political, legislative and other factorings impacting capital punishment. Many advocates reported that the regular field updates from the Campaign Coordinator lacked specific direction. The 2025 Campaign’s single staff member did not have the time or resources to take on the numerous responsibilities required to lead a national campaign.

Other challenges include the lack of clarity about how funding priorities should be determined and how information about funding decisions by FADP would be shared. At the beginning of the Campaign, many advocates wanted the authority to set funding priorities and make funding recommendations but funders balked at the idea. Instead, a compromise was struck and the Steering Committee was empowered to provide funders with a list of strategic priorities. While funders wanted input and guidance, most Steering Committee members didn’t feel comfortable giving specific recommendations about what organizations or projects should be funded. However, some vocal advocates in the field wanted the Steering Committee to give funders more direct guidance. This created a conflict. In particular, Steering Committee members were concerned that even their recommendations about larger strategic priorities could have the appearance of a conflict of interest if they suggested funding be directed in a jurisdiction or state where their organization was based.

Since the competition over limited foundation dollars had created conflicts among grantees in the past, FADP members did not feel comfortable sharing their funding decisions. Many advocates and grantees criticized FADP for this lack of complete transparency. Steering Committee members also reported that the lack of transparency impeded their decision-making about setting the Campaign's priorities. While FADP members frequently discussed and debated the issue of full disclosure, the collaborative never set a formal policy. In 2013, the group agreed to share funding data by state and sector. In the future, the funding collaborative will set a formal policy that provides full disclosure of funding decisions including funding amounts and organizational names to targeted 2025 Campaign stakeholders to facilitate the setting of priorities. It remains to be determined if FADP members will release full funding details to all grantees.

Another significant issue related to funding that will likely never be resolved is the gap between the perceived funding needs of a national death penalty abolition campaign and the amount funders have brought to the table. The original 2025 Campaign budget was approximately \$28 million. During the early stages of the Campaign, it became clear that this goal was unrealistic. As a result, the Campaign's leadership reduced the amount and determined the advocacy field would need about \$14 million annually beginning in 2010. However, for several consecutive years, FADP members made grant recommendations totalling about \$12 million annually. This example illustrates the contrast between what advocates desire and what can realistically be funded. As Atlantic Philanthropies exits the field, the resource gap will only increase. In response, Atlantic has created the Themis Fund, a new funding entity housed at Proteus tasked with the goal of bringing new donors to the national campaign. Currently, Themis Fund is staffed by a former program officer of the Atlantic Philanthropies. It is uncertain if Themis will ever be able to raise enough funds to replace the gap left created when Atlantic leaves. On average, Atlantic has funded slightly over \$6 million per year to support abolition the past three years.

National coordination

Unfortunately, over the years, turf battles have emerged between the National Coalition to Abolish the Death Penalty (NCADP) and Equal Justice USA - ("EJUSA") - two of the leading national anti-death penalty organizations that provide critical support to state-based abolition campaigns. An evaluation firm and consultant supported this observation. Their assessments revealed: 1) a lack of clearly defined roles between EJUSA and NCADP; 2) EJUSA's competition with other national organizations in ways that hindered progress for repeal campaigns; and 3) actions by EJUSA's which were viewed, in some cases, as usurping the role of state abolition groups in repeal states.

The leaders of both organizations have seen the assessments and have discussed them with FADP members. In some instances the organizations' leaders agree with the observations and have attempted to resolve differences and work better together. Since both organizations have provided valuable services to state-based campaigns despite the challenges, funders have been reluctant to completely "defund" them—fearing a gap of needed services. Notably, in response to the critiques, NCADP is refining its strategy by putting in place a more communications-focused plan to fill a gap in the field, broadening the base of support for abolition by recruiting more national allies to support state efforts, beefing up board membership, and working to support its state affiliates by accessing state-of-the-art voter databases.

Restructured campaign

The 2025 Campaign's Steering Committee, in collaboration with FADP and other leaders in anti-death penalty field, made a decision early in 2013 to restructure the 2025 Campaign to reprioritize limited resources. The 2025 Campaign's litigation affinity group believed there needed to be a change in strategy for three reasons:

- Fewer opportunities remained to obtain repeal in "low-hanging fruit" states making it more difficult and more expensive to win repeal campaigns or ballot initiatives in additional states;

- The Atlantic Philanthropies would be making its last death penalty grant at the end of 2015, thereby substantially reducing the available resources; and
- The Supreme Court’s decision in *Graham v. Florida* provided evidence that the Court’s Eight Amendment consensus analysis would give significant weight to reduced usage of a punishment, without a majority or supermajority of states having to legislatively repeal the practice.¹²

Atlantic Philanthropies and Themis Fund have played primary roles in the 2025 Campaign’s reorganization by funding and engaging Civitas Public Affairs to design the structure of a new national campaign (“Campaign 2.0”).¹³ The realignment process for Campaign 2.0 is winding down. After a national search, on May 6, long-time capital litigator Henderson Hill accepted the position as the new Campaign Director. Changes in the campaign structure will include four new staff positions to retain individuals with litigation, legislative and communications expertise. Civitas has recommended replacing the Steering Committee with a smaller and non-rotating advisory board and eliminating the Affinity Groups. The administrative and operational budget of the new Campaign structure is \$1.4 million annually. The Atlantic Philanthropies has made a commitment to fund the first two years of Campaign 2.0.

Unfortunately, the restructuring process caused a leadership vacuum. The prior Campaign Coordinator felt pushed out and resigned in mid-2013. Additionally, as Civitas’s influence grew, its role started to overshadow the influence of the Steering Committee, which became inactive at the end of 2013. Civitas also exacerbated tensions in the field by marginalizing the participation of some long-time advocates and failing to adequately consult many leaders as it built out a new campaign structure. Finally, at least one funder who has not been pleased with Civitas’s role, or the pre-existing 2025 Campaign, has created controversy by criticizing individual funders and institutions in public ways.

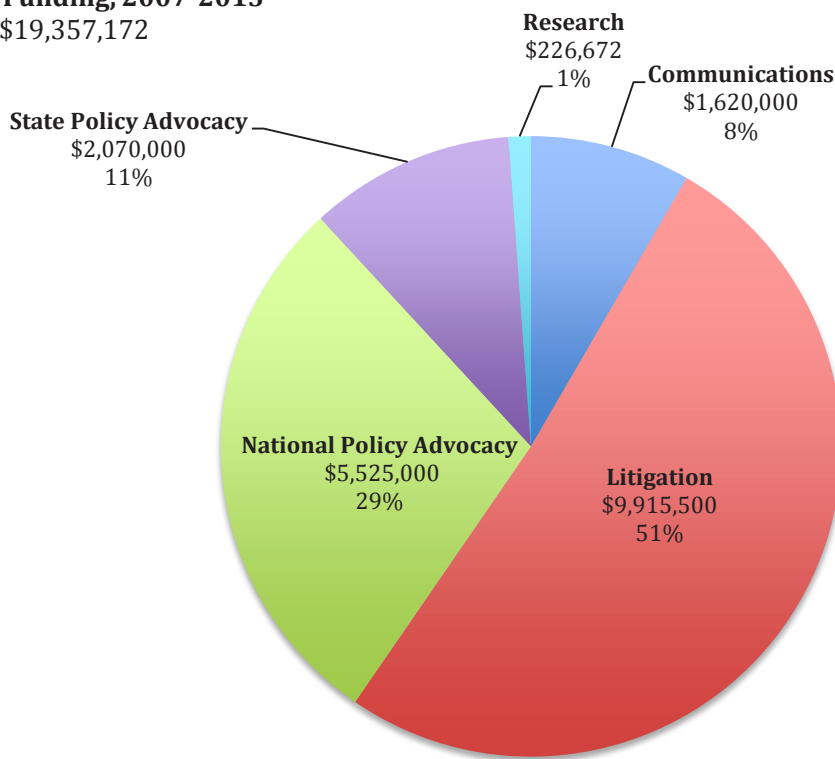
Effective coordination and partnership in the death penalty abolition movement is more important than ever before. Given existing tensions in the field, the long-term success of Campaign 2.0 will depend upon the ability of the new campaign director and staff to build alliances and partnerships with leaders in the abolition movement and funders. If the Campaign 2.0 staff is viewed as a competitor instead of a collaborator, the intensity of the competition and turf battles may increase. Since EJUSA, NCADP and other organizations have not been actively involved in the new campaign's development, it remains to be seen how effectively these national organizations will coordinate with the Campaign 2.0 staff.

¹² *Graham v. Florida*, 560 U.S. 48 (2010) (declaring the practice of life without parole unconstitutional for individuals who committed non-homicide crimes as juveniles when only six states legislatively prohibited the practice but where usage and geographic isolation demonstrated national consensus against the practice).

¹³ A new name has not been designated for the realigned campaign but it has been called Campaign 2.0.

USPs' Abolition Funding, 2007-2013

Total: \$19,357,172



USPs' Grantmaking

USPs' investment in the 2025 Campaign has been structured around risk-taking to support new projects that advance the Campaign's goals and investments in litigation strategies to drive down usage. When USP first took part in the 2025 Campaign, OSF agreed to prioritize a litigation-based funding strategy. This decision has been a good fit for USP given the OSF's previous limited use of its c4 capacity and Atlantic Philanthropies' strategic advantage of c4 capacity and significantly larger grantmaking budget to support state-repeal campaigns. Since Atlantic was investing considerably more resources in state repeal campaigns, USP could support strategies to reduce usage.

Of course, USPs' grantmaking choices cited above have had tradeoffs. Some of the new projects have flourished while others have been less successful. Additionally, by prioritizing funding some key areas, USP has not been able to invest significantly in other strategies such as communications and research. We explore the consequences and tradeoffs of these choices below. (Please see appendix for a list of USP grants.)

Tradeoffs

Only eight percent of USPs' death penalty abolition grantmaking has supported communications strategies. Although we knew that there was an important need to ramp up the 2025 Campaign's communications infrastructure, we were reluctant increase funding in this area since it would have meant that another grantee carrying out policy or litigation strategies would have not been funded. We continue to grapple with these tough choices. Looking back, we could have made additional investments in communications.

Despite the lack of investment in this area, one successful "start-up" grantee that has played a particularly effective role is the Capital Litigation Communications Project ("CLCP"). CLCP provides critical

communications support to carefully chosen death penalty cases to support litigation teams with the goal of highlighting systemic themes such as mistake, unfairness, intellectual disability, or innocence to further eroding public support for capital punishment. The project director has become the “go to” communications expert for capital litigators in the country working on more than 30 capital cases per year with at least one U.S. Supreme Court case per year. Unfortunately, the pace at which CLPC director and other staff work cannot be sustained. Fortunately, the Campaign 2.0 staffing structure calls for the hiring of a communications staff member. This additional staff capacity will ease some of the burden on CLCP but it will not alleviate it entirely.

Another tradeoff has been USP’s lack of investment in research about capital punishment. We know that research plays a critical role in documenting the flaws, racially disparate impact and arbitrary nature of the death penalty. Fortunately, the work of some of the Justice Fund’s other grantees and key allies such as the National Registry of Exonerations at the Center on Wrongful Convictions at Northwestern Law School, the Innocence Project, Prof. Sam Gross at University of Michigan Law School, Jeff Fagan and James Liebman, among others, have played influential roles in highlight what’s wrong with capital punishment. We have not yet determined if we will make new investments in research in the near future.

Successes and new opportunities to drive down usage

Although there are still many challenges, litigation and policy efforts by USP grantees in traditionally high-use jurisdictions like Texas, Georgia and Alabama have helped to reduce new death sentences, prevent executions and bring about reforms that have improved capital defense. For instance, the Southern Center for Human Rights helped to support the passage of the Georgia Indigent Defense Act and defeat of legislation that would have allowed for a non-unanimous jury to sentence a person to death. The Texas Defender Service has supported key policy reforms intended to improve fairness and accuracy of the criminal justice system and the development of a Regional Public Defender for Capital Cases. Attorneys for the Equal Justice Initiative in Alabama continue to win positive rulings for death penalty clients. Moreover, high-quality and intensive litigation and mitigation efforts in high-use states help to change the culture by setting a high bar for capital representation.

One of the successful start-up projects supported almost exclusively by USP has been the work of Lethal Injection Project (“Project”) at UC Berkeley. The shortage of drugs used in lethal injections has created an opening for a variety of legal challenge as states scramble to adopt new lethal injection protocols. The Project’s two attorneys are working with litigators in various states to challenge the constitutionality of new lethal injection drug protocols and state secrecy laws related to the protocols. The collective work has effectively created moratoria in five states pending litigation. The team is working with attorneys in six other states to challenge state secrecy laws there. Although not funded by USP, staff at Reprieve, an international NGO, have also coordinated and worked successfully with the Project’s attorneys. Reprieve’s complementary focus has secured European Union controls to regulate distribution channels of drugs used in lethal injections to prevent European pharmaceuticals from being used in executions. After making successive one-year commitments to the Project, we recommended a two-year grant to provide greater stability. Prior to the two-year grant, the Project’s attorneys were fearful of not being able to continue their work. Our investment in this small but impactful project that prevents executions is critical to the goal of national abolition.

Another successful start-up is the Atlantic Center for Capital Representation (“ACCR”). Based in Philadelphia, ACCR has taken the pre-trial case consulting and training model used successfully by the Texas Defender Service and transferred the model to Pennsylvania, a state that has had a high rate of capital prosecutions, poorly trained capital defense attorneys and inadequately funded capital defense. ACCR’s litigation over the outrageously low fees to capital litigators in Philadelphia has helped to change the conversation about the death penalty in the state. Again, we’ve learned that a relatively small but highly qualified team can impact policy, change the conversation about the death penalty, and improve capital defense. This model has the potential to be replicated in other jurisdictions.

As a result of some of the lessons cited above, we are now evaluating proposals to fund litigation efforts in Florida to address high usage in that state.¹⁴ Recently, USP supported a meeting of litigators in Florida to identify strategies that could address the post-conviction and pre-trial needs in the state. After the meeting, litigators coordinated and developed two project proposals— one for pre-trial case consulting and training and another for emergency post-conviction work. We are faced with tough choices as we make a decision about prioritizing post-conviction or pre-trial efforts.

Less Impactful

While the New Voices Clearinghouse managed by The Constitution Project had promise to connect unlikely allies to clemency and state repeal campaigns, the number of allies actually connected to these efforts has not been impressive. As a result, we decided to make a tie-off grant at the end of 2013. We found a similar challenge with the Defense Initiated Victims Outreach (DIVO) managed by the Institute for Restorative Justice and Dialogue at the University of Texas at Austin. The project had great promise of providing survivors of homicide victims in capital cases with support specific to the survivors' needs led by the defense team. The notion that a victim survivor could want anything from the defendant's attorney is a dramatic departure from traditional victim services and philosophies. Despite the innovative nature of the project, the number of cases the project has influenced after the first year has not been high. The project staff cited problems such as resistance by judges to approve funding, lack of understanding and hostility by prosecutors of the DIVO practice, and an outright attack campaign led by prosecution-oriented victims groups in Texas.

One area where we have been less impactful is helping our grantees to build their organizational capacity. Although two of our national grantees took part in a year-long financial capacity building, coaching and technical support program with the Non Profit Finance Fund, none of our other grantees had this privilege. The two grantees who took part in the NFF program found it extremely beneficial. One grantee was able to rebuild the organization's financial health as a result of the program. Many of the state-based abolition groups operate with little infrastructure and need organizational capacity building. We would have to cease funding in another area of the grantmaking portfolio to ramp up more capacity building support.

Ongoing challenges to USPs' grantmaking

Ongoing challenges to our grantmaking have included an overreliance on the 2025 Campaign Steering Committee as a source for intelligence about trends in the states. Monitoring all of the state activity is extremely time-consuming and, in the past, having the Steering Committee weigh in has provided added insights. However, that reliance comes at the cost of not always getting information directly from state partners. There is a similar benefit and cost with the regranting mechanism of the DPMF. The benefit of the regranting mechanism is the ability to vet proposals and fund multiple organizations aligned to similar goals. While the DPMF has provided needed funding to state-based abolition groups, since it serves as an intermediary, it means we are usually one step removed from the organizations receiving the funding. This distance can make it more challenging to monitor the progress of the organizations.

We have been concerned by the over-reliance on OSF funds by smaller grantees. In particular, many of the DPMF grantees rely on the Fund as their sole source of funding. We have encouraged our smaller grantees and the state groups receiving grants from the DPMF to seek in-state sources of funding but many have failed to do so. We have considered making a match requirement but fear it might cut some groups from receiving any support.

¹⁴ Between 2011-13, Florida had the highest average number of new death sentences (17) per year.

V. GOING FORWARD

Despite the considerable progress reducing usage and abolishing the death penalty in key states, there are troubling trends. For example, while lethal injection litigation has helped to create *de facto* moratoria in many states, many Departments of Correction are now resorting to implement new lethal injection protocols while invoking state secrecy laws to prevent knowledge of the drugs used. The recent botched execution in Oklahoma is but one example of a state that continues to hang on to capital punishment while cloaking it in secrecy. This trend by several states has led to a new litigation around the country to compel them to reveal the sources of the lethal injection drugs. Other challenges to death penalty abolition include conservative political environments in many jurisdictions, which resist reforms and instead work to speed up executions. Seeking repeal in low-use but conservative jurisdictions will also be more costly given the length and intensity that may be required to achieve repeal. Moreover, the long history of racial discrimination in the Deep South means that race continues to disproportionately determine who is sentenced to death. Finally, even with the most sophisticated pre-trial litigation strategies in hot spot jurisdictions, some prosecutors will continue to seek new death sentences.

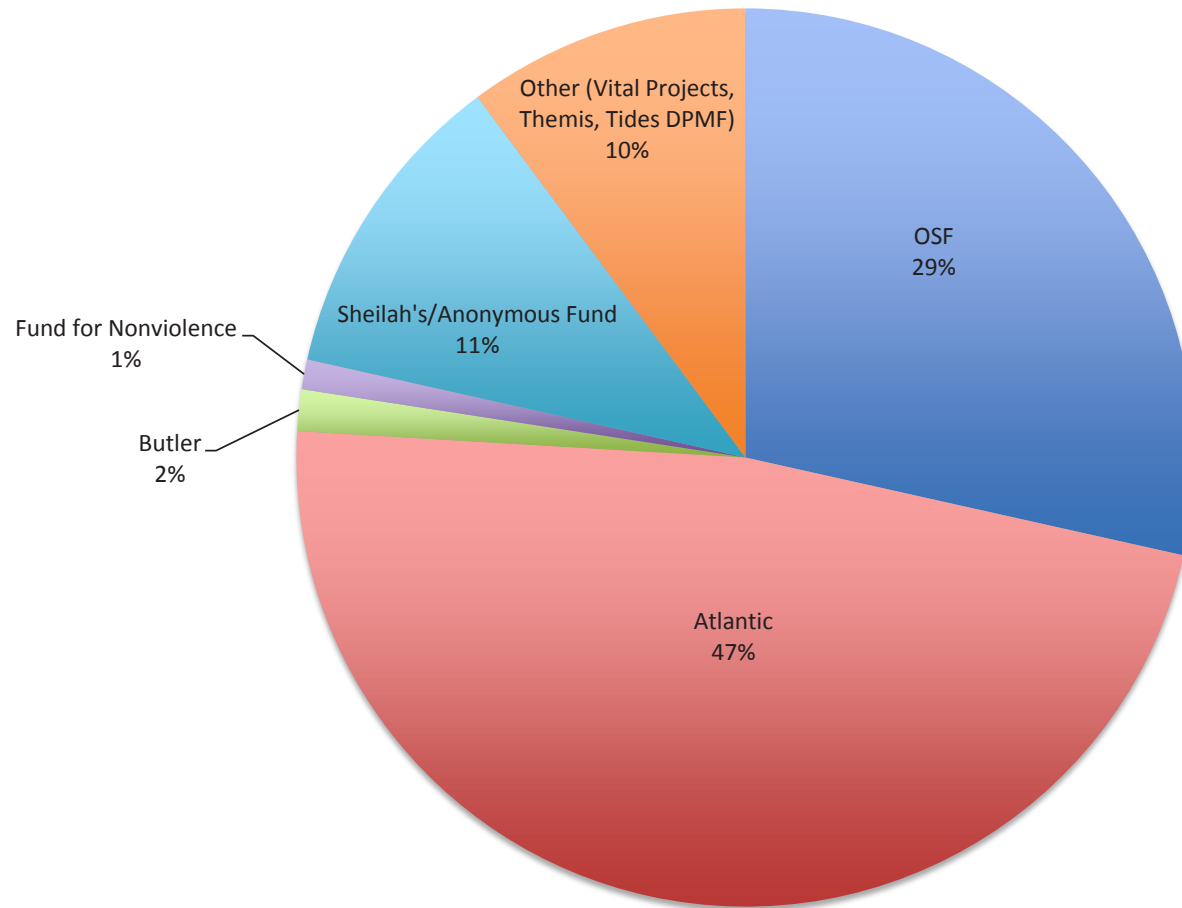
Despite these challenges, we believe abolition of the death penalty in the United States is achievable. We have come a long way from the peak period of executions and death sentences not long ago. President Obama's recent directive to Attorney General Holder to review how the death penalty is applied in the U.S. is another indication that the death penalty is coming under increasing scrutiny – this time from the highest levels of our government.

To achieve abolition, Campaign 2.0's leadership must be focused in setting clear priorities and helping the field to come together and resolve differences that impede progress. USPs' grantmaking should be clearly focused on the priorities of Campaign 2.0 to reduce usage through a set of complementary strategies. While some of the new projects we have supported have been less successful, we should not be afraid of going into new jurisdictions to test proven strategies with new partners.

Open Society Foundations: Death Penalty Abolition Funding

	2007	2008	2009	2010	2011	2012	2013	Total
Communications		\$530,000	\$290,000	\$400,000		\$400,000		\$1,620,000
Capital Litigation Communications Project		\$330,000	\$100,000	\$200,000		\$200,000		\$830,000
Death Penalty Information Center		\$200,000	\$165,000	\$200,000		\$200,000		\$765,000
NAACP			\$25,000					\$25,000
Litigation	\$925,000	\$1,186,000	\$1,352,500	\$1,370,000	\$2,116,000	\$785,000	\$2,181,000	\$9,915,500
Atlantic Center for Capital Representation				\$50,000	\$200,000		\$250,000	\$500,000
Equal Justice Initiative of Alabama	\$600,000		\$472,500	\$630,000		\$665,000		\$2,367,500
NAACP Legal Defense and Educational Fund		\$200,000	\$75,000					\$275,000
Pennsylvania Capital Representation Project			\$100,000	\$100,000	\$200,000		\$200,000	\$600,000
Southern Center for Human Rights		\$546,000	\$87,500		\$546,000		\$546,000	\$1,725,500
Texas Defender Service	\$325,000	\$440,000	\$397,500	\$525,000	\$950,000		\$890,000	\$3,527,500
UC Berkeley - Lethal Injection Project			\$50,000	\$65,000	\$50,000	\$120,000	\$240,000	\$525,000
University of Texas at Austin (DIVO Project)			\$170,000		\$170,000		\$55,000	\$395,000
National Policy Advocacy	\$450,000	\$620,000	\$975,000	\$1,200,000	\$370,000	\$1,285,000	\$625,000	\$5,525,000
ACLU Foundation		\$300,000						\$300,000
Equal Justice USA		\$250,000	\$75,000	\$400,000		\$400,000		\$1,125,000
Innocence Project	\$450,000		\$375,000	\$350,000	\$200,000	\$200,000	\$400,000	\$1,975,000
Murder Victims' Families for Reconciliation			\$75,000	\$135,000		\$135,000		\$345,000
NAACP Legal Defense and Educational Fund				\$50,000				\$50,000
National Coalition to Abolish the Death Penalty			\$250,000	\$265,000		\$350,000		\$865,000
Rockwood Leadership Institute					\$120,000			\$120,000
The Constitution Project			\$150,000			\$150,000	\$150,000	\$450,000
Witness to Innocence		\$70,000	\$50,000		\$50,000	\$50,000	\$75,000	\$295,000
State Policy Advocacy	\$200,000	\$200,000	\$450,000	\$200,000	\$375,000	\$245,000	\$400,000	\$2,070,000
Death Penalty Focus			\$175,000		\$175,000			\$350,000
MD CASE	\$50,000					\$45,000		\$95,000
New Yorkers for Alternatives to the Death Penalty	\$150,000		\$200,000					\$350,000
People of Faith Against the Death Penalty			\$75,000					\$75,000
Tides DPMF		\$200,000		\$200,000	\$200,000	\$200,000	\$200,000	\$1,000,000
ACLU of Florida							\$200,000	\$200,000
Research		\$26,672	\$200,000					\$226,672
Michigan State Law School			\$200,000					\$200,000
University of Virginia		\$26,672						\$26,672
Grand Total	\$1,575,000	\$2,562,672	\$3,267,500	\$3,170,000	\$2,861,000	\$2,715,000	\$3,206,000	\$19,357,172

Funder Contributions



Appendix D: National Campaign Timeline (1994 - 2014)

1994 – 2000

- Several national groups react to passage of Violent Crime Control and Law Enforcement Act and its impact on the expansion of the federal death penalty forming the basis for more coordinated national work on death penalty reform.

1996

- ACLU Capital punishment project contracts with a public opinion firm to conduct polling and focus groups about capital punishment which supports an "incremental" strategy focused on reform and moratoria.

1998

- Open Society Institute (OSI) makes its first grants related to death penalty reform/abolition.
- At OSI December board meeting, USP gains approval to develop the Gideon Project to fund indigent defense and death penalty reform.

1999

- OSI, Columbia Foundation, and Roderick MacArthur Foundation hold meeting in Chicago with strategists to learn lessons from other campaigns/movements. An outcome of the meeting is the creation of the Justice Project, which focuses on implementation of the Innocence Protection Act.
- OSI takes lead in forming funding collaborative known as Funders for Alternatives to the Death Penalty (FADP).
- Litigators develop a strategy memo focused on incremental reform as building blocks for abolition.

2000

- Arca Foundation hosts meeting at Musgrove conference center focused on death penalty abolition including a presentation of polling and discussion of strategy. Several funding entities and more than 50 advocates attend. Subsequently, FADP requests a collaborative proposal from seven organizations but is disappointed at the lack of coordination after receiving the proposals.
- After Musgrove, seven organizations (known as the "G7") continue to coordinate death penalty work and expand participation to include other national organizations (forming the "Ad Hoc Working Group"). FADP encourages the Working Group to improve coordination across sectors and focus on a state-based strategy for reform/abolition.
- Tides Foundation develops the Death Penalty State Strategies Mobilization Fund (DPMF) as a direct outgrowth of Musgrove conference and leadership from FADP.

2003

- JEHT Foundation includes death penalty among the criminal justice issues being addressed focusing initially on the juvenile death penalty and eventually expanding to state campaigns in New Jersey, New Mexico, North Carolina and Maryland.
- Eight members of the Ad Hoc Working Group produce a strategy document for a campaign to abolish the death penalty. The document does not articulate detailed, coordinated plan. Instead, it reads as a status update of the field and highlights an incremental strategy focusing on fairness and innocence.

2003 – 2007

- Various funder convenings seeking additional funders, roughly annually.

2004

- Atlantic Philanthropies begins funding death penalty work including efforts to end the death penalty for juveniles. Later, AP decides to continue funding abolition at adult level.

2005 – 2006

- Atlantic hires a consultant to take part in listening tour of various stakeholders to prioritize needs for death penalty abolition and reform.

2006

- November – funders and advocates hold a meeting at the JEHT Foundation focused on determining “What will it take to abolish the death penalty in our lifetimes?” The JEHT meeting leads to 2007 convening in Armonk, NY.

2007

- Atlantic contributes to Tides Foundation Death Penalty State Strategies Mobilization Fund (DPMF) - allowing for larger and multi-year grants and c4 funds for lobbying.
- May-October - Funders support process to bring field together through affinity groups to develop “corridors of action” ultimately leads to formation of a coordinated national strategy to abolish the death penalty in US by 2025 with a plan for a Steering Committee (SC), affinity groups, and full-time coordinator. Culminating meeting takes place in Armonk, NY.
- December - First campaign budget presented – annual needs are on scale of \$28-32 million. Funders balk at amount, having previously said, “Tell us what it will take.” Budget later scaled down to \$14 million.

2008

- There is considerable work between SC and FADP to increase commitments from major funders including presentations to Atlantic and OSI.
- OSI increases death penalty abolition funding from less than \$1 million annually to \$3 million.
- FADP forms the first common letter of intent (LOI) process, which enhances coordination of funding requests.
- December - JEHT suddenly closes leaving outstanding grant commitments. OSI and AP provide emergency funds to several death penalty abolition grantees to soften the blow.

2009

- Houston gathering - Campaign SC, affinity group reps, and funders check in on the developing strategy. This is first large meeting since Armonk.
- There is increased coordination of funding among FADP members including first review of LOIs in a collective manner by FADP.

2010 – 2013

- Campaign affinity groups and SC meet regularly to discuss and respond to events in the field, refine campaign strategy and update strategy document.
- State abolition groups convene with funding support from Atlantic Philanthropies.
- FADP continues to implement common LOI process and allocate funding.
- Tides DPMF continues to make grants to state-based abolition organizations.
- FADP members meet regularly and have calls with campaign's SC to discuss refinements to strategy and adjust funding in response to opportunities and threats in the field.

2013

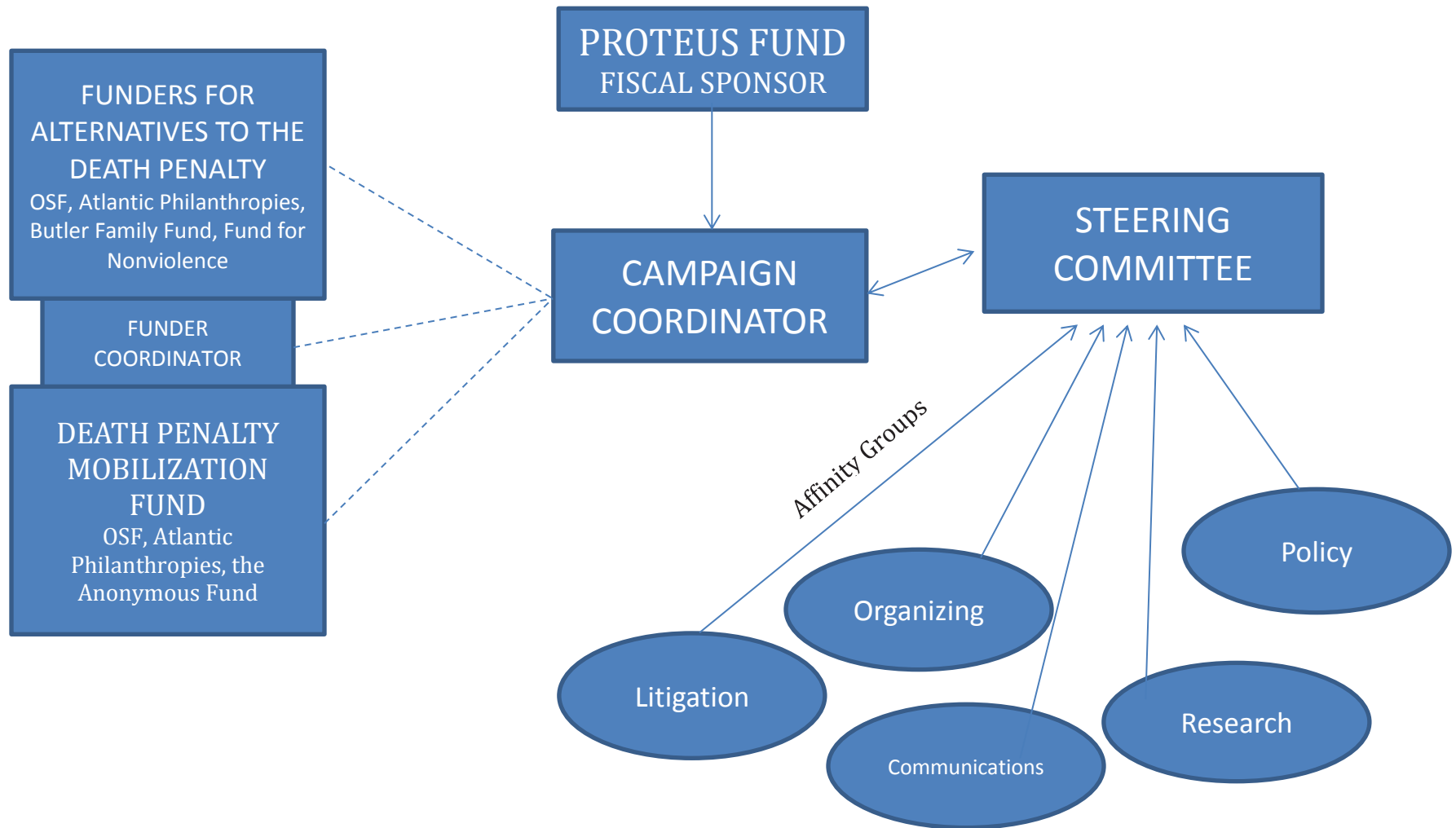
- SC and FADP meet and agree for a more focused and "directive" campaign and need to refine campaign's strategy.
- Atlantic Philanthropies hires a consultant to do a field scan to make recommendations for changes to campaign structure.
- 2025 Campaign Coordinator resigns.
- Atlantic Philanthropies, Themis Fund and The Vital Projects Fund hire Civitas Public Affairs to "build out" a new campaign structure.
- Civitas presents plan for a new campaign structure, adopting many of the recommendations from the consultant's report.

2014

- Based upon recommendation from a hiring committee composed of funders and advocates, Civitas makes an offer to a new campaign director.

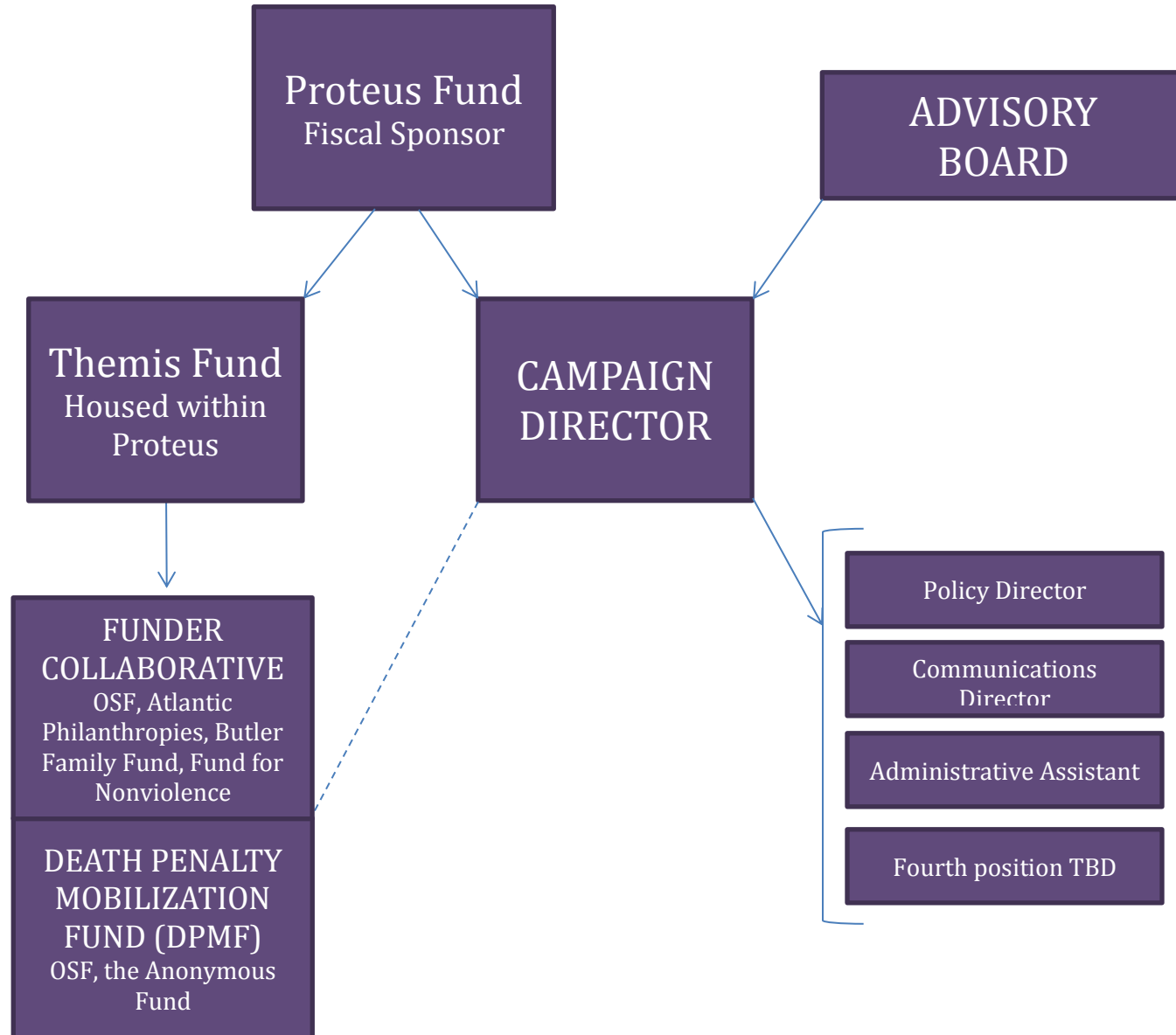
Campaign to End the Death Penalty by 2025

(October 2007 – May 2014)



Campaign 2.0

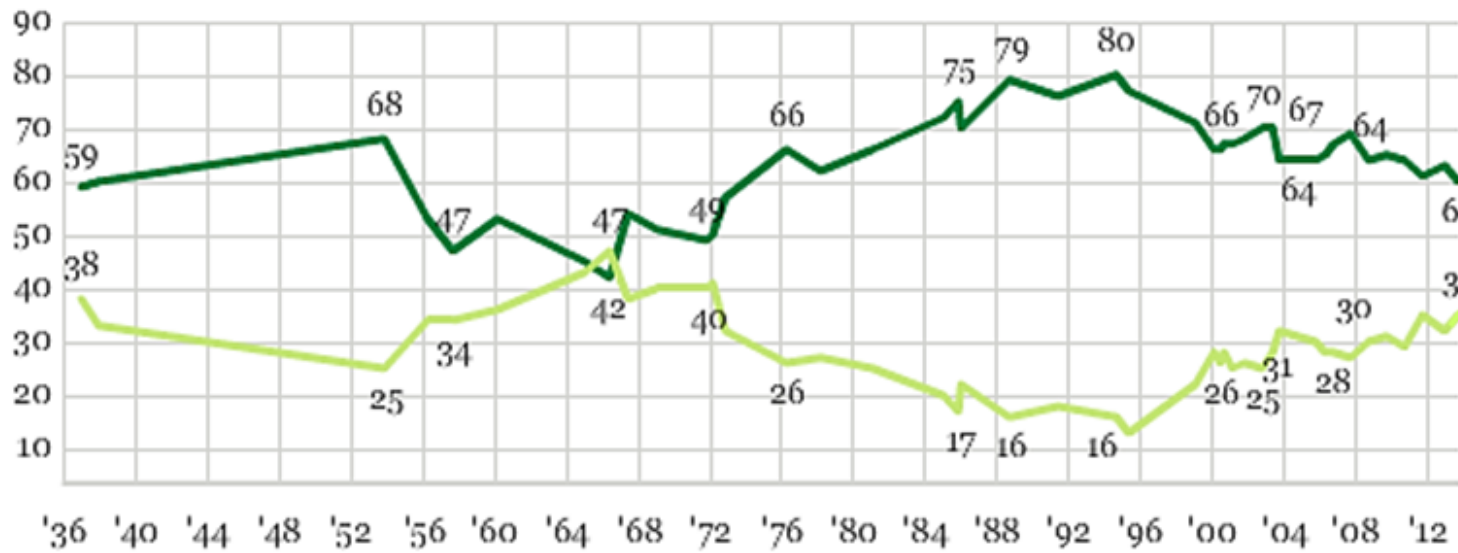
(As of June 2014; New Name TBD)



The Gallup Poll has collected data on the public's feelings toward the death penalty since 1936.

