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

Montgomery, Alabama

May 4 - 6, 2016



U. S. Programs Board Meeting
May 4 – 6, 2016
Equal Justice Initiative
122 Commerce Street, Montgomery AL 36104

- Contacts:** [Kenya Dempster](#) at 646.236.8406 or
Kelly Goff at kelly.goff@opensocietyfoundations.org
- Weather** Ranges between 75° & 85° F / 23° & 29° C
- Time Zone** Central Time Zone
- Dress code** Business casual, including comfortable walking shoes, a hat and sunglasses. Cardigans, sweaters and/or shawls are also recommended with temperature changes due to air conditioning.
- Hotels**
- The Marriott Renaissance Hotel & Spa - 201 Tallapoosa Street**
Tel: 334.481.5000 **Check-in: 4:00 p.m. / Check-out 11:00 a.m.**
As guests of the Renaissance, your access key card provide you with complimentary access to the Club Lounge on the 12th floor, where breakfast is served between 6:00 and 10:00 a.m. or you can dine in The House Dining Room at cost. You may also take advantage of evening cordials and hors d'oeuvres between 5:00 and 8:00 p.m.
- The Hampton Inn – 100 Commerce Street**
Tel: 334.265.1040 **Check-in: 3:00 p.m. / Check-out 12:00 p.m.**
As guests of the Hampton Inn, complimentary breakfast is served between 6:00 and 10:00 a.m.
- *Flights arrivals/departures before/after check-in have the option of leaving luggage at your respective hotel's luggage holding area or at the offices of EJI.*
- Dinner** **Wednesday, May 4th 8:00 p.m.** – invitation only-private dinner with Mr. Soros will be in the River Boardroom at the Renaissance; others may dine where they wish in the local downtown area. Suggestions can be found [here](#).
- Thursday, May 5th 7:30 p.m.** – open dinner (board members, invited guests & USP staff) at Central Restaurant 129 Coosa Street bet. Tallapoosa & Bibb Streets.
- Civil Rights Tour** *A tour of civil rights sites and key markers of the slave trade and lynching will be given via charter bus in the downtown Montgomery area. **Note: some walking involved.***
- Transportation** *Individuals should secure a taxi at the Montgomery Regional Airport once they've arrived. Car service arrangements can be made, however, upon request when returning to the local airport through Touch of Class.*
- Map** A map of the area in which all events will be taking place can be found [here](#).

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AGENDA

U.S. Programs Advisory Board Meeting Equal Justice Initiative - Montgomery, Alabama MAY 4-6, 2016

Is the United States an open society? Board member Bryan Stevenson hosts us for this board meeting to explore the ways in which the South remains a closed society with implications for U.S. Programs' ability to advance our aspirations nationally. Historically, in the South, where disfavored groups have never had political majority, and opposition has been so consistent, it has taken the courts to enforce open society values. We will examine the shifts in the role of the federal and state courts and the impact of the growing politicization of the courts. We will explore the limits and constraints in the ability to advance change in localities in the region. And we will also have frank conversations about the impact of the history of racialized violence in the South and learn more about the Racial Justice Campaign that Bryan and the Equal Justice Initiative have launched to address our nation's history of genocide and racial inequality, while highlighting inspiring activism and leadership.

As a Board, we will discuss the draft 2017-2020 Strategies that U.S. Programs and OSI-Baltimore will submit to the Global Board in June. We will share ideas and updates on the Opportunities Fund and conduct this meeting's portfolio review on U.S. Programs' investments in the fight to pass comprehensive immigration reform. We will also welcome new board member, Danielle Allen.

WEDNESDAY, MAY 4:

- 12:15 - 12:45 p.m. **Welcome and Approval of February Meeting Minutes**
Geoff Canada and Ken Zimmerman
- 12:45 - 1:00 p.m. **Framing of the Meeting: Open Society and the South**
Bryan Stevenson
- 1:00 - 2:30 p.m. **Local Politics in the South: Opportunities and Constraints**
Moderator: Andrea Batista Schlesinger, Deputy Director
Guests: Honorable William A. Bell, Sr., Mayor of Birmingham;
Honorable LaToya Cantrell, District "B" Councilmember of New Orleans

Throughout U.S. Programs' history, we have looked to cities as places to advance policies that further open society and cultivate the leadership pipeline. In this session, we will explore dynamics particular to the pursuit of open society through urban strategies in the South,

where local leaders have successfully introduced policies that protect the LGBT community, immigrants and refugees, and raised wages, but where state preemption has become a more frequent vehicle to preserve the status quo. We will hear from city officials in the South in this session on how they think about the potential for Southern cities to serve as oases of open society.

- 2:30 - 3:00 p.m. **BREAK**
- 3:00 - 5:30 p.m. **U.S. Programs and OSI-Baltimore 2017-2020 Strategies – Part I**
- 5:30 - 7:30 p.m. **BREAK**
- 7:30 - 9:00 p.m. **Board cocktails (7:30) followed by dinner (8:00pm)**
Board members will join Mr. Soros for a private dinner at the Renaissance Hotel.

Jonathan Soros will open a conversation about how to insert a values driven discourse into the presidential election as a complement to the more hard-nosed partisan tactics.

THURSDAY, MAY 5:

- 7:00 - 8:00 a.m. **Breakfast on your own** (*Note: As guests of the Renaissance, your key card provides you with complimentary access to the Club Lounge on the 12th floor, where breakfast is served between 6:00 and 10:00 a.m. or you can dine in The House Dining Room. Guests of the Hampton Inn are offered complimentary breakfast between 6:00 and 10:00 a.m.*)
- 8:00 - 9:30 a.m. **U.S. Programs and OSI-Baltimore Strategies – Part II (if needed)**
- 9:30 - 10:30 a.m. **Executive Session**
- 10:30 - 11:30 a.m. **Racial Justice Project: History, Trauma, Narrative**
Moderator: Bryan Stevenson
Guests: Michael Murphy, Mass Design; Anthony Ray Hinton, Formerly Convicted

Between the Civil War and World War II, thousands of African Americans were lynched in the United States. Lynchings were public acts of torture that traumatized black people throughout the country and were largely tolerated by state and federal officials. The Equal Justice Initiative (EJI) has documented more than 4,000 racial terror lynchings in 12 Southern states.

Lynching profoundly impacted race relations in this country and shaped the geographic, political, social, and economic conditions of African Americans in ways that are still evident today. Terror lynchings fueled the mass migration of millions of black people from the south into urban ghettos in the North and West throughout the first half of the 20th century. Most critically, lynching reinforced a legacy of racial inequality that has never been adequately addressed in America.

EJI has initiated a campaign to recognize the victims of lynching by collecting soil from lynching sites, creating a memorial that acknowledges the horrors of racial injustice, and a museum offering a unique perspective on slavery, lynching, resistance to civil rights, and mass incarceration.

11:30 - 12:30 p.m. **Board-Led Opportunities Fund Discussion**

Geoff Canada

As is tradition at each meeting, Board members will share their views on pressing issues that may merit a response from U.S. Programs. Staff will report on developments in the Opportunities Fund since the February Board Meeting on work related to such issues as Islamophobia; racial narrative and voting; and, racial segregation and housing policy.

12:30 - 1:30 p.m. **Lunch**

1:30 - 2:00 p.m. **Tour of EJI'S Race and Poverty Project**

Bryan Stevenson

EJI has engaged community leaders on the need to acknowledge and discuss the history of lynching and racial terror in America. It has created a unique public space that documents this tragic history and its legacy through sculpture, photography, and artifacts. This experience aims to provide the Board with a deeper understanding of how these atrocities continue to be a barrier to an open and just society in the South and across the nation.

2:00 - 2:30 p.m. **BREAK**

2:30 - 5:00 p.m. **Civil Rights and Legacy Tour**

Bryan Stevenson

Bryan will lead us on a tour of key civil rights sites (e.g. the Rosa Parks Bus Stop) and markers of the slave trade and lynching. Learning about resistance to civil rights is critically important to understanding a range of contemporary issues that implicate the struggle for racial justice today. The tension, unrest, and distrust our history has created cannot be overcome without a deeper commitment to truth and reconciliation.

5:00 - 7:30 p.m. **BREAK**

7:30 - 9:00 p.m. **Dinner & Rule of Law Discussion**
Central Restaurant, 129 Coosa St., Montgomery, AL
Facilitator: Bryan Stevenson
Guests: Former Supreme Court Justices Oliver Diaz (MS),
Sue Bell Cobb (AL)

Nowhere in America has the rule of law been more critical to protecting open society values than in the American South. Racial minorities were disenfranchised for decades, making the political process resolutely oppositional to basic rights, equality and opportunity for people of color. State and federal courts once played an essential role in deconstructing centuries of enslavement, terrorism and segregation. Today, many courts seem to be as partisan and political as the democratic institutions they are obligated to regulate. What are the challenges, implications and solutions to protecting the rule of law in this region?

FRIDAY, MAY 6:

7:00 - 8:00 a.m. **Breakfast on your own** (*Note: As guests of the Renaissance, your key card provides you with complimentary access to the Club Lounge on the 12th floor, where breakfast is served between 6:00 and 10:00 a.m. or you can dine in The House Dining Room. Guests of the Hampton Inn are offered complimentary breakfast between 6:00 and 10:00 a.m.*)

8:00 - 9:30 a.m. **Portfolio Review: The 2013 Pursuit of Comprehensive Immigration Reform**
Moderator: Leslie Gross-Davis, Equality Director, U.S. Programs
Presenter: Ivy Suriyopas, Program Officer, U.S. Programs
Respondents: Yochai Benkler; Wendy Patten, Senior Policy Analyst, OSF

In this portfolio review, we will reflect on U.S. Programs' funding decisions between 2013 and 2014 to pursue comprehensive immigration reform.

9:30 - 10:30 a.m. **Updates**
Leonard Noisette, Laleh Ispahani, Eric Halperin

The U.S. Programs Senior Team will provide updates on ongoing areas of work including Universal Basic Income, community level alternative responses to drug use, and new developments in digital rights and the regulation of broadband.

10:30 - 12:00 p.m.

Positive Activism

Moderator: Eli Pariser

Guests: DA James E. Stewart, (LA); Roberta Meyers, Director, Legal Action Center/National H.I.R.E Network & New Southern Strategy Coalition; Anita Earls, Executive Director, Southern Coalition for Social Justice; Rev. Dr. Barber II, President, NAACP of North Carolina, Pastor at Greenleaf Christian Church in Goldsboro, North Carolina

Despite the myriad challenges in the South, advocates and activists have shown remarkable resilience and made steady progress towards advancing a progressive agenda in the region. What does the advocacy landscape look like today and where are the opportunities for continued progress?

12:00 - 1:00 p.m.

Lunch and Executive Session

(With and without Director – Geoff will join us remotely)

MEETING OVERVIEW MEMO

We can think of no more apt place to hold this board meeting than Montgomery, Alabama, the birthplace of the nation's civil rights movement, and we are deeply appreciative of the efforts of Bryan Stevenson to host us and to all of you for making the trip. In February, we began to discuss what the current political season tells us about the state of open society in America. We now look to the South to better understand the present and, as importantly, the impact of the legacy of racialized violence in this region on our discourse and our public policy. The offices of the Equal Justice Initiative sit on the site of a former slave warehouse in a community which was at the center of the domestic slave trade in America and the first Capitol of the Confederacy. Alabama proudly describes itself as the "Heart of Dixie." Montgomery is also where Dr. Martin Luther King Jr. helped nurture a movement that had a profound impact on race, the rule of law and open society values in America.

Bryan has made the point at prior Board meetings that we ignore the South at our peril, and that the problems of the South become the problems of our country. Today, Alabama and the South have once again become places where there is tremendous resistance to racial equality and many other open society values which have had national and even international implications. We will explore these issues through discussions with local activists, justices, mayors, and civic leaders and on the site visits that Bryan has arranged that promise to be powerful.

As you all know, this meeting is also where we will come to agreement on the direction of the 2017-2020 Strategy that U.S. Programs will submit to the OSF Global Board. You have all seen the first draft and given us your invaluable comments. We look forward to a discussion that goes deeper into the main strategic questions before us, including how our direction will be reflected in high-level budget decisions. We will also have our customary discussions tapping the Board's ideas on issues and opportunities coming down the pike and our portfolio review, this time looking at our decision to invest in the pursuit of comprehensive immigration reform in 2013.

History: OSF in the South

Before delving into the briefings of each session, we wanted to provide you with a brief history of U.S. Programs' grantmaking history in the South. As longer-term Board members will recall, there have been very few U.S. Programs-wide strategies over the past nearly twenty years to exclusively focus on the South. Exceptions include the The Southern Initiative from 1999 to 2002 and the State Strategies Initiative from 2011 to 2012. More recently, U.S. Programs and OSF's Office of the President, as well as Soros family members, provided \$20 million to Planned Parenthood's Southern Access Project from 2011 to 2015. More about this work can be [read here](#). Instead, U.S. Programs has made grants through specific portfolios to organizations and individuals in the South working on death penalty abolition and other criminal justice issues; increasing civic engagement and political participation; the building of local policy advocacy and organizing infrastructure; and, the enhancement of state and regional coalitions and collaboratives.

While the amount of U.S. Programs investment in the South over the last nearly 20 years is substantial, it represents a small percentage of U.S. Programs' overall investment. When OSF transitioned to our current grantmaking and data system in January of 2013, we developed the ability to define U.S. Programs' grantmaking by ultimate geography (or state) of benefit. From 2013 to the present, the time period where we have accurate, reliable data to draw from, 77% of our grant making was for activity taking place at the national level, 5% was focused on the West, 4% on the Northeast, and 4% on the South (not including Maryland, which received 6% of regional investments during this time period due to OSI-Baltimore grantmaking activity). The Midwest, by comparison, only received 1% of U.S. Programs' total grantmaking support. The map we've [included here](#) illustrates this breakdown.

As we embark upon our Project 2020 effort, which will take us into three Southern states, and other more narrowly focused initiatives in Southern places, including equitable economic development work in Tennessee and the conscious cultivation and support of policymakers in the region, this Board discussion and the lessons learned from prior endeavors will be very helpful. More fundamentally, though, the challenge before us is to bring an understanding of the particular dynamics in the South to all of the ways in which we advance our strategies.

Thank you again for joining us, and we look forward to a provocative and fruitful discussion.

WEDNESDAY, MAY 4:

Welcome (12:15 - 12:45 p.m.)

Geoff Canada

We are very pleased to welcome [Danielle Allen](#) as the newest member of the U.S. Programs Advisory Board. Danielle is Director of the Edmond J. Safra Center for Ethics at Harvard University and professor in Harvard's Department of Government and Graduate School of Education. She is a political theorist who has published broadly in democratic theory, political sociology, and the history of political thought, and is widely known for her work on justice and citizenship in both ancient Athens and modern America. She is Chair of the Mellon Foundation Board, past Chair of the Pulitzer Prize Board, and a member of the American Academy of Arts and Sciences and American Philosophical Society.

Framing of the Meeting (12:45 - 1:00 p.m.)

Bryan Stevenson

Bryan will frame the conversation for us and why it is important, in his view, for U.S. Programs to meet in Alabama. Two recent reports from the Equal Justice Initiative will provide useful background into how Bryan is thinking about these issues. The first, [Lynching in America: Confronting the Legacy of Racial Terror](#), documents EJI's multi-year investigation into lynching in

twelve Southern states during the period between Reconstruction and World War II and makes the case that lynching of African Americans was terrorism, a widely supported phenomenon used to enforce racial subordination and segregation. The second, [Slavery in America: The Montgomery Slave Trade](#), discusses the history of slavery in the United States, and investigates how the enslavement of Black people was widely embraced in the South, where resistance to ending slavery persisted for another century following the passage of the Thirteenth Amendment in 1865.

Bryan has suggested that we focus our discussions during this meeting on the particular challenges to advancing open society in the South. However, there is also an impressive and brave resurgence of positive activism and we will have the opportunity to engage with those leading the way on Friday.

Local Politics in the South: Opportunities and Constraints (1:00 - 2:30 p.m.)