Are you in favor of the death penalty for a person convicted of murder?

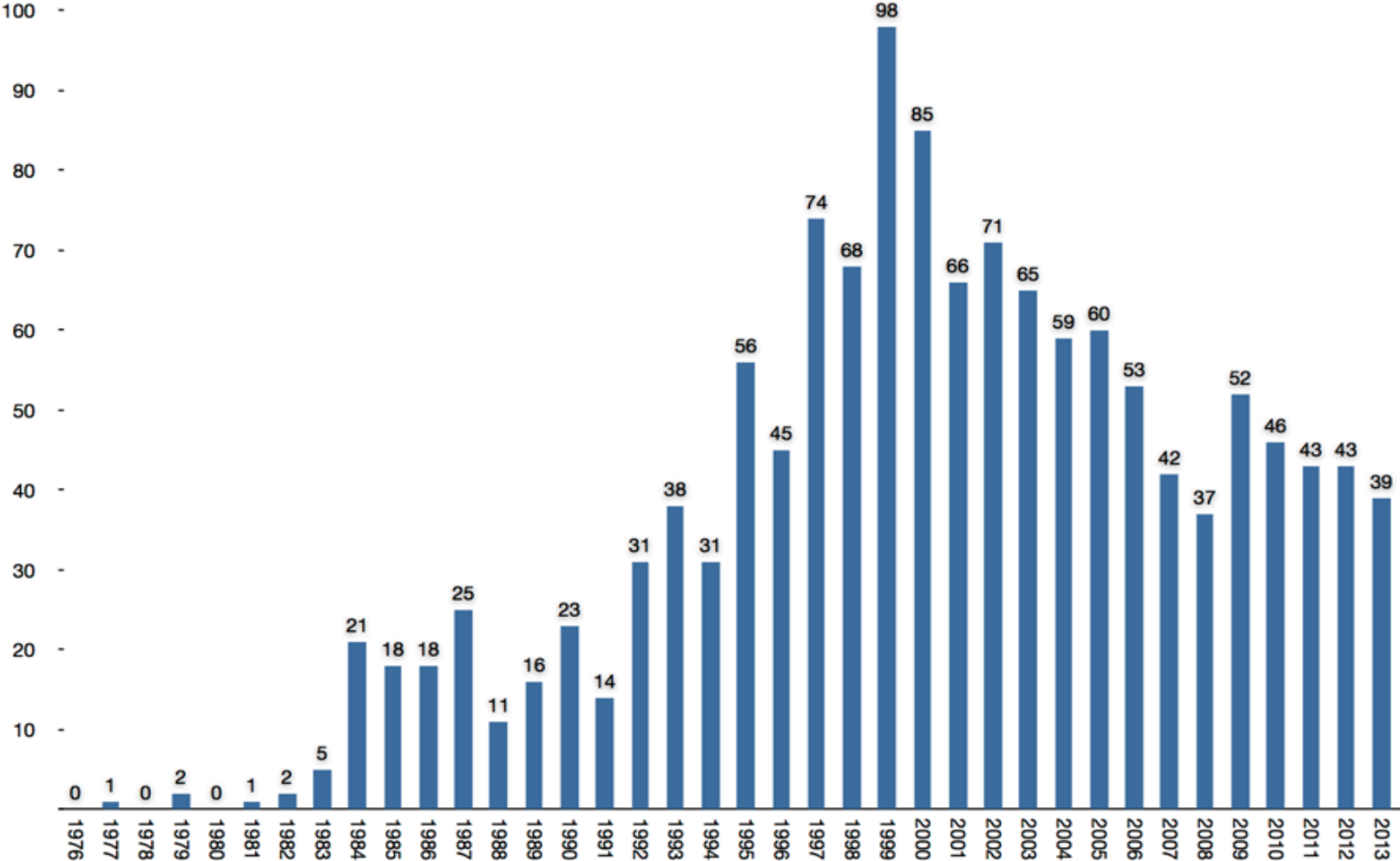
■ % In favor ■ % Opposed



GALLUP

In 2013 the Pew Research Center followed up by conducting their own survey, asking respondents the same question as posed by Gallup. **An even lower 55% of respondents were in favor, and an even higher 37% were opposed** to the death penalty for a person convicted of murder.

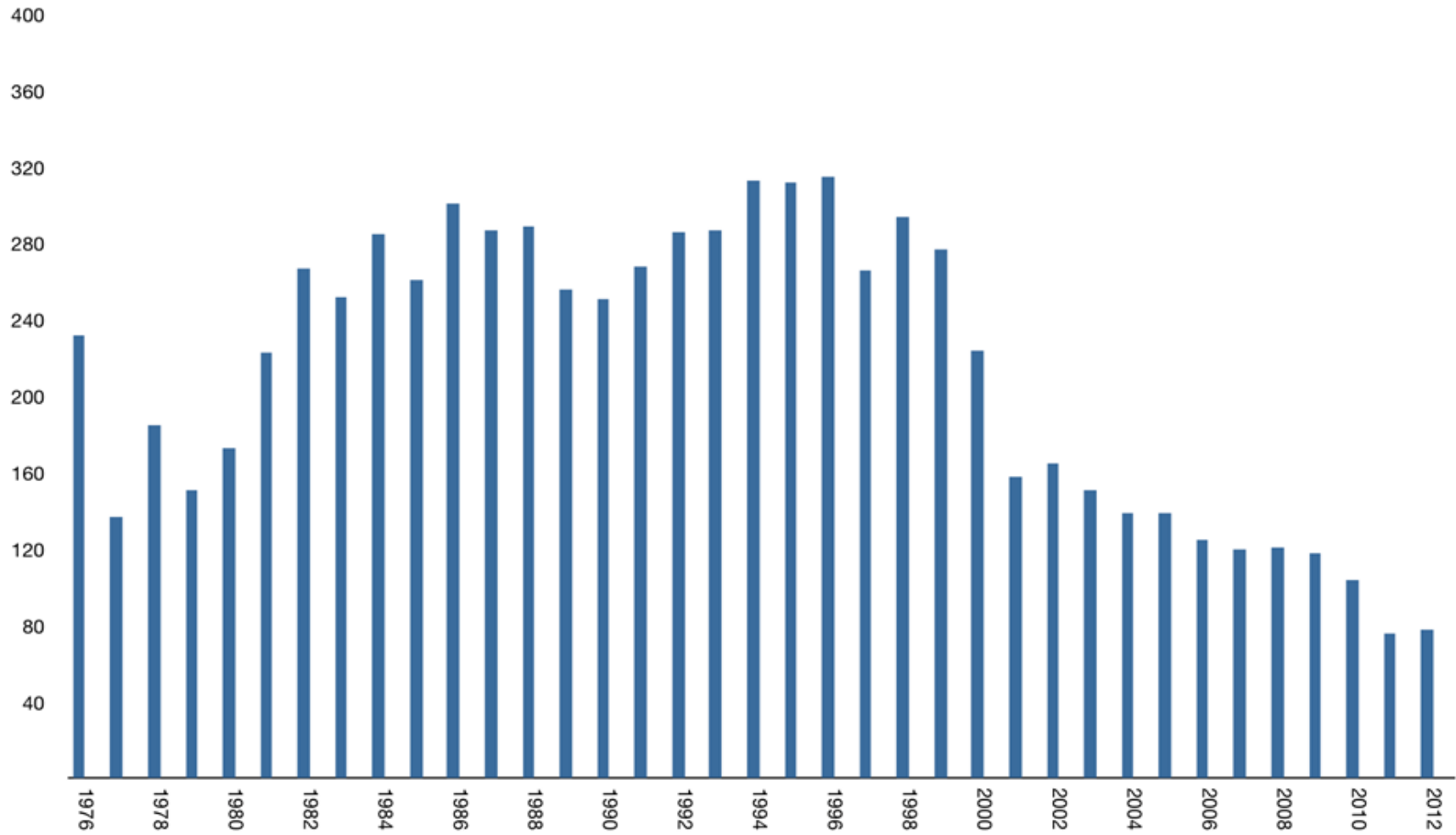
Executions by Year Since 1976



Source: Death Penalty Information Center

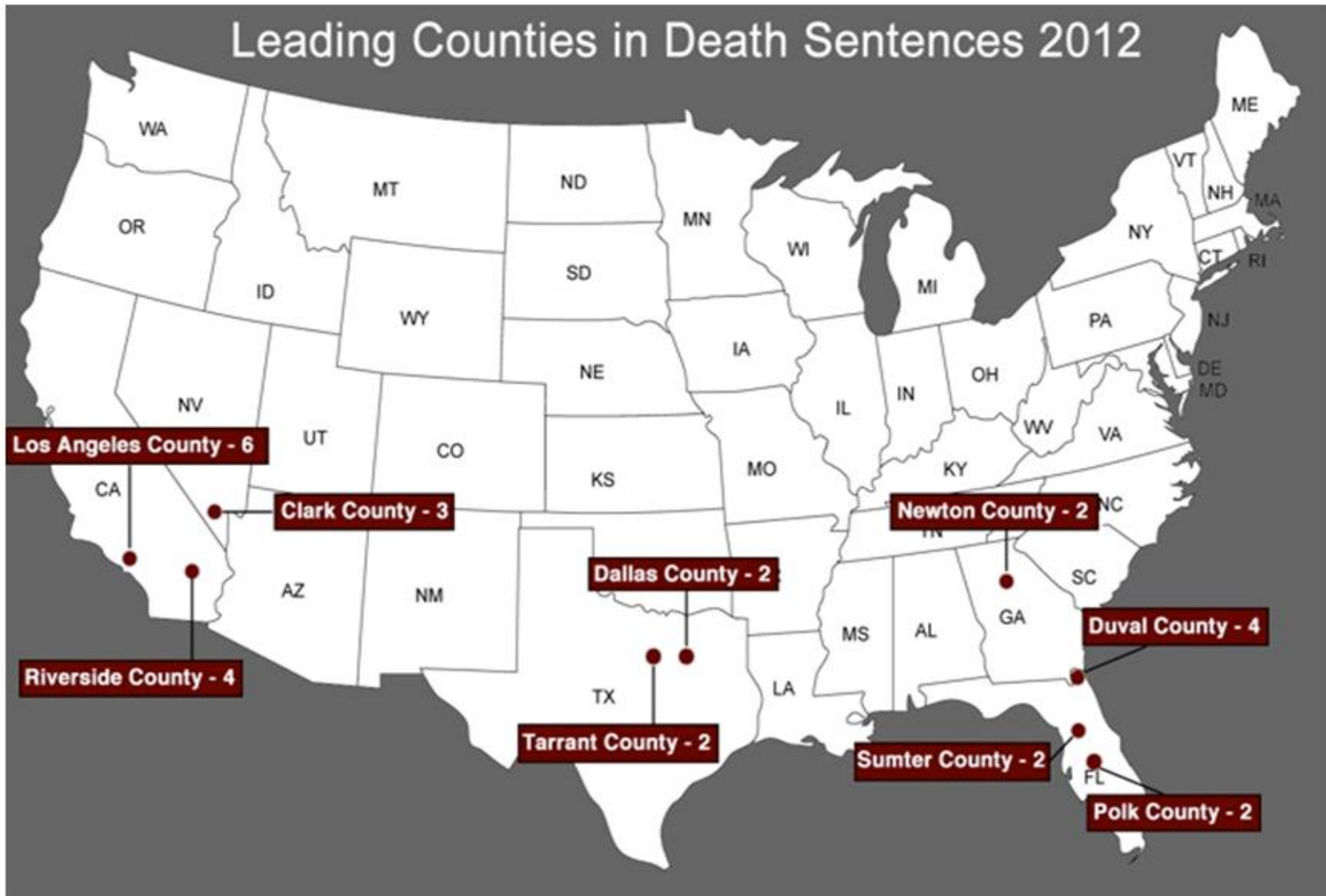
Appendix G

Death Sentences by Year Since 1976



Source: Death Penalty Information Center

Appendix G



Source: Dieter, Richard C. "The 2% Death Penalty: How a Minority of Counties Produce Most Death Cases At Enormous Costs to All." The Death Penalty Information Center. (2013).

Guest Biography

David Cole

Georgetown Law Professor and Open Society Fellow

David Cole is a professor at Georgetown University Law Center and serves as the legal affairs correspondent for *The Nation*. As an Open Society Fellow, he is writing a book that explores the effectiveness of civil society organizations in making human rights meaningful. He is looking at five case studies in which citizens banded together to achieve constitutional change against overwhelming odds. The case studies include the success of civil society organizations in compelling consecutive administrations in Washington to reduce or curtail their most aggressive responses to the War on Terror, including the torture of detainees, extraordinary rendition, warrantless wiretaps, and the maintenance of a network of secret prisons. He is also studying the movement for marriage equality and the death-penalty abolition movement, as well as conservative efforts to oppose gun control and abortion rights.

Cole is the author of seven books, including the American Book Award winning *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism* and *Less Safe, Less Free: The Failure of Preemption in the War on Terrorism*, with Jules Lobel (New Press, 2007), which was awarded the Palmer Civil Liberties Prize.

U.S. PROGRAMS PORTFOLIO REVIEWS 2013 - 2014

2014 USP Portfolio Review Schedule

Issue	Fund	When	Confirmed guests
Civic Core	SIP	April 11, 9:30-11:30am	Chris Stone
Campaign for Black Male Achievement	CBMA	April 21, 3-5pm	Geoffrey Canada, Sherrilyn Ifill, Chris Stone
Campaign for a New Drug Policy	CNDP	April 22, 1-2:30pm	Steve Coll
Death Penalty Abolition	Justice	May 15, 2-3:15pm	Board meeting
Housing and Credit Portfolio Review	Equality	June 6, 9:30-11am	Internal
Comprehensive Immigration Reform	Equality	June 20, 11am-12:30 pm	Chris Stone, internal with board advisors
Collateral Consequences	Justice/BA	TBD	Internal with board advisors
Parole Reform or Youth Prosecutions	Baltimore	September	Board meeting
Surveillance	NSHR	October 7, 2-3:30pm	Steve Coll, Chris Stone
Membership Organizations	SIP	November	Internal with board advisors

JUDICIAL INDEPENDENCE PORTFOLIO REVIEW

Judicial Independence 2013 Portfolio Review

Thomas Hilbink, Senior Program Officer, Democracy Fund
Laleh Ispahani, Director, Democracy Fund

Introduction

Courts play an essential role in a vibrant democracy. Intended by the Constitution's framers as an independent and co-equal branch of government, the judiciary has a primary duty of defining and protecting fundamental rights. It checks overreach by the legislative and executive branches while serving as a forum for the peaceful resolution of disputes, both public and private. For those with little or no political leverage, courts may well be the sole avenue for redress.

But where other branches are designed to respond to the will of the majority, courts are expected to respect and protect the rights of minority groups. Without strong courts willing to serve the interests of justice and stand up to powerful interests, basic rights go unprotected. In order to fulfill this role, judges must be insulated as much as possible from political pressures, and beholden to no interest but the law and Constitution; impartial in facing the people and controversies that come before them; and guided above all by justice. It is these principles that lie at the heart of the Open Society Foundations' work on judicial independence. It is because a fair, impartial, and independent judiciary is an essential element of an open society that we have long made work to protect the independence and impartiality of courts a component of Open Society's work in the United States.

Our work on judicial independence is now at an inflection point, and we need to determine what shifts are necessary for the field to have greater impact. It is for this reason that U.S. Programs is inaugurating the portfolio review process by examining this portfolio. This memorandum and accompanying documents explain the history of our funding in this area, and will contextualize our efforts within the broader political shifts that have shaped debates over the independence of American courts while reflecting on our shifting strategies and their impact. We conclude with rough sketches of strategies we might pursue going forward and questions that we are asking as we shape that new path.

Judicial Independence Portfolio Overview

Year established:	1997
Spending since 1997:	\$35 million
Spending in 2013:	\$2.4 million
Budget for 2014:	\$2.1 million
Primary Grantees:	Justice at Stake Campaign; Piper Fund; American Bar Association; National Institute on Money in State Politics; Lawyers' Committee for Civil Rights Under Law
U.S. Programs Anchor Grantees:	Brennan Center for Justice; American Constitution Society; Center for American Progress

Phase One (1998-2008): Building the Field

Attacks on fair and impartial courts are not an unfamiliar phenomenon in American history. But in the late 1990s we saw a troubling rise in efforts to undermine judicial independence at the state level.

Conservative evangelicals denounced courts for recognizing the rights of LGBT people. Business interests seeking to avoid accountability in product liability and medical malpractice cases flooded judicial elections with money in support of pro-“tort reform” candidates. Karl Rove, cutting his teeth as a political consultant, created the template for big money judicial elections characterized by “tough on crime” advertisements that played on voters’ fears (masking the pro-business goals of the ad sponsors).

In 1997, Open Society’s Law & Society Program¹ convened a blue ribbon panel of civic, bar, and academic leaders which recommended work focused on three goals: 1) a citizenry that better understood the role of courts in a Constitutional democracy; 2) a cohort of people and organizations across the country prepared to speak out against unwarranted attacks on judges and courts; and 3) adoption of reforms that would insulate courts from undue political pressure.²

Non-Partisan v. Progressive: Reflecting the origins of the judicial independence portfolio in the Law as a Profession program, and the good government predilections of the groups engaged in the effort, the field developed a very non-partisan approach to the work. The groups most involved self-identify as non-partisan, including the ABA, the American Judicature Society, and the League of Women Voters. They saw leaders of both bench and bar as a primary constituency (thus the significant role of the National Center for State Courts). JAS’ (This is first board—a highly-respected group of establishment leaders—reflected this bias as well.

As partisanship and polarization increased, and George Soros’ growing political spending marked him as more “progressive,” many came to see (or portray) this work as “progressive.” (The *Wall Street Journal* editorial page regularly railed against the “Soros-funded” Justice at Stake). But JAS continues to carefully cultivate a non-partisan image. As groups such as the Center for American Progress and the American Constitution Society have begun to engage on this issue, JAS has kept them at arm’s length. Due to both continuing polarization and the declining influence of the bar and the courts, we are considering whether to embrace the idea of judicial independence as a progressive issue, if only out of the strategic assumption that progressive groups will have more incentive and influence in pushing for needed reforms. This dilemma is one identified in the 2013 JAS evaluation as in need of deeper discussion and debate. But it is also a question we must ponder as we move forward with our own strategies.

¹ Law & Society emerged out of the Law as a Profession program that was, as the name suggests, focused very much on the role of law, lawyers, and courts in an open society. Protecting courts from undue political and economic pressures was consistent with this program’s broader concerns.

² In the wake of the 2004 election, U.S. Programs created the Progressive Infrastructure Fund to address core deficits in research and advocacy. This fund included a portfolio on federal judicial nominations that, in contrast to the judicial independence portfolio, advocated for the selection of more progressive judges on the bench. By and large, the portfolios have involved distinct strategies and different organizations. The judicial nominations portfolio is more outcomes-driven than the process-driven judicial independence portfolio. One is explicitly progressive while the other has remained non-partisan in approach (see sidebar, above). Since 2008, these two portfolios have

With these recommendations in mind, Open Society developed a strategy that involved developing a field focused on judicial independence. That field would be anchored by a national campaign organization charged with coordinating field activity, but Open Society would also support key national legal and good government organizations, constituency-based groups, and state-based good government reformers to work in coalition to advance the three goals outlined above. Together, these groups had research, constituent engagement and mobilization, communications, and policy development and advocacy capacities.

Between 1998 and 2007, Open Society made significant progress toward these goals.³ In 1998, Open Society created what would later be known as the Justice at Stake Campaign, to conduct public opinion research, develop communications strategies, and assist in building a field of collaborative organizations. In this period, Open Society’s engagement was very directive (today Open Society would likely label our strategy a foundation-led concept). Open Society identified a set of groups that needed to be at the table and made grants to enable their engagement, including the American Bar Association, the American Judicature Society, the Brennan Center, and the Lawyers’ Committee for Civil Rights under Law. In 2000-2001, Open Society began funding state groups seeking policy reform while supporting other constituency-based groups to participate in the coalition.⁴ Groups in the field regularly exchanged information, collaborated on projects, and demonstrated a shared understanding of the problems in the field. Because of public opinion research, the organizations increasingly used shared frames in speaking about the role of fair and impartial courts in a democracy.

With these elements in place, the coalition began to make progress toward the goals set by the blue ribbon panel in 1997. It responded to inappropriate attacks on the courts: During the Terri Schiavo controversy in 2005, when Senators and members of Congress attempted to override the decision of a state court judge to

Defining the Problem:

By 2005, the field had come to treat “judicial selection” as the core problem to be addressed by the field. The rise of big money judicial elections in the prior 10 years had a lot to do with this conclusion.

But the delineation of the field’s concerns was also shaped by who had been included in the field: good government groups, court organizations (i.e., the National Center for State Courts), and bar groups (i.e., the American Bar Association). Groups representing communities of color, or working on civil rights, criminal justice, and poverty were underrepresented at the table. Had they been, it is possible that the field might have adjusted its focus to include access to justice issues.

co-existed (at times awkwardly) in the same fund. But their differing identities serve to illuminate a broader tension in the fair courts movement between non-partisan and progressive identification and approach.

³ A note about staffing: At its earliest stages, Open Society’s work in this area was directed by Catherine Samuels and John Kowal (in the Law & Society Program). Samuels left Open Society around 2004. Thomas Hilbink joined Open Society in mid-2007, working with John Kowal on this portfolio (among others). John Kowal left Open Society in mid-2008. Laleh Ispahani became the Director of the Transparency & Integrity Fund (now the Democracy Fund) in late 2008.

⁴ For a list of grants made by this portfolio from 1998-2013, see Appendix A.

allow Schiavo’s husband to remove a feeding tube from his long-vegetative wife, Justice at Stake became the media’s go-to voice for defense of state courts from outside meddling. The field was also advancing policy reform to protect the judiciary from undue influence. State and national groups (most notably the Brennan Center for Justice and the North Carolina Center on Voter Education) worked together to successfully establish a public financing system for state appeals court judges in North Carolina in 2004. Reports and scholarly articles brought new attention to the need for diversity on the bench. The ABA, the League of Women Voters, and the National Center for State Courts were all educating the public on the need for judicial independence.

Phase Two (2009-2013): Focusing the Field on Impact

As the field approached its 10th anniversary, it had begun to make real progress. Open Society was playing a decreasingly directive role, and beginning to take a more “fealty to field” approach. This was possible in part because the field had become more self-sustaining and self-directed. Substantively, the problems Open Society had sought to address in 1998—the undue influence of money in judicial elections, the lack of diversity on state and federal benches, and the lack of understanding of the role of courts in a democracy—were more visible, and the field had won a number of major victories. At the same time, we began to see gaps in the strategic thinking of the field. While the field won major victories such as the Supreme Court’s 2009 [Caperton](#) decision—a case in which the court recognized that spending on judicial campaigns could raise due process concerns once a judge was on the bench—it was unable to capitalize on those victories to meaningfully shift policy.

Essentially, the field’s progress couldn’t keep pace with adversarial forces: From 2000 to 2010, spending on judicial elections more than doubled, as business interests discovered that a series of modest investments could buy control of a state supreme court. Conservative activists attacked merit selection systems⁵ in state after state, keeping judicial independence advocates on the defensive and playing whack-a-mole in an effort to maintain the status quo. Diversity on the bench was stagnant, if not backsliding, as conservative forces sought to defeat women and people of color running for judicial office.⁶ Multiple factors contributed to conservative dominance on this issue: opponents were much better funded and coordinated, able to mobilize both elites and grassroots to support their efforts, and armed with an arsenal of tools that allowed them to engage directly in elections (largely through (c)(6) spending, legislative efforts (c)(4), and (c)(3) advocacy). A final, and significant, factor is that elite and grassroots conservatives are genuinely motivated, because they understand exactly why courts matter to the other issues on their agenda.

⁵ Merit Selection systems—where an independent panel selects a slate of nominees from which a governor chooses a judge (and that judge then stands for periodic retention elections)—exist in many states for some or all of the judiciary. It is treated by many as the gold standard for judicial selection. But a state has not adopted merit selection as a system since the early 1970s.

⁶ See, e.g., the 2008 campaign against Wisconsin Supreme Court Justice Louis Butler that used “Willie Horton” style ads to attack Butler’s record on criminal justice issues and call attention to the fact that Butler is African American.

Understanding that we could not outspend our opponents, we re-examined our efforts to better understand how fair courts advocates could be more effective and outmaneuver or outflank them. We thought the field needed better coordination, more strategic allocation of its resources, and better engagement with its constituencies. We believed the field also needed clearer goals and more carefully crafted strategies to reach those goals. We believed that these goals and strategies would allow the field to better focus its advocacy, identify gaps in the field (in terms of capacities, tactics, and constituencies), and maximize the impact of limited resources. We also recognized that unless there were more resources available to the field, the best-honed strategy would be of limited value. After conversations with a number of former and potential funders in the field, we learned that foundations were reluctant to support judicial independence work because the field's goals and strategies were unclear. This only reinforced our view about the need for greater coordination and focus.

Pursuing a “fealty to field”-type approach, rather than have Open Society set the goals and strategies, we worked to support and strengthen leadership at JAS and to encourage our grantees to develop and implement more refined goals and strategies. Given this assessment of the state of the field, we used our 2009 strategic plan to establish two primary goals for this portfolio:

- Assisting Justice at Stake and the field in the development of a five-year strategic plan that would lay out goals, strategies, and benchmarks; and
- Using the strategic plan to attract new funders to the field with a goal of doubling total funding.

In early 2010, at Open Society's urging, JAS launched a strategic planning process that engaged organizations from across the field. Early signs were positive, suggesting that the process would lead groups to abandon a “scattershot” approach to policy change, instead coordinating efforts in agreed-upon target states and ensuring that one effort built on others.

Unfortunately, what we discovered in the course of the strategy-setting process was that JAS had neither the will nor the capacity to lead the development of a solid strategy. We began learning from groups in the field (and employees of Justice at Stake), that JAS leadership was resisting making tough choices about what goals would “win out,” and which states should be the field's target states. We came to see this as the field's greatest challenge (on the theory that with a strong lead organization, the field as a whole would become more strategic), and we worked to bolster JAS' leadership and strategic thinking by suggesting a set of organizational reforms. First, we suggested JAS create and fill a deputy director position (what we thought of as a “field general” role) to ensure someone would be coordinating work across organizations, rallying groups to commit resources, and working through group disputes. This, we had learned, was not a strength of JAS' executive director. Second, we urged the establishment of a strategy committee that would pull other national groups into ownership and management of the strategy-monitoring and recalibration process. At the same time (and in a series of conversations over the course of months), we shared with JAS' executive director, Bert Brandenburg, that our concerns were rooted in a lack of confidence in his leadership skills. Brandenburg began to address these deficiencies—he hired a deputy director, created a Fair Courts Advisory Committee, and rebuilt/restructured his staff after a series of departures. Brandenburg also received executive coaching to help him develop stronger leadership skills. (A 2013 evaluation of JAS, initiated by JAS funder

Wellspring Advisors, concluded that JAS continues to suffer from many of the problems we identified in 2010-11; see Appendix C.)

While we worked to strengthen JAS as a field leader, we also sought to address broader deficiencies in the field, doing our part to ensure greater strategic thinking and coordination. In renewing grants to long-time grantees, we expected them to develop proposals that hewed to the strategic plan and declined to support “scattershot” work. In recognition of the need to move resources more strategically and quickly to target states, we wound down long-time support for a static set of state organizations

Judicial Diversity: Starting in 2007, we began to place greater emphasis on building a judiciary that was more reflective of the nation’s diversity. Having earlier funded scholarly work on the justifications for judicial diversity, our follow-up efforts focused on advocacy and pipeline projects focused on specific states. The Infinity Project organized women to push for greater gender diversity in Iowa, Minnesota and other states of the Eighth Circuit. The Lawyers’ Committee for Civil Rights Under Law (working at times with Justice at Stake) developed training and mentoring programs in Maryland, South Carolina, and Washington to identify and assist promising candidates for the state and federal bench. The League of Women Voters developed a campaign in Kansas to make gender diversity an accepted norm in the nominations process. Lambda Legal worked to make inclusion of LGBT people a permanent feature in judicial diversity discussions while advocating for LGBT nominees to the federal courts.

and, with Wellspring Advisors (a new funder that Open Society recruited to the field) created the Judicial Independence Portfolio at the Piper Fund, a funder intermediary. Adding Piper to Open Society’s portfolio increased our capacity to assess the viability of reform efforts in a wider number of states, identify the most promising recipients of funding, and move money to those states more nimbly.

Our push for national organizations to be more disciplined in strategy and in choosing target states had mixed results. The League of Women Voters, a grantee from the early days of the portfolio, dropped its long-standing practice of funding small efforts in more than 25 states, opting instead to support intensive work on judicial diversity in two states (see sidebar). Its subsequent work in Kansas to build support for gender diversity on the state courts among decision-makers and opinion leaders gained traction. The League’s new approach to strategy and its role in the field got policy makers to sit up and take notice (in a way that might prompt some to recall why it was once called the “Plague of Women Voters”). Our effort to encourage more strategic thinking by the American Bar Association has been less successful. The annual change in the presidency and the factional nature of ABA membership make it difficult for the organization to form and execute clear strategies. (It cannot help that our grant represents less than 1/10th of 1 percent of the organization’s total budget.)

Finally, we began to fill some of the broader gaps in the composition of the field. From the outset of Open Society’s work in this area in 1998, we had heavily funded organizations with strong research capacities. Constituency groups we supported (e.g., Lambda Legal and the Committee on Economic Development) had not shown themselves able to mobilize the communities they represented on judicial independence

issues, limiting their impact. Therefore, working with Piper and Wellspring Advisors (and, to a lesser extent, the Joyce Foundation), since 2011 we have been supporting groups with strong organizing capacity (e.g., Wellstone Action and Midwest Academy) to provide training and technical support to state-level groups working for policy change. We supported a new collaboration of six groups—the Fair Courts Litigation Committee—who monitor and coordinate litigation that involves judicial elections and ethics concerns. (Not long ago, this group won a major victory defending Arizona’s merit selection system against attempts by the state legislature to undermine the system.) And this year, we recommended funding to the Collaborative Communications Initiative (working with Re-Think Media) to help improve and coordinate communications by both the judicial independence and broader money in politics fields.

Phase Three (2014-beyond): Charting a New Path Forward

In 2012, we saw a shift in the field’s fortunes that we attribute in part to the increased coordination and geographic focus urged by Open Society. After a series of stinging defeats in 2010 (particularly the removal of three justices from the Iowa Supreme Court in retaliation for that court’s recognition of same-sex marriage), we began to see the field start to score real wins. In Florida, a ballot measure that would have ended non-partisan merit selection of state Supreme Court justices failed (as did a Koch Brothers-funded effort to defeat three sitting justices) due to Justice at Stake’s early commitment of significant resources (money, polling, strategic advice) to a coalition opposing the measure. In Iowa, after the 2010 removal of three justices, an effort to unseat a fourth justice failed in large part due to a high-profile campaign by the group Justice Not Politics. Lambda Legal and the American Judicature Society worked closely with Justice not Politics on messaging, organizing, and research.

Our efforts to move the field to focus on greater impact, geographic focus, and constituency building may deserve some credit for the good results in 2012. But the 2012 outcomes must also be seen in the context of the 2012 election, and the relatively high turnout by progressive voters. Perhaps it is that fair courts advocacy can sway electoral outcomes when electoral conditions are generally favorable to

Open Society and Justice at Stake

As detailed in this document, Open Society has played an active and even directive role in the development of this field, especially with respect to creation and engagement with Justice at Stake (JAS).

We created JAS in 1998, when our support represented 100 percent of the group’s revenue. Open Society grants represented more than 50 percent % of the group’s funding until 2008-09. Only in 2012, when new funders began supporting the field, did Open Society’s support drop to 1/3rd.

Our funding relationship with JAS does not capture the full extent of our engagement with the group. First, JAS was a vehicle for Open Society’s programmatic efforts. By 2007, it was an (unequal) partner. In 2009-10, we saw JAS as the field leader, but still exerted substantial influence on JAS and caused JAS to lead the field toward a new, shared strategy that it became clear JAS was not ready/eager to embrace. Our power as the original (and dominant) funder raises questions about the extent to which there has been unhealthy deference and dependence upon Open Society, both from JAS and the field. Did our role preclude JAS from developing as a leader, when funding for most groups in the field came from Open Society?

While we have attributed this lack of leadership to JAS’ executive director (confirmed by Grassroots Solutions’ 2013 evaluation of the group; see Appendix C), it is entirely legitimate to simultaneously question whether Open Society (in playing such a dominant role) got exactly the leadership it deserved. JAS may have lived too long in Open Society’s shadow, looking to us for direction and leadership even when we were expecting something else from it.

progressive candidates and causes. Or perhaps the 2012 results were anomalous—a conclusion supported by the fact that since last November Kansas has since eliminated merit selection for its Supreme Court, and that Tennessee is likely to abandon merit selection in its coming session. We need to determine whether moving the field toward clearer goals, greater coordination, and narrower, targeted geographic focus was the right direction to move it in, but it may be too soon for a full evaluation. Our investment in building state-level advocacy capacity is still in its early stages. It was only this fall that Wellstone Action (for many years a U.S. Programs grantee) began providing strategic and technical assistance to emerging state coalitions working on judicial independence. The Communications Consortium Initiative launched this summer and is still in the preliminary stages of developing coordinated communications strategies that link judicial elections to the broader money in politics field. Efforts to expand the field and diversify its constituents are just getting underway. Until that broader evaluation, however, we continue to grapple with how best to address the concerns we have about the field’s leadership (JAS), and the weak commitment of national partners to shared goals and strategies.