Moderator: Andrea Batista Schlesinger, Deputy Director

Guests: Honorable William A. Bell, Sr., Mayor of Birmingham;

Honorable LaToya Cantrell, District "B" Councilmember of New Orleans

Throughout U.S. Programs' history, we have looked to cities as places to advance policies that further open society values and improve lives. We have also operated with the premise that cities play an important role in cultivating leaders and influencing the policy and politics of a region. We begin our board meeting with a session focused on the unique challenges Southern local elected officials face in governing to advance open society in their region.

The good news is that we are seeing an increase in the number of cities in the South advancing the issues of concern to U.S. Programs. Even in conservative states, [localities have the ability to innovate](#). Given their proximity and positions of power, local government leaders are closest to the issues facing communities and are often more motivated and better equipped to implement policies that can truly make an impact in people's lives. We have seen this reality recently on various issues and in multiple places across the South. Charlotte amended their non-discrimination ordinance to include protections for gay, lesbian, and transgender people; Jackson, Mississippi's City Council unanimously voted to oppose a new state law that creates legal protections for opponents of same-sex marriage; several cities in Arkansas passed anti-discrimination ordinances despite the state law that was meant to ban them; Dallas County Judge Clay Jenkins ensured protections for 2,000 children who migrated to the United States without their parents; and, Mayor of Tallahassee Andrew Gillum pushed back against Governor Rick Scott to publicly declare Syrian refugees were welcome in his city.

However, state preemption is an increasing threat to the progress many Southern cities are making. Stopping local governments from passing earned sick days laws, minimum wage raises, tobacco and fracking bans, anti-LGBTQ discrimination ordinances or protecting the right to organize is a [more frequently used strategy](#) used by Republican-controlled legislatures across the United States. This

strategy is in part [fueled by ALEC](#) and various business interests in their network. Given that 43 percent of state legislatures that are solely controlled by Republicans are in the South, this region is disproportionately facing the threat of these anti-local control tactics.

According to the Center for Media and Democracy, the 2016 state legislative sessions across the country are on a pace to break the record set in 2015, when state legislatures in at least [29 states introduced bills](#) to block local control over a range of issues and 17 states considered more than one preemption bill. This year, in addition to filing larger numbers of preemption bills, state legislatures have proposed and passed unprecedentedly broad, aggressive and punitive laws to block local lawmaking. Because of action taken already in the first four months of 2016, the number of states that preempt minimum wage has climbed to 19; 14 states now preempt paid sick days; ten preempt paid leave and four states have or will move before the end of the session to keep local governments from considering fair scheduling ordinances.

[William A. Bell Sr.](#), who has been a leader on urging the Supreme Court to uphold President Obama's Executive Action on immigration and is in his second term as Mayor of Birmingham, has experienced preemption firsthand. In February 2016, Mayor Bell signed into law the first minimum wage increase (\$10.10 per hour) in the Deep South to go above the current federal minimum of \$7.25. Within days, the state government enacted a far-reaching bill that prevented local governments from enacting a higher minimum wage and nullifying the Birmingham law.

Mayor Bell will be joined by New Orleans City Councilmember [LaToya Cantrell](#). Last year, Councilmember Cantrell and her colleagues passed a living wage bill in New Orleans for all city contractors or companies that have received economic incentives or tax breaks. However, the City Council is now figuring out a way to work with the state legislature and governor on a living wage for all New Orleanians given that Louisiana has a minimum wage preemption law that Governor Bobby Jindal signed in 2012. In addition, Councilmember Cantrell has been an instrumental figure in the [Welcoming Cities](#) resolution, which lists action steps for cities across the country to take in order to become a more immigrant-friendly city, such as hiring police officers who speak Spanish. LaToya is a recent addition to the board of U.S. Programs grantee [Local Progress](#).

Given that cities are home to [63 percent](#) of the U.S. population and even larger shares of the populations we care about (immigrants, people with criminal justice backgrounds, workers, people of color), cities will continue to play an important role. In addition, 14 of the [20 fastest growing metro](#) areas in the country over the last five years were in the South. Further, demographic change means that cities and counties in the South may increasingly become majority African-American, creating the opportunity for leadership attentive to open society values to win elections and have the chance to govern; the impacts of this may be felt throughout the region. Furthermore, our country will face a presidential transition early next year and no matter who wins the White House, the story of federal malfunction is unlikely to change drastically and cities will continue to be a place where we look for innovation and solutions for advancing progress on the open society issues U.S. Programs

champions. It is important, therefore, to understand how to engage with Southern cities: what is and is not possible, how can we support innovation and effective governance locally in light of state preemption challenges, how do we cultivate leaders who can take on larger roles and platforms, is the premise that investing in oases of open society will yield ripple effects valid?

U.S. Programs and OSI-Baltimore 2017-2020 Strategy – Part I (3:00 - 5:30 p.m.)

In this session, we will focus on [U.S. Programs' proposed 2017-2020 Strategy](#). As you know, OSF has adopted a policy of updating four-year plans every two years. Thus, this year, U.S. Programs is submitting a plan for 2017-2020 that is specifically intended to be an update of the [2015-2018 plan](#) submitted two years ago. In the new OSF governance set-up, this plan goes to the Global Board Committee on Budget, Strategy, and Performance with an initial meeting with that committee on April 18 and the final plan submitted in June. While all advisory boards are expected to weigh in on proposed plans, the U.S. Programs Advisory Board is granted special deference given its membership and the respect for its members. Geoff Canada and Jonathan Soros are helping steer this process for the U.S. Programs board, and attended the April 18 meeting at which we received support for our initial thinking.

That draft strategy reflected several core premises, honed in previous conversations with the U.S. Programs Advisory Board:

- That we do not intend to significantly overturn our core approach that includes anchor grantees, the Opportunities Fund, and our four major areas of work (justice, equality, democracy, economy), although we refine all of them in light of external events and updated status of our work.
- We seek to expand work in several areas where we see either opportunities or feel that we play a distinct role. These include a response to the moment in racial justice, police reform, and an expanded and coordinated effort focused on the significance of 2020 (when redistricting, census, and the next Presidential election occurs). In this and other areas, we are consciously trying to do more work in less hospitable parts of the United States, such as southern states.
- Conscious of our budget target and the need to make a \$7 million cut, we are also working to decrease the number of separate things we are doing, and we will put forward up to seven portfolios that we seek to reduce or eliminate over time while lessening the intensity of our work and investment in others where we do not see immediate opportunity but maintain long-term prospects. In some cases, we have identified specific issues where we are particularly soliciting the board's input, such as in the case of the death penalty work we have been doing and how we should think about our relationship with local places such as Baltimore and with the Open Places Initiative (Puerto Rico, San Diego, and Buffalo).

We have received feedback on the strategy from several of you and it has been very helpful in directing the work of the senior team on next steps. Some of the questions you have raised or opinions you have offered require clarification. Others are strategic, such as how we balance our sense that the disillusionment of the white working class is leading to the support of more closed societies with our historic commitment to racial and ethnic minorities; how and when to exit a field where we have longstanding work; and, how best to calibrate the size and scope of the anchors portfolio and balance it with our efforts to recruit and support new voices and organizations.

We look forward to discussing these issues with you, and to a discussion on the OSI-Baltimore 2017-2020 Strategy, which [you can find here](#).

THURSDAY, MAY 5:

U.S. Programs and OSI-Baltimore 2017-2020 Strategy – Part II (8:30 - 9:30 a.m.)

This is Part II of Wednesday’s conversation. Please see yesterday’s overview.

Racial Justice Project: History, Trauma, Narrative (10:30 - 11:30 a.m.)

Moderator: Bryan Stevenson

Guests: Michael Murphy, Mass Design; Anthony Ray Hinton, Formerly Condemned

Beginning in the seventeenth century, millions of African people were kidnapped, enslaved, and shipped across the Atlantic Ocean to the Americas under horrific conditions that frequently resulted in starvation and death. Nearly two million people died at sea during the agonizing journey. As American slavery evolved, an elaborate and enduring mythology about the superiority of white people was created to legitimate, perpetuate, and defend slavery. The mythology of White Supremacy survived slavery’s formal abolition.

In 1808, the United States Congress banned the importation of slaves from Africa. At the same time, the high price of cotton and the development of the cotton gin caused the demand for slave labor to skyrocket in the lower South. The Domestic Slave Trade grew to meet this demand. Over the next fifty years, slave traders forcibly transferred hundreds of thousands of enslaved people from the upper South to Alabama and the lower South. Between 1808 and 1860, the enslaved population of Alabama grew from less than 40,000 to more than 435,000. Alabama had one of the largest slave populations in America at the start of the Civil War.

During the period between the Civil War and World War II, thousands of African Americans were lynched in the United States. Lynchings were violent and public acts of torture that traumatized black people throughout the country and were largely tolerated by state and federal officials. “Terror lynchings” peaked between 1880 and 1940 and claimed the lives of African American men, women, and children who were forced to endure the fear, humiliation, and barbarity of this widespread phenomenon unaided.

Lynching profoundly impacted race relations in this country and shaped the geographic, political, social, and economic conditions of African Americans in ways that are still evident today. Terror lynchings fueled the mass migration of millions of Black people from the South into urban ghettos in the North and West throughout the first half of the twentieth century. Lynching created a fearful environment where racial subordination and segregation was maintained with limited resistance. Most critically, lynching reinforced a legacy of racial inequality that has never been adequately addressed in America. The administration of criminal justice in particular is tangled with the history of lynching in profound and important ways that continue to contaminate the integrity and fairness of the justice system.

The narrative of racial difference that lynching dramatized continues to haunt us. Avoiding honest conversation about this history has undermined our ability to build a nation where racial justice can be achieved. Equal Justice Initiative's project on race and poverty examines today's issues through the legacy of slavery, racial terror, and legally supported abuse of racial minorities in the United States. EJI believes that civil and human rights are compromised by our failure to confront our history with greater clarity and thoughtfulness.

We are honored to have as a guest [Anthony Ray Hinton](#), who was wrongfully convicted of murder in Alabama in 1985 and spent 30 years on death row, much of that time in solitary confinement, but was released through EJI's intervention in April of 2015. Guest [Michael Murphy](#) will discuss EJI's recent campaign to create a museum, which his group designed, that will address our nation's history of slavery and the horrors of racism.

Board-Led Opportunities Fund Discussion (11:30 - 12:30 p.m.)

In this session, Geoff will ask board members for their views on emerging opportunities or new ideas. Staff will also report back on recent developments of previously approved Opportunities Fund grants, as well as ideas surfaced during the February meeting and in our subsequent regular Board calls. Page 31 of the State of U.S. Programs memo details the \$965,000 allocated via the fund so far this year and includes brief summaries of ideas still being explored by U.S. Programs and the Open Society Policy Center, including a campaign to engage young voters on color in 2016 by directly tackling the role of race in the increase in voting restrictions, support of veterans to speak out against Islamophobia, and the launch of a new fellowship for racial justice leaders.

Tour EJI'S Race and Poverty Project (1:30 - 2:00 p.m.)

EJI has converted its public interest law firm into a unique public space that documents the nation's tragic racial history and its legacy through various visual mediums including sculpture, photography, and artifacts. It serves as a vehicle for engaging community members and leaders to participate in open and honest dialogue about our nation's violent history and its current manifestation embodied in our radicalized criminal justice systems. Through this tour, led by Bryan Stevenson, the Board will gain a deeper understanding of how the atrocities of slavery and its abhorrent legacy continue to be a barrier to an open and just society in the Southern region and across the nation.

Civil Rights & Legacy Tour (2:30 - 5:00 p.m.)

During this tour Board members will visit slave trade sites and historic spaces that created the Civil Rights movement. The tour will be narrated by Bryan Stevenson and will include the opportunity for participation in the EJI Lynching Exhibit collection. Board members will also visit the site of what will become a National Memorial for victims of lynching. For more information on logistics, [please click here](#).

Dinner and Rule of Law Discussion: An Integral Precept for Democracy (7:30 - 9:00 p.m.)

Central Restaurant, 129 Coosa St., Montgomery, AL

Facilitator: Bryan Stevenson

Opening Remarks: George Soros

Guests: Former Supreme Court Justices Oliver Diaz (Mississippi), Sue Bell Cobb (Alabama)

Charles Baird (Texas)

Nowhere in America has the rule of law been more critical to protecting open society values than in the American South. Racial minorities were disenfranchised by a political process that was largely unsympathetic to the basic civil and human rights of African Americans. In the struggle for civil rights, state and federal courts became the vehicle for deconstructing and redressing centuries of enslavement, terrorism and segregation. However, as a result of Citizen's United and political pressures, today many courts seem as partisan as the political institutions they are obliged to regulate.

The more campaign contributions from business interests justices received, the more likely they are to vote for business litigants appearing before them in court. According to the American Constitution Society, in 2010, 70% of Democrats and 70% of Republicans said they believe campaign expenditures have an impact on courtroom decisions. A 2009 had survey found that 89% "believed the influence of campaign contributions on judges' rulings is a problem," with 52% believing the issue is a "major problem" 46% of judges believing that campaign contributions influence judicial decisions.

The steep rise in campaign contributions for judicial elections has been well documented. Candidates in state Supreme Court races raised around \$211 million from 2000 to 2009—two and a half times more than in the previous decade. The states that have seen the most campaign cash are those that hold partisan judicial elections. In Mississippi, for example, in 1990, the average Mississippi Supreme Court campaign cost \$25,000. In 2002, [it cost more than \\$1 million](#).

What are the challenges, implications and solutions to protecting the rule of law in the Southern region where so many disenfranchised and marginalized citizens still look to the courts for relief from civil right abuses? We will hear from three former Supreme Court Justices in the South who can speak to the ways in which corporate power, hyper-partisanship and politicians extremism are playing out in the judiciary.

The documentary *Hot Coffee* tells the story of former Mississippi Supreme Court Justice [Oliver Diaz](#). Despite fierce opposition from big business, Diaz won re-election to the bench. *Hot Coffee* reveals how Diaz was then criminally prosecuted on false charges to taint his reputation. He was forced off the bench for three years to fight the charges and was acquitted. Judge Diaz will share his personal experience adhering to the rule of law while being vigorously attacked by partisan politics and corporate interests that eventually led to his departure from the bench.

Judge [Sue Bell Cobb](#) of Alabama will discuss her struggle to adhere to the rule of law and the fair administration of justice in a system that is increasingly compromised under the weight of donor demands and partisan politics. As Judge Cobb [recounted to Politico](#), she was very proud to reach the pinnacle of her profession as Chief Justice in Alabama and the first woman to head the state Supreme Court after winning the nation's most expensive judicial race of 2006. The euphoria of her victory quickly turned to angst over the feeling that the public would perceive the court as being for sale. While proud of the work she did for the 4 1/2 years she was on the bench she never overcame the feeling of being trapped inside a system whose very structure left her feeling "disgusted." She will discuss how those seeking judicial office sometimes find themselves "doing things that feel awfully unsavory." She continues to ponder how to convince Americans "that justice isn't for sale, when in 39 states, it is?"

Former judge on the Texas Court of Appeals and on the bench in Travis County's 299th District, [Judge Charles Baird](#) was known as an innovator who promoted restorative justice principles and dispensed even-handed justice, leveled the playing field for defendants, and sought to use prison as a last resort. During his tenure as a trial court judge, he presided over a number of important cases, including the exoneration of Tim Cole. The Cole case marked the first time in Texas history where an individual was posthumously exonerated. His commitment to the integrity of the court and civil rights led to [public battles with the district attorney](#) and increased partisan pressures. Judge Baird will share with board members his insights on the challenges and pressures as he sought to maintain the integrity of courts and uphold the civil rights of those appearing in his courtroom.

FRIDAY, MAY 6:

Portfolio Review: Immigration Reform (8:00 - 9:30 a.m.)

In this portfolio review, U.S. Programs Program Officer [Ivy O. Suriyopas](#) will reflect on U.S. Programs' decision to pursue a pathway to citizenship for undocumented immigrants through comprehensive immigration reform at the federal level (CIR) in 2013. In 2013, OSPC complemented the portfolio's long-term c3 work dedicated to creating the necessary conditions to secure CIR with immediate, non-renewable c4 resources from the Opportunities Fund. The discussion will explore the decision to pursue CIR, the efficacy of how the strategy was implemented, and reflect upon lessons learned from this body of work. OSF Senior Policy Analyst

Wendy Patten and U.S. Programs Advisory Board Member Yochai Benkler will serve as discussants, and U.S. Programs Equality Director Leslie Gross-Davis will moderate.

Updates (9:30 - 10:30 a.m.)

In this session we will provide updates on three areas of ongoing work for U.S. Programs that would be of interest to the Board.

Universal Basic Income (Eric Halperin):

At our October meeting, the board expressed an interest in learning more about Universal Basic Income (UBI) in order to make an evaluation about whether the issue merited further engagement from U.S. Programs. We commissioned several short-papers, which have previously been distributed to the board, to inform our thinking. We also held a convening on March 23rd that featured diverse and lively voices from a variety of sectors and from across the ideological spectrum. Andy Stern, Yochai Benkler and Eli Pariser and several members of the U.S. Programs staff also participated.

Several themes emerged from the conversation. The first is that the political feasibility of UBI is a contested topic. Some attendees believed that it is infeasible to implement UBI (of nearly any form) in the United States, or that it would only be possible decades from now. Others argued that the only way to do so would be in an alliance with UBI proponents on the right, who only support a version of UBI that would gut the current social safety net and thus hurt low-income Americans. Finally, some advocated that it was necessary to dream big without the constraint of our current politics.

Another theme is concern over the financial feasibility of paying for UBI. For some attendees, the gross cost far exceeded the realm of the possible, leading to suggestions that advocates would have to give ground either on UBI's universality or the idea of a subsistence-level income. Questions were posed about the impact on the labor market, production, aggregate demand, and net costs incorporating expectations of economic growth. There were numerous requests for more detail about the various potential sources of funding and net costs, as well as a strong desire for more research into the economic impacts of non-waged income. The discussion of costs and feasibility forced a conversation about winners and losers from the various versions of UBI. For example, concerns were raised that immigrants without legal status would be left out any system or that UBI would reinforce existing wealth and income gaps between people of color and whites.

The third theme that emerged is that views of the future are a source of disagreement. Attendees had drastically different views of the future and these views in turn influenced opinions of the practicality and cost of UBI. For instance, in a world where automation has dramatically reshaped the labor market, or where our economic system is no longer centered on commodified work and built around firms, UBI might be both more necessary and more feasible. But if predictions about the broad based unavailability of work prove to be wrong, the case for UBI is potentially significantly weakened. Any one of these issues could have shut down conversation, but to the credit

of the participants people showed remarkable flexibility and a willingness to intellectually engage even if they remained highly skeptical of others positions.

Finally, different definitions of the primary “problem” that UBI would seek to address shape different views of it as a policy prescription. For example, there are more direct, “affordable,” or politically feasible ways to eliminate poverty, help historically marginalized communities, and even respond to inequality within our current economic system. UBI might, however, address those problems while offering additional benefits, such as changing the power dynamics between low-wage workers and employers, potentially providing greater protection from coercive or abusive employment. UBI might be absolutely necessary if the primary problem is a storm of disruptive economic trends, a rigged system of economic rents, poor societal mechanisms for recognizing non-commodified labor or assigning value to human beings.

There were bright spots of consensus. For example, progressive advocates for UBI, skeptics of UBI, and libertarian attendees all mentioned co-owned wealth – carbon taxes, land taxes, and other fees on common goods – as potentially acceptable sources of funding.

Two participants at the convening recently announced multi-year experiments to determine the impact of a guaranteed basic on income on people with little or no income. GiveDirectly has [announced](#) a 10-year \$30 million experiment in Kenya and Y Combinator will conduct a [5-year experiment](#) in the United States. While these studies will not shed light on questions around political or financial feasibility, they could provide important insights on the impact of providing a basic income on individual behavior, including ancillary societal benefits or costs.

The convening reaffirmed the valuable role that OSF can play in bringing together diverse voices and fostering debate and recalls George Soros’ early support for debate clubs in the United States. As we have done in other areas, such as the future of work inquiry, this elevates our own thinking and builds valuable and unexpected connections for people in the field. As expected, the convening left many open questions related to whether and how UBI should fit into economic advancement strategy and we look forward to further conversations with the board as part of our strategy refinement.

Arrest Diversion Efforts (Leonard Noisette)

While there is consensus that the war on drugs has failed, there is little consensus on what should take its place and even fewer concrete models of what could successfully replace the current paradigm. U.S. Programs has sought to support community level alternative responses to drug use, including early support for the Law Enforcement Assisted Diversion (LEAD) program in Seattle, Washington, and subsequently for a second diversion program in Santa Fe, New Mexico. While these programs have been designed to meet their particular local conditions, they share some critical components: law enforcement officers are given discretion to refer those involved with drugs to a range of services in lieu of arrest; individuals do not have to plead guilty (thereby receiving a criminal

record) in order to get services; and, services provided through the program are not contingent on total abstinence. Early assessments have shown the Seattle program to be a success: an [evaluation](#) funded by the Arnold Foundation found that people involved in LEAD were 60% less likely than those in the control group to be arrested within the first six months of the evaluation.

In the spring of last year, the Drug Policy Project released a request for proposals to further advance this work. The focus of this grant opportunity was to support jurisdictions through a year-long planning period for policy makers, advocates and practitioners to shepherd a rights and harm-reduction centered pre-booking diversion program into fruition, particularly for drug related activities that have traditionally resulted in involvement in the criminal justice system, and a debilitating criminal record. We received 24 comprehensive applications, 16 of which we determined were aligned with the framework and objectives of the proposal. Subsequent to a series of interviews, the Drug Policy Project selected seven jurisdictions: Atlanta, GA; Bangor, ME; Camden, NJ; Fayetteville, NC; Los Angeles, CA; Milwaukee, WI; and Philadelphia, PA. The selection of this cohort was guided by a list of criteria, including, but not limited to: the strength of the coalition's, commitment or willingness to incorporate harm reduction principles into the diversion program, and a sufficiently articulated strategy for long term sustainability planning, including a demonstrated awareness of existing resources to fund such an initiative without ongoing foundation support.

From this cohort, we have satisfied most of our aspirations towards diversity, including: geography, political orientation, Medicaid expansion status, gender representation, and leadership structure. We are less satisfied with the representation of different races and directly affected populations in the leadership structure of most of these coalitions, and hope there will be broader inclusion along these lines as the planning in each jurisdiction evolves. In two jurisdictions, DPP's decision to engage was partially informed by a political-moment-in-time context (Los Angeles: Post-Prop 47; Camden: economic revival). The programs began operations the beginning of this year, and we have begun site visits to assess early planning efforts, particularly how well the programs' leadership coalitions are functioning. As to be expected, there are growing pains as actors across a variety of sectors not all used to working with one another are challenged to do so. We will be hosting a convening mid-May to bring the sites together along with representatives from the Seattle and Santa Fe programs to facilitate shared learning and accelerate the development of these new initiatives.

We realize that not every site will be successful, but even a carefully evaluated failure can teach us whether and when pre-booking diversion programs are a viable community alternative to the current drug war.

In an absolutely perfect world, we see these pre-booking alternative programs and protocols as a step to our ultimate goal where high quality community based health and social services are available for all without any police or criminal justice intervention. Sweeping success in these planning processes would mean shifting cultural attitudes in how substance use disorder is viewed and should be addressed in an open society. It would mean meeting people where they are in relation to their

drug use, with full consideration to an individual's rights and health concerns would become a realistic alternative to long standing punitive drug policies and practices.

Extending Broadband Access to Low-Income Americans (Laleh Ispahani)

In March 2016, with strong advocacy of our digital rights field at its back, the Federal Communications Commission voted to modernize the Lifeline Program. This program was established in 1985 to provide a discount on phone service to qualified low-income consumers. It was expanded in 2005 to include *wireless* phone service. Last year, the FCC began to consider further reforming the program, centrally by modernizing it to also provide subsidies for broadband service. [The FCC's just-issued Order](#) approved a \$9.25 subsidy toward the monthly cost of qualified consumers' wired and mobile broadband service. This expansion of the program could increase broadband adoption and narrow the digital divide.

U.S. Programs' digital rights grantees mounted a vigorous campaign to secure this strong Order from the FCC. This was a particularly challenging feat because of the fraught political climate surrounding the Lifeline Program: fiscal conservatives have been pushing to eliminate the program and two unfavorable Government Accountability Office [reports](#) surfaced instances of waste, fraud and abuse by service providers. Congressional Republicans are currently considering a bill that would cap the program's budget, thus limiting the number of qualified households that could benefit from Lifeline. However, the bill is considered too controversial, and has stalled in the House with House Republicans unwilling to move it on party lines for fear they'll be tarred as unsympathetic to the poor.

Also last year, [Pew issued a research report](#) showing that in recent years, the percentage of adults with broadband at home had plateaued and even decreased. Broadband adoption declined principally among African Americans, rural residents and low-income families. A plurality of non-adopters cited the cost of broadband service as a critical barrier to adoption. According to available data, there is significant overlap between those who do not have broadband at home and those who rely on the Lifeline program for phone service, suggesting Lifeline is well-suited to reach a large portion of non-adopting households.

Seven in ten teachers assign homework that requires the Internet and yet 5 million households with school-going children don't have home access. More than 80 percent of Fortune 500 companies, including companies like Wal-Mart and Target, only accept job applications online. Modernizing the Lifeline Program to include broadband is critical, as it would extend the numerous socio-economic benefits of broadband access to its beneficiaries, including improved labor market outcomes for subscribers, increased economic growth, access to better health care, and enhanced civic participation.

Positive Activism (10:30 - 12:00 p.m.)

Moderator: Eli Pariser

Guests: DA James E. Stewart, (LA); Roberta Meyers, Director, Legal Action Center/National H.I.R.E Network & New Southern Strategy Coalition; Anita Earls, Executive Director, Southern Coalition for Social Justice

The seeming loosening grip of the Southern Strategy in the region presents an opportunity to advance reform at the local, state, and regional levels in ways that can help shape the narrative and local conditions for marginalized populations. During this session Board members will engage with local leaders from North Carolina, Louisiana, and Georgia, employing creative and effective organizing, advocacy, and litigation strategies to successfully counter the famed Southern Strategy.

Well known civil rights leader [Rev. Dr. Barber II](#), current president of the North Carolina chapter of the NAACP and pastor at Greenleaf Christian Church in Goldsboro, North Carolina, will discuss what he views as “America’s Third Reconstruction.” He will discuss the movement afoot in North Carolina, but deeply rooted in the region, that is grassroots led, framed using moral language, grounded in principles of inclusion, race centered, and driven through “fusion coalitions” that move beyond single issues or electoral outcomes. Rev. Barber will discuss the principles, strategies, challenges and opportunities for sustaining and replicating the movement nationally. Rev. Barber is the author of *The Third Reconstruction: Moral Mondays, Fusion Politics, and the Rise of a New Justice Movement* (Beacon Press) and *Forward Together: A Moral Message for the Nation*. He is also the founder of [Repairers of the Breach](#).

In November 2015 James E. Stewart, Sr. made history in Shreveport, Louisiana when he became the first Black District Attorney of Caddo Parish. Coming only a few weeks after another reform candidate, Scott Colom, defeated Forrest Allgood, a notoriously punitive district attorney in Mississippi, who’d been in office for more than a quarter-century, Stewart’s win over a member of the old guard of Caddo Parish prosecutors is evidence that even in the deep South, progressive prosecutors can achieve convincing victories over entrenched “law and order” candidates.

DA Stewart, a Democrat, received 55 percent of the vote defeating sitting district attorney and Republican, Dhu Thompson. Notably, only 5% of elected District Attorneys, or 42 total, in the United States are Black. [District Attorney Stewart](#) is only 1 of 3 Black District Attorneys in Louisiana. Stewart ran on a platform of criminal justice reform in a parish infamous for racism, prosecuting the innocent, and rampant death penalty convictions.

The Caddo DA race received [national attention](#) following the incendiary comments of Dale Cox, acting DA of the parish, who was profiled in the New Yorker after saying Louisiana needed to “[kill more people](#).” The now infamous Cox, who told 60 Minutes “the system worked” in the Glenn Ford case (despite an innocent man spending thirty years in prison and receiving no compensation) was, by his own admission, forced out of the race for District Attorney by the weight of reporting

on his behavior and attitude toward defendants. That reporting highlighted what an outlier, both nationally and within Louisiana, the Caddo Parish DA's office had become in the frequency with which it sought and won death sentences, particularly against African-Americans.

Stewart's victory is also notable because it highlights the role prosecutors can play in larger efforts to curtail prosecutorial misconduct and protect the due process rights of defendants. His victory serves as a useful example of how raising the profile of prosecutorial behavior in specific counties, and then offering citizens the opportunity to vote for an alternative approach can produce substantial change in local leadership positions that have a profound impact on the day-to-day lives of its citizens. Stewart's victory has raised hope that if this profound change can happen in one of the most notoriously conservative "law and order" jurisdictions in the United States, it can happen elsewhere.

U.S. Programs grantees, [Anita Earls, Esq.](#), founder and Executive Director of the North Carolina-based Southern Coalition for Social Justice, and [Roberta Meyers](#), steering committee member of the New Southern Strategy Coalition will discuss their collaboration and how southern-based organizations are coming together to learn and support each other to advance employment and educational opportunities for people with criminal histories, combat racial profiling by police, and curtail exclusionary school discipline practices as documented in the report on state reforms, *After Prison: Roadblocks to Reentry*; as well as in the report on federal reentry reform, *National Blueprint for Reentry*.

Ms. Earls will also discuss gains made in advancing voting rights through civic engagement and litigation efforts based on her many years of experience litigating voting rights and other civil rights cases in partnership with community-based organizations and her tenure with the Civil Rights Division of the U.S. Department of Justice. Ms. Roberta Meyers has spent the last 20 years working to remove the many barriers to the [successful reintegration](#) of people with criminal histories into civil society.

THE STATE OF U.S. PROGRAMS

Nearly three months have passed since our last meeting. In that time, the presidential campaign has winnowed down and sharpened contrast, the Supreme Court lost a justice while ruling in other important ways on issues of concern to us, and we've seen the rise of xenophobia and anti-Muslim rhetoric following terrorist attacks in Brussels. We have embarked upon several Opportunities Fund explorations that respond to unforeseen events and opportunities—from the Department of Labor's new rule protecting consumers against unscrupulous acts by financial advisors, to supporting the voices of military veterans to speak out against Islamophobia. And we have begun in earnest our 2016 grant making.

Consistent with our recent practice, this memo provides an overview of the state of U.S. Programs and its operations with a focus on items that are not otherwise covered in the upcoming Board discussions. We begin with several “reports from the field” which highlight notable items, such as a U.S. Programs-inspired Future of Work inquiry in OSF's Africa Regional Office, and steps taken in recent months in reducing the population of Rikers Island in New York, with a fuller set of key developments included in the U.S. Programs Updates by Goal, beginning on page 49. What follows is an analysis of our grant making in 2016, with preliminary exploration and grantmaking we anticipate for the 2016 Opportunities Fund. We conclude with updates on personnel and internal shifts.