Possible Strategic Shifts Moving Forward

As 2013 comes to a close, we continue to believe that judicial independence remains a core concern in protecting a vibrant democracy and has an ongoing place in U.S. Programs’ priorities. While other funders have joined us in funding the field in the past few years (significantly a result of our advocacy), we remain a lead funder with the ability to leverage our contributions to increase impact. Given the state of the field (weak national leadership, growing state capacity), we see 2014 as the time to recalibrate our strategy. We have begun the process of thinking through what shifts in strategy are now required, and offer the following Three approaches to spur our collective thinking about how best to advance our goals.

1) *Rebuild a more strategic and focused national field with JAS as a strong leader*

This strategy would embrace the original approach to work on judicial independence, retaining some of the organizations that have been core to the field (e.g., Brennan Center and Lambda Legal) but with a closer eye to ensuring that we support a range of organizations that together bring a more complete array of tactical capacities to the table. We would seek to help JAS address its weaknesses and help build stronger strategic alignment across groups.

2) *Focus resources on specific states with limited support from the national field*

The strategy would represent a move away from the national approach that guided the creation of the field, opting instead to invest heavily in state-level infrastructure with a limited amount of technical support (i.e., communications, research, policy development) from a small number of national organizations. Our funding would build state-level coalitions and infrastructure to not simply win policy fights but to shift the political culture on fair courts in a given state. This approach would allow for experiments in different states and could, over time, allow for the emergence of a new national movement.

3) *Rethink the concept of “fair courts” to better reflect Open Society’s broader concerns for justice, equality, and democracy*

The evolution of the field as it now exists clearly reflects the time period in which it developed, as well as the biases of the people and organizations involved in building the field. This strategy “reboot” asks: what would a “fair courts” field look like were we to start the conversation anew, with a variety of people, communities, and concerns that reflect today’s Open Society, its signature issues, and communities of greatest concern? If we were even to simply gather representatives funded by each of the funds and campaigns in U.S. Programs, how would they define the problem of “fair courts” or “judicial independence”?

Questions for discussion:

- 1) *What considerations should we take into account in determining the best strategy to pursue going forward?*
- 2) *Work in this area began as a foundation-led concept but over time morphed into a fealty to field approach. Given our concerns about the state of the field, how should we now negotiate between “fealty to field” and “foundation-led concept” approaches?*
- 3) *This field is composed largely of organizations for which fair courts advocacy is a relatively small aspect of their overall mission. Would it be wiser to support a smaller field of organizations that place a higher priority on fair courts?*
- 4) *The 2013 evaluation of Justice at Stake (see Appendix C) identified the issue of bi-partisan/non-partisan v. progressive identity (of JAS and its allies) as a growing challenge for the organization and the field. Given that there are pros and cons to pursuing either path, what do you think Open Society’s stance should be in this debate?*
- 5) *How could OSPC’s c4 capacity be mobilized as a unique asset in the field? How could that best be used in the context of a strategic landscape that shifts year to year?*
- 6) *Given the slow rate of change in court membership, how do we best support a 10 to 20 year effort to increase judicial diversity and make it a permanent factor in the selection and election of judges to the state and federal bench?*

Appendices

- Appendix A: Judicial Independence Portfolio Grants, 1998-2013
- Appendix B: Visual History of Fair Courts field (from 2010 strategic planning process)
- Appendix C: Grassroots Solutions Evaluation of Justice at Stake
- Appendix D: Visualization of funding, 1998-2013

CIVIC CORE
PORTFOLIO REVIEW
APRIL 4, 2014

CIVIC CORE PORTFOLIO REVIEW NARRATIVE¹

APRIL 4, 2014

This portfolio review will examine U.S. Programs' "Civic Core" portfolio of multi-issue grassroots constituency building, leadership development, and political engagement grantees. Staff from the U.S. Special Initiatives and Partnerships unit will lead a conversation on the following:

- The history of the Civic Core portfolio, including internal and external factors impacting its development.
- The portfolio's past and present investments in grassroots constituency building, leadership development, and political engagement efforts, including an assessment of what has and hasn't worked.
- Recommendations for recalibration in 2015-18 – and a broader request for guidance – for how the portfolio could be reconstructed to more effectively advance open society while complementing the work of single issue/field grantees that are housed within the Democracy, Equality, and Justice funds.

Attachments include: (1) data on \$8.9 million in portfolio investments made from 2011-14; (2) the percentage of each grantees' annual budget that Open Society Foundations grants comprise; (3) a snapshot of the capacities that each Civic Core grantee possesses; (4) and an "impact example" that visually charts the unique contributions of the portfolio to the larger U. S. Programs.

I. BRIEF PORTFOLIO BACKGROUND

The U.S. Programs (USP) Civic Core portfolio is comprised of eight multi-issue organizations that receive general support grants (\$2.05 million in 2014) to facilitate the building of voice, leadership, advocacy impact, and political engagement for many of the constituencies that comprise the New American Majority.²

Origins: This portfolio is non-traditional. Rather than being affirmatively constructed from the ground up or focusing on a particular advocacy priority, it emerged instead as a cohort of high performing "survivors" of the U.S. Democracy and Power Fund, which existed from 2008-12. During the 2012 mid-term program review, the U.S. advisory board made significant changes to USP's ongoing commitments to grassroots constituency building, leadership development, and political engagement.

Assessing the impact of social justice advocacy – particularly that which is conducted by grassroots, multi-issue organizations – is often challenging, and there were several other complicating factors

¹ This memo was drafted by U.S. Special Initiatives and Partnerships, including program associates Maggie Corser and Ahely Rios Allende, program officers Mike Fogelberg and Patricia Jerido, and program director Bill Vandenberg. Fogelberg, Rios Allende, and Vandenberg are each OSPC enabled.

² The New American Majority generally includes communities of color, immigrants, and young people. The term "Rising American Electorate" is more commonly used in an electoral context and refers to the growing, progressive leaning political base of people of color, young, and single women voters.

during this time. The end result: significant budget cuts for grassroots constituency building, leadership development efforts, and direct voter contact, including voter registration and mobilization.³

Of the 80 grantees that existed in the Democracy and Power Fund at the time, the staff then commenced efforts to notify 65 grantees that Open Society Foundations would be ending its funding support, typically with a final grant (aka a “tie-off” grant). A few grantees found homes elsewhere within USP. Following the tie-offs, staff then reached out to colleagues throughout USP to solicit input on which of the remaining grantees most effectively advanced two or more open society priorities.

This “two or more” open society priorities minimum threshold was designed to demonstrate the broader resonance of a grantee beyond the interests of any one program. The most frequently cited overlaps included Black male achievement, economic justice, fiscal policy, immigrant rights, and voting rights. After what felt like a philanthropic *Hunger Games* process in the fall of 2012 – during a time of significant USP program closures, budget cuts, and staff anxiety – eight organizations continued on and were named as “Civic Core” grantees.

Examples of What Was Lost: Relevant grantees or lines of work that were dropped by the Open Society Foundations include: (1) the data and assessment savvy New Organizing Institute, run by the data director for the 2012 Obama re-election; (2) youth grantees that have launched an aggressive campaign to confront student debt; (3) the North Carolina NAACP, leading the powerful “Moral Mondays” movement that has drawn national acclaim; (4) the Black, Latino, and Youth Engagement Funds, that provide political engagement and capacity-building funds to national, state, and local organizations; and (5) innovation investments within faith, small business, and white working class constituencies that were designed to help USP learn how to more effectively engage these politically influential (and often open society resistant) groups.

Budget History and Shifts: In 2012, the final budget year for the full body of this work, USP invested \$11.75 million in grant making (down from a high of \$16.5 million in 2009). This supported an extensive universe of constituency building and grassroots advocacy partners to complement the generally more elite (i.e., think tank, litigation, and federal advocacy) strategies that receive sizable USP funding.

In 2014, \$4.05 million is budgeted throughout USP for multi-issue constituency building, leadership development, and political engagement grantees, including \$1 million per year for anchor grantee the Center for Community Change; \$2.05 million per year for the eight Civic Core grantees; and \$1 million in grassroots funding from the special initiative on fiscal equity (this is the source of recent general support funding for the Working Families c3, for example). Other grassroots investments occur within USP on single issue or field priorities, most notably in the Equality Fund’s immigration portfolio and elsewhere, including confronting racial profiling. Additionally, the Open Places Initiative is investing in grassroots, often multi-issue organizations in Buffalo, Puerto Rico, and San Diego.

Democracy and Power Fund Reflections: The Democracy and Power Fund was an attempt by U.S. Programs to address an important priority: the importance of developing political consciousness and capacities so that individuals can effectively speak and act on their own behalf to advance open society. From our assessment, it is rare that a foundation acknowledges “power,” let alone funds efforts to

³ For the rest of this document, we will use the term “political engagement,” rather than voter participation, since it represents a broader theory of change and the full continuum of participation beyond that which solely orbits around elections.

challenge existing relations of power. It is also relatively rare for a funder to take on the dynamics of elites strategizing and speaking on behalf of others. Within OSF, this is perhaps complicated by George Soros’s lasting, and understandable, concerns about ill-informed populism. We are not making an “either/or” case here; both elite and grassroots strategies are often essential to make change.

The Democracy and Power Fund emphasized the centrality of people speaking on their own behalf – not through litigators or lobbyists. *At its best*, the vast grantee portfolio provided opportunities for building strategic connections between the large, influential, and well-connected DC insider groups (including the Center for American Progress and the Center on Budget and Policy Priorities) with smaller state and local organizations, often rooted in communities of color, that have an activist base in key congressional districts or regions of the country. *At its worst*, the fund was a philanthropic “shot gun wedding” of oppositional strategies, wildly varying levels of political access and influence, and people who simply did not speak the same language of change.

The greatest successes in the strategic integration of the Beltway insiders with the local and state grassroots universes occurred on tax and budget policy fights around the federal and state fiscal crisis. Other noteworthy investments led to:

- Registering and mobilizing 2.5 million infrequent African American, Arab American, Asian American, Latino, young, and women voters in 2008, 1 million in 2010, and 1.5 million in 2012;
- Supporting grassroots advocacy and think tank work that helped to establish the Consumer Financial Protection Bureau;
- Advancing immigrant rights, including initiating USP’s first investments in Domestic Workers United (the precursor to the National Domestic Workers Alliance) and United We Dream Network, grantees that have since played transformative roles in the immigrants’ rights movement; and
- Defending voting rights, where local affiliates of national grantees played critical roles in defeating anti-democracy efforts in Maine, Minnesota, and Wisconsin.

What didn’t work is now obvious. With intentions to support as many promising, people of color led grassroots advocacy efforts as possible, we invested in a “thousand flowers bloom” manner, too broadly and too shallow, supporting 80 groups instead of providing far-reaching investments of time and money to 20. The portfolio was administratively unwieldy and our grantees received support that was insufficient to meet their needs, let alone the scope and complexity of their missions. Our approach made it difficult to assess grant-making impact or underscore the connections to broader USP priorities.

II. ORIGINAL AMBITIONS FOR THE FIELD/GOALS FOR THE CIVIC CORE PORTFOLIO

The Civic Core portfolio was constructed to provide general support grants to multi-issue (and often multi-constituency) grantees that advance open society at the national, state, and local levels. Civic Core grantees utilize the following strategies:

- Coalition building;
- constituency building within African American, Asian American, faith-based, Latino, and youth communities;
- elected leader organizing;

- grassroots organizing and field advocacy;
- leadership development;
- strategic communications; and
- direct, nonpartisan voter engagement.

Characteristics of Civic Core Grantees: While Civic Core grantees contain great diversity in their structures, leadership, issue priorities, and strategic expertise, several common characteristics exist within the portfolio. All grantees are multi-issue organizations and each catalyzes political engagement through elections and political analysis of the levers that influence state and local legislative bodies, mayors, and governors. All work to build the political power of the “most marginalized,” including communities of color, immigrants, and low- and moderate-income people. Most have some type of membership and many have local and state presence via affiliates or partner organizations. Many are considered to be innovators in using or creating new tools to enhance advocacy and engagement. Many also use multiple organizational statuses, with seven of the eight possessing c4 capacity. At least one has a political action committee and two have received additional funding from the Open Society Policy Center. All but one are included on the Democracy Alliance’s “Progressive Infrastructure Map,” and one (State Voices) is a top priority DA recommendation.

The Civic Core portfolio includes⁴:

Organization	Constituency and Primary Strategy
Ballot Initiative Strategy Center	State-based political infrastructure for multiple constituencies. Has c4 capacity.
Color of Change	Younger, social-media savvy African Americans. Has c4 capacity.
Faith in Public Life	Faith-based campaign development and strategic communications. Has c4 capacity.
League of Young Voters	Young people of color, typically not reached on college campuses. Has c4 and PAC capacity.
National Association of Latino Elected and Appointed Officials (NALEO)	Latino elected leaders, including Democrats, Republicans, and nonpartisan. Has c4 capacity and received OSPC support for Republican advocacy on voting rights.
PICO National Network	Faith communities, with sizable African American, Anglo, Asian American, and Latino membership. Has c4 capacity and received OSPC support for immigration advocacy.
State Voices	State-based political infrastructure for multiple constituencies. America Votes (funded by George Soros) provides parallel c4 capacity.

⁴ The attached “Civic Core Portfolio Capacity Snapshot” provides additional, contextual information—including membership size, numbers of state or local affiliates, and priority issues—to illustrate the unique reach of each portfolio grantee. Two other attachments show total Civic Core grantmaking from 2011-14 as well as the percentage of each grantee’s budget that comes from Open Society investments.

[Young Elected Officials Network](#)

Young elected leaders. Has c4 capacity.

III. RELEVANT EXTERNAL CONTEXTUAL CHANGES

External contextual changes are a blend of positive and negative shifts, including three intertwined themes that have had significant impacts on the portfolio.

Populism and Retrenchment: While President Obama’s elections are significant in many ways, they have also led to rising (or reconfigured) right-wing populism. The Tea Party, Americans for Prosperity, and the reconstructed Heritage Foundation each provide well-oiled machinery for racial and economic anxieties and anti-government activism to be driven more deeply into the body politic. This, plus a poorly executed Affordable Care Act fight, catalyzed a problematic mid-term election in 2010. The redistricting cycle that followed protected too many safe seats in Congress and led to 30+ conservative dominated state houses, notably in the battleground states of the Rust Belt (Michigan, Ohio, Pennsylvania, and Wisconsin). This is the challenging federal and state terrain in which Civic Core grantees are operating.

On the plus side, despite the 2011 Occupy Movement’s aversion to organized advocacy and traditional political engagement, it succeeded in providing a vehicle for progressive and left anger about the economy and growing concentration of wealth. This created room for Civic Core grantees to elevate inequality with a sharper edge in their grassroots advocacy and political engagement.

Demographic Shifts: The rise in population and (potential) political power for the New American Majority, especially Latinos and Millennials, is a hopeful organizing narrative for Civic Core grantees, including several that have long worked to build power for and with communities of color and young people. Demography is not destiny, however, and the 2010 mid-term elections proved this, with dramatically reduced voter participation rates from 2008 and 2012. This is likely what we’ll see in 2014.

Field Dynamics: The universe of Civic Core peer funders experienced significant changes from 2011-14, too. Beyond the Open Society Foundations’ own shifts, Atlantic Philanthropies’ presidential leadership transition led to the early closure of its progressive infrastructure program, a peer fund that provided \$20 million annually (including rare, large scale c4 dollars) to organizations, including several Civic Core grantees. Under Luis Ubiñas, Ford experienced declines in its budgeting for multi-issue grassroots work and, while the Democracy Alliance soldiers on and remains important, it has not been successful in expanding the pool of resources for infrastructure.

Orchestrated attacks on vanguard institutions within the progressive movement – particularly ACORN, Planned Parenthood, and organized labor – also created minefields for the Civic Core. Such attacks helped to kill the lackadaisically organized ACORN, whose large-scale voter registration numbers have still yet to be replaced by the current field. The labor movement, a critical partner and funder of progressive organizing and political engagement, now fights for its survival due to shifts in the economy, fiscal crises at federal, state, and local levels, and attacks on collective bargaining. Planned Parenthood masterfully weathered the Susan G. Komen Foundation storm but is still fighting unyielding conservative attacks on reproductive health access. These attacks rack up victories in the redistricted “Red” states.

On the plus side, the most noteworthy shifts include more c3 organizations creating and using c4 capacity, in order to directly participate in elections and high profile advocacy. They are supported here by “House of Soros” funded America Votes and Catalist as well as the Working Families Organization. Civic Core organizations also continue to stay on top of social media advances to expand their reach. Color of Change and Faith in Public Life’s Faithful America are noteworthy here. Another positive shift is the move to return to volunteer-driven political engagement programs and away from the more transactional style paid canvasses of the 2000s. This leads to higher quality contact between canvassers and community members. A final positive shift is that Civic Core organizations are now much more comfortable with metrics and often use Analyst Institute designed control/treatment randomized experiments in their community and voter participation efforts.

IV. PORTFOLIO ADVANCES AND SETBACKS

Setbacks: Beyond what was shared in the historical context, setbacks include the various staffing and leadership transitions that occurred within the Special Initiatives team, USP, and the Open Society Foundations in this timeframe, including: the loss of a highly talented program officer who left for more independence (and pay) at the Ford Foundation, leaving us short staffed for seven months; significant strategic shifts and sizable budget cuts; and a decimated overall portfolio, which can be tough for morale. Additionally, staff found that with all of Open Society’s transitions and our 65 tie-off conversations it was challenging to maintain expert status in the constituency building, leadership development, and political engagement fields in which we work. The most common conversation that grantees wanted to have instead was “what’s really going on at the Open Society Foundations?”

Advances: The Civic Core portfolio’s multi-issue grantees have made noteworthy contributions to many open society priorities, including: (1) fiscal equity, where grantees played a key role in defeating the reauthorization of the Bush tax cuts; (2) voting rights, where local and state affiliates continue to be the early warning system for state-based attacks on voter access; (3) economic justice, where several grantees are leaders in state and federal minimum wage fights; (4) immigration reform, where grantees conduct bipartisan advocacy, field organizing in key congressional districts, faith-based messaging, and ally building work within African American and faith (mainline Protestant and Catholic) communities; and (5) political participation, where Civic Core grantees continue to play anchoring roles in state-level coordination of large scale, nonpartisan voter participation drives.

V. WHAT WE’VE LEARNED: ASSESSING IMPACT BEYOND ISSUE ADVOCACY

Seven of the eight Civic Core grantees receive general support grants. As a result, it can be difficult to draw a direct causal link between Open Society’s investments and the specific impact these organizations make in the world. General support conveys trust between Open Society and the grantees, enables grantee leadership to have greater flexibility in responding to unanticipated opportunities and threats, can bolster grantees’ long-term sustainability, and often leads to a more transparent, “real” relationship.

In addition to the advocacy examples referenced above, we’ve attached an “impact example” for how the Civic Core portfolio’s work contributes in an innovative and cross-sectoral fashion to broader USP

challenges. The example spotlights work to counter the American Legislative Exchange Council and “Stand Your Ground” legislation in the wake of the killing of Trayvon Martin.

While the eight Civic Core grantees are survivors of the transition, they aren’t even necessarily the strongest organizations of their kind within their constituency or sector. The League of Young Voters, for example, is a long-time favorite that provides an important youth of color perspective outside of the campus dominant progressive youth engagement field. It is not a stable organization, however, living hand-to-mouth and having to shut down several affiliates in recent years. Next year, it will lose its well-regarded, yet overstretched director. Nonetheless, it survived in the Civic Core where others that didn’t garner additional USP endorsements—including the United States Student Association, CAP’s Generation Progress, or Young Invincibles—didn’t survive, despite often higher impact work.

The staff is still grappling with concepts of longevity and commitment to fields. We seek to build solid relationships with grantees and peer funders and to minimize purely transactional relationships. To do this, consideration for how we enter fields, how transparent we are, and how long we intend to stay influence such relationships. Since state-based funding in this universe tends to be much more limited than at the national level, the quite abrupt end of funding for grassroots political engagement groups in North Carolina and Texas in 2012 featured some of the more challenging conversations staff has experienced.

Within the Civic Core portfolio, the eight organizations have all weathered various forms of transition that have, in some instances, impacted their ability to carry out program work. In particular:

- Four Civic Core grantees have undergone or are about to experience senior leader transitions, including two founding executive directors moving on;
- three have created new c3 or c4 capacity or have increased the use of their c4s;
- one has had to contend with painful budget cuts that forced constriction of program and staff;
- two have expanded in budget size by more than 33 percent since 2011; and
- seven have received additional, one-time project funding support from another USP program, campaign, or OSP.

VI. WHAT WAS THE OPEN SOCIETY FOUNDATIONS’ CONTRIBUTION TO THESE CHANGES?

In each of the above instances, USP staff members have played active roles in providing consultative support and referrals to technical assistance, fostering connections to funding leads and donor organizing, organizing briefings, and engaging in conversations with grantees about how we can use our positioning and access to be a thoughtful and constructive partner, not just a funder.

Among the more noteworthy examples of staff engagement include : (1) the Ballot Initiative Strategy Center, where USP staff is taking on a more engaged role in organizing the grantee’s funders to help grow BISC’s profile and general support at a time when ballot initiatives and referenda are on the rise; (2) Color of Change, to aggressively help it raise resources, within USP and with other funders, so that it may stay on track with rapid expansion that now includes more than 900,000 online members and a 16 person staff; (3) Faith in Public Life, for whom we hosted the first funder briefing to introduce its new social media project, Faithful America, which has since recruited more than 280,000 online members; (4)

The League of Young Voters, to challenge it to make tough decisions on internal capacity as it weathers funding struggles (and we invested in its promising Texas operation); (5) NALEO, to broaden its awareness within USP, including making the case for utilizing its bipartisan reach, rare for USP grantees; (6) State Voices, to support a second executive director transition in five years and to challenge its board and funders to embrace the organization’s “public utility” function so that it can become more structurally sound and sustainably funded—and thus less likely to burn out its next executive director; and (7) the Young Elected Officials Network, to target our funding so that it could successfully strengthen its leadership and influence within its graying parent organization (People for the American Way) as well as to introduce its leadership to USP’s board and other funders.

More broadly, changes that occurred from the Democracy and Power Fund to the Civic Core mirror changes in USP’s overall USP strategies and culture. The overall USP budget shrunk from a high of \$153 million to the present \$100 million plus reserve funds, impacting each program, campaign, or office within USP. For the Civic Core, we hope in the future to once again have the budgetary capacity to start a cycle of multi-year grants. We did not do so during this transitional period, since it would have required some grantees to wait on renewal funding while we began a multi-year funding cycle for the entire portfolio.

Other Funders: Open Society is an important but not dominant funder in this space and staff partners frequently with the Ford Foundation, Stoneman Family Foundation, and Wellspring Advisors from traditional philanthropy and the Service Employees International Union and National Education Association from the labor community. State-based, progressive infrastructure partners include, and partners of the Democracy Alliance and Committee on States, the network of state-based progressive infrastructure donors.

VII. LOOKING AHEAD: RECALIBRATING FOR 2015-18

It is our expectation, based on conversations within USP’s senior leadership and among board members, that the Civic Core portfolio will continue on in the future. The portfolio is an expression of USP’s values as well as the understanding that some voices have a harder time being heard, some communities face greater barriers in getting to decision makers and opinion shapers, and the rising political power of some constituencies warrants smart investments now in order to build effective bases of activists and leaders for the long haul.

If the Civic Core portfolio is to make a significant contribution to the ongoing integration of political savvy into USP, we do not believe that the portfolio as it is currently constituted effectively addresses each of the considerations above. Through this review, we welcome guidance on how best to recalibrate for 2015-18—the timeframe of the current strategic refinement process—and beyond to 2020. This will likely force some shifts in the grantees that currently comprise the portfolio.

The emerging USP 2020 effort, currently in initial research stages, will address where shifting demography and distortions in democracy intersect with a powerhouse year, with a presidential election, decennial census, and redistricting and reapportionment. Civic Core grantees will likely play a leading role in any strategy that emerges.

In 2015-18, we propose to reorganize and recalibrate the portfolio in a roughly equivalent size of between eight and twelve grantees. At present, eight grantees are currently funded directly via the

Civic Core budget. Several others thematically fit within this portfolio but are supported with other funds.

With relevant field knowledge and expertise among the staff, it may be logical for the Civic Core to be the future home for c3 and c4 grantmaking related to grassroots political engagement. This could include communicating, when legally appropriate, with Michael Vachon and serving as the lead liaison for America Votes, Catalist, and the Working Families Organization.

We propose the following for Civic Core 2.0:

- Support up to four grantees that are field leaders in political strategy and electoral organizing;
- Support up to four grantees that are field leaders in building large-scale constituency power and advocacy from key open society constituencies: African American, Latino, and young people. Each must have national coordination and local and/or state affiliates, chapters, or partners in strategic places; and
- Support up to four grantees that are field leaders, likely as intermediaries, in data analysis, leadership development, and strategic communications.

VIII. THE ROLE OF AND NEED FOR OTHER TOOLS

The primary tools used in the Civic Core portfolio are the full range of grantmaking supports: general support grants and occasional project funding; funder outreach and donor organizing with other foundations, labor unions, and individual donors; hosting funder briefings; using occasionally coercive convening power; providing technical assistance support or referrals; and using the full “House of Soros” reach to troubleshoot broader field challenges, such as the ongoing customer service challenges that exist for some of the largest data clients of Catalist. Enabled staff within U.S. Special Initiatives and Partnerships, where Civic Core grantmaking is based, work closely with OSPC to refer funding recommendations, most frequently for anchor grantees or advocacy grants on fiscal equity or gun violence prevention. For the Civic Core portfolio, our engagement with OSPC colleagues has been more limited. This could be an area for increased emphasis moving forward, especially since seven of the eight portfolio grantees have c4 capacity.

Beyond internal tools, in 2014 the Civic Core team is considering a partnership with the Management Center to provide targeted and sustained technical assistance to USP anchor and core grantees. The range of support will vary depending on the needs of organizations, but could likely include tools for succession planning (which would be very helpful for the League of Young Voters, NALEO, PICO, and the Young Elected Officials Network), board diversification (a particular need for Faith in Public Life and the Ballot Initiative Strategy Center), and leadership transition (timely for State Voices).

IX. IMPROVING ASSESSMENT

Assessment is another important tool and it has been a weakness of the Civic Core portfolio for factors referenced earlier as well as—frankly—staff concerns about opening up the Pandora’s Box of assessment while this type of funding appeared particularly vulnerable. It is also difficult to evaluate retroactively when assessment tools were not built into the work from the beginning and relevant

expertise was not in our midst. With Civic Core 2.0, we would recommend funding for rigorous assessment to be built into the portfolio's plans from the outset. This would likely include both objective and subjective means of assessment, including utilization of data and analytics expertise that Catalyst, the New Organizing Institute, Grassroots Solutions, and Voter Activation Network could provide. We will also recommend that, where possible, Civic Core grantees work with the Analyst Institute to construct control/treatment randomized experiments to assess the impact of their grassroots work in a scientifically sound manner.

X. PORTFOLIO CONNECTIONS WITH THE BROADER OPEN SOCIETY FOUNDATIONS NETWORK

USP's transitions have brought less frequent cofunding among the subprograms, although there are several good examples of intra-USP collaboration, including school discipline work, among others. For the Civic Core, we have four grantees that formerly received funding from other USP sources (including Color of Change, Faith in Public Life, League of Young Voters, and Young Elected Officials) and currently have three organizations that are receiving or are likely to receive additional, one-time USP funds⁵ (Ballot Initiative Strategy Center, PICO, and Young Elected Officials). Since 2013, we have had less connection with the global network with this portfolio than there was through the Democracy and Power Fund, where staff had a strong connection with the global fellowship program and had also begun to share our white working class research with Open Society Initiative For Europe colleagues who are confronting xenophobia. With the global fellowship staff, we had often in the past provided input on fellow selection and proposals that were relevant to Civic Core interests. We hope to resume these conversations as USP winds down its strategic refinement process. A new partnership is just beginning with the Youth Exchange, which has launched a global Open Society Foundations conversation on youth political engagement.

XI. OTHER KEY ACTORS IN THE FIELD THAT WE'RE NOT CURRENTLY FUNDING FROM WHICH WE COULD LEARN

Key Actors We Are Not Currently Funding: Beyond the organizations that we referenced on page 2 (in the "Examples of What We Lost" section), Civic Core 2.0 would want to take a particular look at the following actors which we think could help advance multiple open society priorities. Among these are four organizations and three subfields of progressive infrastructure that are underdeveloped and needing investment:

- **Moms Rising:** A million member "online and on the ground" network of mothers and women who bring their force to bear on a variety of social justice and progressive issues. Moms Rising works at the federal and state levels and receives regular accolades from top political leadership (White House, Pelosi, and Reid) for the uniquely effective narratives that it brings to issue advocacy. It has 1,000 bloggers and claims a combined social media readership of over 3 million people. In a progressive advocacy world where all too often "women" equals "choice," Moms

⁵ The Ballot Initiative Strategy Center will be recommended for a project grant from the Democracy Fund for Docket I.

Rising has a broad agenda for change, including considerable alignment with open society democracy, equality, and justice priorities.

- **ProgressNow:** Seen as the fourth leg in the state-based infrastructure table—along with America Votes, State Voices, and the Committee on States—ProgressNow is a network of 21 state online communications hubs that advance a multi-issue agenda in coordination with hundreds of less social media savvy community organization partners. It does this via creative earned-media campaigns, integrating online strategies into ongoing legislative advocacy and political engagement, a 2.4 million person email list, and nimble usage of c3 and c4 capacities.
- **Small Business Majority (SBM) and Main Street Alliance (MSA):** These are the two main national networks of progressive leaning small business owners and both have grown significantly as they strive to neutralize and counter the influence of the U.S. Chamber of Commerce and National Federation of Independent Business. Small Business Majority and Main Street Alliance each have more than 10,000 small business owners in their membership and deploy their politically in-demand members very strategically in the media and with elected leaders. SBM is the more centrist of the two and is noted for its effective use of public opinion research and state-based advocacy on federal priorities. MSA employs grassroots organizing and more localized work to advance state legislative priorities. Both have demonstrated impact on issues including fiscal policy, paid sick days, immigration reform, money in politics, and health access.
- Three fields that have significantly underfunded infrastructure relative to need and potential future impact include: Latino political infrastructure and leadership development beyond the immigrants’ rights movement; Asian American political infrastructure and leadership development, very underdeveloped for the fastest growing racial group in the 2010 census; and the growing universe of state-based “independent political organizations” that are expanding c4 capacity, challenging both political parties, and building bases of politically engaged members. This includes organizations such as Florida New Majority and Virginia New Majority, and others that find the Working Families state model compelling.

Key Actors from Which We Could Learn: For organizations we could learn from, we list Upworthy among our friends, and Americans for Prosperity, Freedom Partners, and the Libre Initiative among those with agendas that are counter to open society. Here’s why:

- **Upworthy:** Said to be the fastest growing media site of all time, Upworthy provides interesting lessons for Open Society Foundations staff and grantees on how to increase awareness and action through the use of emotion to smash algorithms and connect with a politics-weary population. Founded by USP board member, Eli Pariser, Upworthy now draws 50-60 million visitors a month, a scale that none of our grantees reach and a number that is large enough to extend well beyond the usual suspects of our ever more “big sorted” nation.
- **Americans for Prosperity, Freedom Partners, and the Libre Initiative:** USP, at least from what we know, does not have a central research hub for understanding how our opposition operates and how it is able to stymie many advocacy efforts that OSPC or our grantees lead. These three right-wing entities are linked to the Koch Brothers⁶ and are very effective at what they do. Freedom Partners is a funding bundler for a network of dozens of organizations. Americans for Prosperity is the grassroots political organizing operation, with staff and affiliates across the nation. The Libre Initiative is perhaps the least known of the three and is a Latino focused

⁶ A recent *Washington Post* analysis reports that the Koch’s network of groups raised \$400 million in 2012.

conservative project that has already spent \$1.6 million in ads targeting Latino voters and attacking liberal elected officials since January 2014.⁷

XII. QUESTIONS FOR THE PORTFOLIO REVIEW

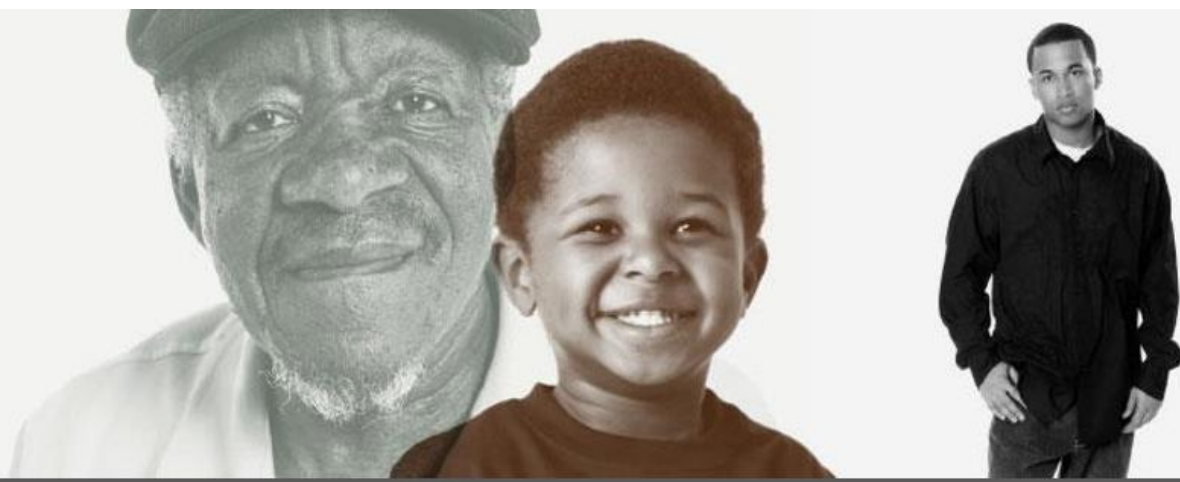
We welcome the questions and constructive guidance of portfolio review participants. In particular, we invite participants to assist us with the following questions:

- How can we best assess the impact of grantees that are multi-issue, focused on grassroots engagement, and receiving general support?
- What should “scale” look like and how can we best support the grantees in achieving it?
- How can we more effectively integrate the work and the constituents of the Civic Core portfolio into USP’s ongoing issue advocacy priorities? In doing so, what is the relationship of the Civic Core to larger anchor grantees and more entrenched, and often less nimble, legacy organizations?

We look forward to the conversation on April 11.

⁷ Source: The Latino Victory Project, 2014.

CAMPAIGN FOR BLACK
MALE ACHIEVEMENT
APRIL 21, 2014



CAMPAIGN FOR BLACK MALE ACHIEVEMENT

~PORTFOLIO REVIEW~

21 April 2014



FOCUS OF THE PORTFOLIO REVIEW

The leaders and senior managers of the Open Society Foundations have asked the Campaign for Black Male Achievement (“CBMA”) to conduct a retrospective review of the past five years of our work, with a particular focus on our goals and effectiveness in the areas of strategic communications and capacity-building.

The CBMA Portfolio Review comes at a pivotal time, both in the context of the broader national landscape of attention and engagement around the challenges and opportunities for black men and boys and in the context of the campaign’s relationship with the Open Society Foundations.

- There is growing activity and engagement within the philanthropic sector to advance black male achievement and, with President Obama’s My Brother’s Keeper initiative, significant national attention and \$200 million of committed philanthropic funding to support achievement by boys and men of color.
- OSF and the campaign are in the midst of a planning process to institutionalize the work of the campaign and spin-off an independent Institute for Black Male Achievement. As a result, key questions of impact are front and center in the conversation regarding CBMA’s work in this Portfolio Review.

In agreement with Open Society leadership, we have focused this review on providing thoughtful answers to the following:

- How has CBMA contributed to the long-term sustainability of the BMA Field?
- How has CBMA contributed to building the capacity of leaders and organizations?
- How effective have our strategic communications activities been in shifting the national narrative around black men and boys?
- What have been the critical choices and/or course corrections that were made by CBMA leadership?
- What hasn’t worked out as planned and/or what have been missed opportunities for CBMA?

In an addendum to this review, we provide an overview of the phases of CBMA’s evolution and the factors that drove strategic decisions that affected the scope of our activities and how we defined success for the campaign. It is our aspiration and belief that this review will both provide helpful learning to OSF to advance efforts in other areas and provide CBMA with a unique opportunity to garner useful perspectives for the future from a rich conversation with OSF leadership.

CAMPAIGN FOCUS AND APPROACH

As we reflected on the approach we took in the work of the campaign, this review has provided us with a unique opportunity to make explicit what had been an implicit theory of change guiding our choices and our work. Our complete theory of change is provided in an addendum to this memo; what follows is a high-level description of how we have come to understand field building in relation to driving larger-scale impact on life outcomes for black men and boys.

THEORY OF CHANGE FOR THE CAMPAIGN: BUILDING THE BMA FIELD

Attention paid to the challenges faced by black males by philanthropy, policy-makers, and the general public has been episodic and extremely small-scale relative to the long-standing structural inequities faced in areas such as education and employment. Lack of public will and attention, along with limited resources and capacity of those focused on the unique needs of black males, have, until very recently, resulted in very little progress.