I. SELECT REPORTS FROM THE FIELD

The Courts

U.S. Programs grantees continue to be at the forefront of efforts to confirm a new Supreme Court Justice to replace Antonin Scalia. We have declined, however, to join in a more intensive White House generated plan to raise and spend millions around the current vacancy. Instead, OSPC will provide limited support for polling about how Americans view the Court and which issues most clearly demonstrate the importance of the third branch. And we will continue to support grantees on their immediate efforts and on the longer-term project of protecting the rule of law and making the case for a fair judicial nominations process. During the recent Congressional recess, the legal policy program of Center for American Progress (CAP), [Legal Progress](#), activated its state-based networks to put pressure on Senators in their home states. Senate Judiciary Committee Chair Chuck Grassley came under [especially intense scrutiny](#). At least fifteen other Republican Senators have agreed to meet Chief Judge Garland, whose meetings previously had been solely with Democratic Senators. Though we continue to think it unlikely that Chief Judge Garland will receive a hearing before the election, the pressure is having a noticeable effect among conservatives. In response to the conservative Judicial Crisis Network ads that have begun to run in key states and that attack Chief Judge Garland's record on the Second Amendment, the American Constitution Society (ACS) helped to develop and place a [USA Today op-ed](#) by Second Amendment scholar Adam Winkler. ACS is now working with the larger judicial nominations coalition to plan for similar letters

to correct the record. The Constitutional Accountability Center continues to coordinate moderate and conservative voices, and helped write and place [this op-ed](#) (quoting retired Justice Sandra Day O'Connor's call to "get on with it") by former Transportation Secretary (and Republican) Ray LaHood. Following our February board meeting, U.S. Programs has encouraged grantees focused on money in politics to insert those issues into the nomination fight while working in tandem with the larger judicial nominations community. Led by Demos, People for the American Way Foundation, Public Citizen and others, money in politics organizations have held or scheduled meetings with at least 15 Senate offices in order to make sure Senators know the critical role the Supreme Court plays in the money in politics landscape, and to help Senators develop money in politics lines of questioning for their private pre-confirmation meetings with Chief Judge Garland (as well as in any future Senate Judiciary Committee hearings).

At the same time, we are planning for the impact of likely 4 to 4 decisions. For instance, Emma Lazarus II (EL2) grantees are working closely with CAP and others to develop messaging around the DACA/DAPA case, where a tie vote would uphold the U.S. Court of Appeals for the 5th Circuit's decision against executive authority. As many as 5,000 individuals, many of whom will be [impacted by expanded DACA and DAPA](#), mobilized in front of the Supreme Court to show their support at the April 18 arguments. Several Members of Congress were in the courtroom, as was Attorney General Lynch. From first-hand accounts, we understand that the arguments were engaging, dynamic and intense, with justices interrupting with comments and questions for much of the ninety-minute argument. There has been [much speculation](#) about how to interpret Roberts' and Kennedy's questioning, the two possible swing votes on whom a win or a loss rests. [Initial media reports](#) after oral arguments indicated that a 4 to 4 tie seems likely, meaning defeat for the Obama Administration's deferred action programs. However, it is impossible to know which way the Justices will go, and many flaws and contradictions in Texas' case were revealed by the four left-leaning Justices as well as Solicitor General Donald B. Verrilli and Tom Saenz of MALDEF (an intervenor in the case), who artfully argued that this is a political, rather than a legal matter. Moreover, many observers were surprised to see the U.S. House of Representatives, granted oral argument time to support Texas' case, contradict Texas' legal argument. Grantees lined up public officials and legal experts to frame the case both before the arguments, as well as tie up what may have been seen as open issues after the arguments closed. [New polling](#) indicates that the Supreme Court outcome in this case is likely to motivate Latino voters to participate in this November's election.

Nearly all EL2 grantees played a role in drafting, collection, and promotion of amicus briefs. The mini-campaign coordinated by the National Immigration Law Center, and supported by EL2, Ford, JPB, Haas Jr. and a few other funders is leading the effort: Highlights include briefs from business (63 U.S. employers), states, mayors/localities, Congress, faith leaders, California leaders, bi-partisan former Members of Congress, law enforcement, former homeland security officials, the LGBTQ community, and undocumented youth, who brought [their stories](#) to the Supreme Court for the first time. Opponents to DAPA and DACA lined up their arguments, too, including an unprecedented

brief from House Speaker Paul Ryan. All briefs can be found [here](#). We have been particularly taken with the promotion of the human face of what is at stake for the five million people whose lives are in limbo, including undocumented parents and their U.S. citizen children. Read about it in this Urban Institute [report](#) entitled “Deferred Action for Unauthorized Immigrant Parents: Analysis of DAPA's Potential Effects on Families and Children”, on the Fight for Families [site](#) funded in part by EL2 and in this [article](#) by the Center for American Progress.

OSI-Baltimore

Baltimore’s 2016 mayoral race, which took place on April 26, received more attention than previous races, both because the uprising caused more people to focus on systemic change in the city and because sitting mayor Stephanie Rawlings-Blake, widely criticized for her handling of the uprising, opted not to seek re-election. The heightened media attention and a new law that lines mayoral elections up with presidential ones likely contributed to increased turnout: More than 130,000 Baltimoreans voted in the primary election—a 65% increase from the last mayoral primary, in 2011—but still less than a third of Baltimore’s voting-age population of about 500,000.

State senator and senate majority leader Catherine Pugh won the Democratic primary—which, in Baltimore, where Democrats outnumber Republicans 10-to-1, is more important than the general election—with 37% of the vote, edging out former mayor Sheila Dixon, who stepped down in 2008 after she was found guilty of misdemeanor embezzlement. The race attracted considerable national media attention, much of it focused on Black Lives Matter activist DeRay Mckesson, who ultimately won just 2% of the votes. Many observers were surprised that, given the widespread push for change, neither Mckesson, who has 342,000 Twitter followers, or any of the other outsiders gained more traction. It became clear that national profiles and Twitter followers do not translate to local voters and that Baltimore’s traditional power bases in the black church and among middle-aged African-American women—where Dixon and Pugh, both African-American women, have strong followings—remain intact. The push for change also led to tremendous turnover in the city council, which will have 8 new members out of 15, if the Democratic candidates win the general election as expected, setting the stage for the youngest and most reform-oriented council in a generation.

While the names at the head of the mayoral pack were not new, the content and tenor of campaign events and debates were drastically different from past races. Candidates offered detailed plans for confronting structural racism and reforming police practices and the criminal justice system—issues that got scant attention in previous races. OSI-Baltimore held two community-based mayoral primary forums, seeking to engage disenfranchised populations in the democratic process, to increase voter turnout, and to get the candidates to address issues of concern so that the future mayor can be held accountable. The [first forum](#), on February 24, was hosted by Rev. Dr. Heber Brown of Pleasant Hope Baptist Church, which has fostered leaders of activist organizations such as Leaders of a Beautiful Struggle, as documented in a recent [story in the Atlantic](#). The [second](#) was at the historic Union Baptist Church in West Baltimore and focused on criminal justice reform. Each event attracted several hundred, mostly African-American attendees, was covered extensively by

print and TV media, and was webstreamed for maximum exposure. A third co-sponsored event, a [Mayoral Stoop Storytelling Show](#), attracted about 800 people and was covered by the [New York Times](#) and the [Washington Post](#) and broadcast on two local NPR affiliates. These efforts contributed to the 65% increase in voter turnout.

Steps Forward on Reducing the Population at Rikers Island

As the Board knows, we have supported efforts to develop a smaller, more humane system of incarceration, with the ultimate goal of closing Rikers Island, by proposing alternatives to pretrial and short-term detention. Herb Sturz, OSF Senior Advisor, has been heavily involved behind the scenes, exploring alternatives to incarceration and justice-involved support structures, including workforce development and mental health interventions for the 600 women held at Rikers. While Mayor De Blasio acknowledges the idea of closing Rikers “[deserves serious consideration](#)”, it’s clear his immediate concern is focused on reform rather than closure. On February 11, City Council Speaker Melissa Mark-Vivirito announced the formation of an [independent commission](#) to explore options for improving the city’s justice system, including the possibility of closing Rikers. The 27-member commission is led by former New York Chief Judge Jonathan Lippman and includes Ken Zimmerman, Herb Sturz, Darren Walker of the Ford Foundation, and the leaders of several U.S. Programs grantee organizations. Their first meeting was held April 15.

Also in April, Mayor Bill de Blasio [announced](#) a citywide expansion of supervised release, which will provide judges with the discretion to assign eligible, low-risk defendants to a supervisory program that will allow them to remain in their communities while they await trial, instead of in jail, regardless of their ability to afford bail. While some have heralded this as a sign of progress, it must be noted that the program is limited to individuals determined to be low-risk of danger or flight—the very individuals who might otherwise be released on their own recognizance.

Puerto Rico Debt Crisis

The outlook for federal legislation to help Puerto Rico manage its debt crisis has improved since the last Board meeting. House Speaker Paul Ryan helpfully tasked the House Natural Resources Committee to draft a bill using Congress’s authority under the Territorial Clause to avoid conservative objections to amending the bankruptcy code. The Committee has produced several drafts over the past month in search of the policy and political sweet spot that will provide a workable framework for Puerto Rico to restructure its debt while still being able to garner the support of most Republicans in the House. A Committee vote on the latest draft was recently postponed so that Republican leadership can round up more members of their caucus, several of whom have been targeted with an aggressive and deceptive TV ad campaign which calls the bill a taxpayer bailout. U.S. Programs and Open Society Policy Center grantee the Center for a New Economy has been providing policy guidance to the Committee during this process. The Treasury Department is also actively involved in negotiating provisions in the bill. The main areas of contention are: the composition and powers of the federal oversight board; the process by which Puerto Rico can access debt restructuring authority and the workability of that authority; changes to

the minimum wage; and measures to address long-term economic growth. The Committee is eager to keep the Administration happy, understanding that Democratic votes will be needed to get any deal passed on the floor. The Senate has not begun consideration of Puerto Rico legislation, watching and waiting to see what the House does first. For more information about the U.S. Programs work in Puerto Rico, please see page 54 of the Updates by Goal.

We also here provide two examples of U.S. Programs' deepening engagement with our global colleagues:

Legal Empowerment Shared Framework

Half of the people who seek assistance from legal aid attorneys in the United States are turned away for lack of federal funding. Open Society Foundation's U.S. Programs is joining with global colleagues throughout OSF (internally referred to as a Shared Framework) to explore whether there are innovative ideas related to the provision of civil legal services that can address this justice gap in the U.S. and help institutionalize effective technology tools or community-based civil legal aid efforts in order to meet the Conference of Chief Justices' and Conference of Court Administrators' goal of 100% access to justice for all.

On June 3, 2016 at Harvard Law School, we will gather a mix of legal aid experts and leading technologists to explore new ideas about the development of technological advances in legal empowerment and possible new sources of funding from state, federal and private entities. As opposed to this just being an effort to provide additional legal aid services—and increasing access—this work is a means of empowering people to understand their rights under the law and to use the law both to resolve their issues and to advocate for improved conditions in their communities. Additionally, we intend to investigate promising legal empowerment models such as [Law4BlackLives](#) or New York's [Legal Hand](#) that could be brought to scale and sustained through a variety of funding models. We are hopeful that the right mix of academicians, civil legal aid subject matter experts and leading edge technologists (both inside and outside of the legal field) will help to identify innovative legal empowerment initiatives that might truly expand access to justice in the U.S.

Future of Work in Africa

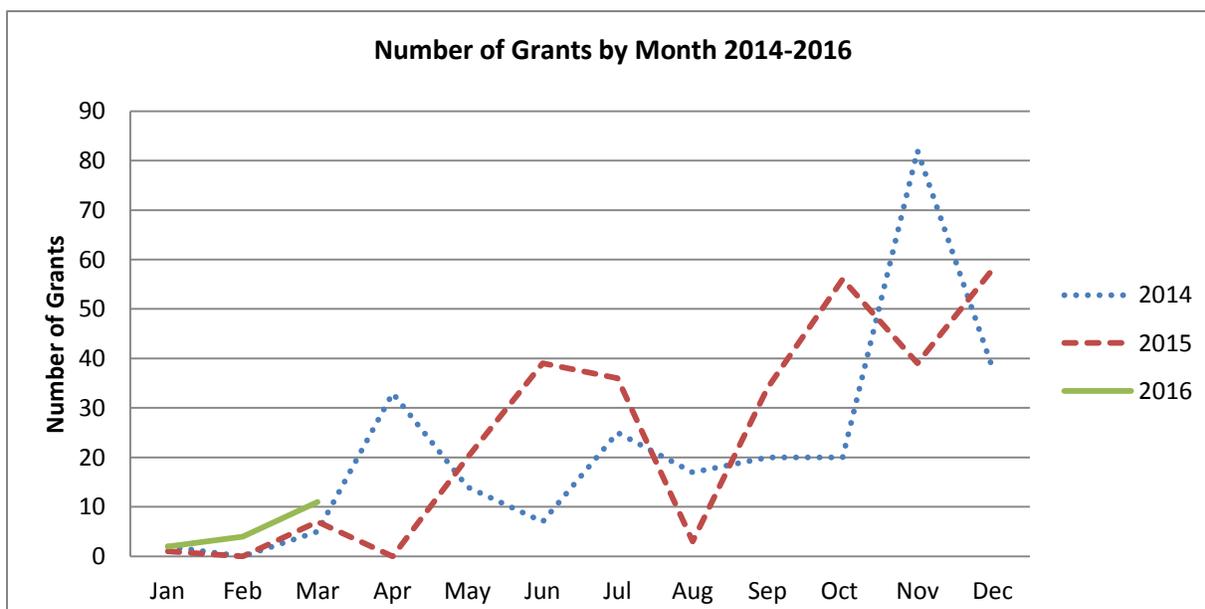
OSF's Africa Regional Office (AfRO) is in the early stages of an effort to initiate a Future of Work inquiry in Africa, inspired by the U.S. Programs effort guided by board advisors Andy Stern, Deepak Bhargava, Geoff Canada, and Yochai Benkler. In fact, there is great interest across the OSF network in the Future of Work inquiry. Several global colleagues will be present for the convening we are organizing in Silicon Valley for June in partnership with the [Institute for the Future \(IFTF\)](#). The event will bring together OSF staff and U.S. Programs Board members with a diverse group of advocates, academics, venture capitalists, business and labor leaders, and technologists to explore how money moves in Silicon Valley (both venture capital and growing tech-funded philanthropy), how emerging technology is both developed and deployed, and how business practice is evolving to shape the future of work. Silicon Valley is home to some of the world's leading tech firms,

thousands of startups, and at the same time, is a contested space given the impact of technology on the lives of workers and rising rates of inequality in this country.

II. U.S. PROGRAMS BUDGET AND GRANT MAKING

In 2016, U.S. Programs’ approved budget totaled **\$100 million**, with **\$87 million** dedicated to grant making. The approved budget also includes **\$13 million** for overhead and personnel. Our revised budget totals **\$118.5 million** due to \$17.3 million in requested rollovers from 2015 (pending Presidential approval) and an estimated \$1.2 million in allocations from the OSF Shared Framework funds.¹ Although not part of U.S. Programs’ overall budget, it is important to note the **\$20 million** Opportunities Fund reserve and the **\$5 million** U.S. General Reserves Fund.

As of March 31st, U.S. Programs has made \$4 million in grants and spent \$2 million of what we call program development funds, which are for convenings, consultancies and other such non-grant expenses that advance our strategies. An additional \$11 million in grants is already in the pipeline to be made over the next three months. U.S. Programs also made \$965,000 in grants via the Opportunities Fund. As you can see from the chart below, U.S. Programs has made more grants in the first quarter of 2016 than in the first quarters of 2014 or 2015, which can be attributed, in part, to the refined grant making processes developed over the past two years. But we still continue the pattern of reserving the bulk of our grant making for the second half of the year.



¹ Shared Frameworks are projects with high-priority goals and a limited time frame to which multiple OSF programs and foundations contribute their own programming. While there are other ways to arrange co-funding or to coordinate separate strategies of multiple programs, 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.