As we came on board at OSF and took up the challenge of driving improvements in life outcomes for black men and boys, we recognized two things:

- 1) We must invest in programs directly serving black males. Additionally, we must specifically invest in programs that focus on shifting from a deficit-based framework (where black males are seen as a problem to be managed) to an asset-based framework that focuses on supporting opportunity and achievement.
- 2) Equally important, we must engage in a broader set of activities that create a foundation for sustained attention on and investment in black males on a previously unprecedented scale.

Over time, we recognized that our ability to drive impact on the life outcomes of black men and boys to our programmatic investments was limited in the short-term given both the scope of our available resources and the fact that these investments take time to come to fruition. We also recognized that perhaps the greater opportunity for the campaign was to fully embrace our role as an intermediary and ensure that our work served as a catalyst for the growth, connectedness and impact of the overall field of black male achievement. Only by focusing on the “black male achievement field” would we, over time, drive widespread improvements in life outcomes for black males.

Although sharing a desire to drive large-scale systems change that is the hallmark of much of Open Society’s work, our approach from the outset was somewhat counter to this norm in important ways. First, we are naturally very entrepreneurial—seeding lots of new projects and pushing to see which bear fruit—and less inclined to pause, reflect and assess than might be typical or desired in a foundation context. Second, like many of our colleagues in U.S. Programs, we bring a perspective from sectors outside of philanthropy and have served directly as leaders in the field over our careers, which we believe supported our effectiveness in field-building, but which also pushed the envelope at OSF and created both internal and external tensions. Over the course of the review, we’ll note how our approach—with its strengths and weaknesses—has influenced the results we’ve achieved.

CORE STRATEGIES FOR CBMA

In looking back on the campaign’s history, it’s clear that there were three core strategies that evolved into our work and supported our desire to build the field. The Portfolio Review helped crystallize for us what was an implicit switch from our earlier attempts to achievement outcomes in focused areas of educational equity, strengthening family structures and increasing living wage work opportunities. Early in the life of campaign we shifted our focus to address the fragility of the field, believing that this was where we could be more effective and where resources were equally needed. The below strategies that emerged as the underpinnings of our work included:

- **Strategic Communications:** Use media and communications to create a positive, alternative narrative that (a) elevates and sustains awareness of the challenges and opportunities facing black males and (b) supports a shift toward asset-based language that contributes to changing public perceptions.
- **Network Building:** Build connections between organizations and individuals working in the BMA field and build bridges to other sectors. In particular, we focused on:
 - **Building a Robust BMA Network:** Create connections between organizations and leaders actively working on BMA-related issues to enable knowledge and practice-sharing.
 - **Increasing BMA-specific Funding:** Build a vibrant philanthropic community and support philanthropic partnerships, as well as connections to public and private sector funding sources.
 - **Influencing Policy and Practice:** Create a clear, shared policy agenda through facilitation of network activities and targeted communities of practices that advocated shifts in local, state, and national, policies affecting black men and boys.
- **Capacity-building:** Ensure the growth and sustainability of the field by building the knowledge and skills of leaders and improving the health of BMA-focused organizations across fields such as governance, impact measurement, and financial management.

CBMA'S APPROACH TO GRANTMAKING

In a couple of important ways, we “cracked the code” on OSF’s approach to grantmaking, which tends to focus on investing in organizations when they are “ready” to scale up their work and drive widespread impact.

Our approach to grantmaking was strongly influenced by our understanding of the needs of organizations and leaders actively engaged in black male achievement and of the broader landscape in the field. The landscape of the work in this area consisted of disconnected efforts of leaders and groups, was absent an aggressive national narrative, especially in the philanthropic sector, that identified black men and boys in asset-based language. Additionally, the conveyor belt for producing research and scholarly publications was stalled. As we depict in the attached “Split Screen” infographic, before CBMA began its grantmaking and other activities there was very little, if any, coordination between leaders and organizations working to improve the field of black male achievement. Perhaps most importantly, until the emergence of CBMA there were no national funders like the Open Society Foundations committing explicit funds to improve the life outcomes of black men and boys in the nation. Building upon these insights, we articulated a number of guidelines for our grant-making work.

- **Provide Grants to Support Direct and Indirect Impact:** In addition to supporting organizations focused on systems change (including advocacy, communications, etc.), we also provided significant grants to support development of BMA-specific programmatic work by direct service organizations.
- **Invest in Innovation:** Given the under-developed state of the BMA field, we felt it was essential to seed innovation by supporting start-ups and small organizations filling key gaps in the landscape of programs focused on BMA. We were intentional with what we called helping groups break the Open Society “code” by taking risks on unknown players and less proven models to seed innovation. We wanted to send a clear message that we were moving beyond the usual suspects to build a bigger platform and were open to disruptive investments.

- **Allowing for a Margin of Error:** A corollary of our willingness to invest in small and start-up organizations was expecting some degree of failure in our investments. As Alberto Ibarguen, president and CEO at the Knight Foundation counseled us, “Throw a lot of things at the wall. Some are going to stick and some aren’t.” This tolerance for risk and even failure was perhaps again in contrast to the norm in philanthropy.
- **Lead with a Place-Based Approach:** Because so many of the barriers to black male achievement are rooted in state and local policy and practice, our intent was to focus 75% of our grantmaking on place-based work in the Midwest, the Gulf and the Mid-Atlantic—and in two selected cities in each of these regions. Our remaining resources could be used opportunistically.
- **Connect our Grantees:** Unlike most philanthropists, we saw our grantees as a vital network that could support one another through peer-learning and, in so doing, further our capacity-building goals. We were intentional about connecting our grantees through monthly calls and periodic convenings.

Our intention in our grantmaking was to move beyond the usual suspects and drive the growth of the field by seeding innovation and taking calculated risks.

SUMMARY OF CBMA’S IMPACT TO DATE

One of our key objectives in this review is identifying where and how CBMA may have contributed to the growth of the black male achievement field. We use four sources of information to paint a picture of changes in the BMA field over the past five years: (1) our own, personal reflections on our work over the past few years; (2) stakeholder interviews conducted in partnership with Root Cause and Monitor-Deloitte; (3) a survey of CBMA grantee partners; and (4) a review of CBMA data and secondary data.

We recognize that this is a partial picture. One of our key learnings from compiling this review, in fact, is the need to be both more intentional and more systematic about defining metrics for success and tracking progress against those metrics over time. With that limitation noted, however, we hope that this overview will provide an initial framework for assessing our overall progress and a baseline for building an ongoing understanding not only of the evolution of the field, but of CBMA’s contribution to these changes.

THE “SPLIT SCREEN”: LAYING THE FOUNDATION FOR THE BMA FIELD

From the outset, OSF was interested in using the campaign to “catalyze” growth and increase capacity in the field. Reacting in part to the 1995 Urban Institute report that illustrated how previous efforts to drive growth of the field were not sustained, we collectively aimed to ensure that our efforts would build the foundation for ongoing work and impact.

One of our key goals in this review is to paint a clear “before” picture of the BMA field prior to the launch of the campaign and an “after” picture that captures the state of the field after five years, with a particular eye toward whether we have contributed to creating a foundation for sustaining activity over time. We provide as a separate exhibit a summary info-graphic that provides a “split-screen” view of emerging outcomes data that demonstrate the before/after shifts in the BMA field to which the campaign has contributed.

We characterize the field in 2006 as deficit-based, fragmented, and under-resourced. There was a prevailing perception that black males were a problem to be solved or, perhaps, contained. This sentiment was frequently expressed by mainstream media, law enforcement, education reformers, and even within some leadership pockets of the African American community. Activities focused on addressing the challenges faced by black men and boys were small in scale and dramatically under-resourced. Organizations and networks working with an explicit focus on addressing the disparities facing black men and boys were fragile, and the funding landscape was characterized by small flows of support which did not sustain over time. Needless to say, there was little sustained activity taking place to engage policymakers and drive relevant policy changes.

In the words of Joshua Dubois, former White House director of Faith-Based and Neighborhood Partnerships: *“I don’t think that the field of black male achievement – in a coordinated, cohesive and readily identified way – existed before CBMA.”*¹

In looking at the black male achievement field in 2014, we see a field that has an increasingly asset-based narrative and is both more connected and better resourced. We see clear areas where progress has been made – and, we would argue, where CBMA has contributed to catalyzing change.

- Through our strategic communications work, we have developed a strong social media presence and created significant content, both directly and by supporting our grantees and partners. We have successfully branded “black male achievement” and supported a shift to an asset-based narrative.
- Networks in the field are growing stronger. BMA-focused leaders and organizations are more connected to one another, and there are increasing numbers of associations emerging in philanthropy, communications, policy advocacy and other areas that support BMA-focused work in different issue areas and geographic areas.
- Although it is early to see the full result of our capacity-building impact, in the work that we’ve driven directly we see signs that leaders and organizations having increased the ability to communicate their program models and to engage others to provide funding and other supports. We also see evidence of greater funding going to BMA-specific issues.
- Even in the arena of policy—where CBMA’s efforts have had the least emphasis to date—recent partnerships (e.g., with Cities United and the National League of Cities) are beginning to create momentum for change. And of course our ability to influence the White House and shape the emerging agenda for My Brother’s Keeper has enormous potential to bring attention, funding, and collaboration.

CBMA has catalyzed the growth of the BMA field, not by creating a field from a blank canvas, but rather by connecting and empowering an existing set of leaders and organizations who were already passionately engaged around issues related to black men and boys.

We believe our work in capacity building and strategic communications were both pivotal in driving the changes that we note, as well as distinct relative to other Open Society programmatic areas. We turn now to each of these areas to do a deeper-dive exploration of our approach and impact to date.

TRANSLATING STRATEGY INTO IMPACT: CBMA ACTIVITIES

¹ Joshua Dubois, Interview with Root Cause on behalf of CBMA Portfolio Review. March, 2014.

CBMA started by focusing on targeted grantmaking in the areas of educational equity, strengthening family structures, and increasing living wage work opportunities. Over time, we became more intentional and expansive in our field-building work and made a conscious decision to strengthen the field in the areas of strategic communications, network-building, and building the capacity of leaders and organizations. While we did not abandon our targeted grantmaking in the above three areas, particularly because we did not want to cease support of groups in those areas that we had just begun to fund, we decided to employ a both/and approach with increasing needed support for building the black male achievement field.

An inventory of our work to date illustrates that we have focused on the following sets of activities to achieve our field-building goals:

- Targeted grantmaking that cuts across all areas of desired impact, including strategic communications, network building, and capacity building.
- Serving as a spokesperson for the movement, creating and disseminating content, and providing a platform for other BMA-relevant content to be shared and for other leadership voices to be highlighted.
- Coordinating grantee and field-leading convenings, fostering partnerships within the philanthropic sector, providing a platform for alignment around policy advocacy, and supporting new collaborations with other issue areas and sectors.
- Designing and actively supporting the growth of membership networks and communities to support capacity building, including the IBMA Capacity Building and Sustainability Center, IBMA Membership Network, the IBMA Social Innovation Accelerator, and the IBMA Communities of Practice.

In compiling this review, we have been surprised and pleased to gain a clear sense of the extent of our activities over the past five years. Our grantmaking and field-building activities have been closely interconnected in order to advance our narrative change and our network- and capacity-building goals.

CBMA Activities and Impact

	Activity Summary	Illustrative Impact
Strategic Communications	77 Communications Grants Provided, totaling \$9.3M	Increased content creation; research reports; elevated BMA framing nationally
	8 CBMA Communications Convenings	Engaged media influencers; organized/connected communications grantees
	79 CBMA blogs / op-eds and 4 research reports / articles	Infused asset-based content about BMA in mainstream media and the philanthropic sector
Network Building	55 Policy / Advocacy Grants provided, totaling \$7.6M	Elevated race/gender disparities in school discipline reform; child support reform in Maryland
	4 Communities of Practice created	Organized cross-sector collaboration and policy advocacy in responsible fatherhood; municipal partnerships and school-discipline
	5 Philanthropic Convenings and 45 philanthropic partnerships	Organized the philanthropic sector for increased funding and collaboration for BMA/BMoC
	CBMA Philanthropic Partners	
	25 Grants focused on Influencing Funding, totaling \$10.4M	Catalyzed launch of Executives' Alliance
	55 Grants Network-focused Grants provided, totaling \$15M	Fostered collaboration between leaders & organizations across the BMA field
	11 CBMA field-building convenings; 30 total convenings	
7 Grantee Convenings and monthly grantee calls		
Capacity Building	111 Capacity-focused Grants provided, totaling \$28.7M	Strengthened leadership skills and organizational health of BMA organizations.
	IBMA Membership Network: 2,483 Individuals and 1,578 organizations in member network (04/2014)	Organized, mobilized and connected field leaders and organizations
	Capacity Building and Sustainability Center: 150 applicants, \$198K in total capacity building grants to be allocated; 150 knowledge resources	Too early to determine impact
	Social Innovation Accelerator: 7 innovators, \$1.05M IBMA support provided to Innovators; Approx \$7.8B Impact Investment Community	

DEEP-DIVE: CAPACITY BUILDING

CBMA's approach to capacity building evolved through two phases, from (1) an initial focus on providing targeted capacity-building grants, technical assistance to grantees, and supporting leaders to (2) augmenting our grantmaking with deeper supports to build the capacity of leaders and organizations. We provide an addendum to this memo that provides additional detail about key aspects of our capacity-building work.

CAPACITY GRANTS, TECHNICAL ASSISTANCE AND LEADERSHIP SUPPORTS

Our initial approach to capacity building focused on providing targeted grants to build the capacity of organizations and leaders. These grants were paired with technical assistance provided to grantees by CBMA staff, focusing on enhancing organizational health in areas including board development, fund-raising support and program expansion. We also provided focused support to enable organizational leaders to more effectively communicate their mission and impact, as a way of lifting up their work and garnering additional support for growth.

A significant focus of our work was also providing direct supports to leaders in the field. One of the things that may not be clear to someone outside the African American community is the toll that

combatting entrenched perceptions and structural barriers can take on individuals engaged in this work. As we embarked on capacity building, one of our first priorities was providing energy, inspiration and connection to leaders working in the BMA field to help them sustain the fight. An example of this was our investment in the Transformational Leadership Retreat, which brought together key leaders and provided them with knowledge, skill development, and opportunities to connect and recharge.

AUGMENTING WITH DEEPER CAPACITY-BUILDING SUPPORT

As early as 2010, we recognized a need to strengthen the capacity and infrastructure of the field beyond what our grantmaking alone could support. This insight coincided with the scale up of Open Society’s investment in black men and boys. One of the cornerstone recommendations that emerged from the scale up plan was a five-year business plan to launch and support what we then called the “Leadership and Sustainability Institute for Black Male Achievement.”² Now called the “Institute for Black Male Achievement,” or IBMA, the initiative is a national membership network that includes four interconnected sets of initiatives and activities to strengthen leaders and organizations.

1. **Capacity-Building and Sustainability Center:** Coordinates a centralized portfolio of resources to strengthen organizations—including a leadership and organizational assessment tool, information and knowledge of what works, peer support, and capacity-building grants and city-based convenings.
2. **Social Innovation Accelerator:** Focused on supporting BMA organizations with proven solutions to grow their work and better demonstrated and communicate their impact. The intent is to showcase and support them in becoming nationally-recognized leaders who can advance policy and practice.
3. **Communities of Practice:** We created four carefully selected communities of practice to serve as a collaborative infrastructure to share knowledge and align policy and field-building activities.
4. **Field Promotion:** Activities that develop and disseminate communications content and tools that define a clear BMA narrative, support the sharing of positive stories of black men and boys, and provide resources for ongoing engagement and collaboration that can be used by IBMA members and others.

CRITICAL REFLECTION ON CAPACITY BUILDING

It is clear that there are key areas where we have made some mistakes and where we might add or change our approach in the future:

MISSED OPPORTUNITIES	
<p><u>Refine approach to Supporting Grantees:</u> We agree with feedback from the Grantee Survey which revealed that CBMA could have provided more effective strategic and</p>	<p>Based on our staff capacity and our focus on field-building, we missed an opportunity to go deeper with grants management of existing investments. We were sowing seeds of field building rather tending the garden.</p> <p>Specific suggestions made by grantees included:</p>

² To drive the launch of the IBMA, we provided substantial grants to two partner organizations: Root Cause, a Massachusetts-based social sector strategy and implementation consulting firm; and Policy Link, a national research and action institute that advances economic and social equity by lifting up “what works.”

<p>operational support to grantees.</p>	<ul style="list-style-type: none"> ➤ Ensure sufficient staff/caseworkers to support all grantees equally. ➤ Be clear about available resources/knowledge/touch points for support. ➤ Be clear about possibilities for longer-term funding. ➤ Communicate clearly when strategic changes take place that impact CBMA grant-making capacity.
<p><u>Place-Based Intentions Not Realized:</u> We fell far short of our original goal of focusing work on six cities in three selected regions.</p>	<ul style="list-style-type: none"> ➤ Our original intention was 75 percent grant-making in selected areas; 25 percent national and opportunistic. ➤ The reality of our grantmaking history is that we provided 60 percent of grants with a national focus and only 33 percent place-based or local. We did not focus on those key regions and cities originally identified. ➤ In retrospect, we could have launched with a more narrow geographic focus—fewer cities—that may have allowed us to go deeper and demonstrate impact in particular cities.
<p><u>Cross-Fund Collaboration Limited:</u> The original intention was that CBMA would engage in collaborative grantmaking with other Open Society programs, including the Criminal Justice Fund and the Equality Fund. This did not take place to a significant degree for several reasons:</p>	<ul style="list-style-type: none"> ➤ Changing Open Society leadership directives regarding the importance of cross-fund collaboration. ➤ It was not always a neat fit for other funds/campaigns to assume a race/gender lens in their co-funding partnerships with CBMA. ➤ Our aggressive focus on field-building activities and cultivating relationships in the field, including with other funding partners, created an imbalance in CBMA’s external/internal social capital and strength of relationships.
<p><u>Minimal Impact Assessment:</u> To date, we have not invested the time to develop metrics of success for CBMA grantees nor to build out a thorough reporting and tracking system</p>	<ul style="list-style-type: none"> ➤ In the future, we must invest more deeply in assessing organizational effectiveness and health. ➤ We must also invest in building grantee performance measurement capacity.
<p><u>Convene Grantees More Strategically</u></p>	<ul style="list-style-type: none"> ➤ A number of grantees suggested that convening along issue based lines in place of or in addition to general grantee partner convenings might enable them to align around specific project goals and support collaboration.
<p><u>More Intentional Blend of Start-Up and Scale-Up Grant-Making Possible</u></p>	<ul style="list-style-type: none"> ➤ Although we “cracked the Open Society code” in grantmaking, we did not develop a complete strategy and goals for investing in start-up and small organizations versus supporting growing organizations to scale what works. ➤ In the future, we could consider a blended approach:

- Continue to invest in innovation
- Adopt venture philanthropy-type approach and principles to scale what works

Equally as clear are a number of areas of success in our capacity-building work:

LESSONS LEARNED

Cracking the OSF Code Supported Our Success: Moving beyond OSF’s “norm” by funding direct service organizations and taking a risk in funding small and start-up organizations was essential in building the field.

- Moving beyond the “usual suspects” by funding new programs and local grassroots organizations allowed us to support the emergence of new organizations in the field.
- We also built the capacity of a diverse pool of organizations, from direct service (approximately 1/3 of our grants pool) to communications, research, advocacy and others.
- Both of these approaches were vital in filling key gaps in available programming and reinforcing a sense that the field was changing and gathering energy and momentum.

Grant-making with a Specific BMA Lens Was Essential: CBMA became the largest national funder for BMA-related activities. We shifted the atmosphere regarding the amount of money available for this specific issue.

- By channeling targeted funding to BMA issues, CBMA funding made a tangible difference in the programmatic and operating capacity for our grantees.
- The bulk of BMA-focused organizations are highly dependent upon foundations for funding, but funding has historically been limited. (Most CBMA grantee partners receive more than 50 percent of their funding from foundations.)
- More than 80 percent of respondents to the grantee survey indicated that as a result of their grant they were able to increase the focus on black men and boys in their work.

Connecting Leaders and Organizations with “Something Bigger”: One of our goals was to ensure that individuals working in the field (including our grantees) felt a connection not just with CBMA, but with each another. It was not sufficient, we felt, to invest in them; We must also bring them together so they can learn from and support each other.

- We started with grantee convenings and intensified this through monthly grantee calls and, later, with the IBMA membership network.
 - 54 percent of grantee partners made six or more new connections with peer organizations
 - 67 percent made connections with new funders
- Strategic communications and content creation led to people feeling they were connected to something bigger. CBMA declared the existence of the field, made it clear how to get involved, and provided a platform to lift up the voices of those in the field.
- This approach has not been typical of Open Society grantmaking, but we felt it essential to provide a sense of vitality and connection that had been absent from the field.

IBMA Membership Network Has Gained Traction More Quickly than Expected: The

- Our original goal was to engage 300 members in one year’s time; we have now reached more than 2,600

IBMA business planning process revealed that more people than we had predicted identified with the BMA field and had a strong desire to be connected.

individuals and more than 1,600 organizations and programs.

- Among the major accomplishments to date are the launch of the IBMA website, a social media strategy, and The Black Male Achievement (BMA) Life Outcomes Dashboard. The website already has over 1,000 visitors per month and the IBMA has over 1,500 Twitter followers.

DEEP DIVE: STRATEGIC COMMUNICATIONS

In a June 2011 article reflecting on his philanthropy, George Soros noted, “How can an open society protect itself against dangerously deceptive arguments? Only by recognizing their existence and their power to influence reality by influencing people’s perceptions.”³ A core pillar of our work from the outset was explicitly targeting strategic communications work to support black male achievement.

STRATEGIC COMMUNICATIONS APPROACH

The focus originally was on leveraging social media, arts and culture, and communications to create opportunities for black men and boys to make their voices heard and to profile CBMA grantees. Over time, we recognized that if our goal was for Open Society to serve as a catalyst for systemic change, we needed (1) to reshape the narrative around black men and boys and (2) to support application of a race-gender lens to philanthropy, policy, and programs.

With the reflection that this portfolio review has facilitated, we see that our approach to strategic communications centered around five sets of activities that, together, would support our dual goals. CBMA has invested an estimated \$9 million in through 70 grants that either directly or indirectly supported narrative change and application of a race-gender lens.

1. **Research to Build Public Awareness:** We invested in building a basis of knowledge to shape understanding among funders, policymakers, and the general public about the challenges and opportunities facing black males, and how the legacy of structural racism has contributed to our current situation.
 - Perception.org: An online hub dedicated to shaping authentic perceptions of black men and boys by aggregating news, research, commentary, and events.
 - In collaboration with the American Values Institute and other communication grantees and partners, CBMA helped support research and work to address the disparate impact of implicit bias on black men and boys.
 - Sharing the works of other BMA scholars and leaders, such as Ivory Todson (*Beyond the Bell Curve*); Neil Irvin (*Redefining Masculinity to Save Black Boys*); Hayley Roberts and Rachel Godsil (*Implicit Bias and Social Justice*); and Cheo Tyehimba Taylor (*Indivisible Man*).

³ George Soros, “My Philanthropy.” June 22, 2011. http://www.georgesoros.com/articles-essays/entry/my_philanthropy/

2. **Content Creation:** We also invested in creating CBMA original content and in supporting the development of multi-media content by BMA organizations to lift up the “black male achievement” brand and support a shift to an asset-based narrative for black males.
 - BMA Funders.org: A website created by CBMA research partner, the Foundation Center, as a platform for philanthropic organizations working on issues related to black men and boys to share their work.
 - CBMA has supported publication of more than 79 blogs and op-eds and 4 research reports.
 - We have reached more than 57,000 people via CBMA Twitter activity.
 - Our support has contributed to over 3,500 multimedia works on BMA/BMB produced by CBMA grantees, as well as 88 reports on BMB funded and published by philanthropic institutions.
3. **Strengthen and Convene a Communications Network:** We supported convenings around issues of perceptions of black males and more targeted convenings of media and communications organizations to support them in applying a BMA lens to their work. We also engaged in grantmaking to strengthen the communications capacity of other BMA organizations.

CBMA has either directly organized or supported more than eight field convenings that focus completely or in large part on perceptions, narrative, and communications, including: examples include:

- Black Male Reimagined I and II (2010 and 2012): CBMA’s first statement that we were going to do something around BMB in a large and public way. Convening involved representatives of media and non-profit sectors in a dialogue about how to create real change in the lives of black men and boys.
 - CBMA Strategic Communications Convenings, e.g., 2012 “Film as a Tool for Social Change” meeting.
 - 2013 Rumble Young Man, Rumble: A leadership retreat held at the Muhammad Ali Center in Kentucky, focused on engaging leaders in mentoring, black male achievement and fatherhood. A product of the retreat was short video of leaders and participants elevating the need for more mentoring opportunities for young black men.
4. **Engage Key Influencers:** We engaged key influencers from a variety of sectors, including the entertainment industry, business, and politics, to serve as spokespeople for the movement and to magnify our work in shifting the national narrative around black men and boys.
 5. **Rapid Response to Emerging Issues:** We provided targeted supports to BMA organizations to enable them to respond nimbly to emerging opportunities or crises (e.g., the Trayvon Martin murder). Rapid response had been emphasized by Open Society as an important area of focus starting with the 2010 scale up of Open Society attention and funding to BMA issues, and has remained part of our intentional strategy for the remainder of the campaign.

STRATEGIC COMMUNICATIONS IMPACT ASSESSMENT

We believe that our work has had a clear impact on the overall national narrative around black men and boys. As evidenced by the emergence of the My Brother’s Keeper initiative in recent months, the structural disadvantages boys and men of color encounter is now at the center of public policy dialogues and, increasingly, is shaping philanthropic conversations as well. We believe—as do many

others working in the field--that our work and the conversations we've sparked have directly influenced the rise of this issue to the top of national consciousness.

BUILDING AWARENESS OF CHALLENGES AND OPPORTUNITIES FACING BLACK MALES

When CBMA was founded, there was little research that shed light on the opportunities and challenges facing black men and boys or on existing perceptions of black males. The starting point for CBMA's work in shaping the narrative was a desire to lay a foundation of understanding—supported by data. Key contributions in this area included the following:

- *Opportunity for Black Men and Boys: Public Opinion, Media Depictions, and Media Consumption: An Opportunity Agenda report* describing patterns of distorted media portrayals of African Americans.
- *Portrayal and Perception—Two Audits of News Reporting on African American Men and Boys: A Heinz Foundation study* that highlights under-representation of positive images of African American males. The reports were widely distributed within the philanthropic sector and laid the groundwork for future research reports by American Values Institute, on implicit bias; and The Opportunity Agenda, on public opinion research and media consumption by black males.

SUPPORTING THE “BLACK MALE ACHIEVEMENT” BRAND

In assessing the strength of the BMA brand, we applied Chris Stone's “IDEA” framework,⁴ focused on assessing brand integrity, democracy, ethics, and affinity. We thought this framework particularly relevant and helpful for the campaign given our desire to drive field building and support the success of a diverse network of BMA organizations.

In 2010, with the scale up of our activities, CBMA was intentional in shifting our goal from building a positive brand for the campaign itself to supporting widespread “branding” and adoption of the black male achievement frame. We believe that this shift clarified our role as catalysts for the field.

- **Integrity:** Integrity focuses on connection between organizational mission and the actual work of the organization. Our over-arching goal of building the BMA field is clearly aligned with our three areas of core activity: strategic communications, network building, and capacity building.
- **Democracy:** Democracy reflects openness to the core values of the brand being adapted and expressed in a variety of ways without loss of coherence. CBMA has been intentional about providing a platform for leaders and organizations to have a voice and has welcomed adaptation and evolution of messages for the movement.
- **Ethics:** A brand is “ethical” when the way it is used is aligned with its core values. By ensuring that we were focusing equally, if not more, on lifting up the voices of others in the field rather than simply showcasing CBMA, we signaled our fundamental values of inclusion and promoting others.
- **Affinity:** A brand has strong “affinity” when there is clear complementary and connectedness between the organization's work and that of others doing related work. Our emphasis on building the network and on collective authorship of the future of the Field, we believe, reflects our sense of humble responsibility to play a role in catalyzing change.

DRIVE APPLICATION OF A BMA RACE-GENDER LENS

Our success in driving the application of a race-gender lens has met with mixed results among the arenas of program, philanthropy, and policy.

⁴ Nathalie Kylander & Christopher Stone, “The Role of Brand in the Non-Profit Sector,” *Stanford Social Innovation Review*, Spring 2012.

- **Program:** CBMA has supported organizations of all types—direct service, communications, advocacy, research, etc.—in clarifying and enhancing their BMA-specific work.
- **Philanthropy:** CBMA has successfully created partnerships with 45 philanthropic organizations, who are supporting our work in a variety of ways—as funders of IBMA, through the Executives’ Alliance or as founding supporters of the My Brother’s Keeper initiative. We have also supported or catalyzed publication of more than 80 philanthropic reports specifically focused on BMA work.
- **Policy:** In the arena of policy, our work is only recently getting traction, but is showing very promising early signs of progress. Notable examples include our partnership with Cities United, our work through the National League of Cities Community of Practice, our investment in the Young Men’s initiative, and our work in policy change in Oakland Unified School District. Our eventual goals include development of a clear, shared policy agenda for organizations working in this field and alignment around advocacy to drive local, state and national policy shifts. **This approach hit at the heart of a critical debate across the nation and with leaders focused on black male achievement: focusing on a frame of personal responsibility of black males vs. addressing systemic barriers they face toward realizing their full potential. Our approach was to adopt a both/and approach to the framing of our work, which included our intentional approach to funding both direct service and policy advocacy groups.**

CRITICAL REFLECTION ON STRATEGIC COMMUNICATIONS

In reflecting on our strategic communications work, a number of missed opportunities clearly emerge:

MISSED OPPORTUNITIES	
<p><u>Broaden and Build Bridges:</u> We have significant opportunities to build bridges to other social groups and issue areas to broaden our impact.</p>	<ul style="list-style-type: none"> ➤ We have made significant in-roads in the BMA field and within the black community ➤ Our work, however, is not as well-known in other communities. There is clear opportunity and need to bring our message to other sectors and groups to reinforce why this issue has implications beyond the black community. ➤ We have only recently begun to connect the conversation about black men and boys to related conversations focused on black women and girls and on other males of color (e.g., Latino, Native-American).
<p><u>Underdeveloped Key Influencer Strategy :</u> Although we have been successful in attracting high profile supporters, we have not fully leveraged these relationships.</p>	<ul style="list-style-type: none"> ➤ The Black Male Reimagined conferences both had significant participation from leaders and influencers in the media industry. ➤ We have not been clear, to date, about how to leverage those relationships to advance our goals.
<p><u>Downplayed Structural Racism Theme:</u> Although our work is grounded in a deep understanding of structural racism, we have not led with this message to date.</p>	<ul style="list-style-type: none"> ➤ In the future, we must balance a focus on individual responsibility among black men and boys with dialogue about the structural factors that block success regardless of initiative taken by black males.
<p><u>Linking BMA and BMOC:</u> Although we feel there is a clear connection between our</p>	<ul style="list-style-type: none"> ➤ With increased attention to boys and men of color on national stage, we must diffuse concerns of an either-

<p>BMA-focused work and the emergence of a national conversation about boys and men of color, the linkages are not clear to all.</p>	<p>or choice in funding or in programmatic focus.</p> <ul style="list-style-type: none"> ➤ Equally as much, we must reinforce how a black male-specific framework is both a necessity and an additive to drive real impact.
<p><u>Collaboration among Communications Organizations</u>: CBMA has played an important “hub” role between strategic communications grantees, connecting and aligning their work.</p>	<ul style="list-style-type: none"> ➤ However, there is no natural collaboration among grantees without the “CBMA glue”; they do not fully understand how their work fits together. ➤ Looking ahead, there is a need articulate a collective vision and strategy to enable collaboration.
<p><u>Proving Impact and Return on Investment</u>: Telling a clear story of impact on the national narrative is a challenge.</p>	<ul style="list-style-type: none"> ➤ We invested significant funding but negative perceptions are entrenched. Proving impact is difficult and takes time, and doing this work is very expensive. ➤ For a more traditional foundation mindset, making the argument for ongoing investment in strategic communications work may be challenging.

Equally clear are a number of examples where our approach has been successful:

LESSONS LEARNED	
<p><u>BMA/BMOC Narrow Angle Lens</u>: We have successfully influenced non-profits, funders and others to begin to adopt a BMA /BMOC “narrow angle” lens specific to the needs and opportunities facing black males and boys and men of color.</p>	<ul style="list-style-type: none"> ➤ We have created strong partnerships with 45 philanthropic organizations, supporting them in applying a BMA/BMOC narrow angle lens in their work. ➤ As we noted earlier, we are widely credited with having played a leading role to help catalyze the movement that has resulted in My Brother’s Keeper.
<p><u>Content Is King</u>: One of our rules of action was that we needed to lead with content—created by CBMA and by others—to seed a widespread conversation about black male achievement and to begin to shift the narrative.</p>	<ul style="list-style-type: none"> ➤ We produced a significant amount of content from CBMA directly (including blogs, articles, speaking engagements). As an illustration of this, when the Open Society website relaunched, CBMA had such a significant amount of content that it had to be given its own tab on the website. ➤ We were deliberate about using the CBMA website and our convenings as platforms for other BMA leaders to make their voices heard. ➤ We also invested in building the strategic communications capacity of BMA organizations through grants and support and created specific opportunities to showcase their work to funders and others.
<p><u>Masters of Our Own Media</u>: We took seriously the need to provide an outlet for black men and boys to tell their own stories and to have an opportunity to shape the national narrative.</p>	<ul style="list-style-type: none"> ➤ We funded key research and more than 3,000 multi-media works with a BMA focus. We were intentional about supporting work in which story could be both intervention and impact. Primary examples are highlighted on the Strategic Communications

	<p>Investment Snapshot in the addendum, and include:</p> <ul style="list-style-type: none"> • Opportunity Agenda Report on Perceptions of Black Men and Boys • Support to <i>American Promise</i>: a documentary profiling the experience of two black middle-class families working to educate their sons. • Color of change.org: Provided funding to build out a rapid response mechanism to strengthen the power of this platform that blends storytelling and support to community change projects led by black men.
<p><u>Rapid Response</u>: We built into CBMA—and supported in our partner organizations—the capability to respond quickly and effectively to national events to support the BMA agenda.</p>	<ul style="list-style-type: none"> ➤ A clear example is the period of “unfortunate opportunity” that emerged for CBMA during the “summer of the verdict” and the speech, and with the events around Trayvon Martin, Jordan Davis, and George Zimmerman. ➤ We were able to move quickly to support our partner organizations in sharing aligned messages and combating negative press.
<p><u>Model for Other Open Society Programs</u>: Our investment in strategic communications—both as a lever for change and in branding the campaign itself—was outside the norm for programs at OSF. Over time, however, our effectiveness in this work began to serve as a model for others.</p>	<ul style="list-style-type: none"> ➤ We collaborated closely and effectively with OSF Communications Team over the past years, and have consistently sought their guidance and partnership in crafting CBMA content. ➤ We believe we have positively influenced how other OSF programs approach communications as a tool to support their goals. The use of the term “black male achievement” has been widely adopted across sectors, as well the number of leaders, including philanthropy, that have adopted our asset-based framing and approach to this work.

CONCLUDING THOUGHTS

This portfolio review process was an excavation process for the CBMA staff. We unearthed much data and reflected deeply on our work over the past five years. Frankly, the process was an emotional one that reminded me how personal this work is for me and Rashid Shabazz, CBMA’s program officer. While we examined missed opportunities and lessons learned, at the end of the review I was mostly honored and humbled with what we have accomplished since the 2008 launch. We often worked under shifting institutional leadership support for advancing an explicit strategy to improve life outcomes of black men and boys.

The prevailing question for the field of black male achievement—particularly during the past two years—in response to increasing activity, initiatives, and philanthropic engagement, has been “where do we go from here?” While the CBMA split-screen depiction of the field reflects significant growth from 2006 to 2014, I would venture to say that the inherent challenge embedded in the “where do we

go from here?” question is that activity does not always translate into progress. The challenge before us is how do we better measure and promote what is working in the field of black male achievement.

I am the first to loudly champion the increased hope and momentum around black men and boys in America that CBMA has catalyzed directly to the White House with President Barack Obama’s launch of the My Brother’s Keeper initiative. Yet, I am also first to bemoan that even in this MBK moment and in the midst of the current encouraging field-building activities, Trayvon Martin, Jordan Davis, and countless unknown black boys have been killed and their murderers shielded from justice because of insane “Stand Your Ground” laws. In the midst of a groundbreaking municipal public/private partnership with the City of New York to launch the Young Men’s Initiative, CBMA staff and our New York City colleagues witnessed young black men paraded into the criminal justice system by the gravitational pull of the NYPD’s “stop and frisk” policies. Yes, often this work can feel like shooting a pellet gun at a battleship. But the size and importance of this challenge gives us all the more reason to better demonstrate to ourselves and to the nation where and how we’re winning.