In 2016, OSF further clarified its new strategy-budget taxonomy, known as Categories of Work, which includes themes, subthemes, and approaches. U.S. Programs’ budget is categorized into 12 themes and 43 subthemes. Within U.S. Programs, however, all of our work remains driven to advance four goals and we organize our thinking and efforts by those goals (see Updates by Goal on page 49). Categorizing our work this way provides a common language for all OSF regional and thematic funds, which allows OSF to compare and contrast funding levels throughout the network by common themes. The below table shows U.S. Programs’ budget in 2015 and 2016 by theme—the way the Global Board views it.

| Theme | 2015 | 2016 |
|---------------------------------------|----------------------|----------------------|
| Cross-Thematic ² | \$3,608,630 | \$1,081,995 |
| Democratic Practice | \$9,260,000 | \$12,035,000 |
| Early Childhood & Education | \$3,415,559 | \$3,591,250 |
| Economic Governance & Advancement | \$7,093,308 | \$8,886,423 |
| Equality & Anti-Discrimination | \$21,016,810 | \$16,608,213 |
| Health & Rights | \$8,715,267 | \$10,181,925 |
| Human Rights Movements & Institutions | \$4,976,800 | \$8,699,237 |
| Information & Digital Rights | \$2,813,000 | \$2,988,000 |
| Journalism | \$1,625,000 | \$1,900,000 |
| Justice Reform & The Rule Of Law | \$17,896,688 | \$17,048,463 |
| Program Administration | \$18,931,805 | \$15,479,494 |
| Reserves | \$650,000 | \$1,500,000 |
| Management Commitments (Rollovers) | - | \$17,300,126 |
| Shared Framework: Legal Empowerment | - | \$1,200,000 |
| Grand Total | \$100,002,868 | \$118,500,126 |

III. OPPORTUNITIES FUND

As of April 14, U.S. Programs has made grants totaling \$965,000 via the 2016 Opportunities Fund and will be proposing an additional \$4,370,000 to the Advisory Board. The Open Society Policy Center has proposed \$1,050,000 in Opportunities Fund support to the OSPC Board³. A detailed tracking sheet of the Opportunities Fund can be found on page 36.

² The “Cross-Thematic” theme represents work taking place across two or more themes included in this chart. In both 2015 and 2016 this theme includes monies for Open Places Initiative (\$2.675M in 2015 and \$692K in 2016) and Ideas Initiative/Frontier Fellows (OSI-Baltimore Fellowships \$829K in 2015 and \$389K in 2016). In 2015 this also included \$104K of OSI-Baltimore Special Opportunities Grant monies.

³ The USP Advisory Board approves the overall c3 approach to uses of the Opportunities Fund. Similarly, Jonathan Soros, in his capacity as a member of the Board of OSPC, approves the use of the Opportunities Fund for c4 purposes prior to any OSPC Board review of each unique grant. Ken Zimmerman also fulfills a dual role of (i) Director of USP where he has authority to review all USP grant recommendations and approve USP grants up to \$1M and (ii) Co-Director for Domestic Policy Grant Making of OSPC where he has the authority to unilaterally approve OSPC grants for domestic policy grant making, primarily for

A. Progress on Grants Approved in 2015

At the last board meeting, as part of the review of the [2015 Opportunities Fund](#), members expressed an interest in learning more about the progress of previously approved initiatives. Here are updates on two Opportunities Fund initiatives approved in 2015:

Baltimore: Response to the Uprising

Since October 2015, OSI-Baltimore has provided support to grassroots organizations to help them coordinate a multi-year comprehensive policy agenda for policing reform. In January 2016, OSI-Baltimore convened a day-long strategy session between advocates from Baltimore and other jurisdictions that have a federal consent decree. OSI-Baltimore also hosted a follow-up meeting between Baltimore advocates and the Co-Chair of the Seattle Community Policing Commission to help Baltimore advocates further refine an approach to inform and influence the ongoing U.S. Department of Justice pattern and practice investigation into the Baltimore Police Department. More recently, OSI-Baltimore supported the release of the No Boundaries Coalition report *Over-Policed, Yet Underserved: The People's Findings Regarding Police Misconduct in West Baltimore*, which includes 27 recommendations for policing reforms in Baltimore to the Baltimore Police Department, the Maryland General Assembly, and the U.S. Department of Justice.

Emma Lazarus II

Our phased approach to grant making for 2016 commits minimal funds early in the year, dedicated to optimizing and learning from EL2's 2015 investments, so that we have the bulk of what remains from the original EL2 allocation of \$25 million at the ready to fund a rapid response plan if the Supreme Court allows deferred action to go ahead. We are strongly inclined to focus the \$8 million remaining in reserve on a handful of key geographies with large numbers of eligible immigrants, the ability to ramp up quickly, and where there is a high degree of threat faced by immigrants from federal, state and local enforcement policies. Places under consideration include parts of California, Texas, Illinois, Florida, New York, New Jersey, Washington, D.C. metro area, Arizona, Georgia and North Carolina. Reports in from the 2015 investments indicate that allowing our grantees to focus on naturalization while DAPA and DACA were stalled provided an effective proxy that allowed them to build permanent capacity and raise additional funds, while at the same time providing services immigrants could benefit from immediately.

B. Approved By U.S. Programs Advisory Board since February 2016

Montgomery v. Louisiana & Youth - \$565,000 (reviewed by Bryan Stevenson)

The Supreme Court's January decision in this case found that mandatory sentencing schemes requiring youth who are convicted of homicide to serve life without parole were in violation of the Eighth Amendment's ban on cruel and unusual punishment. U.S. Programs has made a \$565,000

state and local advocacy, up to and including \$250,000. Relatedly, any staff who work on c4 grants do so in their capacities as "enabled" staff members of OSPC, and OSI is compensated accordingly by OSPC for this staff time.

Opportunities Fund investment to provide legal assistance to eligible individuals in Pennsylvania, Michigan, and Louisiana—three states that collectively imprison more than 50% of the individuals eligible for review under *Montgomery*— with the goal of releasing up to 2,000 individuals from prison. U.S. Programs’ investment will directly support the Juvenile Law Center in Philadelphia, the Law Offices of Deborah LaBelle in Michigan, and the national Campaign for the Fair Sentencing of Youth. This type of investment is illustrative of our growing investment in the implementation of favorable legislative, judicial and executive decisions to ensure that the people we care about are actually reached.

Veterans and Military Leaders to Combat Anti-Muslim Intolerance - \$400,000 (reviewed by Rosa Brooks)

Given the anti-Muslim rhetoric appearing with increasing frequency during this primary season, and the recent terrorist attacks in Paris, Brussels, and San Bernardino, U.S. Programs has made an investment of \$400,000 from the Opportunities Fund to inject the voices of Iraq and Afghanistan war veterans and senior retired military leaders into the public discussion on American Muslims and national security. Preliminary message testing has found that respondents are almost 20 points more favorable to messages regarding Islamophobia that are framed in the experience of veterans. As of this writing, two of three anticipated grants have been finalized. Grantees held their first introductory organizing call in mid-April and they are all in the process of hiring temporary staff, fellows, or campaign coordinators to lead their respective streams of work. Veterans for Peace, whose grant is awaiting decision, is also continuing its work to more directly engage political candidates, on a non-partisan basis, about anti-Muslim sentiment. A video of the veterans’ efforts in advance of our grant, with almost 3 million views, can be found [here](#).

C. Pending U.S. Programs Requests and Explorations

Fair Housing Rule (\$945,000 over two years)

A child’s ZIP code is the primary predictor of his or her opportunities in life. As you heard at the February Board Meeting, Stanford professor Raj Chetty’s [work](#) shows that place matters for a child’s chance to move up the socioeconomic ladder and [for life expectancy](#). U.S. Programs proposed to use \$945,000 over two years to support the implementation of a new [federal fair housing regulation](#) that would enable cities and counties to “overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.” We propose to use the Opportunities Fund to support community involvement in the local implementation of the rule through national technical assistance, local investments, data-driven approaches, and outreach to public officials. We are working closely with the Ford Foundation and have a draft joint plan of action.

Portable Benefits (\$400,000)

At the suggestion of U.S. Programs Board member Andy Stern, we are investigating whether an Opportunities Fund grant could be used to help develop the common infrastructure that is necessary to make a [portable benefits program successful](#). Health insurance, unemployment

insurance, paid leave, and workers compensation are often rigidly attached to the employer. A system of portable benefits allows benefits to be attached to the worker and to have multiple employers contribute. This is especially valuable for people who work through online platforms and the growing number of low-income workers without a formal employee/employer relationship. While many U.S. Programs grantees are engaged in the policy fight to win portable benefits, there is an additional opportunity to build the infrastructure for portable benefits that ensures that the movement can capture or control the revenue that will flow from this system. This Opportunities Fund grant would be used, in part, to fund people with private sector finance and benefit administration experience to develop this idea in coordination with non-profit actors, such as the [National Domestic Workers Alliance](#) and the [Freelancers Union](#). We are actively exploring this idea and expect to be able to report back to the Board on its feasibility soon after the Board meeting.

Racial Narrative and Voting (\$800,000)

Heeding Bryan Stevenson's call at the February Board meeting, we are exploring the development of a voting rights communications campaign that specifically addresses race and the history of voter suppression against African Americans and other people of color. The current national political dialogue has tapped into voters' feelings of fear and resentment of immigrants and other people of color, and at the same time, there are more fruitful discussions about systemic racism and the need for increased dialogue about race in this country. We aim to energize and mobilize eligible young voters of color to take hold of political power and participate in the November elections, to inspire and grow Black and Latino leaders, and to result in the election of more responsive legislators who make better policy.

The 2016 Presidential Race and Effects on Open Society (\$1,000,000)

With Geoff strongly urging us to pay attention to the presidential campaign and what it is revealing about the role of the white working class in supporting or challenging open society, we are beginning exploratory grant making. We are interested in what election season has exposed about the white working class, civil society's trust in government, the ability of campaign rhetoric to move public opinion on issues such as immigration and MASA Americans and the potential openings on issues of shared concern like drug policy reform in the wake of the heroin crisis hitting white and rural America. This inquiry could explore many questions, including the regional nature of what we are observing, the role of government in people's lives, and how millennials perceive issues of race and class in America. We will have more to report out shortly.

D. Pending OSPC Requests and Explorations⁴

DOL Conflict of Interest Rule (\$350,000)

This proposed \$350,000 OSPC grant would support the defense and implementation of a new Department of Labor (DOL) rule requiring all financial professionals offering investment advice for retirement accounts to put their clients' best interests ahead of their own profits. This rule is expected to save American workers and retirees an estimated \$17 billion a year. Americans for Financial Reform (AFR), a project of the Leadership Conference Education Fund (LCEF), is leading a campaign with partners to protect the rule by countering the industry's intense Congressional lobbying and public relations campaigns. AFR will work to effectively tell the story about the impact of the rule for Americans trying to save for retirement, the abusive practices used by opponents of the rule, and apply pressure on lawmakers to ensure they vote to oppose legislation to repeal or weaken the rule. Jonathan Soros, in his capacity as a Board member of OSPC, has reviewed the memo and approved referring the matter to OSPC for consideration.

Local Elected Officials and MASA Civic Engagement (\$200,000 w/ \$225,000 in c3)

As one element of our efforts to mobilize new constituencies to speak out against Islamophobia, we propose to support networks of local progressive elected officials to call for a more open, inclusive society and scale efforts to engage Muslim, Arab, and South Asian voters (MASA). OSPC is in the process of exploring or developing grants to the [Young Elected Officials Network](#), a project of People for the American Way, and [Local Progress](#), to support local officials in speaking out on anti-Muslim sentiment widely and to sponsor resolutions in their local legislature. OSPC is also in the process of developing grants to the [National Network of Arab American Communities](#) and [Emerge USA](#) to scale their work to identify, register, and turn out Muslim, Arab, and South Asian voters. We are unlikely to support this [effort](#) discussed in the New York Times to engage Muslim voters because the principals lack meaningful experience with voter engagement and are highly unlikely to be able to meaningfully learn and scale in a short time period, though we may provide a small grant to connect them to more experienced individuals or organizations.

Nebraska Death Penalty Ballot Initiative (\$500,000)

The Open Society Policy Center is requesting \$500,000 via the Opportunities Fund to help the organization Retain a Just Nebraska defeat a ballot initiative designed to overturn the victory they achieved when the legislature ended the use of capital punishment in their state. This campaign has outsized significance because Nebraska is a “red state” where a win on this issue would send a very strong signal to the United States Supreme Court that public opinion continues to shift in favor of outlawing the death penalty. At the same time, a loss would be a significant set-back and could erase or obscure some of the enormous gains in eliminating the death penalty across the nation.

⁴ Both USP and OSPC explorations are included to provide an accurate and comprehensive picture of OSF's work in the highlighted area, as USP's and OSPC's work is aligned and complementary, although pursued through different strategies and subject to individual grantmaking authority and approval processes.

IV. U.S. PROGRAMS PEOPLE

New Hires since February 2016

US Programs has hired **Kelly Goff** as the Executive Assistant in the Front Office. Kelly spent the last 9 years working at the Nonprofit Finance Fund assisting the CEO and Managing Director of Advisory Services. The Open Places Initiative hired **Jessie Greenspan** as Program Administrative Specialist, transferring from her position as a member of the OSI-Baltimore Education & Youth Development Program team. **Bobbi Nicotera** has joined OSI-Baltimore as Communications Specialist. Most recently, Bobbi was the Communications Specialist for the International Injury Research Unit of the Johns Hopkins School of Public Health Department of International Health. **Craig Rocklin** has joined OSI-Baltimore as the Director of Development. Craig formerly was the Director of Advancement and Alumni Relations at George Mason University School of Policy, Government and International Affairs. **Jeremy Rye** has been hired as the Temporary Manager of Grant Making Operations, filling in for Fatima Ashraf while she is on maternity leave. Jeremy comes to us after 12 years with the Center for Constitutional Rights where he most recently served as Senior Development Officer.

New Opportunities

After three and a half years in U.S. Programs, **Maggie Corser** has moved on from her position as Program Coordinator to accept a Research Analyst position at the Center for Popular Democracy. And **Gloria Medina**, Program Associate, is now a Senior Operations Analyst with the NYC Mayor's Office of Immigrant Affairs.

Open Society Foundations is following up on the role alignment project with a compensation review for all OSF employees. This process will be followed intently by staff and leadership to make sure we are promoting a salary structure that allows for equity and talent acquisition and retention.

Thank you for the opportunity to report on the state of U.S. Programs.

OPPORTUNITIES FUND 2016*
\$20 MILLION

| | C4 Funding | C3 Funding |
|---|--------------|----------------------|
| I. PENDING | | |
| DOL Conflict of Interest Rule | \$ 350,000 | |
| HUD's Fair Housing Planning Rule** | | \$ 945,000 |
| Local Elected Officials and MASA Civic Engagement | \$ 200,000 | \$ 225,000 |
| Nebraska's Repeal of the Death Penalty | \$ 500,000 | |
| Portable Benefits | | \$ 400,000 |
| Racial Narrative around Voting | | \$ 800,000 |
| The 2016 Presidential Race and Effects on Open Society | | \$ 1,000,000 |
| subtotal | \$ 1,050,000 | \$ 4,370,000 |
| II. APPROVED | | |
| Montgomery v. Louisiana & Youth | | \$ 565,000 |
| Veterans and Military Leaders to Combat Anti-Muslim Intolerance | | \$ 400,000 |
| subtotal | \$ - | \$ 965,000 |
| Total | \$ - | \$ 965,000 |
| Remaining Spending Target (does not include Pending) | | \$ 19,035,000 |

*USP and OSPC pending and approved grants are included to provide an accurate and comprehensive picture of OSF's work in the highlighted area, as USP's and OSPC's work is aligned and complementary, although pursued through different strategies and subject to separate grantmaking authority and approval processes.

** Over two years.

PORTFOLIO REVIEW: The 2013 PURSUIT of COMPREHENSIVE IMMIGRATION REFORM

Friday, May 6, 2016

Introduction⁵

The U.S. Programs Immigrant Rights portfolio supports a field of organizations that strive to promote the political, economic, and civic participation of immigrants through legislative and administrative policy reform. This review focuses on U.S. Programs' and OSPC's decisions, and the impact and consequences thereof, of supporting a pathway to citizenship for undocumented immigrants through comprehensive immigration reform (CIR)⁶ in 2013.

Federal “comprehensive immigration reform” (CIR) refers to the idea of changing various aspects of the immigration system through a single piece of legislation, rather than through a series of laws. Aspects of CIR address legalization of the nation’s undocumented immigrants, border and interior enforcement, visas for “high-skilled” workers, visas for “unskilled” workers and the temporary worker program, family immigration categories, verification requirements for employers, and humanitarian relief.

The 2013 push for CIR built off of [lessons learned](#) from the unsuccessful 2007 attempt to achieve CIR when OSF and other funders had invested \$16 million in the field. Reflecting on that effort, staff determined that CIR proponents failed for three main reasons. First, they waged a policy battle while the opposition successfully mounted a political and cultural fight. Secondly, immigrants and their advocates lacked the political and electoral power to influence policymakers in a substantial way. And, finally, staff observed that the immigrant rights field had failed to build longer, deeper relationships with allies from other movements. Subsequently, the U.S. Programs Advisory Board (the Board) authorized in late 2008 the creation of the Immigration Innovation Fund – a three-year, \$15 million initiative to enable the field to create the necessary conditions to secure CIR within five years. As described by Maria Teresa Rojas, Program Officer at the time, the 2010 “Comeback Strategy” was designed to promote naturalization and voter mobilization, engage in policy advocacy and research, develop the communications capacity of the field to advance a pro-reform narrative, build the immigrant rights field, and support legal advocacy to respond to harsh enforcement by the Obama administration.

⁵ Ivy O. Suriyopas has managed the Immigrant Rights portfolio since May 2015 and prepared this document with the assistance of Rebecca Carson.

⁶ Note: In the following review, the term “Comprehensive Immigration Reform” is used as shorthand to describe OSF's efforts, by USP through its (c)(3) U.S. private foundation and by OSPC-enabled staff through OSPC, to create conditions conducive for immigration reform as well as pursue a specific legislative bill. As such, these efforts encompass both (c)(3) and (c)(4) activities and strategies. Where USP is mentioned in connection to a general CIR activity in this review, that mention is used to indicate OSF's involvement in C3 investments, and where OSPC is mentioned, that mention is used to indicate OSF's involvement in (c)(4) investments. To the extent OSF staff made recommendations regarding (c)(4) expenditures or engaged in management of (c)(4) activities, strategy, or expenditures, such staff were OSPC- or (c)(4)-enabled.

By the end of 2012, U.S. Programs and Open Society Policy Center (OSPC) staff⁷ analyzed the various challenges and opportunities in pursuing CIR and U.S. Programs staff recommended to the Board that it support a robust CIR effort. That effort was only one part of a multifaceted immigrant rights strategy. In addition to the federal legislative reform represented by CIR, U.S. Programs would also challenge harsh federal and state laws that led to profiling, detention, and deportation of non-citizens and promote proactive local policies to protect immigrant rights. Yet, the CIR work was where most of the resources and attention were focused, and so we have chosen to use the clarifying power of the passage of time to reflect on three questions:

1. Should U.S. Programs have supported, and OSPC have pursued, comprehensive immigration reform in 2013, and to what degree?
2. Once U.S. Programs and OSPC agreed to do so, did we do so in the most effective way?
3. What did U.S. Programs and OSPC learn that we can apply to the Immigrant Rights portfolio going forward and/or to other federal reform efforts?

Background

When it became evident that there might be an opportunity to pass CIR in early 2013, a group of organizations and labor unions came together to form a coalition: the Alliance for Citizenship (A4C). A4C was intended to serve as a coordinating body as well as a conduit for pass-through funding. A4C's mandate was to develop a coordinated national campaign, strengthen and align the progressive movement around immigration reform as well as coordinate with nontraditional allies (e.g. faith-based groups, business interests, law enforcement), recruit additional advocates, lobby key members of the Senate, and influence development of the legislation.

A4C had a small central staff led by the Campaign Manager. It was governed by a Working Group of key organizations engaged in the CIR movement, a Coordinating Committee with which the staff and Working Group would seek input, and an Advisory Board. Working Group members of A4C included the AFL-CIO, Service Employees International Union (SEIU)/Mi Familia Vota, America's Voice (AV) (the c4 arm of America's Voice Education Fund [AVEF]), National Council of La Raza (NCLR), National Immigration Forum (NIF), National Immigration Law Center (NILC), Center for American Progress (CAP), and Center for Community Change (CCC) (through its project Fair Immigration Reform Movement [FIRM]). SEIU was intentionally included in the Working Group to avoid a fracturing of labor from the coalition, which occurred in the 2007 fight for CIR. CCC/FIRM and SEIU co-chaired the A4C Working Group.⁸

⁷ USP made c3 and OSPC made c4 grants in this area, but any reference to c4 grant making is only made to explain how it complements c3 funding. USP c3 grant making supported work that aimed to create amenable conditions for immigration reform by providing research and community education on immigrants and immigrant rights, messaging against anti-immigrant sentiment, providing for organizing of immigrant communities, and funding litigation. OSPC c4 grant making supported policy advocacy efforts, including developing a national campaign, influencing development of bill language, meetings on the Hill and with the Obama administration, communications advocacy, and strengthening civic engagement.

⁸ Deepak Bhargava, USP Advisory Board Member, is the Executive Director of the Center for Community Change.

A4C's Advisory Board included one representative from each funder providing c4 support, a representative from each of the Working Group members, and a couple of field groups. The Advisory Board determined the amounts to be distributed to A4C members and field partners based on recommendations by the A4C's Campaign Manager. A4C's activities included coordinating and managing several tables focused on organizing, communications, legislation, and policy; convening groups to conduct trainings and provide technical assistance; and re-granting to other groups in amounts totaling \$2.05 million⁹.

In 2007, immigrant rights groups utilized a bipartisan approach when the Republican George W. Bush was in the White House and Democrats controlled both chambers of Congress. After CIR failed to pass in 2007, the lesson that some groups took away from this was to forgo the bipartisan approach and to instead build power among immigrant communities and immigrant rights groups to overcome conservative opposition instead of working with them. So A4C's plan was to initially focus heavily on the Democrat-controlled Senate and White House to get a comprehensive bill passed through the Senate. A4C had no competitors; they were the principal coalition and driver advocating for CIR. OSF and Atlantic Philanthropies were among its early supporters.

Outside of Working Group members, A4C coordinated with different organizations and networks also working for CIR. For example, A4C coordinated its work with groups that were focused on recruiting non-traditional allies, some of whom were already focused on a strategy to advance legislation in the House of Representatives. These groups included PICO Action Fund, the Chamber of Commerce, Partnership for a New American Economy, Fwd.US, Bipartisan Policy Center, and Small Business Majority. National Immigration Forum was also among the groups working with faith-based organizations, law enforcement, and business interests through its Bibles, Badges, and Businesses coalition (BBB) and since it was a Working Group member, it was well-positioned to bridge and align the work. Another group with which A4C coordinated was CAMBIO, the Campaign for Accountable, Moral, and Balanced Immigration Overhaul (CAMBIO), which advocated for a more humane enforcement regime in the bill.¹⁰ The Four Freedoms Fund (FFF), a U.S. Programs grantee, helped to establish and then financially supported CAMBIO. FFF is a national funder collaborative that seeks full integration of immigrants into civic and political life of American society; it supports state-based and regional organizations to strengthen their policy advocacy, immigrant civic engagement, and defense of immigrant and refugee rights.

In June 2013 a CIR bill passed out of the Senate chamber with a historic 68-32 bipartisan vote. The debate and A4C's attentions pivoted to the House. PICO Action Fund, Bibles, Badges and Business, and others provided capacity to move potentially persuadable, but heretofore opponent, members of

⁹ CCC, NIF, National Immigrant Justice Center, PICO Action Fund, and NCLR Action Fund were amongst the organizations that received re-grants from A4C according to the April 2014 final report.

¹⁰ National Immigration Law Center (NILC) Immigrant Justice Fund served as the fiscal sponsor of CAMBIO's c4 activities. Other members included the following USP grantees: ACLU, Border Network for Human Rights (BNHR), Detention Watch Network (DWN), National Day Laborer Organizing Network (NDLON), National Domestic Workers Alliance (NDWA), National Guest Worker Alliance (NGWA), Rights Working Group, Southern Border Communities Coalition (SBCC), and United We Dream (UWD).

Congress in targeted districts. CAMBIO advocated against excessive and harsh enforcement provisions when it engaged with the House. Despite early signals of support, Speaker Boehner, under pressure, declined to bring the Senate bill, or any other immigration legislation, to the floor, citing the Hastert Rule. That rule, also known as the "majority of the majority" rule, is an informal governing principle used by Republican Speakers of the House of Representatives since the mid-1990s to maintain their speakerships and limit the power of the minority party to bring bills up for a vote on the floor of the House.

In 2014, efforts in the House limped along, with Speaker Boehner sending signals on his ongoing unwillingness to take up legislation. There were reports that Rep. Mario Diaz-Balart was quietly working with colleagues on a bill and that he had secured "soft commitments from at least 120 Republicans." However, in June 2014, Majority Leader Eric Cantor unexpectedly lost to a Tea Party candidate who criticized him for supporting "amnesty" for undocumented immigrants. His loss, combined with the surge of Central American asylum-seekers that same month and the Obama administration's response to the surge, were considered the final nails in the coffin for any prospects for CIR. The following month, President Obama announced that Speaker Boehner told him that Republicans would continue to block a vote on immigration reform for the remainder of the year and, consequently, he would take executive action on immigration policy again¹¹.

Overview of Investments

In 2013, the U.S. Programs Advisory Board approved a grantmaking strategy to support CIR efforts and subsequently referred \$6.25 million from the Reserve Fund (now called the Opportunities Fund) to OSPC to pursue a legislative agenda. The goal of this legislative agenda was to achieve a comprehensive immigration reform bill that included a path to citizenship for the nation's nearly 12 million undocumented immigrants. In 2013, U.S. Programs' grant making for immigrant rights was more than \$5 million in c3 resources. *See* Appendix. Total U.S. Programs and OSPC grant making in support of CIR in 2013 was \$7.725 million. Nearly \$1.5 million came from the regular budget of the U.S. Programs immigrant rights portfolio supporting c3 activities,¹² representing about half of the budget of the federal strategy¹³; the remaining \$6.25 million was referred to OSPC for c4 activities after being approved by the U.S. Programs Advisory Board as an appropriate use of reserves. OSPC funds were disbursed in three tranches. The first tranche in January 2013 went solely to A4C. The second tranche approved in March and April supported A4C, CAMBIO, PICO Action Fund, National Immigration Forum Action Fund, and United We Dream. The final tranche approved in October and November supported A4C and the National Hispanic Leadership Agenda's Latinos for Immigration Reform Project.

11 President Obama announced Deferred Action for Childhood Arrivals (DACA) in June 2012; he later announced a second executive action, Deferred Action for Parents of Americans and Legal Permanent Residents (DAPA) in November 2014.

12 Examples of c3 grant making activities include building upon the success of President Obama's 2012 executive action to advocate for long-term reform of the immigration system, improving the public's perception of immigrants and dispelling misconceptions about immigrants, organizing non-traditional allies, research.

13 It is noteworthy that Archana Sahgal framed the federal strategy as being multifaceted, and the administrative reform work – culminating in additional \$1.575 million in c3 resources – was part of the overall approach to obtaining federal immigration reform.

U.S. Programs and OSPC were not the only funders to step up in support of this effort. U.S. Programs and OSPC, Atlantic (at \$6 million in c4), and Ford (at \$7.36 million in c3) were the principal funders of the CIR push; combined, those resources represented almost 4.5 times as much as other funders. Other funders included the following: JPB Foundation provided \$1 million in c3 dollars, Carnegie Corporation funded the field with \$850,000 in c3 resources, Unbound Philanthropy committed \$700,000 in c3 resources, and FFF provided \$2.155 million in c3 dollars. OSF tried to recruit other funders to the table to amass additional funds for the effort by holding funder briefings and convenings, including one co-hosted with Atlantic Philanthropies in December 2013. In my research, I have been unable to determine whether any additional funding came in as a result of our outreach.

Analysis of the Federal Legislative Approach

Question One: Should U.S. Programs have supported, and OSPC have pursued, comprehensive immigration reform in 2013, and to what degree?

As an initial matter, the question is whether U.S. Programs and OSPC should have supported and pursued CIR in 2013, respectively, and at what funding level. At the time, C4-enabled staff surmised that, “Comprehensive immigration reform is more possible now than at any moment over the last decade.”¹⁴ Given that U.S. Programs historically supported federal reform efforts in 2007 and 2010, staff strived to capitalize on the momentum of the record-setting Latino turnout in the 2012 election to provide a path to citizenship for the almost 12 million undocumented immigrants living in the United States. Staff consulted with many members of the immigration movement, congressional staffers, other funders, and the Administration and became convinced that there was a genuine window of opportunity to achieve CIR, and that an overwhelming majority of the immigrant rights movement was behind such a move.

In hindsight, I believe that U.S. Programs and OSPC made the correct judgments in investing in CIR in 2013 for a number of reasons. First, as evidenced by the substantial bipartisan support for the Senate bill, there appeared to be a critical moment of opportunity. Second, the momentum from the investments made in CIR spurred a turning point in the fight for immigrant rights. The field’s sophistication, alignment, and enhanced coordination led to successes at the federal, state, and local levels. In fact, since 2012, the number of people in immigration detention is down by 36 percent, and the number of deportations has hit their lowest points in the last ten years, down by 42 percent. Last, OSF’s ability to tap into both U.S. Programs funds and OSPC funds enabled us to provide unique support, which ultimately led to a stronger, more aligned immigration field even though the bill ultimately failed to advance. Despite this, I believe that more due diligence and a different allocation of funds between the CIR effort and other strategies to improve the lives of immigrants might have generated better outcomes, and the unintended consequences of our funding could have been better predicted.

14 Memo from Ken Zimmerman to USP Advisory Board, Aug. 29, 2013.

Despite these successes, U.S. Programs and OSPC could have done more to seek out and internalize the alternative viewpoints on the attainability of CIR. Some Congressional experts now opine that there was never a real strategy to get a bill passed through the House, nor was it possible, given the politics at the time. However, others contend that if Speaker Boehner would have bucked political pressure from the right (and in doing so better positioned the Republican party for the future nationally), and set aside the Hastert rule (which he did in his speakership nine times), a combination of Democrats and Republicans would have had the votes to pass the Senate bill through the House. But for many political reasons, including the visceral post-Affordable Care Act tension between the White House and Congressional Republicans, Boehner did not take that step.

After questioning the assumption that the passage of CIR was feasible, the next premise to unpack is whether a pathway to citizenship was the most urgent priority for immigrants. The first four years of the Obama Administration was marked by a ramp up in immigration enforcement, operating under the assumption that increased enforcement against unauthorized immigration would create conditions amenable for legislative reforms.¹⁵ But the impact of increased enforcement hit immigrants and communities across the country deeply. U.S. Programs and OSPC's (and A4C's) contention at the time was that passing legislation with a path to citizenship was of prime importance because a large portion of the nearly 12 million undocumented immigrants would be shielded from deportation and family separation and would be able to fully integrate economically, civically, and socially as full-fledged Americans. Particularly as it appeared that momentum after the Senate bill passed began to wane, some members of the immigrant rights movement began to question whether pursuing a path to citizenship was worth the severe consequences families were facing. From my vantage point working as an anti-trafficking advocate at the time, I saw a splintering in the movement between those groups pursuing CIR and others who no longer thought the compromises made in the Senate bill around harsh interior and border enforcement were worth fighting for. It makes me wonder how we could have more intentionally approached the CIR opportunity as a means to strengthen the field, rather than having the singular focus of passing a CIR bill. However, despite this division at the time, the groups ultimately did come out of the effort more sophisticated, stronger, and more unified than ever and were able to achieve some major victories in 2013-2015.

While it is true that many groups in the immigrant rights field had unified around the prospects of CIR, it is also difficult to ascertain whether that momentum led or followed funding, and it is worth examining whether U.S. Programs and OSPC did all that could be done to solicit and consider alternative viewpoints. Perhaps U.S. Programs could have increased our funding and focus fighting against administrative harsh enforcement, but it is not clear that at the time additional funding would have led the Administration to do anything differently. They had made a different calculation, in which such enforcement was the predicate for achieving their ultimate goal. Combined U.S.

¹⁵ While Bill Clinton removed immigrants at a rate of 9,000 per month and George W. Bush deported them at a rate of almost 21,000 per month, President Obama removed almost 33,000 per month on average during his first term. The Obama administration deported almost 410,000 immigrants in 2012 and reached a historical high in 2013 with more than 438,000 removals.