This portfolio review revealed that CBMA made what it believed was a necessary course correction in its strategy to focus more intently on building the field of black male achievement, particularly in the areas of capacity building and shifting the national narrative. There is much more work to be done in the field-building space—such as an explicitly stated analysis of what it means for organizations to be stronger to have impact. I envision the Institute for Black Male Achievement playing a critical role in advancing this phase of the work. It is clear to me that we are in a “big opportunity” moment to continue to strengthen and sustain the field, while placing a more critical eye toward how we’re moving indicators of success for black men and boys.

One growing trend to note that has emerged during the reflective process of this review is an increased focus on place-based strategies that explicitly employ a race/gender approach to closing achievement gaps. The evolving work of the National League of Cities and Cities United is engaging mayors and municipal leaders across the country to employ targeted strategies to reduce violence and promote black male achievement. It seems to me that the next strategic growth and impact area for the field is to identify a number of cities and municipalities where a sustained deep-dive effort can deliver proof on how to increase positive outcomes for black men and boys. The potential place-based focus of My Brother’s Keeper could accelerate this impact on local levels. Oakland Unified School District’s Department of African American Male Achievement, and the grassroots led creation of Philadelphia’s Commission on African American Men & Boys are just two examples where it’s too early to claim victory, but if there is not a sustained effort to support these broad strategies then momentum will be lost.

It is safe to say that CBMA has had a direct influence on the transformation of the philanthropic sector on the issue of black male achievement. I worry here, too, that the increased activity and engagement must translate into progress on the ground, including direct support of grassroots organizations that are often nudged from the philanthropic table due to capacity challenges. The Executives’ Alliance to Promote Opportunities for Boys and Young Men of Color and the founding funders of My Brother’s Keeper initiative will serve the field if they can leverage their philanthropic support to increased public and corporate engagement in the field.

Finally, the portfolio review has gone a long way with helping to depict more explicitly the work we've led in the field over the past five years, as articulating it has not always been easy. I look forward to the next iteration of this work at the Open Society Foundations, given the current IBMA spin-off conversations, the foundation's commitment to My Brother's Keeper and deciding how and where OSF might continue to support an explicit strategy to support black men and boys. I hope this portfolio review, along with the ensuing discussions makes the path clearer moving forward for OSF and its role in the field of black male achievement.

CAMPAIGN FOR A NEW
DRUG POLICY
APRIL 22, 2014

Campaign for a New Drug Policy U.S. Programs

Portfolio Review April 22, 2014

OVERVIEW OF Campaign for a New Drug Policy

The Campaign for a New Drug Policy (CNDP) is staffed to pursue an alternative response to drug use and drug markets in the United States. Its overall purpose is to establish a new paradigm for U.S. drug policy that addresses actual harm to individuals and communities, promotes health and social stability, ensures public safety and justice, and advances equality and the freedoms of an open society.

Our staff interacts with a composite field of individuals and groups working in the areas of criminal justice and law enforcement, health care and public health, civil rights and civil liberties, racial justice, harm reduction services and policy, social services, and drug policy reform. Grantmaking, both in support of the field and in pursuit of foundation initiated work, is a core aspect of the campaign's strategy. Equally important and work intensive is our direct engagement in the field to drive solutions-based reform and development of an infrastructure for a health-centered, nonpunitive drug policy.

CNDP's work is pursued through three interrelated strategies: (1) grantmaking to sustain key organizations in the field, (2) grantmaking and direct engagement with the field to establish the infrastructure for a health centered drug policy, and (3) grantmaking and direct engagement with the field to establish community-level alternatives to punitive drug policies. These areas of work are discussed in greater detail below under "Strategic Approach and Program Capacity: 2011-2014."

Three years into the campaign, we have learned some "easy" lessons that confirmed what we already believed (e.g., that changing the roles of police in drug law enforcement is possible and essential), while other lessons were more difficult, unexpected and newly illuminating. Three overarching lessons/conclusions have been particularly influential in the campaign's current strategic approach:

- ***Extremely strong partnerships can be formed among people with divergent perspectives and reasons for engaging in drug policy reform.*** We learned this, in large part, from our internal experience working as a team. In order to pursue CNDP's objectives effectively, we had to first work through our internal differences in professional background and individual perspective. Until we did, it was impossible to pursue an integrated strategy. The same dynamic exists across the sectors we fund. We have seen repeatedly in our health and community-level alternatives work the need to invest in partners who recognize and are able to overcome barriers to effective collaboration.
- ***A solutions-based approach to drug policy reform is essential.*** We have seen many instances in which drug policy reform advocates argue persuasively that the "war on drugs" causes more harm than benefit, but then fail to offer a realistic alternative. In CNDP's health and community-level alternatives work, we have increasingly focused our efforts on grantee and non-grantee partners that are prepared to participate in solutions-based efforts. Without the ability to work toward solutions, sustainable partnerships cannot be formed and reform normally cannot advance beyond the hypothetical. A central guiding concept in pursuing this solutions-based approach is our understanding that the process in which we are engaged is not a single leap from the war on drugs to a new paradigm. We are involved in a policy progression with many stages of development that must be undertaken.

- ***Direct engagement by Open Society Foundations in the drug policy reform field is necessary.*** The Open Society Foundations occupies a distinct place in the field. No other funder commits the resources and possesses the on-staff issue expertise to support the partnerships and solutions-based efforts needed to move drug policy reform forward. Similarly, CNDP’s direct engagement with the field is qualitatively different from organizations within the field, each of which has or is attempting to stake out its own space. Even the Drug Policy Alliance, with its grantmaking program, capable and relatively large staff, and high-profile leader does not effectively support partnerships and solutions-based work that it does not lead.

CONTEXT OF U.S. DRUG POLICY REFORM

The keystone of current drug policy in the United States is a false Hobson’s choice: that society must choose either to selectively criminalize drug users and sellers or “surrender” to addiction and drug related crime. During the past four decades, this fallacy has perpetuated a punitive response to drug use that metastasized and contributes to a system responsible for massive levels of incarceration, violation of civil and human rights, political and economic disenfranchisement, denial of essential health care, and a host of other direct and collateral harms.

This system, however, has become increasingly difficult to sustain with the tightening of local, state, and federal budgets and with a declining public confidence in the ability of punitive responses to reduce the potential harms of drug use and markets. Evidence of a breakdown in public support for punitive drug policies has been dramatic. Most recently a Pew Research Center poll released on April 2, 2014, found that 67 percent of Americans (including 51 percent of Republicans) favor treatment over arrest, and only 26 percent feel that the government should continue to emphasize arrest and prosecution of people who use heroin and cocaine. Voter approval of regulated access to marijuana in Washington and Colorado in 2012 was an even more dramatic example of the willingness of voters in certain states to try a different approach, albeit with the most commonly used illegal drug.

Other developments in recent years indicate positive movement. Implementation of national health care reform under the Affordable Care Act, for all its real and perceived stumbles, offers the first real opportunity to establish the infrastructure for a health based drug policy and the inclusion of drug users’ needs in mainstream medicine. Arguably, fundamental shifts in attitudes toward drug users are evident in the growing acceptance of sterile syringe programs at the state and local levels (although there is continued resistance in some regions and at the federal level), the proliferation of Good Samaritan/911 overdose death prevention laws, and the increasing availability of naloxone to address opiate overdose emergencies.

As shown graphically on the attached timeline, developments in drug policy reform have been largely positive, but not uniformly so. There remain decided challenges, and all controversial change remains fragile until normalized. Continued fear and stigmatization of drug users, habitual recourse to punitive drug laws to address health and social problems, and entrenched economic and political interests that rely on the criminalization of drug users are a constant threat to the work of the campaign, Open Society grantees, and non-grantee partners. An ever-present concern is whether the field will have sufficient resources to capitalize on what appears to be a widening range of significant opportunities.

PARTNERS AND PHILANTHROPIC ENVIRONMENT

The field’s capacity to transform these opportunities from innovation, to sustained programming and, ultimately, to mainstream drug policy is severely limited by the funding environment. There are still very few foundations and individual donors providing support for drug policy reform efforts.

Open Society remains the only major grantmaking institution that prioritizes drug policy reform, and CNDP work since its inception has had to focus, in part, on bringing new funders to the field and aligning with the efforts of others already active in supporting drug policy reform or a component field.

CNDP has partnered with a number of foundations, such as Ford, Libra, Riverstyx, and Vital Projects to support the development of community-level alternatives, such as Law Enforcement Assisted Diversion (LEAD), and to arrange complimentary funding, such as strategic planning support to organizations like Law Enforcement Against Prohibition, which CNDP sustains with general support funding. On the health and harm reduction side of CNDP's portfolio, CNDP has collaborated closely with local funders in Ohio and national funders such as the Hilton Foundation to increase access to high-quality addiction treatment services.

The still perceived controversial nature of drug policy reform work has created both challenges and opportunities in CNDP's effort to bring new resources to the field and to expand investment by funders who already have their toe in the water. Particularly in relation to funders with long track records of supporting criminal justice reform, racial justice advocacy, and the prevention of poverty, there is at least a baseline understanding of the importance of eliminating the criminalization of drug use and subsistence drug selling and the potential for collaboration. In relation to funders new to the field, such as Good Ventures, CNDP staff has provided advice on drug policy reform grantmaking and strategy.

STRATEGIC APPROACH AND PROGRAM CAPACITY: 2011 -2014¹

CNDP organizes its work in three interrelated strategies, each designated by its particular objective. Grantmaking in the first category is intended (a) to ensure that a standing corps of dedicated drug policy reform advocates is available to the field and capable of responding to emergent opportunities. Grantmaking within the second and third areas of CNDP efforts are intended to fill critical gaps in the field: (b) the lack of an infrastructure for a health-centered drug policy and access to SUD services, including treatment and harm reduction services and (c) a failure by the field as a whole to develop realistic and solution-oriented alternatives to punitive drug policy. CNDP's direct engagement with grantee and non-grantee partners is intended to move the field to address these gaps. We have used a variety of tools, including CNDP-led working groups, cross-sector convenings, sustained facilitation of information sharing and relationship building, and the funding of targeted research.

As described below, reduction of the CNDP's non-Drug Policy Alliance (DPA) grantmaking budget from \$4 million in 2011 to \$2.7 million in 2014 has impacted our ability to respond to emerging opportunities while also attempting to sustain the core capacity of the drug policy reform field in the United States.

Objective 1 – Build, diversify, and elevate broad support for an alternative paradigm for U.S. drug policy by sustaining key organizations

2012 grantmaking budget: \$1,650,000 (non-DPA); \$4,000,000 DPA
2013 grantmaking budget: \$1,080,000 (non-DPA); \$5,000,000 DPA
2014 grantmaking budget: \$850,000 (non-DPA); \$5,000,000 DPA

Program responsibility: Andy Ko and Jamie Wood

Grantmaking in this category supports key drug policy reform organizations that are nationally active and act both as independent advocates and resources to the field. These grants are now limited by the campaign's budget to the Drug Policy Alliance, the Harm Reduction Coalition, Students for Sensible Drug Policy, and Law Enforcement Against Prohibition.

¹ CNDP was staffed by late November, 2010 and fully operational by January, 2011.

The goal of this area of grantmaking is to sustain a standing corps of drug policy reform advocates able to engage key constituencies and/or respond to emerging opportunities and challenges. The DPA, with its able and comparatively large staff, national and state/local programs, independent grantmaking program, legal program, and substantial budget is the acknowledged leader in the field. In 2012, as part of a 10-year commitment of \$5,000,000 annually directed by George Soros, CNDP allocated \$4,000,000 to a general support grant for DPA, with the remaining \$1,000,000 disbursed from U.S. Programs Board funds. By 2013, the U.S. Programs Board contribution was ended and the entire \$5,000,000 grant to DPA has since been drawn from the CNDP grantmaking budget. The effective halving of this grantmaking budget line from 2012 to 2014 required CNDP to scale back the originally intended scope of Objective 1, which included the goal of building the capacity of organizations representing directly affected populations to undertake drug policy reform work. We designated some organizations for tie-off grants and adjusted funding among remaining grantees to ensure at least a minimal degree of financial stability. We stuck with the Harm Reduction Coalition, which is the leading advocate for harm reduction responses to drug use in the United States. We also renewed Law Enforcement Against Prohibition for its role in bringing the viewpoint of law enforcement professionals into drug policy reform, and funded Students for Sensible Drug Policy for its similar role among young people.

Certain other grants no longer in this group were either time-limited projects or moved to other parts of CNDP's portfolio. Support for The Eisenhower Project to self-distribute and build a public education campaign around the documentary film *The House I Live In* was time limited. This was an unusual grant for CNDP in that we review film-based advocacy proposals with a fairly strong degree of skepticism. The difference here—in addition to the film having won the Grand Jury Prize at the Sundance Film festival—was that CNDP staff already had quite a bit of contact with Eugene Jarecki, director of both the film and the grantee organization, in his capacity as a Soros Justice Fellow and while helping him and his staff develop their command of the issues and relationships within the field. We also had received very positive reports from a U.S. Programs colleague regarding Jarecki's capacity for strategic advocacy. Even if our expectations of the potential outcomes had been much higher, we likely would have been very positively surprised by how widely the film became known in the United States and abroad, the partners Jarecki and his team attracted, and his ability to get his message about the war on drugs heard (TED talks, Charlie Rose, John Stewart, etc.).

The Institute of the Black World 21st Century (IBW21) is an example of a grantee that we moved from this grouping to another part of the portfolio (Objective 3 – community-level alternatives). IBW21 focuses on issues that affect people of African descent. In recent years, IBW21 has prioritized ending the war on drugs as one of its core civil rights and racial justice issues. Following the reductions to CNDP's grantmaking capacity and the resulting narrowing of our definition of Objective 1, we reconsidered our understanding of the significance of IBW21. From both a strategic and Open Society values point of view, it is important to support the involvement in drug policy reform of the communities most impacted by current policy. However, rather than relying on the diversification of one area of our grantmaking, we agree that this needs to be a priority across the CNDP portfolio as a whole—with the substantive nature and quality of a group's work determining which among these groups we are able to fund. Given that the bulk of its work involves community specific efforts in Baltimore, the District of Columbia, and Pittsburgh, IBW21 was a natural fit for funding to advance its drug policy reform goals in these municipalities.

A number of grants in this category simply failed and for that reason were tied off. Funding to Mothers Against Teen Violence (MATV) was initially provided to elevate a potentially important and compelling African American voice for drug policy reform from a parent's point of view. Following two grant cycles, it became clear that MATV was not able to move beyond its limited and isolated work in Dallas, Texas. In the case of Break the Chains, its executive director is a long-time and deeply respected drug policy reform advocate and former public policy director of the Drug Policy Alliance. But, for all her brilliance and insight into drug policy advocacy from a racial justice perspective, it became clear that the grantee had neither the organizational capacity nor follow-through

to justify renewed support. The failure of these and certain other grants is particularly distressing because participation of African American leadership in drug policy reform is currently limited to LEAP's executive director and IBW21.

A last comment on this category of field support by CNDP involves our decision not to support marijuana law reform directly. This decision, made at the outset of the campaign, was not based on our sense of the relative importance of marijuana related advocacy: in our view, this area of work is critically important to overall drug policy reform. Our decision not to engage directly in funding marijuana reform was based on (a) the observation that there are a number of significant national and local funders supporting this work (although this is less true with the death of Peter Lewis), (b) the reality that Open Society is already supporting this work indirectly through the substantial involvement in marijuana policy reform of DPA, LEAP, SSDP, and other grantees, and (c) our sense that CNDP's finite resources were better used to capitalize on the opportunities raised by health care reform and the development of community-level alternatives to punitive drug policies. The outcome of marijuana policy reform efforts this year and 2016 will indicate whether our reasoning was sound.

Objective 2: Establish access to comprehensive health care for all drug users, including treatment and harm reduction services, as an alternative to punitive, coercive and "zero tolerance" policies

2012 grantmaking budget: \$1,850,000

2013 grantmaking budget: \$1,280,000

2014 grantmaking budget: \$1,300,000

Program responsibility: Dr. Kima Taylor and Ruzana Hedges

Advocates have argued persuasively for at least two decades for drug policies that prioritize health and social supports as a better alternative to punitive approaches. But, in the absence of an adequate health care system that includes drug users and includes a full range of accessible substance use disorder (SUD) services, this discussion has been hypothetical. CNDP recognized passage and implementation of national health care reform, pursuant to the Affordable Care Act (ACA), as likely a once in a lifetime opportunity to establish the material infrastructure for a health-based drug policy in the United States and simultaneously provide health services to a previously disallowed segment of the population.

Implementation has continued through 2014 and will likely extend beyond. The campaign's ambition has been to take the greatest possible advantage of relevant and realistic openings to advance reforms that impact drug user health, reduce criminal justice involvement, and develop related economic opportunities. Since late 2012, much of the campaign's grantmaking has supported:

- National and state level reforms to ensure meaningful access to SUD services and integration of drug users health in mainstream, evidence-based health care;
- Defense and expansion of current Medicaid as a way to increase access to SUD services for low-income SUD populations; and
- Support for national and state-level consumer and provider coalitions as a constituency for health care reform that addresses drug use as a health issue.

Provisions of the ACA and prior law that require insurance providers, including the government, to provide a substance use disorder benefit and other health benefits prompted CNDP to structure its grantmaking portfolio and programmatic work across fields to support the development of a health care infrastructure for drug policy reform. Following passage of the ACA, the campaign funded advocacy to ensure that national and select state regulatory implementation would require a comprehensive, evidence-based SUD benefit for diverse populations. The team originally supported existing SUD advocates including the Legal Action Center, the Harm Reduction Coalition, the State

Association of Addiction Services, and Faces and Voices of Recovery—assuming that they were best prepared to educate policymakers.

We learned however that, having always been a part of the public health and justice system structures, these groups initially did not have the experience or necessary relationships to advocate successfully within the health care system policymaking structure. They were also reluctant, for a variety of reasons, to work in effective coalitions with each other or other non-SUD health advocates. Some of the groups failed to fully engage in this work because—at least initially—they did not see opportunities for drug policy reform (e.g., DPA and some harm reduction groups). Others did not think health care reform could ever really address “their” populations’ needs (some harm reduction, treatment, and recovery groups). Still others saw health care reform implementation as a threat to their existence (some drug treatment advocates). Rather than advocate for health care reform that appropriately served SUD clients, they ignored or vilified the “health system.” Considerable CNDP time was spent educating groups on the possibilities of reform, the reality that public health funding could be a source of revenue and stability, and the need to work in coalition to share expertise and capacity. This trust building and education process is important, but it was time consuming and we were in danger of missing critical opportunities, such as the chance to provide effective guidance to regulators on the structuring of health insurance exchanges.

It became clear to us that the portfolio needed to pivot. We gave the George Washington University health policy group (GW) a grant to assist SUD groups and the Coalition for Whole Health in drafting comments for key regulations and to introduce coalition leadership to important Health and Human Services decision makers. The Coalition for Whole Health is a group of SUD and mental health advocates whose purpose is to ensure that health care reform provides full and quality access to behavioral health services. It is staffed by the Legal Action Center, which runs the meetings, sets the agendas, and issues regulatory comments in the name of the coalition. This provision of clearly needed assistance by GW was not received well by the coalition—particularly SUD advocates, who appeared to feel threatened and found creative ways to avoid meeting with or using work produced by GW.

CNDP continued to provide funding to these existing advocates to help them maintain their advocacy capacity (excluding completely ineffective grantees, such as SAAS), but with smaller grants. Rather than rely exclusively on these grantees, we began funding and introducing our SUD work to effective non-SUD focused health care groups that were capable of effecting immediate change with policymakers and to build a more diverse field of health groups calling for community based SUD services. The primary grantee in this grouping was Community Catalyst, which had strong executive branch relationships and a strong network of capable state affiliates.

Though early grants (2010-2012) were less effective than hoped and the field missed opportunities to influence important components of ACA implementation, such as exchanges and navigators, we would have lost even more opportunities without the pivot. This transition in CNDP’s grantmaking required an enormous programmatic commitment of campaign staff time to (a) bring mainstream health advocates up to speed on SUD care and drug policy and (b) bring SUD services advocates up to speed on broader health policy, health systems and funding, advocacy, and how to work in effective coalitions in order to successfully meet their grant commitments.

CNDP also continued funding to three previous grantees in Closing the Addiction Treatment Gap (CATG) states: New Jersey, New York, and Wisconsin. These grantees already understood the importance of coalitions, but the participation of the newly engaged health advocates made their work stronger. This reconfiguration of CNDP’s health portfolio led to a number of outcomes. The hybrid advocacy of SUD and health groups led to successful coalitions that, in our view, achieved more than either set of advocates could have working separately. For example, New York’s Medicaid redesign will include a full range of SUD services including harm reduction programs and innovative Medicaid pilots with health and wrap around services for those leaving prison (ASAP-NY, Community

Catalyst, harm reduction groups, and mental health advocates). Furthermore, coalitions of SUD and health advocates secured various degrees of expansion of Medicaid in several wavering states, including Arkansas, New Jersey, Ohio, and Wisconsin.

In this effort, the direct engagement of CNDP's Kima Taylor with the field was essential. Dr. Taylor's command of the vast legislative and regulatory framework of the ACA and national health care reform overall encouraged grantees and non-grantee partners to pursue difficult, but necessary opportunities. However, this degree of involvement has potential pitfalls. Given the reliance of many of the SUD services advocacy groups on Open Society for funding, several grants failed because organizations attempted to do what they assumed we wanted, rather than finding their own path toward achieving the objective of CNDP's grant. The early CNDP grant supporting the Legal Action Center to work with George Washington is one example of this dynamic. Tasked with submitting the regulatory comments of a CNDP funded working group during federal ACA implementation, the Legal Action Center accepted technical assistance that, in retrospect, the organization clearly did not want or think it needed. The center then ignored the advice of a mainstream health care grantee that CNDP had funded to assist them and, as a result, sent weak comments that did not truly have group consensus.

Other grants also failed. A grant to Brandeis University and an effort with Hunter College failed because, notwithstanding these grantees' high level of expertise and access to government, they were operating without a constituency. We learned how essential this was to the success of their projects. We had a hard time, generally, integrating academic partners' work into the national field strategies. SUD and drug policy partners were often resistant to these partnerships and sometimes appeared to fear that their own expertise was being questioned and, as a result, their standing with Open Society put in jeopardy. At other times, advocacy grantees simply seemed to not see the relevance of collaboration. Ultimately, we interacted with academic partners differently and either use their work internally (GW paper covering new and unusual health allies led to a grant to Association for Community Affiliated Plans) or offered their work to newer grantees (GW work on existing Medicaid services used by Community Catalyst). While these grants did not achieve what we had intended, we gained from them an appreciation of the importance of experience and an understanding of the need to objectively assess the trajectory of CNDP's work in real-time and to be prepared and willing to change course promptly when necessary.

One conclusion that we have reached from the experiences described above is that the drug policy reform field needs new voices and fresh perspectives. Times have changed. Long-active groups formed their outlook and approach to advocacy in a more hostile environment than we are dealing with today. Even well-established groups, such as DPA, have had to spend enormous amounts of time and energy over the years defending their space. An unfortunate effect of this decades-long struggle is that, when these groups encounter opportunities, they sometimes perceive those opportunities as threats. For a long time, leadership at DPA seemed convinced that health care reform would only support abstinence-based, non-medication assisted treatment. DPA failed to engage in the health care reform conversations to move forward even its own drug policy agenda—maybe because it could not see the opportunity, but maybe because it sensed it lacked the deep expertise to talk in health language about evidence-based harm reduction and treatment over a full range of illicit and non-illicit drugs.

Sustained support for established advocates is important in order to ensure the availability of their historical knowledge, insights, strategies and organizational capacity. But, we also need to be prepared to embrace new organizations and support new voices within existing organizations to diversify the field and make it more responsive and able to take advantage of a rapidly changing drug policy landscape.

The health component of the CNDP portfolio looks to the future with this understanding of the field and seeks to work on three key goals: (1) to continue work that promotes Medicaid expansion, (2) to continue support of national and state level reform efforts to ensure meaningful access to substance use disorder services and integration of drug user health in mainstream, evidence-based health care and to then assess outcomes, and (3) to utilize the pilots and payment reforms outlined in the ACA to support pilots that promote health-based responses to drug use, including for women of child bearing age.

Objective 3: Support community-level alternatives to punitive drug policies

2012 grantmaking budget: \$500,000

2013 grantmaking budget: \$450,000

2014 grantmaking budget: \$550,000

Program responsibility: Andy Ko and Jamie Wood

Our objective here is to begin the process of dismantling the false Hobson's choice by elevating solutions-oriented alternatives to punitive responses to drug use and subsistence-level drug markets. Practical experience with a different way of responding to drug-related public safety and order concerns could be transformative for arrestees, police, advocates for reform, and the public. Experience can greatly alter what is viewed as "normal." In this work, success would be policy in which the practice of funneling people suffering with addiction into the criminal justice system is no longer considered normal.

It seems clear to us that the development of alternative drug law enforcement policies is most viable where that process is grounded in the needs of local communities. It is at the local level that the negative impacts of both drugs and current drug policies are most directly experienced. At the local level, community interests are also most likely to prevail over the political and financial interests that perpetuate punitive policies on the state, national, and international levels. The U.S. Department of Justice's recent attention to criminal justice reform and the threat posed by high levels of incarceration doesn't alter our analysis, but might signal a role for the federal government in supporting this work at the community level. Our expectations overall have, to date, been confirmed by CNDP's investment in the development, local and national profile, and adaptation/replication of the Law Enforcement Assisted Diversion (LEAD) approach devised in Seattle.

Piloted in Seattle's Belltown neighborhood and recently expanded to the city's entire downtown business district, LEAD is a "pre-booking" diversion program developed and implemented by local stakeholders, including the Seattle Police Department, the Public Defender Association, the King County Prosecutor, the King County Sheriff's Department, the ACLU of Washington, city and county executives and legislatures, service providers, and business improvement district leaders. Based on a memorandum of understanding among community stakeholders and a negotiated referral protocol, people arrested for drug possession, low-level drug distribution, and prostitution in Seattle's LEAD implementation area are offered a choice between managed services (LEAD) or traditional processing through the criminal justice system, i.e., jail, prosecution, and a possible prison sentence. Based on harm reduction principles, the LEAD collaborators do not require participants to end their drug use as a condition of participation. The only requirement is participation and the utilization of services to reduce the negative impact on the community of the individual's drug related activities.

While a comprehensive outcomes evaluation will not be available before 2015, when the program will have four years of operating data, certain impacts are already directly observable. Homeowners and business leaders in the pilot area—the same groups that have for years called for police crackdowns on street level drug use and markets in the neighborhood—now are among the stron-

gest proponents of LEAD. They explain that, for years, calling for targeted arrests was the only option they were offered to reduce disruptive street life. Similarly, the attitudes of patrol officers and police brass have undergone an interesting transformation. Not long after the program became operational, street level officers requested authorization to make LEAD referrals based on community contacts with drug users in situations where they did not (yet) have probable cause to arrest. When told that was not the purpose of LEAD, their reported response was, “You’re telling us that we have to arrest someone to get them help?” The transformation of outlook among police executives and prosecutors is similarly significant. In particular, former interim police chief James Pugel and prosecutor Dan Satterberg incorporated harm reduction principles into their work to a degree that would have been unimaginable a few years before their participation in the development of LEAD.

A challenge specific to our community-level focus is the risk that a groundbreaking or transformative program will be a tree falling in the forest: never heard beyond the isolated confines of the local jurisdiction and even more likely to disappear with a change of elected and/or law enforcement leadership. CNDP staff has played an important role here by ensuring that our grantees and non-grantee partners’ place-specific work is noticed in other jurisdictions and among other actors in the field. Open Society network partners the International Harm Reduction Development Program (IHRD) and the Global Drug Policy Program (GDPP), as well as Open Society grantees the International Drug Policy Consortium (GDPP) and the Harm Reduction Coalition (CNDP, IHRD, and GDPP), have also supported and adapted the LEAD experience and enlisted the Seattle stakeholders in United Nations and other international processes. Open Society’s drug policy programs have also facilitated site visits by our grantees and partners to observe LEAD in operation, including a recent two-day session by Chinese officials organized and supported by IHRD.

This deep engagement by the campaign and other Open Society programs, like our health care reform work, has had an interesting effect. DPA was initially wary of LEAD and the risk it saw for the reinforcement of law enforcement control over drug policy. Our first substantive engagement was with DPA’s state offices, which were the first to see the potential of working toward the transformation of the role of local police from enforcers of punitive drug laws to that of first responders. DPA’s New Mexico office successfully built local support for adaptation of LEAD to Santa Fe’s local conditions and implementation began earlier this year. DPA’s state programs are also working in other jurisdictions, such as Albany and San Francisco, to adapt LEAD to local conditions. U.S. Programs grantees VOCAL-NY, the Racial Justice Action Center, the Texas Criminal Justice Coalition, Institute of the Black World 21st Century, and the Community Renewal Society are exploring similar adaptations in Atlanta, Chicago, the District of Columbia, Houston, Pittsburgh, and New York City.

The lesson we draw from this is that small local innovations can, with adequate support, resonate far beyond a community’s borders. We were initially concerned that LEAD would be received as a “model” rather than an approach founded on harm reduction principles and adaptable to local conditions. At least with the second LEAD program in Santa Fe, that concern appears to have been unwarranted. LEAD, as implemented in New Mexico, was built in close consultation with the Seattle stakeholders, but it is distinct and tailored to the specific concerns of the local community (property crime related to opiate addiction).

We are very conscious that interest from within the field could be driven by groups’ perception of a significance that Open Society attaches to LEAD specifically, rather than to attempts to establish communitylevel alternatives more broadly. Beyond assuring grantees and potential grantees that our commitment is to support a different paradigm, not a particular program, this is a risk that we need to manage. It seems unlikely that we can eliminate this dynamic entirely and still effectively pursue our objectives.

A remaining challenge we face is the question of adequately scaling our support and support from our funding partners to the level of apparent interest and opportunity, which is a longer discussion with U.S. Programs leadership. Ensuring sustainability through the commitment of public resources

to replace private startup funding is possibly the greatest challenge.

Finally, within our community-level alternatives work, we have begun to explore opportunities for other approaches beyond LEAD. We have made grants to Treatment Alternatives for Safe Communities and to the Harm Reduction Therapy Center for its San Francisco Drug Users Union (SFDUU). The TASC grant funded “No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives” as a tool for the field to research the various ways that communities across the country are attempting to reduce local levels of incarceration. The SFDUU grant, co-funded with IHRD, supports the organization and activism of drug users in San Francisco’s Tenderloin neighborhood. SFDUU works in close collaboration with DPA’s San Francisco office and other advocates in the Bay Area and is particularly focused on options for establishing a safer injection site in San Francisco, which is another approach to establishing a community-level alternative to punitive drug enforcement in that it would create a safe haven from arrest as well as a portal to service and overdose prevention for active drug users. This grant is unlikely to yield all of the outcomes specified in the grant proposal, but it is a modest investment and we and IHRD saw an important opportunity to elevate drug users’ direct involvement in seeking solutions to the policies that threaten their freedom and lives.

QUESTIONS FOR FURTHER CONSIDERATION:

1. Are we correctly identifying the key organizations and constituencies in the field under Objective 1? If so, are we appropriately allocating resources given CNDP’s grantmaking budget—i.e., are we effectively helping to raise their voices alongside DPA? If we have not identified the right constituencies and/or organizations, what questions should we be asking ourselves to arrive at the right mix?
2. Having identified the importance of enabling new, sometimes oppositional, partners to participate in this work, who else should we include (e.g., organized labor, parent organizations, etc.)?
3. Is CNDP’s work strengthened by the degree of our direct engagement with the field? If so, why? If not, what could we do differently, given the range of possible approaches (from solely hands-off grantmaking to solely direct advocacy in Open Society’s name)?

U.S. SECRETARY OF LABOR
THOMAS PEREZ

One-Page Overview

Discussion with U.S. Secretary of Labor Tom Perez

Secretary Perez will discuss his work at the Department of Labor, as the leader of the Department of Justice's Civil Rights Division in the first term of the Obama Administration, and as a state and local government official and how it relates to U.S. Programs' strategic goals.

At DOL, Perez leads the Administration's effort to raise the minimum wage, protect workers, and prepare workers to succeed in our current and future economy. Earlier in the Obama Administration, he was Assistant Attorney General for Civil Rights where he restored and transformed a Division demoralized by politicization during the Bush years. He led the Division during one of the most productive four-year periods in its history, including: record numbers of cases against police departments for allegedly violating the Constitution and federal law; record number of cases against lenders for engaging in discrimination; and leading the administration's enforcement and defense of the Voting Rights Act.

Key questions for board engagement:

- What are the implications for USP's potential goal of promoting equitable future economies of the Administration's priorities related to employment, housing, and economic development?
- Are there opportunities for OSF to be opportunistic in its funding to push for executive action related to our strategic goals?

Below are some selected questions from staff for Secretary Perez:

- What is DOL's role in the implementation of DACA and the intersection of DACA and workforce development issues? What can be done to ensure full implementation of DACA?
- What is the role of government law enforcement in policy change? Its benefits and limitations?
- What is DOL's plan for enforcing wage and hour regulations in the face of Congress' continued failure to provide adequate funding for positions to staff these enforcement activities?
- What are the conditions that allow and encourage government officials at the local, state, and national level to take bold, progressive action and what can philanthropy and the field that we fund do to help create those conditions?
- DOL has previously been very engaged in the Federal Reentry Council and efforts to promote employment opportunities for formerly incarcerated individuals and others with criminal records. What is your sense of the success of the Reentry Council and what are your plans to engage on this issue?

Guest Biography

Thomas E. Perez **U.S. Secretary of Labor**

Thomas E. Perez was nominated by President Obama to serve as the nation's 26th Secretary of Labor, and was sworn in on July 23, 2013.

Previously Perez served as assistant attorney general for civil rights at the U.S. Department of Justice. The Civil Rights Division enforces federal laws that prohibit discrimination and uphold the civil and constitutional rights of all who live in America. During his tenure of nearly four years, Perez oversaw the effort to restore and expand the division's achievements. Under his leadership as assistant attorney general, the division successfully implemented the Shepard-Byrd Hate Crimes Prevention Act; expanded equal housing opportunity by bringing and settling the largest fair-lending cases in history; protected schoolchildren from discrimination, bullying and harassment; increased access to employment, housing, and educational opportunities for people with disabilities; protected the right to vote for all eligible voters free from discrimination; took record-setting efforts to ensure that communities have effective and democratically accountable policing; and safeguarded the employment, housing, fair lending, and voting rights of service members. He also expanded the division's partnerships across federal agencies to address cross-cutting challenges in human trafficking, employment discrimination, and fair lending, among others.

Perez previously served as the secretary of Maryland's Department of Labor, Licensing and Regulation (DLLR). The DLLR protects consumers through the enforcement of a wide range of consumer rights laws, including mortgage setting; enforces workplace safety laws that provide critical safeguards to workers and communities; enforces wage and hour and other worker protection laws that ensure wage security; and collaborates with businesses and workers to address critical workforce development needs and build a world-class workforce. Perez was a principal architect of a sweeping package of state lending and foreclosure reforms to address the foreclosure crisis in Maryland. He worked closely with business leaders, community colleges, and nonprofits on a dramatic overhaul of Maryland's workforce development system to ensure that workers have the skills to succeed, and employers have the workforce to thrive in the 21st century economy. Perez co-chaired the Governor's Council for New Americans, which designed a comprehensive blueprint for ensuring that immigrants living and working in Maryland are a vital component of the state's economic engine.

Perez has spent his entire career in public service. From 2002 until 2006, he was a member of the Montgomery County Council. He was the first Latino ever elected to the council, and served as council president in 2005. Earlier in his career, he spent 12 years in federal public service, with most of this time spent as an attorney with the Civil Rights Division. As a federal prosecutor for the division, he prosecuted and supervised the prosecution of some of the Justice Department's most high profile civil rights cases, including a hate crimes case in Texas involving a group of white supremacists who went on a deadly, racially-motivated crime spree. Perez later served as deputy assistant attorney general for civil rights under Attorney General Janet Reno. Among other responsibilities, he chaired the interagency Worker Exploitation Task Force, which oversaw a variety of initiatives designed to protect vulnerable workers. He also served as special counsel to the late senator Edward Kennedy, and was Senator Kennedy's principal adviser on civil rights, criminal justice, and constitutional issues. For the final two years of the Clinton administration, he served as the director of the Office for Civil Rights at the U.S. Department of Health and Human Services.

Perez was a law professor for six years at the University of Maryland School of Law and was a part-time professor at the George Washington School of Public Health. He received a BA from Brown University in 1983. In 1987, he received both an MA in public policy from Harvard University's John F. Kennedy School of Government, and a juris doctorate from Harvard Law School.

2013 U.S. PROGRAMS
RESERVE FUND
EVALUATION
DRAFT EXEC. SUMMARY

One-Page Overview

2013 U.S. Programs Reserve Fund Evaluation

We commissioned The Reinvestment Fund to conduct an evaluation of the 2013 U.S. Programs Reserve Fund in order to better understand how it worked in practice for all parties involved (Board, staff, grantees) and to identify lessons that would help us in the ongoing efforts to deploy the Reserve Fund (now called the Opportunities Fund) in ways that are impactful, efficient, and transparent. The evaluators conducted 20 interviews and reviewed all of the primary documents involved in each request, including requests that did not proceed past their initial proposal, as the basis for their report. Once completed, the Reinvestment Fund will brief the Board, staff, and colleagues working on Reserve Funds across OSF. This presentation will offer initial takeaways and present data on the usage of the 2013 U.S. Programs Reserve Fund.

Staff presenters: Andrea Batista Schlesinger, Deputy Director

Speakers:

Ira Goldstein – President, Policy Solutions, The Reinvestment Fund

Joshua Freely – Chief Policy Analyst, The Reinvestment Fund

Key questions for board engagement:

- Looking at the breakdown of Reserve Fund allocations in 2013, does it reflect the priorities of U.S. Programs? Does it reflect our analysis of the most pressing issues facing American democracy? If not, what's missing? And what's the right process for new ideas and opportunistic proposals to emerge?
- Does the finding that the Reserve Fund favors existing USP grantees have any implications worth exploring?
- What else is helpful for the board to know that should be included in the final report?

Analysis of 2013 U.S. Programs Reserve Fund Executive Summary (Draft)

This executive summary presents preliminary findings from The Reinvestment Fund's (TRF) evaluation of the Reserve Fund (RF) created by the Open Society Foundations' (OSF) U.S. Programs (USP). Work on this project commenced in January of 2014 with the goal of analyzing the process for the RF with an eye towards improving that process. In 2013, the RF allocated a total of \$21,609,990 through 60 grants. Data for this analysis comes from review of grant documents and foundation databases, emails and internal memos, and a set of interviews with USP staff, board and grantees.

Takeaways: Opportunities

- There is virtual unanimous agreement that the RF is an important tool that can allow USP to be relevant and impactful on emerging significant issues. Across the board, interviewees report that the RF is a funding vehicle that promotes and embodies George Soros's vision of philanthropy.
- All interviewees agreed that the RF should respond to unanticipated or urgent moments of opportunity. Some interviewees expressed that the substantive areas for the RF should be limited by USP's priorities while others were not so constrained in their vision for use of the RF. In general, board members and senior staff expressed less subject matter constraint than program staff.
- Program staff and grantees interviewed indicate that the RF process was faster and more temporally responsive than the usual grantmaking process. Analysis of time on the RF portfolio compared to the remainder of the USP portfolio is ongoing.
- Interviewees across all levels report that the process of referring suggestions for proposals to OSPC represents an extraordinarily valuable tool for the C3 board in advancing issues in the political sphere – a tool that few other foundations have.
- Several interviewees – particularly those who are more senior at OSF – raised the potential that using funds from the RF might represent for research and development. This suggested use, they argue, could be especially useful for activities in fields that are important to the foundation but where there is not yet experience or a clear understanding of the central issues or interventions.

Takeaways: Challenges

- Staff listed several factors that serve as challenges for putting a request for RF funds forward, including: (1) lack of transparency about what it takes to prepare a successful proposal; (2) lack of clarity around the audience for the proposal – the director of USP, the President, the board, all, or some; (3) level of effort required to prepare a RF request; (4) an inability to project the success or failure of a RF request; (5) pressure staff feel operating in the uncertain environment; (6) real (or perceived) reputational stigma of submitting a request that is rejected.
- Staff recognize that funds awarded under the RF are not a permanent increase in the program area budget line. Notwithstanding that circumstance, staff nevertheless felt conflicted about the need to fund activities, once the RF funds were expired, out of the basic budget because it meant that funding existing

activities may need to be reduced or eliminated.

- Staff interviewees suggest that working with existing grantees (58.6% of RF grantees and 76.5% of RF grants awarded) makes for a smoother process, but it is limiting because it is unlikely that the existing pool of grantees covers every area that the RF may want to tackle in the future.
- Other questions on the role of the board, especially from staff, revolved around influence over the process. Program officers express a deep sense of commitment to the substantive issues they grapple with. In typical grantmaking, they express that they more or less direct the process. Because of the novel, expedited and possibly risky nature of the RF, the role of program officers changes.
- The assessment of the impact of grants made under the RF is complex, nuanced and only preliminarily complete on this project. Markers of impact, thus far, range from enabling an effective and new voice in a political debate around an issue of significant import (e.g., CIR) to informing and influencing state level efforts around voter registration.

Preliminary Outline of Recommendations

- Develop guidance around the definition of issues/events that are appropriate for the RF.
- Consider instituting the equivalent of hospital case reviews for successful and unsuccessful RF attempts as a way to both engage staff in the process and educate on what is appropriate
- Work with the board to understand the mechanics of how they can add greatest value to the process.
- When USP did not have expertise in the field, the RF seems to have benefitted from use of outside experts/convenings. This approach should become routine in RF requests outside of USP's areas of expertise.
- The RF favors existing grantees. Tranching of RF dollars may be a reasonable approach to bringing new grantees into the fold. That tranche is conditioned on and accompanied by the appropriate due diligence along with an exit strategy if the grantee fails the due diligence.
- Also could consider working with an existing grantee, where possible, as a pass-through to other grantees in the relevant fields as a way to introduce new grantees to the Reserve Fund.
- The RF could also be used, strategically, in an R&D capacity to develop a body of information upon which future RF grants will be made.
- Develop concrete early, intermediate and final standards of success for each grant (or group of grants, as appropriate). Those should not be unrealistic expectations but they need to be articulated.

2013 Reserve Fund Grants by Category

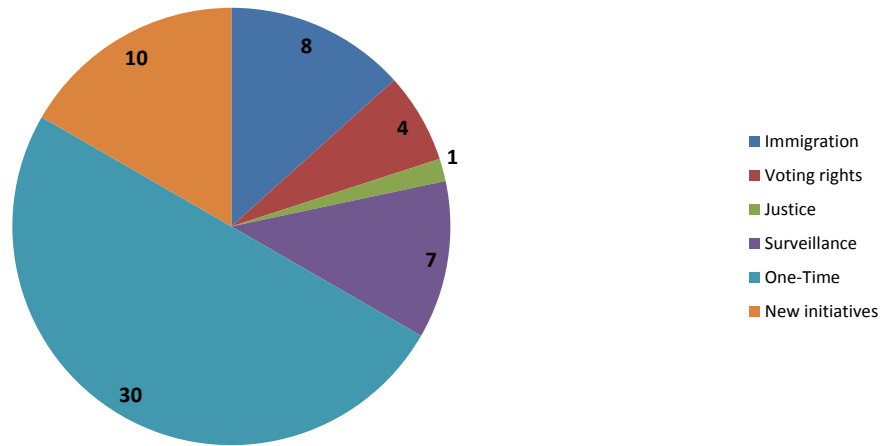


Figure 1: Number of Grants by USP Category

Percent of Reserve Fund by Category

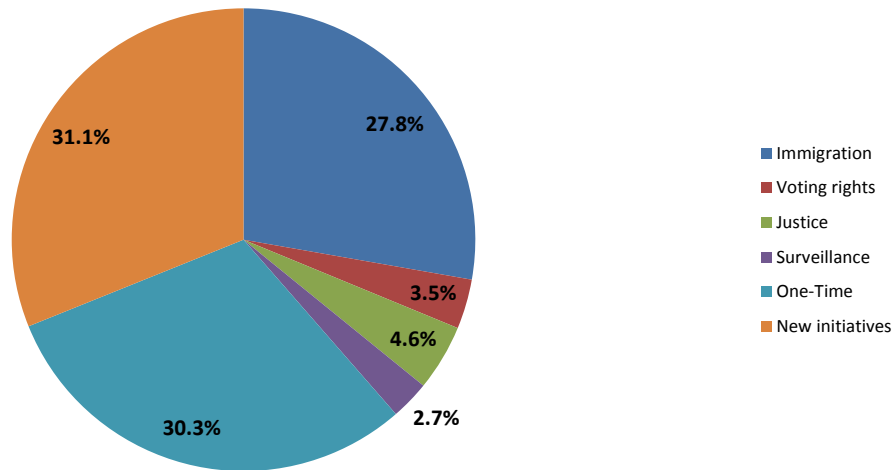


Figure 2: Percent of Funds by Category

*One-Time Grants: NAACP Legal Defense and Education Fund, Center for Reproductive Rights, USP Exit Grants, OSI-DC Community Grants, Mt. Holly Case Settlement, and Anchor Grantees

**New Initiatives: Talking Transition, OPI, and Gun Violence Prevention

	Number	Percent of Grantees	Dollars	Percent of Dollars
New Grantees	24	41.4%	\$ 5,067,750	23.5%
Existing Grantees	34	58.6%	\$ 16,542,240	76.5%

Figure 3: Distribution of Grants by Grantee Relationship to USP

Issue / Category of Spending	USP Reserve Spending	Referred to OSPC
Immigration	---	\$6mm
Voting Rights	\$250,000	\$500,000
Justice	\$1mm	---
Surveillance	\$413,000	\$175,000
One-Time	\$6.55mm	---
New Initiatives	\$5.95mm	\$772,000

STATUS OF FEDERAL IMMIGRATION REFORM INVESTMENTS

One-Page Overview

Federal Immigration Reform

This panel seeks to provide reflections on U.S. Programs investments into federal immigration reform efforts. In addition, it seeks to provide an analysis of the various tools used to amplify the credibility, effectiveness, and sophistication of USP grantees. In this context, we will discuss the field's most recent legislative campaign, compare and contrast USP investments with past reform efforts, and discuss the future policy landscape.

Board Moderator:

- Deepak Bhargava, Executive Director, Center for Community Change will share his analysis of the field's effectiveness during the most recent reform efforts, compare and contrast this effort with past work, and provide a snapshot of the policy landscape going forward.

Presenters:

- Angela M. Kelley, Vice President, Immigration Policy, Center for American Progress will provide an analysis on the current state of play of USP grantees efforts;
- Angelica Salas, Executive Director, Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), will share her analysis and experience as a field leader;
- Micheal E. Hill, Associate Director, U.S. Conference of Catholic Bishops will reflect on 2013-2014 reform efforts and share what strategies were effective and what needed to be strengthened;
- Doris Meissner, Senior Fellow and Director, U.S. Immigration Policy Program, Migration Policy Institute will share what immigration reform policies should be prioritized and how enforcement reform policies intersect with legislative priorities.

Key Question for Board Engagement

- Does the field have the requisite capacity to translate the capacity built in the most recent reform movement, as well as recent wins around state-level inclusive immigrant policies (e.g. in-state tuition, drivers licenses, and domestic worker bills of rights) and the Deferred Action for Childhood Arrival (DACA) policy into a political groundswell that influences federal immigration reform?

OSPC and USP 2013 Federal Immigration Reform Grantmaking Efforts

The Open Society Foundations through U.S. Programs in conjuncture with OSPC has invested more than \$100 million in immigrant rights since 1997. USP and OSPC have a long-standing commitment to immigrant rights beginning with the 1997-99 \$50 million investment in the Emma Lazarus Fund. Since 2004, USP and OSPC have invested approximately \$68,000,000 in immigrant rights. The total USP Equality Fund- immigration related (c)(3) grants made in 2013 is \$5.179 million.^{1[1]} The total U.S. Programs investment in immigrant rights was \$9.179 million which includes U.S. Programs anchor grantees the Center for Community Change, the Center for American Progress, and the Center for Budget and Policy Priorities.

In 2013, the USP board endorsed USP to forego spending of \$6 million from the reserve spending for (c)(4) funding to OSPC into federal immigration reform.^{2[2]} Of that, \$4.7 million was directed to the Alliance for Citizenship (A4C), OSPC's primary investment vehicle for supporting CIR advocacy. With this (c)(4) funding, A4C has developed a coordinated national campaign, strengthened civic engagement among directly affected constituencies and unusual allies, continued to build its list of advocates, lobbied key members of the U.S. Senate and House, and influenced the passage of the Senate bill. To complement the investment in A4C, OSPC approved an additional \$1.55 million in (c)(4) funding to five other groups: United We DREAM, National Immigration Forum Action Fund, PICO Action Fund, CAMBIO, and the National Hispanic Leadership Agenda.

The Ford Foundation, Atlantic Philanthropies, JPB Foundation, Carnegie Corporation, and the Four Freedoms Fund have contributed significant resources to the campaign.^{3[3]} To date, A4C and its partners have raised \$20,633,531. Atlantic committed an additional \$3.4 million to A4C and its partners, contingent on a 1:1 match from other donors which was successfully completed.

1 ^[1]This includes co-funds with the USP Justice and Democracy Funds

2 ^[2] The USP Board also endorsed the Equality Fund to forego spending of \$250,000 for (c)(4) funding to OSPC.

3 ^[3] Ford Foundation has contributed \$7.36 million in (c)(3) resources, Atlantic Philanthropies has contributed \$6 million in (c)(4) resources, JPB Foundation has contributed \$1 million in (c)(3) resources, Carnegie has contributed \$850,000 in (c)(3) resources, and the Four Freedoms has contributed \$2.155 million in (c)(3) resources.

2013 OSPC Federal Immigration Reform Grantmaking		
Grantee	Grant Amount	Grant Period
Alliance 4 Citizenship via Tides Advocacy Fund	\$4,700,000	Jan 1, 2013-Jan 31, 2014
Business, Bibles, and Badges via NIF Action Fund	\$200,000	April 1- December 31, 2014
United We Dream via NILC Immigrant Justice Fund	\$450,000	April 1- December 31, 2014
CAMBIO via NILC Immigrant Justice Fund	\$525,000	April 1- December 31
Religious Campaign for Citizenship via PICO Action Fund	\$225,000	Apr 1- Dec 31, 2014
National Hispanic Leadership Agenda via MALDEF	\$150,000	Nov 1, 2013- June 30 2014
TOTAL	\$6,250,000	

2013 USP Federal Immigration Reform Grantmaking		
Grantee	Grant Amount	Current Grant End Date
American Immigration Council (LAC and IPC)	\$350,000	9/1/2013 - 8/31/2015
Arab Community Center for Economic and Social Services	\$300,000	10/1/2013 - 9/30/2015
Black Alliance for Just Immigration	\$50,000	6/1/2013 - 5/31/2014
Border Network for Human Rights	\$300,000	4/1/2013 - 3/31/2015
<i>Center for American Progress</i>	<i>\$1,250,000</i>	<i>11/1/2013 - 10/31/2015</i>
<i>Center for Community Change</i>	<i>\$750,000</i>	<i>5/1/2013 - 4/30/2014</i>
<i>Center on Budget and Policy Priorities</i>	<i>\$2,000,000</i>	<i>9/1/2013 - 8/31/2015</i>
Detention Watch Network (Tides Center)	\$200,000	7/1/2013 - 6/30/2014
Four Freedoms Fund (Public Interest Projects)	\$979,000	1/1/2014 - 12/31/2014
Grantmakers Concerned with Immigrants and Refugees	\$150,000	7/1/2013 - 6/30/2015
Immigrant Defense Project	\$200,000	6/1/2013 - 5/31/2014
Migration Policy Institute	\$250,000	1/1/2013 - 12/31/2014
National Council of La Raza	\$250,000	10/1/2013 - 9/30/2014
National Day Laborer Organizing Network	\$300,000	1/1/2014 - 6/30/2015
National Domestic Workers Alliance	\$300,000	11/1/2013 - 10/31/2014
National Immigration Forum, Inc.	\$300,000	3/1/2013 - 2/28/2014
National Immigration Justice Center (Heartland Alliance for Human Needs & Human Rights)	\$300,000	7/1/2013 - 6/30/2015
New Orleans Workers' Center for Racial Justice	\$100,000	8/1/2013 - 7/31/2014
Northern Borders Coalition (project support through OneAmerica)	\$100,000	3/1/2013 - 2/28/2014
OneAmerica	\$50,000	4/1/2013 - 3/31/2014
South Asian Americans Leading Together	\$300,000	7/1/2013 - 6/30/2015
Taxpayers for Common Sense	\$50,000	11/1/2013 - 4/30/2014
Welcoming America	\$150,000	1/1/2013 - 12/31/2013
United We Dream Network	\$200,000	2/1/2013 - 1/31/2014
TOTAL	\$9,179,000	

Guest Biographies

Micheal Hill

Micheal Hill is the associate director at the U.S. Conference of Catholic Bishops. His work includes immigration and refugee issues, foreign operations appropriations, and select issues under the jurisdiction of the Judiciary Committees.

Hill has been lobbying Congress and the Executive branch on a variety of issues, including immigration law, refugee law, intellectual property law, telecommunications law, and religious freedom issues since 1989. He is a published author in journals on immigration law and politics and has lectured on immigration law at Georgetown University Law Center, Columbia University, and Princeton University.

Angela Maria Kelley

Angela Maria Kelley is the vice president of Immigration Policy at Center for American Progress. In the years since Kelley's arrival to CAP, the organization has published numerous impactful reports and analyses on a range of immigration issues including the economic impact of state anti-immigrant laws, the economic value of immigration reform, the cost of mass deportation, and the integration trends of America's newcomers.

Before joining Center for American Progress in 2009, Kelley served as director of the Immigration Policy Center. She is a graduate of The George Washington University Law School and a Georgetown University Law School Women's Law and Public Policy Fellow.

Doris Meissner

Doris Meissner is a senior fellow and director in the U.S. Immigration Policy Program at Migration Policy Institute. Her focus is on the role of immigration in America's future and on administering the nation's immigration laws, systems, and government agencies.

From 1993-2000, she served in the Clinton administration as Commissioner of the INS, then a bureau in the U.S. Department of Justice. Meissner first joined the Justice Department in 1973 as a White House Fellow and Special Assistant to the Attorney General. She served in various senior policy posts until 1981, when she became Acting Commissioner of the INS and then Executive Associate Commissioner, the third-ranking post in the agency.

CASE STUDY IN “PLACE”: MUNICIPAL BROADBAND

One-Page Overview

Case Study in “Place”: Municipal Broadband

This panel will highlight the efforts of localities across the country to establish their own broadband networks. The movement to establish community or municipal broadband has emerged to respond to the need for free and open access to the Internet, and in particular, in places that are underserved. Today, high-speed access to the Internet is effectively controlled by a small handful of corporations with enormous political power and a strong incentive to avoid regulation. Localities that have established their own networks have done so against significant opposition. Open Society Foundations and the Ford Foundation are the principal funders of the effort to establish a national network of municipal leaders that are grappling with how to create their own networks.

U.S. Programs is interested in telecommunications infrastructure as it is essential to expand access to the “networked public sphere” in an open society, and because it illustrates how we can expand effective partnerships with local governments which are attempting to undertake policy innovations that promote full and effective public participation.

Panel, moderated by Steve Coll:

Andy Berke – Mayor, Chattanooga, Tennessee

Joey Durel – City-Parish President of Lafayette, Louisiana

Maya Wiley – Counsel to Mayor Bill de Blasio

Key questions for board engagement:

- Does our approach with municipal broadband – identifying an emerging issue, supporting a national network, and providing technical assistance to an ideologically diverse grouping of leaders—offer a model for any other such issues to advance at the local level?
- Community and municipal broadband networks are demonstrating that local governments across the country are playing an important role in ensuring that Internet access is treated as a public good and reducing some of the inequity that comes from the privatization of vital communications services. How can these local stories help make change at the national level?

Municipal Broadband Discussion

TO: U.S. Programs Board
FR: Ken Zimmerman
RE: Municipal broadband discussion
Date: 5/8/2014

As you know, USP is exploring how we can move the needle on open society issues at the local level, including how we can expand effective partnerships with local governments which are attempting to undertake policy innovations that promote full and effective participation of the public. This session is intended both to introduce the board to a specific initiative which we have pushed forward in conjunction with the Ford Foundation and to stimulate conversation about the most effective way to support progress at the local level.

By way of background, the establishment of municipal and community broadband networks is an important element in expanding access to what has been called “the networked public sphere.” U.S. Programs, along with the Ford Foundation, began in 2013 to lay the groundwork to establish a national network of municipal leaders that are grappling with how to create their own networks and to leverage their collective power into advocacy at the federal level. With a panel of two mayors who have done so, Mayors Berke (Chattanooga) and Durel (Lafayette), and Maya Wiley, Counsel to the Mayor of New York City, representing a city that is embarking on the effort, we intend to explore not only what led ideologically diverse local leaders to engage in the issue but the political dynamics they confronted. The panel will be moderated by Steve Coll.

Background: Universal broadband and an open Internet are vital for facilitating the flow of information and supporting full access to information and opportunity for individuals. Free and open access to the internet can have a transformative effect on institutions and communities, facilitating public participation in the democratic process; facilitating high quality healthcare in rural communities; providing access to job opportunities; and modernizing our energy grid. Yet in the U.S., networks are several times slower and more expensive than the high-speed Internet service in many European and Asian countries. And even as the Internet assumes more of the hallmarks of being an essential public utility, more than 30 percent of American households don’t have access to it or can’t afford it. The disparity in service is starkest in low income communities of color, reinforcing inequality by excluding major segments of our society from essential 21st century communications networks. Currently, just over 50 percent of all Hispanic and African-American households in the United States have reliable high-speed Internet access compared with about 72 percent of white households. The broadband deployment rate on Native American Tribal lands is less than 10 percent. Among households with incomes below \$25,000, only 35 percent have access at home.

A small handful of corporations with enormous political power, and a strong incentive to avoid regulation, effectively control high-speed access to the Internet. After a decade of deregulation, U.S. broadband providers are not restrained neither by meaningful competition nor by effective rules to protect the openness of the Internet. These entities have both the technical means and the financial incentives to curtail the free flow of information. They are a formidable lobbying force in Washington. Between 1989 and 2010, the second largest contributor to political campaigns in the U.S. was AT&T. In 2010, Verizon, AT&T, and Comcast spent roughly \$45 million in lobbying.

Since broadband providers have little incentive to provide service in rural areas or small municipalities, where build-out costs are high and profits are low, many counties, cities, and towns have built their own broadband networks. There are currently about 150 publicly owned broadband networks in the U.S. They are community-driven initiatives and have been championed by elected officials and civic leaders from both sides of the aisle. Industry lobbyists have been working to curb this trend; nineteen states have now erected barriers that

discourage or prevent local communities from building their own networks. U.S. Programs intends to support the ongoing effort to establish municipal broadband networks through a significant grant to the Next Century Cities collaboration, which would be devoted to assisting cities in the understanding and development of next-generation broadband networks across the United States.

Joey Durel, City-Parish President of conservative Lafayette, Louisiana, has established LUS Fiber, over the challenge from Cox Cable and BellSouth. According to the Institute for Self-Reliance, LUS Fiber has created one of the fastest basic tiers of Internet service at an affordable rate, and has led to significant job creation.

Mayor Andy Berke of Chattanooga became the first community in the U. S. with universal access to a “gig,” and EPB Fiber has 35,000 customers and led as well to significant job creation. Its creation did not engender as much controversy or ill will as in Lafayette, but they still had to overcome several lawsuits from Comcast and the state cable association and an onslaught of television advertising.

Maya Wiley advocated for community broadband access as the leader of the Center for Social Inclusion, an OSF grantee, and is now in charge of that portfolio for the City of New York, which is beginning to examine the opportunities and challenges of establishing a municipal broadband network.

Municipal Broadband Grants

2011 - 2014

2011-12

- **\$250,000 in project support to New America Foundation for the Open Technology Institute**
Building on the partnerships created since its founding, OTI worked with a coalition of public interest groups, Tribal groups, and local government associations such as NATOA and the National Association of Counties to articulate policy reforms that serve the public interest and support community broadband infrastructure. OTI staff also developed resources and guides to inspire and support local efforts to build community broadband infrastructure including by municipalities, neighborhoods, or local community members. Specifically, OTI deployed test-pilot wireless networks facilitating neighbor-to-neighbor communication and Internet access in Detroit and Philadelphia as part of the Broadband Technology Opportunity Program.

2012-13

- **\$75,000 in project support to the Center for Social Inclusion**
CSI's Broadband Equity program area is focused on advancing community-scale broadband solutions that are racially inclusive with clear community benefits and, in some cases, locally owned infrastructure. CSI partnered with the New America Foundation's Open Technology Institute on a joint case study of broadband build-out in Detroit. CSI also partnered with the Rural Broadband Policy Group to submit a letter of support to the Federal Communications Commission for the Tribal Government Obligation Engagement Provisions.
- **\$500,000 in project support to New America Foundation for the Open Technology Institute**
The year 2013 brought to a conclusion OTI's work as a key partner in multiple BTOP projects in Philadelphia and Detroit. OTI promoted policies that reflect a nuanced vision of meaningful broadband adoption, the degree to which broadband access is relevant to users' daily lives, the amount of support users receive in understanding and utilizing the technology, and the quality of service that users ultimately experience as part of that access. In addition, OTI produced important policy research on key issues related to universal access, including data caps on broadband service, broadband affordability and others.
- **\$15,000 to the Berkman Center for Internet and Society for "Public Provision of Public Goods: a Conference on the Present and Future of Municipal Fiber"**
This conference worked towards articulating and beginning to confront questions confronting the role of municipal and alternative fiber networks in the United States. Conference participants included providers associated with a wide variety of fiber deployments—from municipally-owned deployments, to small broadband cooperatives, to publicly owned but privately operated networks, to wholesale access networks, to university-based deployments, and finally to privately owned networks. A number of academics, industry analysts, financing experts, and journalists also contributed their insight to the conference. Key action items included: 1) forming a network to share information and act collectively; 2) change policy at both federal and state level; 3) demonstrate success through functioning fiber networks; 4) set a higher baseline for Internet connectivity for all; 5) learn from other countries.

2013-14

- **\$50,000 to the Roosevelt Institute to support Telecommunications Equality Project led by Susan Crawford.**
The Telecommunications Equality Project’s goals are to educate and engage a wide range of actors, from the general public to policymakers, about the economic and social importance of universal broadband and the protection of public interest values in the online space.
- **\$350,000 to the Institute for Local Self-Reliance to support the “Telecommunications as Commons” Initiative.**
The Telecommunications as Commons Initiative builds on its experience, knowledge, visibility, and connections to advance its goals of expanding community owned broadband networks in the U.S. The Initiative will expand its work to offer technical advice to local governments, activist groups, and media in at least 30 communities across the U.S., and help counter the arguments commonly made by incumbent providers to dissuade public investment.
- **\$430,000 to New America Foundation for the Open Technology Institute**
OTI will continue supporting the growth and development of community-based, municipal, and publicly-owned broadband models. OTI produced a report on municipal broadband during this time as part of its analysis of the communications infrastructure field.
- **\$50,000 to Freedman Consulting to support the Gigabit Cities municipal broadband project**
The Gigabit Cities project seeks to actualize inter-community collaboration around the deployment of next-generation broadband networks. It advanced previous Freedman Consulting, LLC, work to develop this collaboration from the level of connections to a large, but atomized collection of cities concerned with these issues to actually creating inter-community connections and beginning the development of sustainable collaboration.

Planned for 2014

- **\$500,000 to support Gigabit Cities Municipal Broadband launch**
- **\$450,000 to New America Foundation for the Open Technology Institute**

Selected Article

The New York Times
The Wire Next Time
Susan Crawford
April 27, 2014

CAMBRIDGE, Mass. — LAST week's proposal by the Federal Communications Commission to allow Internet service providers to charge different rates to different online content companies — effectively ending the government's commitment to net neutrality — set off a flurry of protest.

The uproar is appropriate: In bowing before an onslaught of corporate lobbying, the commission has chosen short-term political expediency over the long-term interest of the country.

But if this is the end of net neutrality as we know it, it is not the end of the line for fair and equitable Internet access. Indeed, the commission's decision frees Americans to focus on a real long-term solution: supporting open municipal-level fiber networks.

Such networks typically provide a superior and less expensive option to wholly private networks operated by Internet service providers like Comcast and Time Warner.

The idea of muni networks has been around for a while, with bipartisan support. When the Telecommunications Act was under discussion in 1994, Senator Trent Lott, Republican of Mississippi, was one of its most enthusiastic supporters. Thanks to him and others, the act, passed in 1996, prohibits states from putting up unreasonable obstacles to any entity that wants to provide telecommunications services.

So why didn't a thousand muni networks bloom? After all, the 1996 act was aimed at increasing competition. But private providers rightly recognized muni networks as a threat, and in the subsequent decades have pushed through laws in 20 states that, despite the 1996 act, make it difficult or impossible for municipalities to clear the way for the sorts of networks that the 1996 act envisioned.

That means that the main problem behind getting muni networks up and running isn't about the technology — which not only exists, but is already being used in large and small cities around the world — but about the politics.

As a first step, Americans need to focus their efforts on getting these laws taken off the books. (To its credit, the F.C.C. recently signaled its willingness to help, saying it would consider blocking those laws at the federal level.)

Mere legislative change won't be enough, however. We need to elect leaders on the basis of their commitment to changing America's stagnant communications infrastructure.

There is much to be done at every level of government, but cities are the most promising battleground right now. Mayors, Republican and Democrat alike, are in the business of providing their citizens with services, and fiber infrastructure is just like a city street grid: Economic development, quality of life, new jobs and a thriving competitive market all depend on its presence.

Most important, cities have assets in the form of control over conduits, poles and rights of way that can be used to support the provision of competitive fiber-optic networks. Since 1998, my hometown, Santa Monica, Calif., has been saving money by shifting from paying expensive leases on private communications lines to using its own fiber network, called City Net.

The city planned carefully and built out City Net slowly, taking advantage of moments when streets were being opened for other infrastructure projects. Businesses in Santa Monica now pay City Net a third of what a private operator would charge, and the city government has made millions leasing out its fiber resources at reasonable rates to other providers.

According to Christopher Mitchell of the Institute for Local Self Reliance, a national expert on community networks, more than 400 towns and cities across America have installed or are planning networks. And that's not just good for consumers; it's good for business. Companies are moving to places like Wilson, N.C., and Chattanooga, Tenn., because those cities provide public, inexpensive, high-capacity connectivity.

American cities need fast, cheap, ubiquitous, open fiber networks, and every city has the tools at its disposal to get these networks built. But there are powerful and well-funded incumbents who will fight any mayor brave enough to consider the idea. If you're furious about your cable bill and worried about net neutrality, go tell city hall.

Susan Crawford is a visiting professor at Harvard Law School and the author of "Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age."

Executive Summary of Report

Broadband at the Speed of Light:
How Three Communities Built Next-Generation Networks
Christopher Mitchell

April, 2012

Executive Summary

Frustrated by ever-increasing prices for telecommunication services and the reluctance of incumbent providers to upgrade their networks to meet 21st century needs, more than 150 communities have built their own citywide cable and FTTH networks. Against great odds and in the face of ferocious opposition by the existing telephone and cable companies in the courts, at the legislature, and in the marketplace, the vast majority have succeeded.

To understand how this has occurred and to extract lessons that might be useful for cities deciding whether to build their own networks, we undertook an in-depth examination of three municipally owned networks in Bristol Va., Chattanooga, Tenn., and Lafayette, La.

Each of these communities already had access to the Internet via DSL and cable. But in the words of Lafayette City-Parish President Joey Durel, “They wanted more.” Without investment in next-generation networks, these cities feared they would be left behind in the transition to the digital economy of the Internet era.

In each of these cases, the local public power utility took the lead in creating the new network—a characteristic of nearly every citywide publicly owned community fiber network in America. Each community had to navigate difficult seas, buffeted by lawsuits that dragged out construction schedules, state legislation that imposed additional burdens on public networks, and huge corporate competitors benefiting from a multitude of scale advantages. In each of these cases, the communities found their network to be a major economic development asset, generating or preserving hundreds of well-paying jobs.

BVU Authority

Bristol was one of the first in the nation to build a citywide Fiber-To-The-Home (FTTH) network offering telephone, cable television, and broadband access to the Internet. OptiNet was launched in 2003 shortly after Bristol Virginia Utilities (later named BVU Authority) connected municipal buildings, electrical substations, and schools with its new fiber optic network.

Just securing and defending Bristol’s right to build its own network cost \$2.5 million and a few years of legal wrangling in the courts and legislatures. The struggle proved worthwhile as OptiNet has been fiercely popular from inception. When launched, signups greatly exceeded expectations, creating unique challenges. The network now has a take rate of over 70 percent in Bristol and is continuing to expand in nearby counties.

To encourage economic development in Virginia’s disadvantaged southwestern counties, OptiNet expanded outside Bristol to nearby businesses and industrial parks, leading to the creation of hundreds of high paying jobs. Local businesses have chosen to remain in Bristol rather than relocate due to the advantages of OptiNet.

One of OptiNet's principal goals was to achieve price stability for telecommunications services. It has succeeded admirably. OptiNet's telephone and broadband prices have remained unchanged since launched. Its cable rates have increased with rising input costs from the channel owners, but they remain below industry norms. A 2008 study found that OptiNet had resulted in almost \$10 million of community savings since 2003. Self-provisioning, rather than leasing circuits, for the schools and local government saved \$1 million alone.

OptiNet is running in the black and continues to innovate to serve nearly 12,000 subscribers. It recently rolled out new service packages, including a broadband tier offering downstream capacity at 1Gbps.

Lafayette, Louisiana

Lafayette, Louisiana is home to the longest-running, most acrimonious community broadband battle in the nation. City-Parish President Joey Durel, a Republican mayor in a conservative town and former Chair of the local Chamber of Commerce, became a celebrity for his biting quips and barbs responding to misinformation disseminated by Cox Cable and BellSouth.

As a businessman, Durel understood that Cox and BellSouth's drive to maximize profits would inhibit them from building a next-generation broadband network in Cajun Country. But as City-Parish President, he was infuriated at their extreme efforts to stop the community from building what was in its own best interest: a community fiber network owned and operated by the Lafayette Utility System connecting all the businesses and residents.

LUS was created by referendum in 1896 when local property owners voted to tax themselves to build a water system and electrical plant. Over the next hundred years, LUS persevered despite several privatization attempts. LUS estimates that over just the last 20 years the community saved \$828 million in utility bills and tax reductions from owning its own electric utility.

When the LUS Fiber Plan was first floated in 2004, cable and telephone company lobbyists pushed for state legislation to ban municipal broadband networks. A compromise bill allowed LUS to proceed, although incumbents continued to file lawsuits and otherwise obstruct efforts to build the community network.

Although the law did not require it, Lafayette chose to hold a referendum to authorize the necessary bonding. It proved a wise decision after a fascinating and powerful grassroots movement coalesced in support of the community fiber network, partly as a reaction to tactics used by Cox, BellSouth, and other opponents to discourage the plan. The community overwhelmingly endorsed the network in 2005, authorizing LUS to issue \$125 million in revenue bonds to build the network. A few years and several lawsuits later, LUS bonded for \$110 million in 2007, began building the network in 2008, and started connecting customers in 2009.

The network has already led to hundreds of new jobs created by employers moving to Lafayette who were largely motivated by the network. For instance, when PixelMagic came to Lafayette as part of its work on the Hollywood movie Secretariat, the company found the LUS Fiber connections allowed them to affordably work remotely and they established a permanent presence in town.

Even before the LUS Fiber network connected a single customer, studies suggested that it saved the community millions of dollars by persuading Cox and BellSouth to hold off on several rate increases during the fiber fight in order to avoid negative publicity.

Today LUS Fiber offers one of the fastest basic tiers of Internet service in the country at an affordable rate: 10/10Mbps for \$28.95. It has just announced a 1Gbps tier for \$1,000 per month; prior to LUS Fiber, the cost of a gig circuit in Lafayette was at least \$20,000 per month.

Chattanooga, Tennessee

Chattanooga achieved enduring fame by becoming the first community in the U.S. with universal access to a “gig.” But EPB Fiber is not a one-hit-wonder; it is allowing the electric power board to build the most automated smart grid in the nation.

The community fiber network began slowly, starting in the 1990s with a goal of using a few fiber optic investments to control and monitor its electrical grid. In the early 2000s, EPB expanded the network and began offering telephone and broadband services to local businesses.

Despite a few lawsuits from Comcast and the state cable association, as well as 2,600 television ads aimed at scaring local citizens into opposing the project, EPB’s plan to build a FTTH network across its entire electrical territory found widespread enthusiasm among the public and elected leaders.

The fiber optics system has proven to be a huge financial benefit to the electric side of the utility by allowing EPB to develop the most automated smart grid in the nation. Studies show that power outages cost the national economy approximately \$80 billion each year. EPB resolved to cut the number and duration of outages on its network. An unprecedented scourge of tornadoes across the southeastern states in 2011 provided an early test of their approach. Though it was not even half built out, the network generated valuable savings from reduced truck rolls and fewer customer outages.