Programs and OSPC grant making for CIR was \$7.725 million, while U.S. Programs grant making for combatting harsh enforcement was \$1.575 million in 2013. Alternatives to supporting CIR efforts at the time would have been to promote the rights of undocumented immigrants by protecting them from racial profiling and the criminal and immigration enforcement dragnet; removing barriers to their reporting crimes and seeking other assistance from law enforcement and other government agencies; increasing access to higher education and professional training; protecting them from labor exploitation and abuse; removing the collateral consequences from criminal convictions; and improving prosecutorial discretion in immigration proceedings. Many of these tactics help non-citizens generally, not merely the undocumented population. These types of investments might have had a more immediate, direct impact on the lives of many non-citizen immigrants and their families.

Whether U.S. Programs and OSPC should have pursued CIR begs the question of what other immigration funders did in the alternative. The Four Freedoms Fund opted to not support A4C with a large investment, but rather other organizations to pursue multiple avenues toward reform and different outcomes that it considered to be complementary to the A4C effort. Another funder felt that pursuing a rights-based approach¹⁶, such as CIR, was antagonizing to conservatives and failed to highlight how immigration is mutually beneficial for immigrants and American society as a whole. She also reasoned that the immigrant rights field and policymakers have tried to advocate for a path to citizenship for the undocumented population several times since passage of the Immigration Reform and Control Act of 1986¹⁷ and have failed. This funder invested in immigrant integration, which entailed supporting naturalization, workforce development, ESL for limited-English-proficient immigrants, and supporting state-based efforts; this approach strived to improve the lives of immigrants as well as generate more public support for inclusive immigrant policies. However, this was an outlier at the time, and I was not able to identify any other regular immigration funders that did not pursue CIR in some fashion at the time.

We must also ask ourselves what the impact was of having a board member (Deepak Bhargava, executive director of Center for Community Change, a co-chair of the A4C Working Group) also be relied upon as an expert in the field advocating for CIR, as well as an interested party when it came to investments that were ultimately made. His multifaceted role provided unique and thoughtful insights that enabled us to quickly understand complex dynamics and marshal resources, beyond what other funders could or would do, in support of immigrant rights. It is admittedly difficult to know exactly how and to what extent Mr. Bhargava's advocacy influenced U.S. Programs' ultimate decisions; he did take the appropriate steps to recuse himself from voting where there was a conflict of interest, and was transparent about his conflict and bias as the decision-making process unfolded.

16 This funder characterized this theory of change as assuming that the adoption of CIR was an essential precursor to successful immigrant integration and that the most effective policies involved protecting the undocumented population at their core.

17 Among other things, IRCA provided a path to citizenship for nearly three million of the nation's five million undocumented immigrants, increased border security, and created employer sanctions. Other attempts at advancing CIR took place in 1996, 2000, 2004, 2006, and 2007.

Question Two: Once U.S. Programs agreed to support, and OSPC agreed to pursue, CIR, did we do so in the most effective way?

OSPC's significant investment in CIR, and A4C specifically, led to the passage of a historic bipartisan bill through the Senate. While the compromise bill was imperfect, the alignment between the immigration groups, the Administration, and historically adversarial groups (including business, faith, and labor) was maintained throughout the process of securing the Senate bill. An assessment conducted of the CIR effort by a set of funders "points to a more sophisticated, aligned effort for immigration reform than ever before... "The vast majority of people interviewed for this assessment agrees that the grassroots of the movement has claimed more power and is also more sophisticated and effective. More than one informant described the grassroots as the "drivers of reform," the "motor force" in shifting the public narrative and in applying pressure on Congress and the President."

Where the field fell short at the time was its inability to pass the bill through the House. At the time, OSPC was persuaded by the Administration's and A4C's reading of the political context at the time, that the Administration's ramp up of immigration enforcement in President Obama's first term and the Senate bill passage would create the cover, momentum and political pressure needed to get the House on board. Ultimately, this assumption was a miscalculation. In hindsight, the field could have done more to build relationships in the House, and should have worked a parallel House/Senate strategy from the outset. Perhaps OSPC funding could have more effectively achieved better results in the House (by bolstering investments for organizations who were pursuing a House strategy from the start, relationship building with persuadable CIR opponents, communications, lobbying, and/or coalition building), but at the time, it would have meant bucking conventional wisdom by many of our allies and thought partners as well as the Administration.

One issue to consider is whether the Senate bill included so many provisions going to border and interior enforcement that the negatives of the bill outweighed the positives, and whether OSPC could have done anything differently to prevent or lessen those elements of the bill. Perhaps OSPC funding CAMBIO at a higher level to bring a view focused strictly on enforcement could have influenced the legislation. Or, perhaps a bill with insufficient border and interior enforcement would never have made it out of the Senate.

Another question is whether sufficient levels of public opinion research and communications work had been done to generate public support for CIR. The success of the marriage equality movement, for example, can provide some insights. Funders in that field invested for years in communications research that included focus groups on how to frame the message, who should be the messenger, and how to marginalize the opposition's response. In terms of the context in which the field operated, the marriage equality movement also had increasing representation of shows featuring complex LGBT characters, LGBT public figures coming out of the closet, and allies demonstrating their support for issues such as same-sex marriage. Neither such investments in communications

research were made nor were the cultural conditions present at the time in the immigrant rights movement. Some communications investments were made, but not all were focused around moving public opinion for CIR specifically. Before embarking on the CIR advocacy campaign, U.S. Programs needed targeted communications research that specifically investigated how to best craft a message for persuadable members of the public about the need for CIR.

In addition, our singular focus on achieving CIR may have contributed to missed opportunities to build transformational relationships with allies across movements. In the lead-up to the push for CIR in 2013, the record is unclear as to how much cross-movement work was done to increase collaboration on issues that cut across multiple communities, so that when the time came to push for immigration reform, other progressive constituencies and organizations would leverage resources and support. A4C's Coordinating Committee did try to build these alliances by working with a wide range of groups, such as National Center for Lesbian Rights, Planned Parenthood, and The Black Institute, but there may have been missed opportunities to build greater solidarity with racial justice, feminist, and LGBT movements, beyond the campaign for CIR in 2013 itself. Racial profiling and immigration enforcement were issues that immigrant rights advocates could build upon as shared experiences with the racial justice field. It leads me to wonder whether our focus on CIR made us lose sight of other opportunities that presented themselves at the time. The Immigrant Rights portfolio also tied off grantee Black Alliance for Just Immigration in 2013, a potential bridge-builder, whose leader is one of the co-founders of Black Lives Matter. In doing so, U.S. Programs missed an opportunity to build off of that relationship to other allies.

One final reflection on our effectiveness relates to how we went about our grant making. The injection of significant funding into a small number of organizations over a short period of time produced substantial gains in the immigrant rights movement, but also proved to be destabilizing. I believe we have a responsibility to strengthen rather than destabilize grantee organizations. The tripling of resources in the federal immigration reform context to augment our regular grant making had unintended negative repercussions for many groups. As recently as last year, several groups in the field, especially members of A4C, were still reeling from the expansion and subsequent contraction in funding but are finally on the path to recovery. I believe OSF should continue to support effective organizations, as well as pursue meaningful short-term opportunities, but at the same time it should be careful in how it evaluates effectiveness and create mechanisms to allow a diverse set of voices to be heard. The ongoing challenge for us is how to design a grant making strategy around important, short-term opportunities or campaigns, in a way that also strengthens the field in the mid- to long-term.

Although CIR was not achieved, winning the Senate with such a large, bipartisan majority was a partial victory and further than the movement had gotten in recent decades, and, as a result of the effort, the immigrant rights movement infrastructure matured and ultimately emerged stronger, more coordinated, and more cohesive. From my research, the structure and aim of U.S. Programs and OSPC's CIR grant making was not intentionally designed to strengthen organizations in the

mid- and long-term, but rather to achieve CIR. The immigrant rights field nevertheless achieved a number of successes that have given immigrants more opportunities than before the 2013 legislative battle. A4C vastly improved upon the movement's recent efforts with a stronger coordinated communications and political strategy that included groups such as grantee National Immigration Law Center (which is credited as having shaped many of the positive aspects of the Senate bill). The field also expanded its base beyond traditional geographies to new states and regions experiencing demographic change, including Arizona, Michigan, North Carolina, as well as rural parts of California and Illinois. Unbound Philanthropy's assessment of CIR investments stated that "For decades, 'mainstream' immigrant rights advocates with access to policymakers were the sole actors of political consequence in pro-immigrant reform. These groups sought to mobilize immigrants to support policy agreements that the mainstream negotiated in Washington. In contrast, in this most recent phase of the immigrant rights movement, a transition has begun toward the day when reform campaigns are driven by immigrants, with today's 'mainstream' taking on the vital, but ancillary, role of allies." These reflections indicate that OSPC's decisions to support A4C and complementary immigration reform efforts contributed to an important repositioning of the immigrant rights field that has already begun to bare fruits as a stronger, more effective movement."

Question Three: What did U.S. Programs and OSPC learn that we can apply to the Immigrant Rights portfolio going forward and/or to other federal reform efforts?

We have seen the results of a stronger immigrant rights movement since 2013. The movement ultimately united around enforcement issues, which has led to a steady decline of removals with the Obama administration deporting 235,000 immigrants last year, the lowest level since 2006; total deportations dropped 42 percent from 2012. Groups have shifted from divisive language, such as "families, not felons" or DREAMers' "not our fault" messaging, to narratives that are more inclusive of the entire immigrant population. Grantee United We Dream, for instance, was founded to address the inequities and obstacles faced by immigrant youth and other DREAMers¹⁸, but it has since expanded its work to include not only CIR but also working against deportation and justice for all immigrants. Groups mobilized against the administration's Secure Communities (S-Comm). After California passed its Trust Act in October 2013, a number of other jurisdictions started passing community trust ("sanctuary city") policies. By July 2015, [more than 320 jurisdictions](#) had passed community trust policies across the country. The mounting opposition to the federal government's detainer policies ultimately led to the administration announcing the end of S-Comm in November 2014.

One funder noted that there may be another window of opportunity immediately following the presidential election this year, depending on who is elected. However, as an OSPC enabled staff member, I am reluctant to promote an aggressive strategy on another round of federal legislative reform in a c4 capacity, especially on the heels of a vitriolic, xenophobic presidential primary season

¹⁸ The term "DREAMers" refers to potential beneficiaries of the Development, Relief, and Education for Alien Minors (DREAM) Act bill, which would provide immigration relief for immigrants who arrived in the United States as children or minors.

that has allowed hateful rhetoric to fly with impunity. U.S. Programs, other funders, and the field need to better understand how the rhetoric and overall political climate has been allowed to reach current nativist levels, how to overcome these setbacks and reframe the narrative, and what are the best ways to convince voters to translate welcoming, pro-immigrant attitudes into action in the voting booth.

Another challenge is the merging of anti-immigrant sentiment with Americans' views on refugees and asylum seekers. The refugee field, historically distinct from the immigrant rights field, has been facing policy and political battles since the attacks on Paris, San Bernardino, and recently Brussels. Different proposals on the refugee resettlement program have been introduced in Congress, and advocates are waging judicial battles against states trying to restrict entry of refugees into their jurisdictions.

Additionally, the uptick in Central American asylum-seekers in the past several months indicates a likely resurgence in migrant children and minors from the Northern Triangle. The immigrant rights field faces the challenge of how to respond to issues that they may perceive as adjacent to their lane but the public views as a distinction without a difference. In other words, the public does not necessarily understand or care about the difference between immigrants and refugees. Already U.S. Programs has provided Reserve Fund support to refugee groups and included capacity from immigrant rights grantee America's Voice Education Fund. Going forward, the field needs to grapple more effectively with how to respond to the refugee resettlement policy issues and the Obama administration's response to more asylum-seekers crossing the southern border. U.S. Programs has been coordinating with other funders to determine the needs and the gaps in support. Within OSF, U.S. Programs has been meeting with the International Migration Initiative, Latin America Program, and OSPC to determine how we can best utilize the tools and expertise within global OSF.

Beyond the immigrant rights portfolio's federal strategy, the momentum from the CIR push as well as support of FFF and its grantees led to a pushback against anti-immigrant policies and eventually advocacy for immigrant integration policies at the state and local levels. The portfolio's investment in FFF was complementary to resources supporting CIR. By 2013, states and cities started passing pro-immigrant policies that included community trust policies, driver's licenses for DACA recipients, driver's licenses for undocumented immigrants, municipal identification, tuition equity, financial aid, public assistance, limits on E-Verify, and professional licensing and credentialing. The following year, states enacted almost 300 pro-immigration-related laws and resolutions. In the first half of last year, 46 states and Puerto Rico enacted almost 400 laws and resolutions related to immigration. Currently, 40 percent of immigrants live in a state that gives authorization to undocumented immigrants to drive, up from four percent at the beginning of 2013, and more than 75 percent of immigrants live in a state with a tuition equity law or policy.

However, the field anticipates substantial challenges in 2016 that threaten to roll back these achievements. Media coverage of refugee flows overseas, a new uptick in Central American arrivals at the southern border, the exploitation of the San Francisco shooting in July, attacks in Paris and San Bernardino, the ongoing refugee resettlement controversy, the recent arrest of Iraqis for allegedly planning terrorist activities, and the stalling of DAPA have forced the field to defend itself on multiple fronts in the past year. Already at the tail-end of 2015, 11 states have started considering anti-“sanctuary city” proposals, and North Carolina led the charge by passing [HB 318](#) last fall.¹⁹ Advocates anticipate copycat anti-immigrant legislation from other states not seen since SB 1070. Meanwhile, legal service providers have been defending states’ ability to [resettle refugees](#). Contractions in funding from philanthropy since 2014 may hamper the field’s ability to stave off attacks on immigrants or build upon its triumphs with respect to driver’s licenses, municipal IDs, and access to education.

As eyes turn towards the election in the fall, my recommendation is that U.S. Programs continue to invest in the immigrant rights field to enable it to defend its successes in pressuring the administration to utilize a more humane approach to enforcement, strengthen the field’s cross-movement relationships with refugee and asylum groups and other allies, and preserve its victories in states across the country. U.S. Programs needs to fund communications research and explore the timeline for another potential campaign or coalition down the line. Historically, A4C is the third campaign that improved upon its predecessors to advance a CIR agenda, and there has been an understanding among funders and the immigrant rights movement that building such short-term structures, and starting anew for the next effort, has led to stronger efforts and a stronger movement with each iteration. Whether it makes sense to again set up a temporary, campaign-like structure is an open question, but there are many lessons to carry forward from the 2013 experience with A4C. The groups that are part of the structure’s leadership should be able to authentically represent the affected communities, bring diverse perspectives, and bring in state and local voices, in addition to national ones. Additional cross-movement relationship building is necessary, as well as strengthening relationships with nontraditional allies that also want progress on immigration. There is also a promising effort underway, led by the National Immigrant Law Center, to explore how to re-envision a 21st century immigration agenda, including a more integrated and longer-term approach to local, state and federal policy advances for immigrants given the significant domestic and global shifts that have occurred since the 2013 push for CIR, and an exploration of what structures ought to be in place to sustain that work.

Additional materials for the portfolio reiew, including a breakdown of major grantees and funding sources, as well as timelines of activity for the portfolio, please [click here](#).

¹⁹ The Protect North Carolina Workers Act (HB 318) ended the use of consulate or embassy documents for a person’s identification for government purposes. It also prohibits documents created by individuals, organizations, or localities (i.e. municipal IDs).

U.S. PROGRAMS UPDATES BY STRATEGIC GOAL

January 2016 – May 2016

The 2015-2018 Strategy for U.S. Programs organizes our work around four goals:

1. An American democracy strengthened through greater inclusion, participation and accountability
2. A fair criminal justice system that uses punishment appropriately; does not rely on incarceration to address issues of poverty, mental illness and drug addiction; and promotes community safety and well-being
3. Full political, economic and civic participation of immigrants and communities of color achieved by dismantling the barriers and strengthening the conduits to opportunity
4. An economy governed by policies at the local and national level that promote equitable growth and high-road development

We typically accomplish this work through grant-making through: (a) support for organizations that are central to making change happen, (b) opportunistic investments that respond to unexpected developments or newly identified opportunities, and (c) support for new or emerging leaders, organizations, or ideas. U.S. Programs also develops concepts in which we play a central role in coordinating or helping develop a core strategy. What follows are notable activities and updates since the February meeting of the U.S. Programs Advisory Board not otherwise highlighted elsewhere in the board book.