Whereas Bristol focused on lowering telecommunications prices, EPB Fiber Optics focused on providing higher capacity connections. Though its triple-play bundle is competitively priced in the market, the slowest tier of Internet access is 30Mbps symmetrical, a capacity that is nearly impossible to find at an affordable price anywhere in the United States. Chattanooga is most famous for its “gig,” which is available to anyone in its territory for \$349 per month. Though that may seem a high price, only a few U.S. communities have a gig service available even at ten times the price.

EPB’s Electric division has already seen a \$16.8 million benefit from the addition of telephone, cable television, and broadband services. Though Comcast and other opponents to the plan argued that selling telecommunications services would be a risk for electric ratepayers, EPB Fiber Optics has actually lowered the pressure on ratepayers.

The network has just announced its 35,000th customer and has seen thousands of new jobs created by employers that depend on the network. Nearby cities have even seen their employers expanding operations in Chattanooga simply because the cost differential for broadband is so significant.

Lessons Learned

What are the lessons other communities can learn from these three pioneers?

The most important lesson is that they can succeed, and in doing so create a powerful economic development engine. But that it won’t be easy.

Bristol, Chattanooga, and Lafayette all overbuilt massive networks owned by huge corporations with tens of billions in revenues annually. In telecommunications, being very large is a tremendous asset for a number of reasons. One is a result of volume discounts on everything from physical equipment to television content.

A second is that Comcast, AT&T, Charter, CenturyLink, and Cox can spread their fixed costs across millions of subscribers whereas each community is spreading fixed costs across thousands or a few tens of thousands.

A third is that incumbent private providers will fiercely lobby the state legislature to enact legislation burdening public networks with additional regulations and just as fiercely campaign locally to persuade the community that local government involvement will cost taxpayers a great deal. That last argument tends to have the

least resonance, however, in cities that own their own electric utilities because public power utilities almost invariably provide a highly reliable product at great prices and have a much better relationship with residents and businesses than cable and phone companies.

Publicly owned networks are burdened by additional rules not applied to their private competitors. For example, they must publish their budgets and generally operate transparently, sharing strategic information with private competitors who are not required to provide any comparable information. Private companies can (and do) use profits made in noncompetitive markets to subsidize rates in communities served by public networks, but public networks are usually prohibited from subsidizing the network using funds from other departments or increased taxes. Still another is that public networks like Chattanooga and Bristol cannot offer services outside of tight territorial boundaries even as their competitors can serve anyone in the state.

Another lesson learned from these communities is that the electric utility itself must undergo a structural and possibly cultural transformation for the new network to succeed. Electric utilities traditionally operate in a monopoly environment whereas the telecommunications networks will be in a highly entrepreneurial and innovative environment where they must fight for subscribers. This requires different management structures and possibly different personnel.

As these case studies show, the residents and businesses of these three communities can access some of the fastest most affordable connections in the nation. They are seeing local businesses expand and new businesses relocate to their city because of the new fiber network. Had they not acted, they would be in the same position as thousands of other communities, with a single DSL company offering slow connections and a single cable company offering moderately faster options.

While individuals can certainly survive without an Internet connection or electricity, it increasingly looks like communities without robust connections will have as much success as those without electricity.

Reports critical of community networks typically analyze them as though they were private companies: They only ask if the network is profitable. As this report shows, profitability is only a piece of the puzzle for a community network. Community networks are indeed expected to pay for themselves but BVU Authority, EPB, and LUS are not private companies. Their goals include encouraging economic development, increasing access to education, and improving quality of life. Many of the benefits of broadband networks, an essential infrastructure in the modern economy, are indirect, or spillover effects in economic terms. These benefits must be included in any proper analysis of community broadband.

The community networks in Bristol, Chattanooga, and Lafayette are either already successful or are on track to be successful by the narrow profitability measures of a private company. But when evaluated properly as a community investment, there is no doubt as to their overwhelming success.

In the wake of Verizon and AT&T ceasing expansion of FiOS and U-Verse respectively, communities that do not invest in their own next generation networks will likely not see any significant broadband investment in the near future. The question is not whether any or every community should build its own network but who should make that decision. Given the impressive results from Bristol, Chattanooga, and Lafayette, states should respect the conclusion from the Federal Communications Commission in its National Broadband Plan: **let communities decide for themselves.**

Selected Article

Bloomberg Businessweek

Pssst ... Wanna Buy a Law?

By Brendan Greeley and Alison Fitzgerald

December 01, 2011

Joey Durel likes to describe himself as a private-sector guy. Before he was elected mayor of Lafayette, La., in 2003, Durel, a Republican, ran a chain of pet stores and several restaurant franchises. He chaired the Greater Lafayette Chamber of Commerce. Then, in his first months in office, he took what still seems to him a natural step: He agreed to have Lafayette's municipal electric, water, and sewer utility run fiber-optic cable all the way to the city's homes. It would compete with copper wire that Lafayette's two commercial telecom outfits already had in place, but both had said Lafayette's market—just over 60,000 people—was too small to justify fiber.

For private companies it has always been expensive to lay cable over mountains and across bayous, where there are often too few potential customers per square mile to make the effort worth it. Right where the suburbs disappear, the interests of telecommunications companies begin to diverge from those of residents and local politicians. Rural mayors know that to get the jobs President Barack Obama calls “insourcing,” they need not just adequate Internet capacity but the same capacity as their competitors, the metropolises. So small towns and isolated cities have started to do what their forebears did during the decades of electrification: They pay to run the wires themselves.

To Durel, the fiber-optic Internet is to Lafayette's businesses what electricity was in the 1890s and roads in the 1950s. Durel wants Lafayette to remain a regional hub. When he ran for mayor, he says, people asked him why he'd subject his family to politics. His answer: “Because I want my kids to stay home.”

Durel and Terry Huval, who runs Lafayette's utility, didn't believe the city needed a new law to provide high-speed Internet access. They saw their existing charter as broad enough; the Internet, like water and electricity, was a public utility, necessary for business development. In April 2004 they readied a feasibility study and announced at a city council meeting that they would conduct a market survey.

A week after the meeting, Huval got a call from Lafayette's statehouse lobbyist in Baton Rouge. Noble Ellington, then a state senator from Winnsboro, three hours northeast of Lafayette, was going to introduce a bill. It was too late in the session for new legislation, but Ellington would offer it as a wholesale substitution for a bill that had been filed two months earlier.

The lobbyist brought back to Lafayette a copy of what would become Senate Bill 877. It named telecommunications as a permitted city utility, then hamstrung municipalities with a list of conditions. It demanded that new projects show positive revenue within the first year. It required a city to calculate and charge itself taxes, as if it were a private company. Cities could not borrow startup costs or secure bonds from any other sources of income. The bill demanded unrealistic accounting arrangements, and it suggested a referendum that would have to pass with an absolute majority. It also, almost word for word, matched a piece of legislation kept in the library of the American Legislative Exchange Council. The council's bill reads, “The people of the State

of _____ do enact as follows ... ”

According to Ellington, he substituted the bill after a lobbyist for several of the state’s cable companies approached him, concerned about Lafayette’s project. Ellington’s district did not have plans to run fiber. Nor did any other city or parish in the state. “We were just making sure that the field was level,” he says. “We weren’t trying to keep them from doing what they wanted to do, we just wanted to make sure the public entity couldn’t go in and shortstop the private entities.” Ellington is probably sincere about that. The lobbyist who came to him probably wasn’t. The bill was not designed to level the playing field. It was designed to keep new teams on the sidelines.

Ellington’s bill started life as a set of bullet points that at least two telecommunications companies recommended to a state legislator in Utah in 2001. Versions of it have become law in six states. Jim Baller, an attorney who tracks the bill and represents cities when it shows up, says it was introduced in 14 states in 2005 alone. On the fourth attempt, it passed in North Carolina this year. Incumbent telcos have shown a pattern of promoting these bills and rewarding the state legislators who sponsor them. The American Legislative Exchange Council (ALEC), is the hub from which these bills emerge. Louisiana Senate Bill 877 was written to keep Lafayette from doing what it wanted to do. It passed, and has bedeviled Huval ever since. “It looked like a green field for legal challenges from our competitors,” he says. “We were like lambs.”

The American Legislative Exchange Council, a nonprofit based in Washington, brings together state legislators, companies, and advocacy groups to shape “model legislation.” The legislators then take these models back to their own states. About 1,000 times a year, according to ALEC, a state legislator introduces a bill from its library of more than 800 models. About 200 times a year, one of them becomes law. The council, in essence, makes national policy, state by state.

ALEC’s online library contains model bills that tighten voter identification requirements, making it harder for students, the elderly, and the poor to vote. Such bills have shown up in 34 states. According to NPR, the Arizona bill that permits police to detain suspected illegal immigrants started as ALEC model legislation. Similar bills have passed in Alabama, Georgia, Indiana, and Utah, and have been introduced in 17 other states. Legislators in Oregon, Washington, Montana, New Hampshire, and New Mexico have sponsored bills with identical ALEC language requiring states to withdraw from regional agreements on CO2 emissions. Sound a national trend among state legislators, and often you will find at the bottom of your plumb line a bill that looks like something that has passed through the American Legislative Exchange Council.

Paul Weyrich started the council in 1973 with a group of Republican state legislators. Weyrich also founded the Heritage Foundation and coined the phrase “moral majority.” More than 2,000 state lawmakers belong to ALEC; each pays \$50 in yearly dues. A look at former members now on the national stage suggests the organization is a farm team for Republicans with ambition. There are 92 ALEC alumni serving in the U.S. House, 87 of them Republicans. In the Senate, eight Republicans and one Democrat are ALEC alumni, according to information found on ALEC’s website in April that has since been removed. According to the Center for Media and Democracy, a Madison (Wis.) research group, four sitting governors were members, including John Kasich of Ohio and Scott Walker of Wisconsin.

Ron Scheberle, the council’s executive director, is not a legislator. He spent 30 years as a lobbyist for Verizon (VZ) and GTE. He declined a request for an interview. ALEC is open and helpful about some parts of its work and quiet and evasive about others. It tends to withhold information that might shed light on its corporate members, the ones that pay almost 99 percent of the council’s \$7 million budget.

Corporations, think tanks, and trade groups can join ALEC, too. Currently, about 300 are members. They pay up to \$25,000 in yearly dues and can spend more to sponsor the council’s meetings. At ALEC’s 2010 an-

nual meeting in San Diego, three companies—AT&T ([I](#)), pharmaceutical manufacturer Allergan, and cigarette maker Reynolds American ([RAI](#))—each paid \$100,000 to be “president level” sponsors. Eleven other donors, including Pfizer ([PFE](#)) and the Institute for Legal Reform, the U.S. Chamber of Commerce arm that advocates for jury award limits, wrote checks for \$50,000 to become “chairman level” sponsors, according to documents distributed at the meeting that were given to Bloomberg Businessweek.

ExxonMobil ([XOM](#)), for example, used its foundation to donate \$30,000 to ALEC in 2005 and again in 2006, according to the foundation’s tax forms. Alan Jeffers, an ExxonMobil spokesman, says the company paid \$39,000 in dues last year and sponsored a reception at the annual meeting in San Diego for \$25,000. The company spent \$45,000 to sponsor a workshop on natural gas in New Orleans, he says.

Corporate members can also donate to each state’s “scholarship” fund, which reimburses legislators who travel to meetings. The scholarships can more than pay back a legislator’s yearly dues. A statement of economic interest from William J. Howell, speaker of the Virginia House of Delegates and a former member of ALEC’s board of directors, shows that he got a little more than \$1,800 from the council for travel to San Diego for the 2010 annual meeting.

Corporate members can also pay from \$3,000 to \$10,000 for a seat on a task force. ALEC’s nine task forces, divided by subject, develop the bills that become ALEC models, such as the one Noble Ellington sponsored in Louisiana in 2004. Each task force has a private chair and a public chair and can move a piece of legislation on if two separate majorities have agreed to it, the state lawmakers and the private-sector members. The structure effectively gives corporations a veto.

ALEC does not share a list of the model bills that become law or the full text of any of its model bills. Until the Center for Media and Democracy published the entire library earlier this year, it was hard to figure out which state laws might have come from the council’s library. The council also doesn’t share a list of its members, complicating any attempt to figure out which members—legislators or companies—might have brought the legislation to ALEC in the first place.

Each year, says Raegan Weber, an ALEC spokeswoman, the council’s board of directors sets priorities. For this year she cites a few bills, including the Freedom of Choice in Health Care Act, which ALEC drafted to prevent states from enforcing the new federal health insurance coverage mandate. It was passed in 10 states. (Weber has since left ALEC.)

As for the rest of the roughly 1,000 bills introduced this year, Weber and other staffers refer to the council as a library service, available to companies and legislators. “They see what they want,” says John Stephenson, director for ALEC’s telecommunications and information technology task force. “They don’t need me to access the legislation.” In a conversation at the annual conference in New Orleans, he and his legislative counterpart, North Dakota State Representative Blair Thoreson, frequently use the word “constituents.” They are describing an idealized process in which a citizen comes to a legislator, who turns to ALEC for help.

This doesn’t seem to be what actually happens. The broader ALEC library includes bills that limit how much a parent company might have to pay for asbestos-related injuries or illness caused by a company it acquired, another that bans cities and counties from requiring restaurants to post nutrition information or food ingredients, and a bill that would shift the tobacco tax burden from big cigarette makers such as Altria Group ([MO](#)) to smaller chewing tobacco companies. One could argue that these things are good for the general citizen, maybe, but it’s not likely that many citizens are asking for them.

None of this is illegal. And it's effective. It allows companies to work directly with legislators from many states, rather than having to lobby in each state individually to get language into a bill. ALEC says its mission is to help state legislators collaborate around the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. It does this, and something else, too. It offers companies substantial benefits that seem to have little to do with ideology. Corporations drop bills off at one end, and they come out the other, stamped with the imprimatur of a nonprofit, "nonpartisan" group of state legislators. Among other things, ALEC is a bill laundry.

"I am so excited," says Noble Ellington, "to see so many chairs and tables set up." It's August, and he's onstage in the grand ballroom of the New Orleans Marriott on the edge of the French Quarter, in front of about 500 people eating lunch during ALEC's annual conference. Ellington still serves as a legislator in Louisiana, and his involvement with ALEC has only deepened. This year he chairs the council's board of directors, about 23 legislators who sign off on model bills and set national priorities. More people came to this year's conference than ever, he says. Ellington yields to a video screen of taped messages to past conferences. When Ronald Reagan starts talking, standing next to a bust of Thomas Jefferson, the crowd awakes and applauds.

This is the first annual conference since the 2010 midterm elections. Republicans didn't just flip the House in November 2010. They also won from Democrats 675 state legislative seats and now control both chambers in 26 states, up from 14 before the election. ALEC membership has grown by 25 percent this year. Sitting out there are new state legislators, and they're looking for something to do in the fall.

As Ellington speaks, Nancy Collins slips in and finds an empty seat near the back. She has driven all morning from Tupelo, Miss., which sent her to Jackson as a first-term Republican senator after a special election in January 2011. Collins, a 63-year-old with perfect silver hair, has never held office before. She was sworn in, told her new office was her desk on the senate floor, and handed a stack of bills and the rules of order. "I thought there would be a manual," she says. She's reading everything she can. Everyone told her to come to the ALEC conference.

Ellington introduces a speaker from the Pharmaceutical Research and Manufacturers of America (PhRMA), a trade organization for pharmaceutical and biotechnology companies. PhRMA has paid for the lunch. "All of you lead these laboratories of democracy," he says. "We understand laboratories." Members of PhRMA, including Bayer, GlaxoSmithKline ([GSK](#)), Johnson & Johnson ([JNJ](#)), and Pfizer, sit on ALEC's 24-member Private Enterprise Board, an all-private-sector counterpart to Ellington's board of directors. The speaker from PhRMA quotes both Obama and Mitt Romney on the importance of innovation, then looks up at the ballroom. "ALEC members," he says, "have shown that they get it."

In an interview, Ellington concedes that he had been concerned at the start of the recession that ALEC, like other nonprofits, might see its funding dry up. "As it works out," he says, "I think more people, both private and public, just looked at what ALEC was about." Membership in ALEC, among both legislators and companies, has increased. In its member brochure for the 2011 annual meeting, ALEC listed 82 companies as sponsors, almost double the 42 sponsors from 2010. Those companies included Altria, BlueCross and BlueShield, and BP America ([BP](#)), all \$50,000 chairman-level sponsors, according to ALEC's website.

Officially, ALEC says it has nothing to hide about its corporate members. In conversations and in its mission statement, it stresses the importance of involving the private sector in public policy. Unofficially, the council makes it hard to figure out who those private-sector members are and what they contribute. In New Orleans, ALEC printed a separate single-sheet conference agenda for nonmembers that did not include the names of the presenters, the lists of legislative and private-sector board chairs, and the meeting's corporate sponsors. The multipage book that went to members, however, included detailed descriptions of every workshop, de-

voted several pages to conference sponsors, and listed the legislators and companies that served on the board of directors, led the task forces, and acted as state chairmen.

Outside the lunch, 10-foot-high panels feature the logos of the conference's sponsors, among them United-Healthcare ([UNH](#)), J&J, and Altria. ALEC is certainly not the only organization to secure conference sponsorships or to have companies pay for lunch. Still, when bloggers from a liberal website, ThinkProgress, tried to photograph the panels, they were hustled out of the conference by security guards. Another blogger from the website AlterNet was denied credentials and then kicked out of the hotel's public lobby two days in a row for tweeting the names of ALEC members who passed by him.

Back in the grand ballroom, the PhRMA executive yields to Bobby Jindal, the governor of Louisiana. Jindal dismisses conspiracy theories about Obama's birth certificate, then draws applause when he says, "Defeating the President is crucial to defending our economy" and "Obama has been a disaster." He plugs a balanced-budget amendment. More applause.

After lunch, Nancy Collins from Tupelo has trouble getting a seat in "Rationing By Any Other Name," a workshop about a feature of 2009's health-care legislation that will limit growth in Medicare benefits. She moves next door, to education reform. "I never thought I'd be sitting in front of a room like this," says Derrell Bradford as he takes the floor. "I'm a Democrat. But I'm crazy about school reform." This gets wild applause. Bradford, an education reform advocate from New Jersey, explains that he will defend Chris Christie, the state's governor, "to the death" on education. "I have watched Democratic governors," he says, "throw kids under the bus."

In the back of the room, Collins takes notes like she's in college. She shushes some latecomers. By the end of the workshop she has marked in her schedule the next day's education subcommittee meeting, which will consider moving some legislation from Indiana into the model bill library. An ALEC staffer reminds the room about travel scholarships for a meeting on education reform to be held in San Francisco in the fall. Collins and Bradford confirm ALEC's preferred vision of itself. The council is, as its mission statement attests, preparing a new generation of political leaders and encouraging impassioned conversation about policy. Its workshops are open to the press.

The council's task force meetings, however, are closed. There, corporate members were busy. Macquarie Group, an Australian investment advisory firm that specializes in energy and infrastructure, proposed two bills that would encourage more government investment in infrastructure, while the U.S. Chamber of Commerce proposed requiring that all high school students take a class in "free enterprise" as a condition of graduation. At last year's meeting the energy task force passed a resolution proposed by the Edison Electric Institute, a trade group representing electric utilities, to urge the U.S. Environmental Protection Agency not to define coal ash as a hazardous waste. Wayne Niederhauser, a state senator from Utah, brought a proposal to the tax and fiscal policy task force meeting in New Orleans that would impose the same state sales tax on both brick-and-mortar and online retailers. According to Niederhauser, representatives from Wal-Mart Stores ([WMT](#)) and Amazon.com ([AMZN](#)) failed to reach an agreement after an animated debate, and the bill was tabled.

ALEC points out that task force legislation can be called a "model bill" only after ALEC's board of directors—composed exclusively of legislators—approves it. The council is so keen to stress this that it's hard to phrase questions about the bill-writing process that aren't answered with an explanation of the board's role. Even with that fine distinction, a corporate counterpart, the same size as ALEC's board of directors, meets when the legislative board meets.

“I really kind of think of us as one board,” says Ellington. “We represent the people as state senators and state representatives, that’s where the people are represented,” he says. “It’s certainly not our goal to sit there and do everything that business wants to have done.”

To work effectively for its corporate members, ALEC needs to minimize the appearance of their involvement. But it also needs to allow its public members—state legislators—to meet and talk and learn, and it needs to show these encounters to anyone who might ask. These two directives can be hard to square. Before lunch at the conference, spokeswoman Weber takes a while to decide whether reporters can sit at tables amid the diners or in the back along the wall, then finally seats them at a table surrounded by ALEC staffers. She will send an e-mail later that night telling reporters that their credentials will be taken away if they continue to interview ALEC members—most of whom are elected officials—without setting up an appointment through the council’s press office. When a Louisiana senator asks an ALEC staffer for a copy of a proposed model bill to share with a reporter, the staffer picks up a phone, and minutes later Weber appears to explain that draft legislation is not to be made public, since it hasn’t become a model bill yet. Model bills also are not public. Weber is friendly in person, but it’s hard to avoid the impression that ALEC staffers prefer that some of the council’s work remains secret.

The history of Louisiana’s State Bill 877 reveals much about how ALEC works and who writes the bills. In the fall of 2000 several telecommunications companies called on Greg Curtis. At the time, Curtis, a Republican, was the assistant majority whip in the Utah House of Representatives. The companies had what he describes as “bullet points” to be turned into legislation. Asked what companies approached him, he chuckles, then says, “I honestly can’t remember. I want to say AT&T and US West.” (AT&T declined to comment.) That year several cities in Utah, including Provo, had announced plans to fund fiber-optic networks. Curtis, who cautions that he’s only guessing at the motivations of the companies that came to him, points out that the telcos could have challenged Provo’s plan in court, but if Utah’s cities went to litigation and got telecommunications defined as a utility, “It was Katie bar the door, they were going anywhere they wanted.” The bullet points in Utah eventually became the Louisiana bill that surprised Joey Durel and Terry Huval. Corporations didn’t just back the bill. They wrote it.

For most of Utah’s 45-day legislative session that year, Curtis negotiated the language of the bill in a conference room in the statehouse. AT&T, US West, and the Utah Rural Telecom Assn. sat across the table from the Utah League of Cities and Towns and Provo’s mayor, who, according to Curtis, was “trying to have an appreciation as to why this legislator who wasn’t from Provo”—Curtis—“was delving into Provo’s business.” The bill passed.

Provo agreed to offer Internet access through a loophole negotiated with Curtis: It would sell only wholesale access to private companies, which is a harder way to break even. Cable companies that offer Internet access already know this, as they consistently refuse to sell it this way almost anywhere in America. Since the law passed, a few towns in Utah have tried to work through the loophole. A few were grandfathered in. None has tried to clear the law’s hurdles to sell directly to consumers. This is likely what the companies that came to Greg Curtis intended.

Even Curtis has his doubts, now. He has since left the legislature to lobby for a group of cities in Utah that have invested together in a “fiber ring” that sells wholesale access. “For me, cable television is a luxury, a service, not a utility,” he says, “whereas Internet access, at good quality and high speed, I’m growing more into the conversion where it is a utility.” His bill, however, lives on. At ALEC’s annual meeting in Orlando in 2002, it became a piece of model legislation. The model tracks the Utah bill line for line, and in most lines word for word. But Curtis wasn’t the one who took it to Florida. “I remembered the bill,” he says, “but I wasn’t even aware that it was model legislation.” Asked who proposed the model, an ALEC spokesperson answered that

the council does not disclose information about specific members.

When Joey Durel chaired the Greater Lafayette Chamber of Commerce in the early 2000s, he had what he describes as a “pretty contentious” meeting with BellSouth and Cox Communications, the local cable incumbent, about a fiber ring that Lafayette’s city utility had run around the city for schools and businesses. When he was elected in 2003, BellSouth returned to him and asked, directly, how he felt about the government competing with the private sector. “They were already fearful of it,” he says. “I pretty much danced around it without saying, ‘Absolutely not.’”

Then, in June 2004, he ended up in the exact same position that the mayor of Provo had been in three years before. After Ellington introduced SB 877—the Utah bill, the ALEC model bill—Durel and Huval spent three weeks in a conference room in Baton Rouge, negotiating with lawyers from incumbent telcos about a bill that had been introduced by a state senator from another city without a dog in the fight. Sitting in the conference room, Durel came to a realization. “We’re government,” he says, “but it turns out we were the mom and pop.”

The bill passed. Lafayette managed to remove some of the ALEC bill’s barriers to entry but, as Huval had predicted, the law embedded into Louisiana code a set of handholds for future litigation. BellSouth and Cox Communications called for a referendum in Lafayette, which the law only suggests. The city’s attorney determined that the petitions to force a referendum did not meet the city’s standards, and BellSouth sued. Lafayette lost on appeal, paid for a referendum, and BellSouth ran ads against approving the project. (According to KLFY, a local television channel, Cox paid for a phone poll that suggested a government-owned provider might ration television on Tuesdays, Thursdays, and weekends.) Lafayette tried to issue bonds, and BellSouth challenged them. By 2007, when the Louisiana Supreme Court upheld the bond issue, Huval estimates that the city had paid \$4 million in legal fees, more than the cost of the original fiber ring. A spokesperson for AT&T, which now owns BellSouth, says the company has backed away from BellSouth’s aggressive approach. But the damage is done. As with Utah, no other city in Louisiana has attempted to follow Lafayette.

According to data provided to Bloomberg Businessweek by the Sunlight Foundation, which posts government information online, state legislators who have signed on to sponsor the ALEC bill limiting municipal telecommunications have tended to receive donations from local cable and phone incumbents, as well as rural telephone associations. The pattern is consistent across states. In North Carolina, where the bill passed in May of this year after four attempts, these companies and groups consistently gave more money to the bill sponsors.

Noble Ellington hasn’t followed what became of his bill. “I just hope we fixed it,” he says, “so private industry and the city and parish were satisfied with what we did.” Terry Huval and Joey Durel both travel around the country now, talking to other small towns about how to get wired. Durel believes it’s going to get worse before it gets better. Huval is working with towns in nearby states but won’t say where. When a plan goes public, he explains, a bill—that bill—is not far behind. ALEC’s model bill on municipal broadband works because the idea of a city providing Internet access is alien to even most lawmakers. If a bill shows up at the right time, in response to one or two cities, it smothers an idea that hasn’t yet gathered many defenders. “I tell people this is not for the faint of heart,” says Huval. “If you don’t have the drive, don’t even start.”
With Victoria Pelham

Greeley is a staff writer for Bloomberg Businessweek in New York.

Fitzgerald is a reporter for Bloomberg News.

Guest Biography

Andy Berk **Mayor of Chattanooga, Tennessee**

Andy Berk was born on March 31, 1968 in Chattanooga, Tennessee to Marvin and Kandy Berke. Berk's grandfather, Harry, founded a local law practice in Chattanooga aimed at representing and helping Tennesseans. From assisting someone who was discriminated against for his military service to talking to someone who just needed some advice, the Berk family law practice worked to make someone's life better. Growing up in a family devoted to solving problems for individuals, Berk learned the value of helping others while giving back to and improving one's community.

After graduating with honors from Stanford University in 1990, Berk worked as a legislative assistant in the office of Tennessee Congressman Bart Gordon. Seeing Congressman Gordon's attentiveness to his constituents' needs, Berk decided public service was where he could best serve his community.

Berk graduated with honors from the University of Chicago Law School in 1994. Following law school, he worked as a law clerk for Judge Deanell Tacha of the United States Court of Appeals for the Tenth Judicial Circuit in Denver, Colorado. During this time he also taught as an adjunct professor at Kansas University Law School.

Elected to the state senate in 2007 and re-elected to a second term in 2008, Berk became the vice chairman of the Senate Democratic Caucus. During his tenure, he worked on key legislation like Tennessee Works, First to the Top, and Complete College Tennessee and served on the Senate Education and Transportation Committees. In 2008, he was appointed by Governor Phil Bredesen to the State Workforce Development Board. In addition, the State Legislative Leaders Foundation nominated him to attend its Emerging Leaders Program at the Darden School at the University of Virginia Business School. He attended the 31st American-German Young Leaders Conference in Germany. Recently, Berk was honored by the Tennessee PTA as the 2012 Legislator of the Year and the Tennessee Education Association's 2012 Friend of Education Award for his commitment to improving public education across Tennessee. Previously, the County Officials Association of Tennessee had named him its legislator of the year, as had the Southeast Tennessee Development District. Lipscomb University's Institute for Sustainable Practice awarded him its Public Official of the Year.

Berk is a past President of the Chattanooga Association for Justice, and was a charter member of the local chapter of the Inns of Court. Prior to his election as mayor, he worked as a board member of the Siskin Children's Institute, the local public television station, WTCI, the Chattanooga Nature Center, and the Tennessee Holocaust Commission. At his daughter's elementary school, Normal Park Museum Magnet, he has been on the PTA board and worked on the Superintendent's Parent Advisory Committee.

Berk was elected to serve as mayor of Chattanooga on March 5, 2013, winning over 70 percent of the electoral vote. He has focused his public service on making streets safer, providing every child with the opportunity for success, promoting economic and community development, and ensuring that government budgets on outcomes and effectiveness.

Guest Biography

Joey Durel **Mayor and City-Parish President, Lafayette, Louisiana**

Joey Durel took office in January 2004 and is in his third and final term as Lafayette's City -Parish president. Under his leadership, Lafayette's strong local economy, unique cultural heritage, and innovative technology have been recognized nationwide.

Durel's influence has helped unite Lafayette as a hub for technology. He appointed the first-ever CIO for Lafayette Consolidated Government, and perhaps more importantly for Lafayette's future, he was instrumental in spearheading the development of Lafayette's *Fiber to the Premise* Initiative. In 2005, Lafayette voters approved the project by a 62 percent to 38 percent margin, allowing Lafayette Utilities System to move forward in building a 100 percent fiber optic network that put Lafayette on the map as one of the only cities in the world with such a system. Today, Lafayette is a "Gigabit City" and offers the fastest communication speeds available on the world's leading technology.

Under Durel's leadership, Lafayette is well on its way to becoming the most-connected city in America. Because of this, he has been recognized several times for his technological leadership. He received the Fiber to the Home Council President's Award in 2005, the American Public Power Association's Spence Vanderlinden Public Official Award in 2008, and was named a 2008 NATOA Community Broadband Hero of the Year. Durel was also appointed to the Technology Council of the Southern Growth Policies Board by Louisiana Governor Bobby Jindal.

The deployment of fiber throughout Lafayette has helped strengthen the city's economy. In 2013, Lafayette was recognized as a "leading location" by *Area Development* magazine and was ranked first overall for economic and job growth across 380 metropolitan statistical areas.

Durel has a background as a small businessman. Before holding political office, he served as the chairman of the Greater Lafayette Chamber of Commerce. He is a graduate of Leadership Lafayette and Leadership Louisiana. In 2010, he was named *CEO of the Year* by a local weekly newspaper for his leadership of Lafayette.

Guest Biography

Maya Wiley

Counsel to Mayor Bill de Blasio, New York City, New York

Maya Wiley is the founder and president of the Center for Social Inclusion. A civil rights attorney and policy advocate, Wiley has litigated, lobbied the U.S. Congress, and developed programs to transform structural racial inequity in the United States and in South Africa.

Prior to founding the Center for Social Inclusion, Wiley was a senior advisor on race and poverty to the director of the Open Society U.S. Programs and helped develop and implement the Criminal Justice Initiative at the Open Society Foundation for South Africa. She has worked for the American Civil Liberties Union National Legal Department, in the Poverty and Justice Program of the NAACP Legal Defense and Educational Fund, Inc. and in the Civil Division of the U.S. Attorney's Office for the Southern District of New York. Wiley previously served on the board of directors for: Human Rights Watch, the Institute on Race and Poverty at the University of Minnesota School Of Law, and the Council on Foreign Relations. She is the former chair of the Tides Network Board of Directors. In 2009, Wiley was named a *NY Moves* magazine Power Woman. Wiley was also named as one of "20 Leading Black Women Social Activists Advocating Change" in 2011 by TheRoot.com.

Wiley holds a JD from Columbia University School of Law and a BA in psychology from Dartmouth College.

2014 BUDGET AND GRANT UPDATES

2014 U.S. Programs Budget vs Actuals by Category of Work
as of March 31, 2014

Category of Work Budget	2014 Budget	2014 Expenses	Remaining	Expended %
FIELD : EQUALITY & INCLUSION : Access to Economic Opportunity	\$5,464,725	\$3,984	\$5,460,741	0.07%
FIELD : EQUALITY & INCLUSION : Challenging the health establishment to advance human rights	\$626,465	\$0	\$626,465	0.00%
FIELD : EQUALITY & INCLUSION : Combating Xenophobia and Racism	\$1,398,585	\$0	\$1,398,585	0.00%
FIELD : EQUALITY & INCLUSION : Equal Access to Quality Primary & Secondary Education	\$22,636	\$85	\$22,551	0.38%
FIELD : EQUALITY & INCLUSION : Human Rights Monitoring & Documentation	\$84,938	\$0	\$84,938	0.00%
FIELD : EQUALITY & INCLUSION : Migrant & Immigrant Rights	\$4,027,081	\$3,206	\$4,023,875	0.08%
FIELD : GOOD GOVERNANCE & DEMOCRATIC PRACTICE : Civic Reform Infrastructure (Anchors)	\$10,534,895	\$2,003,772	\$8,531,123	19.02%
FIELD : GOOD GOVERNANCE & DEMOCRATIC PRACTICE : Drug Policy Reform	\$6,627,705	\$1,030	\$6,626,675	0.02%
FIELD : GOOD GOVERNANCE & DEMOCRATIC PRACTICE : Government Integrity	\$1,875,175	\$30,389	\$1,844,786	1.62%
FIELD : GOOD GOVERNANCE & DEMOCRATIC PRACTICE : Security Sector Reform	\$4,826,605	\$28,462	\$4,798,143	0.59%
FIELD : JUSTICE SYSTEM REFORM : Criminal Justice Sector Reform	\$13,805,195	\$450,332	\$13,354,863	3.26%
FIELD : JUSTICE SYSTEM REFORM : Judicial System Reform	\$1,606,990	\$2,196	\$1,604,794	0.14%
FIELD : PLURALISM & THE PUBLIC SPHERE : Political Participation of Citizens ¹	\$5,728,320	\$2,102	\$5,726,218	0.04%
FIELD : PLURALISM & THE PUBLIC SPHERE : Public Interest Media	\$2,589,030	\$38	\$2,588,992	0.00%
CONCEPT : US PROGRAMS : ACA implementation to advance drug policy reform	\$1,459,465	\$40	\$1,459,425	0.00%
CONCEPT : US PROGRAMS : ACA Implementation to expand Medicaid coverage for the incarcerated	\$325,000	\$0	\$325,000	0.00%
CONCEPT : US PROGRAMS : California campaign for sentencing and correctional reform	\$1,006,000	\$0	\$1,006,000	0.00%
CONCEPT : US PROGRAMS : Campaign finance jurisprudence	\$2,205,365	\$302,199	\$1,903,166	13.70%
CONCEPT : US PROGRAMS : Campaign for Black Male Achievement (includes Young Men's Initiative)	\$11,304,287	\$2,134,709	\$9,169,578	18.88%
CONCEPT : US PROGRAMS : Drones Policy	\$134,000	\$161	\$133,839	0.12%
CONCEPT : US PROGRAMS : Ideas Initiative/Frontier Fellows ²	\$31,223	\$188	\$31,035	0.60%
CONCEPT : US PROGRAMS : Long-Term Idea Generation ³	\$689,775	\$0	\$689,775	0.00%
CONCEPT : US PROGRAMS : NY policing accountability	\$1,088,750	\$1,000,000	\$88,750	91.85%
CONCEPT : US PROGRAMS : Open Places Initiative	\$5,432,925	\$24,304	\$5,408,621	0.45%
CONCEPT : US PROGRAMS : School discipline and push-out	\$3,833,460	\$20	\$3,833,440	0.00%
RESERVE FUND & DIRECTOR'S FUND	\$25,500,000	\$0	\$25,500,000	0.00%
CENTRAL/PROGRAM ADMINISTRATION	\$12,771,209	\$1,903,957	\$10,867,252	14.91%
ROLLOVER FROM 2013 (Grants made in 2013 expended in 2014)	\$11,428,350	\$11,228,350	\$200,000	98.25%
Grand Total	\$136,428,154	\$19,119,524	\$117,308,630	14.01%

1. Democracy Fund: Informed and engaged public; Expand, scale and protect public broadband.

2. Baltimore Community Fellowships to identify new talent to become dynamic, resourceful and committed social entrepreneurs.

3. Ideas include Future of Work; A 21st Century Racial Narrative; 2020 Dynamics; Urban Agenda.

Top Funded USP Grantees from January 2009 through April 2014

Grantee	Amount Received
1 Drug Policy Alliance	62.0M
2 Robin Hood Foundation ¹	50.0M
3 State of New York's Office of Temporary and Disability Assistance ¹	35.0M
4 American Civil Liberties Union Foundation, Inc.	27.7M
5 The Fund for Public Schools, Inc. ²	22.2M
6 Planned Parenthood Federation of America Inc.	20.0M
7 Fund for the City of New York ³	12.5M
8 Tides Foundation ⁴	10.1M
9 The Mayor's Fund to Advance New York City ⁵	8.6M
10 Abt Associates Inc. ¹	8.0M
11 Charles Stewart Mott Foundation ¹	7.5M
12 Jobs for the Future Inc.	7.5M
13 The Tides Center ³	7.4M
14 Center for Community Change	7.2M
15 William J. Brennan Jr. Center for Justice, Inc.	7.0M
16 Bard Prison Initiative	6.5M
17 The Urban Institute	6.3M
18 YouthBuild USA Inc. ¹	6.0M
19 Center for American Progress	5.8M
20 Fund for Educational Excellence ⁶	5.8M
21 Leadership Conference Education Fund, Inc.	5.2M
22 Center on Budget and Policy Priorities	5.2M
23 The Advancement Project	4.8M
24 Alliance for Citizenship (A4C)	4.7M
25 National Immigration Forum, Inc.	4.4M

1. Special Fund for Poverty Alleviation

2. Young Men's Initiative (YMI): Expanded Success Initiative (ESI) and Mentoring for REAL

3. Performance Arts Recovery Initiative

4. Fiscal sponsor for multiple funds and initiatives

5. Social Innovation Fund; Young Men's Initiative (YMI); CUNY Fathership Academy and Community Pathways to Success (CEPS); Special Fund for Poverty Alleviation

6. OSI-Baltimore Education & Youth Development Program

Funding Levels*	2009		2010		2011		2012		2013		2014*		Grand Total	
\$1-50K	86	\$8,251,539	108	\$8,563,061	85	\$12,863,433	92	\$7,453,350	67	\$5,949,426	6	\$415,000	444	\$43,495,809
\$50,001-\$100K	102	\$18,985,287	100	\$20,088,606	91	\$22,463,889	86	\$12,683,485	79	\$9,723,633	2	\$600,000	460	\$84,544,901
\$100,001-\$250K	154	\$41,465,111	149	\$39,678,939	162	\$50,787,619	108	\$36,893,984	100	\$30,912,471	18	\$4,875,000	691	\$204,613,124
\$250,001-\$400K	59	\$12,217,058	55	\$16,266,320	92	\$18,127,932	65	\$20,171,853	58	\$15,320,470	10	\$2,225,000	339	\$84,328,633
\$400,001-\$500K	24	\$4,881,376	17	\$22,990,743	32	\$21,592,000	17	\$11,217,012	13	\$17,095,000	2	\$2,825,000	105	\$80,601,131
\$500,000-\$1 Million	25	\$17,348,624	31	\$19,094,830	37	\$17,837,597	32	\$10,723,435	19	\$7,854,000	5	\$2,000,000	149	\$74,858,486
\$1,000,001-\$5 Million	8	\$14,294,802	20	\$31,548,582	17	\$32,304,470	14	\$55,642,816	15	\$4,700,000	0		74	\$138,490,670
\$5 Million and above	3	\$82,405,198	5	\$20,562,418	2	\$13,200,000	0		0		0		10	\$116,167,616
Grand Totals	461	\$199,848,995	485	\$178,793,499	518	\$189,176,939	414	\$154,785,936	351	\$91,555,000	43	\$12,940,000	2272	\$827,100,369
Median	\$125,000		\$125,000		\$150,000		\$125,000		\$136,667		\$225,000		\$145,525	

*Foundation Connect as of April 30, 2014

1. The majority of our grants are given in the \$100,000-\$250,000 range. Our giving in this range has been consistent since 2009.
2. The Soros Justice Fellowship (grants to individuals) owns the majority of grants made in \$50,000 and under range.
3. The grants made for \$5 Million or more have funded the performing arts, poverty alleviation and the ACLU.

BIOGRAPHIES OF RECENT USP STAFF

New U.S. Programs Staff Biographies

Susanne James
Director of Operations

Susanne James brings a wealth of experiences to the role, from serving as chief operating officer of Computers for Youth for eight years to successfully undertaking the herculean task of managing the Social Innovation Fund for the New York City Mayor's Office, which involved developing and managing 20 interconnected but separate efforts on a national project that went on to win the Harvard Innovations in American Government Award.

James left her career in the private sector to put her operations, accounting, financial, systems, and IT skills to use for the cause of advancing the open society values we share.

As director of operations, Susanne manages U.S. Program's team of administrative coordinators. She is the point person on all things finance and budget, contracts, approvals, facilities, and IT. Susanne also develops internal systems that allow us to track our work most effectively and for partnering with the relevant Open Society units to find ways to maximize foundations-wide systems and processes for U.S. Programs.

Erica Teasley Linnick
Senior Program Officer, Democracy Fund

Erica Teasley Linnick is a civil rights attorney and voting rights advocate. Most recently she worked as the coordinator of the African American Redistricting Collaborative, where she ensured that the African American community participated in California's political process to the fullest extent. She is the president of the West Los Angeles Area Planning Commission, board member of the Impact Fund, and a member of the Marquez Charter Elementary School Governing Board.

For more than seven years, Teasley was western regional counsel in the Los Angeles office of the NAACP Legal Defense and Educational Fund where she conducted civil rights litigation and participated in public education and legislative advocacy projects in areas including: voting rights, transportation equity, education, and police reform. During her tenure as a business litigator at Steefel Levitt & Weiss in San Francisco, Teasley was a member of her firm's hiring committee and served on the board of directors of both the Lawyers' Committee for Civil Rights of the San Francisco Bay Area and the ACLU of Northern California. She took a leave of absence from her law practice to serve as the Northern California Coordinator of the No on 209 campaign, battling the infamous statewide anti-affirmative action initiative. She has received numerous honors including Super Lawyers' Southern California Rising Star, the Minority Bar Coalition of San Francisco Award for Excellence and Service to the Community, and the key to the City of El Paso, Texas. She has been a guest lecturer in the United States and abroad, has appeared on NPR, and has been quoted in a variety of publications including the *New York Times* and the *Christian Science Monitor*.

A former legislative assistant to the late congressman Julian C. Dixon of California, Teasley is a graduate of the University of California at Berkeley and Hastings College of the Law.

Scott Nolen
Director, Drug Addiction Treatment, OSI-Baltimore

Scott Nolen is OSI-Baltimore's new Drug Addiction Treatment Director. Nolen, who holds a law degree from Harvard and a Ph.D. in clinical psychology from Duke, is coming to us from the Office of Strategic Planning, Legislation and Scientific Policy at the National Institute of Health. There he led the development of a health disparities portal to drive a national discussion on health disparities and also provided strategic support to the Minority Health and Health Disparities unit.

Prior to working at NIH, Nolen has held a variety of research, legislative and advocacy positions, spanning the public health and juvenile and criminal justice fields and producing many publications. He served as the Director of Equal Justice and Communications at the New Jersey Institute for Social Justice (founded by Ken Zimmerman) and served as a Congressional Fellow focusing on health care for the American Association for the Advancement of Science. As a Child Psychology Fellow for the New York State Psychiatric Institute, Nolen conducted and published research on mental health and juvenile justice issues and led probation officer training on identifying suicidal youth. And as a Post-Doctoral Fellow at Boston Children's Hospital Adolescent Medicine Clinic, Nolen provided mental health services to youth in schools, emergency rooms and outpatient clinics.

PROGRAM UPDATES

2014 USP Soros Justice Fellows

Starcia Ague

Advocacy Fellow
Juvenile Justice and Rehabilitation Administration
Seattle, WA
Launch a project to train and support youth leaders in detention facilities in Washington State.

Kristen Bell

Advocacy Fellow
Post-Conviction Justice Project
Los Angeles, CA
Implement a new California law that allows for the early release of people serving long adult sentences for crimes they committed as youth.

Rose Cahn

Advocacy Fellow
Lawyers' Committee for Civil Rights
San Francisco, CA
Work with advocates nationally to stop the unjust deportation of immigrants with unconstitutional convictions.

Dolores Canales

Advocacy Fellow
FACTS Education Fund
Inglewood, CA
Expand the involvement of prisoners' families in efforts to decrease mass incarceration and end the use of solitary confinement.

Gina Clayton

Advocacy Fellow
Women's Foundation of California
San Francisco, CA
Mobilize women with incarcerated loved ones to become leaders in the struggle against mass incarceration.

Lois DeMott

Advocacy Fellow
Michigan Council on Crime and Delinquency
Lansing, MI
Launch a new project to provide information and support to families and friends of Michigan prisoners.

Shannah Kurland

Advocacy Fellow
Providence Youth and Student Movement
Providence, RI
Establish a project that provides legal support to those who are challenging abusive police practices in Providence, RI.

Esi Mathis

Advocacy Fellow
Campaign for Fair Sentencing of Youth
Covina, CA
Train and mobilize a cadre of citizens directly impacted by the issue of youth serving long adult sentences.

Osagie Obasogie

Media Fellow
San Francisco, CA
Educate the public about the injustices associated with rarely scrutinized DNA databases.

Mark Obbie

Media Fellow
Canandaigua, NY
Explore sentencing policy from a crime victims' perspective and point out where victim needs are not being met by the criminal justice system.

Leslie Jill Patterson

Advocacy Fellow
Texas Tech University
Lubbock, TX
Develop and establish the use of storytelling in capital murder plea negotiations, habeas documents, and clemency petitions—with the ultimate goal of reducing executions in the state of Texas.

Andrea Ritchie

Advocacy Fellow
Brooklyn, NY
Document and promote policy reforms and litigation strategies that address the specific ways in which discriminatory policing impacts women of color.

Alisa Roth

Media Fellow
New York, NY
Develop a series of radio and print stories that explore how the criminal justice system has become the de facto mental healthcare system for so many people, as both systems undergo major reforms all over the country.

Seth Wessler

Media Fellow
Brooklyn, NY
Investigate the rapid growth of for-profit federal prisons used exclusively to hold noncitizens with criminal convictions.

Democracy Fund

Money in politics

In April, the Supreme Court eliminated yet another protection against undue political influence of moneyed interests when, in *McCutcheon v. FEC*, it struck down rules that limited the total amount of contributions by an individual. Most troubling, the decision, authored by Chief Justice John Roberts, further narrowed the definition of corruption—to quid pro quo corruption—that can be used to justify campaign finance regulation. The decision represents another step in the direction of what Global Board Member Ivan Krastev recently referred to as American “oligarchy,” and the public response to the decision demonstrates the growing power of the reform movement. Grantee Public Citizen helped organize 150 protests in 41 states. Grantee Rethink Media coordinated and amplified the field’s responses, and within one day, its efforts fueled 881 million “exposures” to field messages, underscoring the value of investing in such a communications hub. And, propelled at least in part by our work toward transforming campaign finance jurisprudence, there have been serious calls for a new and broader Constitutional vision. Writing in the *New York Review of Books*, David Cole asked:

“[W]hy should the only interest that justifies limits on campaign finance be the avoidance of *quid pro quo* corruption and its appearance? To be sure, bribery is a problem, but that is not the only way that large amounts of money can threaten a democracy. If a handful of constituents can donate millions to a candidate and his party, while most others can realistically deliver only a vote and perhaps a small donation, then all constituents are not likely to be treated equally. Members of Congress spend a great deal of time raising the vast amounts of money they need these days to run a successful campaign, and if they do not pay more attention to those who can donate millions, they are not human, not exercising common sense, and not likely to be reelected. In other words, even if no money is redirected and channeled to a particular candidate, and even if there is no bribery or *quid pro quo* corruption, there is a serious problem that warrants Congress’s attention. Why should those with more money have a greater say in who gets elected? And why isn’t Congress justified in restricting aggregate contributions to offset these negative effects on the democratic process? It is this aspect of the decision—the refusal to recognize any interest beyond *quid pro quo* corruption—that is likely to have the most damaging effect on campaign finance laws going forward.”

ACA-related voter registration victory

Despite resistance by the exchange, grantee Demos and partner groups got Covered California to implement voter registration through the ACA enrollment process. The agreement doesn’t just insure that voter registration services will be provided going forward, but also requires the state to mail voter registration applications to the nearly 4 million people who have already applied through the California exchange, with instructions on how to fill out the forms and return them. Demos’ experience suggests a 6.5 percent return rate, which would mean over 250,000 voter registration applications in California from the mailing alone. About 60 percent (three-fifths) of the 4 million applicants are non-white. Enrollment of 18 to 34-year olds also has exceeded expectations and is 27 percent of total enrollment. Some say this is the largest single voter registration mailing in U.S. history, one that seems also to begin to close the racial, age, and class gaps in voter registration. The agreement is strong and will set a good precedent for work in other states. The ACLU and Project Vote also played a big role in making this happen, and LWV of California and the Young Invincibles acted as plaintiff organizations in Demos’ notice letter.

Media policy

The Federal Communications Commission recently took an important step toward making political advertising through television broadcasters more transparent to the public. As of July 1, 2014, all U.S. television broadcasters will be required to post their political files online on a commission-hosted database, which will include information on political advertisers. This victory is a result of the work of the Public Interest Public Airwaves Coalition, which includes Open Society grantees the Campaign Legal Center, Common Cause, the New America Foundation, and Public Citizen.

Journalism

Two journalism grantees recently received the profession's highest honors: the Center for Public Integrity received the Pulitzer Prize for investigative journalism honoring its "Breathless and Burdened" series, which details the systematic denial of black lung benefits to coal miners; the Center for Investigative Reporting (CIR) received two awards, a Peabody Award honoring outstanding work in television, radio, and web storytelling for a radio program titled "Reveal" which investigated the Department of Veteran Affairs' over-prescription of opiate painkillers. CIR also recently received an Investigative Editors & Reporters Broadcast Award for "Rehab Racket," a multiplatform investigation produced in collaboration with CNN that exposed rampant fraud in California drug and alcohol rehabilitation clinics. The award recognizes outstanding investigative journalism and the use of innovative techniques and resources to complete the story. The series resulted in public officials being held accountable, criminal prosecutions, and the closure of a number of clinics.

National Security and Human Rights (NSHR)

Rule of law – Senate declassifies information on CIA detention, rendition, and interrogation

On April 3, the Senate Select Committee on Intelligence voted 11 to 3 to declassify the 480-page executive summary of its report on the CIA's interrogation and detention program, along with findings, conclusions and dissenting views. The majority included eight Democrats and three Republicans. Several NSHR grantees, including Human Rights First, the Center for Victims of Torture, The Constitution Project, Physicians for Human Rights, and the National Religious Campaign Against Torture, worked since the report's adoption in 2012, in conjunction with OSPC, to achieve this goal. (Other Open Society grantees including Human Rights Watch and the ACLU have also been deeply engaged in this work.) All of these organizations are starting to discuss what steps might be taken toward accountability and preventive reforms once the declassified material is made public. Disclosures to the press indicate that the report details previously unknown abuses and concludes that the CIA misled Congress, the administration, and the public about the effectiveness of its torture program.

Civil liberties and equality – progress in New York

On April 15, the New York City Police Department announced the closure of the unit tasked with mapping, eavesdropping on, and documenting daily life in Muslim communities in Pennsylvania, New Jersey, and New York. Developed by a CIA officer at the NYPD in 2003, the plainclothes Demographics Unit was publicly revealed by the Associated Press in a Pulitzer-prize winning series of articles beginning in August, 2011. "The Demographics Unit created psychological warfare in our community," said Linda Sarsour, national advocacy director of NSHR grantee the National Network for Arab American Communities. Sarsour also directs the Arab American Association of New York, a grantee of the Security and Rights Collaborative, funded in part by NSHR. "Those documents, they showed where we live. That's the cafe where I eat. That's where I pray. That's where I buy my groceries. They were able to see entire lives on those maps. And it completely messed with the psyche of the community."¹ A number of grassroots organizations funded by the Security and Rights Collaborative and NSHR anchor grantee the Brennan Center for Justice met with New York City Police Commissioner Bratton recently to discuss community concerns. NSHR grantees Muslim Advocates and the Center for Constitutional Rights, and anchor grantee the ACLU are engaged in lawsuits challenging the practice. One of the cases was dismissed by a federal judge in February, 2014 and is on appeal. Grantees and other advocates welcomed the announced closure of the unit (which never generated a lead on terrorist activity) but stress that this is a small first step in a larger push to end the NYPD's overly broad surveillance of Muslim communities.

U.S. advocacy groups at the expert table in Europe

A small group of NSHR grantees, Open Society Senior Advisor Mort Halperin, and members of the Open Society Information Program joined European experts at a meeting in Berlin in early April to discuss the need to persuade governments to agree on surveillance rules for spying on each other's citizens, and the ap-
1 New York Drops Unit That Spied on Muslims. *The New York Times*. April 15, 2014. <http://www.nytimes.com/2014/04/16/nyregion/police-unit-that-spied-on-muslims-is-disbanded.html?partner=socialflow&smid=tw-nytmetro&r=0> (retrieved April 16, 2014)

appropriate standards for such surveillance. The ACLU, the Center for Democracy and Technology, and the Electronic Frontier Foundation were among the participants at this initial discussion, a collaborative effort undertaken by a German think tank with a grant from U.S. Programs' Democracy Fund, NSHR, and the Information Program. A broader discussion of the issues should spark a more coherent approach to this global problem. The involvement of U.S. groups in international discussions should also help make better information about U.S. policies available to advocates elsewhere and bring new perspectives to U.S. advocates.

Equality Fund

Minorities disproportionately shut out of housing recovery

The Urban Institute's Housing Finance Policy Center released new data in March that showed that African American and Hispanic homeowners have benefited the least from the housing recovery. The study compared 2001, which was well before underwriting standards deteriorated in the mortgage boom, with 2012 and found that the number of purchase loans to African American and Hispanic borrowers declined by 55 and 45 percent. While the housing bust disproportionately hurt minority communities, the uneven recovery threatens to leave these same communities behind. With the current U.S. housing finance system at a crossroads, this data is critical to ensuring that the housing finance system provides access to homeownership for communities of color. Launched last October with support from the Open Society Foundations, the Housing Finance Policy Center has sought to conduct empirical analysis of the impact of various proposals for housing finance reforms on low-income families, communities of color, and underserved markets.

State-level immigration policies

In 2013 and 2014, there has been a dramatic shift toward state-level inclusive immigrant policies led by our grantees. This stands in stark contrast to the anti-immigrant policies that swept through the states in 2010 and 2011, such as Arizona's SB 1070 and Alabama's HR 56. Presently, 40 percent of the nation's foreign-born population lives in states that have enacted laws granting undocumented immigrants the right to drive. This is up from about 4 percent at the beginning of 2013. In addition, now 68 percent of foreign-born individuals live in states with tuition equity laws or policies. In 2013:

- 8 states, Washington D.C., and Puerto Rico granted driver's licenses to undocumented immigrants
- 6 states expanded access to education for immigrant students
- 3 states and several localities adopted measures aimed at building trust between local law enforcement and immigrant communities
- 2 states enacted a domestic workers bill of rights
- California enacted measures addressing these and several other issues

These policy advances were made possible by:

- integrated legal and policy advocacy that led to limits on state enforcement measures;
- the increased political clout of Latino and Asian populations as evidenced in the 2012 election;
- coordinated state-level grassroots organizing;
- bipartisan support of education bills; and
- the rejection of anti-immigrant measures and increased introduction of pro-immigrant policies.

These state-level policies will have implications for federal reform, sending a message to federal law makers and boosting momentum for federal reform efforts.

Immigration Enforcement Reform

This spring, U.S. Programs grantees the ACLU Immigrant Rights Project, the National Day Laborer Orga-

nizing Network, the National Immigration Law Center, and an array of state and local criminal justice and immigrant rights organizations won a number of significant victories. Supported through the Four Freedoms Fund, these groups succeeded in blocking the fusion of the criminal justice and immigration enforcement systems by challenging U.S. Immigrations and Customs Enforcement (ICE) hold policies and stopping local police from turning over immigrants to ICE.

These detainer reform campaigns emerged out of initial convenings and strategy sessions supported by the Criminal Justice and Equality funds starting in 2009. These campaigns are one of the most effective ways for keeping immigrants out of the deportation pipeline. Our grantee efforts have led to a number of significant developments in the field, including the following:

Sheriffs in several Colorado towns—Boulder, Mesa, San Miguel, Denver, Jefferson—have publicly stated that they will no longer honor ICE holds. The fact that a critical mass of jurisdictions in Colorado has passed proactive policies that sever the link between local police and the deportation machine represents a tremendous sea change from 2006, when Colorado passed SB 90—an early precursor to Arizona’s SB 1070.

On April 16, the mayor of Philadelphia signed an executive order prohibiting the police department from honoring ICE detainees unless accompanied by a judicial warrant. The Philadelphia policy is significant because it is one of the strongest detainer reform policies in the country.

The very day of the Philadelphia mayor’s announcement, sheriffs in three Oregon counties announced that they would stop complying with ICE detainer requests. According to the ACLU, two dozen jurisdictions in Oregon—accounting for 80 percent of the state’s population—no longer honor ICE detainees.

In late April, two counties in Washington (Walla Walla and Kitsap) confirmed that they would no longer honor ICE holds.

A wave of counties has stopped honoring ICE hold requests in the wake of two major litigation victories in Rhode Island. In cases brought by the ACLU Immigrant Rights Project and others, a district court and the third circuit confirmed that ICE detainer requests are not mandatory. The courts also found that local law enforcement agencies can be held liable for any constitutional violations resulting from an ICE detainer.

Campaign for Black Male Achievement (CBMA)

The National League of Cities (NLC) hosted a cross-site technical assistance for participants in the Cities for Black Male Achievement initiative, a CBMA-funded project that provides 11 cities operating municipal efforts to improve life outcomes for black men and boys. The convening brought city teams together in Oakland to identify and target local policy reforms, share challenges and accomplishments, learn about the work taking place in Oakland, and develop plans to increase youth engagement in the city-led efforts. Participants from Charlottesville, Chicago, Fort Wayne, Jacksonville, Louisville, Milwaukee, Oakland, Omaha, Orlando, Philadelphia, and Portland attended. Teams included elected officials, senior municipal staff, community organization leaders, young people, and faith leaders. Sessions included a briefing on My Brother’s Keeper from Ronald Davis, Director, Office of Community Oriented Policing Services, U.S. Department of Justice; a panel discussion with Oakland Mayor Jean Quan; and a site visit to the African American Male Achievement Initiative of the Oakland Unified School District, also a CBMA grantee.

Echoing Green will select the third class of BMA Fellows in mid-May and now is a good time to note the work of a few of the fellows from the first two classes. Kalimah Priforce (2013), founder of Qeyno Labs, organized Startup Weekend Oakland:Black Male Achievement, which featured a hackathon dedicated to exposing young men to employment paths in the technology field. Close to 40 black teenagers spent two days coding, problem-solving and business planning alongside engineering and business professionals. This resulted in four viable computer applications/business startups.. BMA 2013 Fellows Sarah Comeau and Claire Blumenson received support for the School Justice Project, which has been undefeated in all 16 of their court cases to date. The clients in these cases have severe special education needs and Comeau’s and Blumen-

son's work has saved their clients from over 17 years in juvenile incarceration or prison. Their efforts have also secured over \$200,000 in special education resources. Donnel Baird, founder of BlocPower, has raised \$3.5 million in funding from a variety of sources, including a \$2 million grant from the U.S. Department of Energy. He's been teaming up with Green City Force, a Brooklyn organization that trains young residents of public housing to do energy-efficiency evaluations on planned NYC retrofitting projects. BlocPower seeks to create jobs for black men and reduce costs for community organizations by leveraging community-led solar and weatherization retrofits for churches and nonprofits.

Justice Fund

In response to the Obama Administration's My Brother's Keeper initiative to support the success of young men and boys of color, the U.S. Department of Justice (DOJ) announced the creation of the National Center for Building Community Trust & Justice, whose mission is to improve police/community relations by enhancing procedural justice, reducing implicit bias, and supporting racial reconciliation in communities of color. Through the Center, the DOJ will grant \$4.75 million to local and national faith- and community-based organizations, educational institutions, and government agencies throughout the country in efforts to explore, assess, and disseminate information and strategies intended to advance these goals. The establishment of the center represents the Justice Department's recognition of the systemic obstacles that stand in the way of the success of many young men and boys of color, like the heightened presence of and negative interaction with law enforcement in many of their communities. A number of Justice Fund grantee partners including the coalition group, Communities United for Police Reform (CPR), are working to dismantle and bring national attention to these structural inequities by combatting discriminatory policing practices.

CPR's work contributed more directly to recent victories to end the discriminatory practice of stop-and-frisk in New York City and to hold the New York Police Department more formally accountable to the communities it serves. Among these victories was the establishment of the Office of the Inspector General to provide independent oversight and investigations into NYPD policies and practices. In March 2014, Philip Eure—who currently heads the District of Columbia Office of Police Complaints—was appointed as the city's first inspector general. Eure will take office on May 27 and report to the Commissioner of the Department of Investigation. The city council overrode former Mayor Bloomberg's veto of the bill that established the inspector general's office, backed by newly elected Mayor Bill DeBlasio who made police reform and accountability central to his campaign platform.

In his 2014 State of the State address, New York Governor Andrew Cuomo proposed establishing a commission to raise the age of criminal responsibility in the state, and on April 9, he officially announced the members of the Commission on Youth, Public Safety & Justice. The Commission is tasked with providing recommendations to raise the criminal responsibility age, among other criminal and juvenile justice policy reforms in New York, by year-end. Soffiyah Elijah, executive director of Justice Fund grantee, the Correctional Association of New York, will serve as a co-chair of the 16-member commission, which includes representatives from law enforcement, city and state government agencies, and nonprofit and philanthropic organizations. The Vera Institute of Justice will provide technical assistance to the commission.

Campaign for a New Drug Policy

Preventing overdose death, advancing harm reduction

With growing national focus on overdose deaths from heroin and prescription painkillers, naloxone made headlines twice in one day earlier in April (*New York Times*: "FDA Approves Evzio, an Auto-Injecting Syringe for Opioid Overdose :The Device Should Be Available Later This Summer," and "Hand-Held Treatment for Overdoses Is Approved."). Naloxone, also commonly referred to by one of its trade names, Narcan, is an opiate antagonist that is used to block the effect of heroin and other opiates in an overdose emergency. In early April, the FDA authorized a new device, Evzio (an auto-injector containing naloxone), for broad distribution—including to the friends and family members of opioid drug users, as well as drug users them-

selves. In New York State, Attorney General Eric Schneiderman also proposed a new initiative to disseminate naloxone to all law enforcement officers across the state. The proposal would provide New York Police with kits to combat overdoses.

Both stories are very positive developments to prevent overdose deaths and advance harm reduction responses to drug use. Critics point out, however, that the device approved by the FDA is prohibitively expensive for impoverished populations—many of who are lower-income people of color who lack adequate access to health care systems. VOCAL-NY, a grantee co-funded by CNDP and the International Harm Reduction Development Program, has advocated for broader dissemination of naloxone beyond first responders and medical institutions. VOCAL-NY's policy director, Matt Curtis, described in an Open Society blog post (“How to Stop Overdose Deaths in New York”) that the moves by the FDA and New York's attorney general are positive, but also signal how far we have to go.

Soros Justice Fellowships

On April 14 – 16, the Soros Justice Fellowships held its “New Fellows Orientation” at the Open Society's New York office. The orientation was an opportunity to welcome the new cohort of fellows: 15 individuals who will work on a range of criminal justice reform issues at the local, state, and national levels (see attached for brief project descriptions). The orientation included, among other things: a half-day of strategy discussions, where each new fellow had a chance to discuss any issues, challenges or opportunities related to their fellowship projects with Justice Fund staff, current fellows, and outside experts (many of whom took part in this year's fellowship selection process); an afternoon discussion on “Predicting the Future of (In)justice,” with fellowship alums Kung Li and Arun Kundnani (author of the recently-released *The Muslims Are Coming! Islamophobia, Extremism, and the Domestic War on Terror*); and a brief presentation about the fellowships program and introduction of the new and current fellows at the monthly U.S. Programs staff meeting.

Special Initiatives and Partnerships Updates

Future of Work: “Is This the End of Work As We Know It?” event draws positive reviews

The Future of Work Project's March 19 event “Is This the End of Work As We Know It?” drew a standing-room only crowd of business, futurist, government, grantee, labor, philanthropic, social justice, and technology leaders to the Open Society Foundations offices in New York. Keynote speaker Carl Benedikt Frey, from the Oxford Martin Programme, shared insights from the sweeping study that he co-authored on the implications of technological integration in 702 occupations, finding that 47 percent of jobs could be gone in the next 20 years. Panelists included the CEO of Kelly Employment Services, the Fortune 500 company that placed more than 550,000 workers in 2013; the founding executive director of the National Guest Workers Alliance, born out of the struggle of immigrant workers in post-Katrina New Orleans; the policy director of Etsy, the B Corporation that supports one million people globally by bringing their crafts to the marketplace; and academics from Columbia University and the University of Georgia, who shared the historic origins of work and jobs. In a post event survey, 95 percent of attendees found the panelist presentations about technological disruption in the workforce to be compelling (82 percent said that they attended with this concern in mind) and 76 percent of attendees learned a new fact or idea. The Future of Work Project will soon circulate its research hypothesis, highlights of upcoming plans, and a short video of the recent event.

Grantee updates: moral Mondays, working families, reproductive access, and ACA enrollment

The North Carolina NAACP first became a U.S. Programs grantee in 2009-10 via the former Democracy and Power Fund, which provided the first national grant to the Historic Thousands on Jones Street coalition, the precursor for the now nationally recognized “Moral Mondays” movement. The movement, led by president of the North Carolina NAACP, Reverend William Barber, is a broad coalition of activists and organizations united by a commitment to advancing racial, economic, and criminal justice, voting rights, and a more forward

thinking agenda for fast changing North Carolina. Since 2010, the state has taken a hard turn to the political right, with conservatives now dominating the state legislature and governor's office, effectively ending North Carolina's role as a southern incubator for progressive policies. Recent attacks include efforts to scale back voting rights, publicly financed elections, reproductive health, gun violence prevention, and fiscal equity, among many other open society priorities. The Moral Mondays movement, well documented recently in *Slate*, has taken the state—historically known to practice a more “polite” activism than other places—by storm, leading to an 80,000-person rally in Raleigh and other states now taking up the Moral Mondays mantra. Public opinion research shows that the diverse protests could be having a broader impact, resulting in decreasing popularity for the state legislature's conservative policies.

Recent U.S. Programs Board meeting guest, Dan Cantor, from the Working Families Organization (WFO), shared his vision for what it would take to bring the Working Families approach to political engagement and issue advocacy to other states beyond its New York base. A recent U.S. Programs grant to the c3 Center for Working Families will enable state-based policy research and coalition building to occur in a small, thoughtfully selected number of states. Valerie Ervin now joins Cantor in the WFO's leadership, leaving her elected position on the influential Montgomery County, Maryland, Commission to build out the organization's national expansion. Open Society's funding helped to leverage a \$1.8 million multi-year commitment from a San Diego-based donor who joked that his wife would be impressed that they are contributing more to Working Families than even George Soros.

On health access, the Center for Reproductive Rights, supported by the U.S. Programs Reserve Fund as well as members of the Soros family, continues to rack up victories in turning back the nation's most extreme anti-reproductive health laws. The center recently won in a federal district court, blocking a North Dakota law known to be the nation's most extreme abortion ban. The North Dakota law would have banned abortion as early as six weeks into pregnancy, before many women know that they are pregnant. The center is juggling cases around the nation as conservative state legislators pass attacks on women's health. It now has two challenges underway to a Texas law that requires abortion providers to obtain admitting privileges at local hospitals, a requirement that leaves women's health—and their constitutional rights—in the hands of biased hospital administrators.

Efforts to expand health care and promote the Affordable Care Act were supported by the PICO National Network, a million member faith-based grassroots advocacy network that hosted 157 events and directly reached 92,000 uninsured people to sign them up for health care. A recent article in the *Washington Post* detailed the role that faith communities like PICO have played in ACA outreach.

Open Places Initiative

A key priority of the Open Places Initiative is to foster learning that will increase the impact of the three-Open Places sites as well as inform and improve other local work undertaken by U.S. Programs staff. To this end, Open Places staff, with the input of representatives from the sites, considered eight firms and selected Harder+Company to work with each site over the next 18 months to conduct a developmental assessment. The assessment is structured to help sites individually (and at times collectively) to refine their goals and strategies and to develop and use benchmarks to track their progress. In contrast to a formal evaluation, Harder+Company will also help to analyze data, organize sessions to enable sites to reflect regularly on their impact and the changing dynamics affecting their work, and encourage sites to refine their strategies and benchmarks with experience. Harder+Company will also distill results from the sites into learning documents for use by Open Places and Open Society Foundations staff. On April 23, the Open Places Initiative held a roundtable to begin to co-develop the assessment framework. In addition to the assessment team, attendees included two representatives from each site, U.S. Programs colleagues, place-based experts, and philanthropic peers.

Open Places Sites

The first four months of this year have been a transition period for all three sites. During this time, sites have focused on revising their strategies, hiring staff for the initiative, and establishing governance structures. Simultaneously, each site has identified particular activities that it plans to carry out in the coming months, including opportunities to work with other sectors. For example, Espacios Abiertos (Puerto Rico) is exploring ways to align its access to justice goals with a newly formed Access to Justice Commission appointed by the chief justice of the Puerto Rico Supreme Court; Open Places San Diego plans to work closely with the district attorney on several goals related to criminal justice; and Open Buffalo is researching how its goal of creating an economy for the common good connects to the job growth and development planned by the Buffalo-Niagara Medical Campus.

Site Visits and Convening

The Open Places staff conducted five site visits between January and May of 2014 and will make six more site visits (two per site) in June and August. These visits, along with the all-site convening planned for July 16-18 in Buffalo, serve as critical opportunities to understand the local context in which the sites are pursuing their ambitious goals, develop relationships with local and national funders working in the region, foster learning, and identify and respond to needs for assistance. Open Places Initiative staff has also begun the practice of introducing sites to U.S. Programs colleagues who may have particular expertise and networks that they could share with them.

Open Society Institute-Baltimore

On the heels of Maryland's new and, still hotly-contested school discipline regulations, the Open Society Institute, Baltimore has received a two-year, \$500,000 Atlantic Foundation grant that will fund its strategy of using training, technical assistance, and communications. This will not only gain teacher support of these regulations, but also to give them new tools to improve the climate in the classroom and utilize less harsh discipline practices. To this end, the Open Society Institute- Baltimore is working with Maryland school districts, child and youth development experts, and program staff from restorative practices, positive behavior interventions and supports, and other alternative school discipline programs to create a virtual training institute. The institute will connect schools to education and technical assistance to increase understanding that positive approaches to discipline improve both school climate and achievement.

The Open Society Institute- Baltimore's criminal and juvenile justice grantees successfully advocated for partial repeal of Maryland policy requiring the automatic prosecution of youth as adults. In December 2013, the Maryland Task Force on Juvenile Court Jurisdiction—comprised of state officials and Open Society grantees—recommended removal of three provisions of Maryland law that prohibited certain youth who are charged as adults from requesting a transfer of their cases to the juvenile justice system. After much debate, Maryland policymakers removed one of the three provisions. Under the amended law, any youth who was previously charged as an adult, had their case transferred to the juvenile system, and was found delinquent may now request a transfer of new adult charges to the juvenile system. Another benefit of the new law is that it will increase the number of youth in Baltimore City who are eligible to be held in a youth detention center, instead of an adult jail, as they await their transfer hearings. Despite this step in the right direction, youth who were previously convicted as adults and 16- and 17-year olds charged with first degree murder continue to be prohibited from requesting a transfer of new adult charges to juvenile court. Open Society grantees will continue to chip away at Maryland's policy of prosecuting youth as adults.

The Drug Policy and Public Health Strategies Clinic, an Open Society Institute- Baltimore grantee at the University of Maryland Carey School of Law, played a major role in conducting research and education activities that led to a new overdose law. Maryland became the 10th state to adopt legislation that will help families respond to the epidemic rate of overdose deaths resulting from the misuse of opioids. The Overdose Response Program allows friends and family members of prescription opioid and heroin users to obtain a prescription for and to administer Naloxone, an overdose reversal medication that could save the lives of their loved ones. This new policy lifted two legal barriers to the use of naloxone by third-party bystanders:

a bar to a physician prescribing a medication to a person who is not the “patient” and a bar to a layperson administering a prescription medication without direct medical supervision. The clinic worked with a coalition of medical professionals, treatment providers, concerned citizens, and other stakeholders to develop critical information for this policy change.

The Overdose Response Program allows third parties who have completed a training and certificate program to receive a prescription for Naloxone in their own name and lawfully possess and administer the life-saving medication in an emergency situation. Physicians and nurse practitioners are now authorized to write a prescription to any certificate holder and physicians are protected against disciplinary charges for prescribing and dispensing practices consistent with the law. The Department of Health and Mental Hygiene will authorize certification and training programs that will be run by private entities or local health departments, and the department is now in the process of funding local health department training programs in 14 jurisdictions.