Goal 1: An American Democracy Strengthened Through Greater Inclusion, Participation and Accountability

Voting Rights

On April 4, the U.S. Supreme Court, in a unanimous 8-0 decision ruled in *Evenwel v. Abbott* that “representatives serve all residents, not just those eligible to vote.” Justice Ginsburg, writing for the Court, made it abundantly clear that the principle of one person, one vote was very much alive and well and all residents, including legal and illegal immigrants, certain convicted criminals, and children, should be counted for purposes of drawing state legislative districts. U.S. Programs funded polling and focus group research and joined with [New Venture Fund](#) to bring stakeholders together to share the research results and devise a communications plan which included messaging pre- and post-decision in order to educate people on the importance that nonvoters have in many policy debates and in receiving constituent services. Advocates now plan to keep a watchful eye out for any attempt by state or local jurisdictions to use anything other than total population when drawing districts.

Supporting Local Governance - Baltimore

U.S. Programs recently made a grant to the Maryland Working Families, Local Progress, and Wellstone Action Fund to implement a year-long training program for the newly elected City

Council in Baltimore, which will have at least six new members of the fifteen-person Baltimore City Council sworn into office in January 2017. Given the long transition period from the primaries in April through Inauguration, we are investing in a training program for the newly elected City Council members to help them hone their governing skills and develop a shared vision for using their power as a Council to make change in Baltimore. U.S. Programs grantee [Urban Habitat](#) might also begin working in Baltimore to replicate a leadership development program focused on training and placing people of color and people from low-income communities on local boards and commissions. Urban Habitat is also considering replication in an Open Places site or Southern city.

Media and Technology Policy

As digital rights advocates celebrated the anniversary of the Federal Communications Commission's landmark network neutrality rules, a number of Internet Service Providers began imposing "zero rating plans" that undermine the spirit and intent of the rules. These zero rating plans mean that, despite the fact that broadband is cheaper than ever to provide, Internet Service Providers are now charging a high monthly premium for unlimited broadband service. Zero rating plans distort competition, restrict consumer choice, and pose a serious threat to the open Internet. In March, U.S. Programs' media and technology policy grantees [submitted a letter](#) to the FCC highlighting these concerns and calling for agency action. The letter was signed by over 50 organizations and put the issue on the FCC's radar; however, many suspect the agency will not take action before the *U.S. Telecom Association v. FCC* decision, expected from the Supreme Court later this spring.

At its March open meeting, the FCC adopted a Notice of Proposed Rulemaking on "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services." These proposed rules build on the FCC's 2015 Open Internet Order and broadband reclassification decision. The agency has recognized that broadband Internet service providers have statutory obligations to protect their customers' privacy and obtain their consent before sharing personal information with third parties or using that information for purposes unrelated to providing the service. Earlier in March, the FCC levied a \$1.3 million fine against Verizon over the company's [secret tracking of its customers](#). Other Internet Service Providers have programs that repackage and sell their users' browsing histories to online marketers, even as most of their customers remain in the dark about what's being done with their data. There has already been significant industry pushback against the proposed rules, and public interest advocates will need to file comments that compel the FCC to move forward aggressively while also waging a campaign that will bring in the voices of Internet users.

Apple's fight against a federal court order requiring it to write new software that would help the FBI gain access to an iPhone sparked a national debate over the role of encryption technology. U.S. Programs grantees pushed back against the government's assertions in the press and through a series of actions that highlighted public concern. Following the dispute, draft text of the "Compliance with Court Orders Act of 2016" was reportedly leaked by the offices of Sens. Richard Burr and Dianne Feinstein. As drafted, the legislation would require any individual or company to comply with any

U.S. court order and hand over data to authorities, including data that is encrypted or made “unintelligible” by other means. Digital rights advocates believe this bill would subvert encryption, violate privacy rights, and chill political speech. In the meantime, the courtroom showdown was postponed after the government [requested to vacate the court order](#) requiring Apple’s cooperation to open the iPhone.

[Security and Rights](#)

The Obama administration is creating some transparency mechanisms on intelligence matters with an eye toward structures that might endure beyond 2016. The administration had already signaled in a [“national action plan”](#) late last year its intent to create a formal means of engagement between the Intelligence Community (IC) and civil society. As agreed in a series of meetings last year, the Office of the Directorate of National Intelligence (ODNI) and civil society groups will hold periodic meetings, with U.S. Programs grantee the [Brennan Center](#) serving as liaison. The first off-the-record meeting was held in March, and focused on an [October 2015 letter](#) requesting information about the impact of Section 702 surveillance (communications involving some piece outside of the U.S.) on Americans. This forum is still in development, but the first meeting was reportedly productive and is leading to ongoing conversations on the topic. In April, the Director of National Intelligence, James Clapper (who famously lied to Congress about metadata collection of Americans’ phone calls) established a new [Intelligence Transparency Council](#), in which representatives from the 17 member agencies will work internally to implement the 2015 [Principles of Intelligence Transparency](#) and, among other things, “ensure that the public has information that clearly presents the mission, authorities, and oversight mechanism that direct and guide the IC.” According to grantee the [Federation of American Scientists’ Project on Government Secrecy](#) (whose director quietly suggested the idea behind the scenes), while there is good reason to be cynical about “intelligence transparency,” the intent is to provide an internal forum for discussing questions of increased disclosure, rather than a publicity ploy, and the Council’s five year mandate would carry well beyond 2016.

[U.S. Military’s Use of Torture](#)

At the end of March, grantee the [Carr Center for Human Rights Policy](#) (part of the Harvard Kennedy School of Government) co-convened a private meeting of former military and Department Of Defense officials with the Law Department of the U.S. Military Academy at West Point, with additional participation by two Judge Advocates from the U.K., and an Air Force Academy professor, to reflect on the tactical costs and consequences of the use of torture, as part of a larger study on the impact of the U.S. decision to resort to torture. One insight from the meeting was the UK armed services’ effective implementation of an [independent military prosecutor](#) role for Courts Martial, in the wake of a 1997 [European Court of Human Rights ruling](#) requiring this and other steps to ensure a fair and independent trial. The U.S. system relies on the military command structure to decide which cases are to be prosecuted, which may be one factor in limited accountability for torture. While views expressed privately by some at the meeting were negative about U.S. adoption of the UK approach, there is the beginning of a shift occurring in the area of

prosecution of sexual abuse crimes in the U.S. military that may be worth watching with an eye toward eventually widening the scope of independent decision-making on prosecutions in the U.S. military. More generally, the papers coming out of the conference are expected to become an edited volume to be published by Oxford University Press and could become a practical tool to rebut the increasing number of memoirs being published by former CIA officials that seek to justify the use of torture. A conference in the fall at Harvard will focus on operational and strategic consequences of the use of torture.

A federal court in Washington heard oral arguments April 22 in litigation brought by the ACLU on behalf of torture victims and their families against the psychologists who worked with the CIA to design and oversee the torture program. The government has indicated it will consider protective measures rather than shutting down the case by invoking the state secrets privilege. The Senate Torture Report is likely responsible for this shift in government strategy, since it discussed at length the role of the two psychologists, whose identity is well known, if not revealed in the Senate report.

Goal 2: A Fair Criminal Justice System That Uses Punishment Appropriately; Does Not Rely on Incarceration to Address Issues of Poverty, Mental Illness and Drug Addiction; and Promotes Community Safety and Well-Being

Federal Clemency

In light of the President's commitment to grant clemency to a number of people—nearly 250 to date—who are serving long sentences in federal prison for nonviolent drug offenses, the White House hosted a briefing entitled “Life after Clemency” in March 2016, featuring panel discussions with individual clemency recipients in conversation with White House fellows and officials. Representatives of the Stanford Justice Advocacy Project (formerly Three Strikes Project), Clemency Project 2014, and the NYU Clemency Project—all of whom U.S. Programs supported to represent people in the clemency petition process—were also featured as panelists.

The White House touted the fact that the Obama administration has issued more clemency grants than the previous six administrations combined. However, critics note that there remain upwards of 9,000 pending commutation cases, many of them worthy, held up in the dysfunctional process by which they are reviewed. Others, including the Justice Department's former pardon attorney, who resigned in frustration earlier this year, complain that the focus on the clemency initiative has come at the expense of the traditional pardon process. Furthermore, the clemency initiative is limited to those incarcerated for nonviolent, drug-related charges; individuals convicted of more serious and violent crimes, or who have any history of violence in the past, are categorically ineligible to apply, thus excluding many who are worthy of consideration. The White House's professed goal to influence governors to adopt similar efforts in their states has also not been realized, thus minimizing the actual effect of the initiative on reducing levels of incarceration.

Drug Policy

Efforts to continue the enrollment of people in jail on Medicaid continue. In April, U.S. Programs grantee [Treatment Alternatives for Safe Communities \(TASC-IL\)](#) hosted a webinar for sites to share their progress on Medicaid enrollment of people in jail in eight national sites, following last year's work to convene and coordinate these efforts. Jefferson County, Illinois has enrolled more than half of its inmate population (1,250 of 1,850), while others, such as King County in Washington (125 of 1,900) are on the lower end of the spectrum but ramping up. Site presenters also shared creative relationships with Managed Care Insurers, not only to aid enrollment but also to create actual linkages to care; they had funded care coordinators, using jail budgets and savings, working to improve coordination with jail and health providers. Many of the measures were in their infancy, while others were not necessarily the most clinically appropriate response. But the groups had started the important conversations among health system stakeholders, law enforcement, and corrections officials to create systems change.

Baltimore Criminal Justice

In January, Maryland Governor Larry Hogan [pitched a \\$480 million proposal](#) to raze the decrepit Baltimore City Jail Complex and replace it with a six-story modern jail. The proposal was summarily rejected by Baltimore officials as cost-inefficient. More importantly, the proposal appears to maintain the status quo in terms of beds, missing opportunities to reduce the jail population. OSI-Baltimore is seizing this opportunity to develop a multi-year campaign to reform pretrial justice in Baltimore, to include efforts such as the elimination of commercial bail. Initial campaign partners include OSI-Baltimore grantees Justice Policy Institute, Power Inside, Pretrial Justice Institute, and JFA Institute.

Breaking new ground, legislation was proposed this year in Maryland that would adopt a series of [harm reduction approaches to addiction](#), including safe injection facilities and poly-morphone assisted treatment. While the four bills submitted to the Maryland General Assembly all failed to pass this year, their proposal and the resulting media coverage and public discussion have created a watershed moment for advocates to capitalize on and educate the public and policymakers about the [benefits of harm reduction](#). In response to this moment, the director of OSI's Drug Addiction Treatment program published an [op-ed](#) in a local newspaper hailing the increased awareness of harm reduction principles and practices. He also conducted a site visit to Insite in Vancouver (North America's only safe injection site) to learn more about its model and best practices. The Drug Addiction Treatment program is now in the process of developing a long-term strategy to bring harm reduction practices, including a safe injection site to Maryland.

OSI-Baltimore grantees Justice Policy Institute, Job Opportunities Task Force and ACLU of Maryland helped inform and educate the public on issues related to the [Justice Reinvestment Act of 2015](#), which passed on April 11, 2016 and provides comprehensive legislation that will reduce incarceration in Maryland over the next 10 years by eliminating mandatory minimums, shortening sentences for non-violent drug offenses, imposing graduated sanctions for technical parole

violations and improving parole practices, among other things. OSI-Baltimore plans to focus on the bill's implementation going forward.

Open Places Initiative – Puerto Rico

Espacios Abiertos continues to staff GRUCORPO, a work group comprising community activists and advocates, to shape the implementation of the consent decree that resulted from the Department of Justice investigation of the island's police practices. It is complementing that work by conducting research and public education focusing on two areas where police misconduct is prevalent: Loiza and Llorens Torres. In these two communities, Espacios Abiertos is partnering with local grassroots groups to conduct surveys around police/community relations, given that this data is impossible to get from the police department. Espacios Abiertos' Access to Justice work, including its efforts to enlist more pro bono lawyers in its network voluntariadolegalpr.org, was featured in *El Nuevo Dia*, the island's lead newspaper. The new president of the Supreme Court, [Maite Onoroz](#), has recognized the importance of the organization's work and has been meeting with its staff to discuss the possibility of extending Continuing Legal Education credits to those lawyers who commit to undertake pro-bono work.

Goal 3: Full Political, Economic and Civic Participation of Communities of Color and Immigrants

Immigration

We are in the midst of a volatile period for immigrants in the United States which is inextricably linked to how immigrants, refugees, and people of different ethnicities and faiths are perceived, treated, and welcomed in the United States. In addition, it is impossible to isolate what is happening in the U.S. from Europe's poor handling of the migration crisis and the anti-immigrants and refugees. Backlash against the uptick in the number of Cubans and Central American families and children seeking refuge in the United States has already begun, and is expected to surge in the warmer months, which could exacerbate these issues at local, state, and federal levels.

Because the global migration crisis directly affects U.S. interests and values, and can only be adequately addressed if the United States provides leadership, a small working group from multiple OSF divisions, including U.S. Programs, has made an initial assessment of potential initiatives in the United States that could embolden the U.S. response to the Syrian refugee crisis and harness public and private support in the U.S. for refugees. A one-page summary of the ideas the working group is developing or surfaced [can be found here](#). U.S. Programs' focus on the U.S. implications and response to the global refugee crisis is an indication of the directional shift underway in our immigrant rights strategy as we seek to take into account not just U.S. dynamics but geopolitical dynamics that drive migration and shape the immigration policy landscape in the U.S.

Headlines aside, new [polling from the Pew Research Center](#) and the [Public Religion Research Institute](#) underscores that the American public is strongly in favor of welcoming and practical immigration policies, and against mass deportation. At the state and local level, grantees have been

largely successful winning big cases, including permitting DACA recipients to obtain driver's licenses and preventing Texas and Indiana Governors from refusing Syrian refugees. Grantees have also pushed back on anti-immigrant measures that have been introduced and/or passed in state legislative bodies, including in Florida, North Carolina, and Arizona. Due to many U.S. Programs grantees' advocacy work (including American Immigration Council, CLINIC, ACLU, Detention Watch Network, Four Freedoms Fund grantees, and the National Immigrant Justice Center), there have also been positive developments in immigration enforcement, with the number of people in immigration detention decreased by 36% since 2012, and the number of deportations hitting their lowest points in the last ten years, down by 42% since 2012.

U.S. Programs anchor grantee, the Center for American Progress, recently collaborated with Manuel Pastor from the Center for the Study of Immigrant Integration at the University of Southern California, to publish a report, *DAPA Matters: The Growing Electorate Directly Affected by Executive Action on Immigration*. The report illustrates the increasing electoral importance of President Barack Obama's November 2014 executive action on Deferred Action for Parents of Americans and Lawful Permanent Residents, or DAPA. Through state-by-state projections, the report analyzes the number of voting age US citizens who have DAPA-eligible relatives in their households – an estimated 6.3 million people. According to the report “By 2016, 1.5 million of these 6.3 million citizen relatives will be eligible voters, and by 2020, that figure will rise to 2.25 million as additional children and family members reach voting age.”

Open Places Initiative- Buffalo

The Community Foundation for Greater Buffalo is collaborating with Open Buffalo on its [racial equity work](#), and the data from Open Buffalo's Innovation Lab has been used to educate and influence the high-level Racial Equity Roundtable spearheaded by the foundation. In addition to building out its civic capacities and taking action on its substantive issues, Open Buffalo supports other partners in their efforts, as it did with resourcing multiple partners to champion an upstate campaign to pass the New York minimum wage legislation at the end of March, which contains the most [progressive family leave policy](#) in the country.

Racial Justice and Racial, Religious and Ethnic Profiling

While exit polling in early primary states in March found that 60% to nearly 80% of Republicans support a ban on Muslims entering the United States, a [bare majority of all Americans now support](#) one as well, slowly displacing the partisan edge to the issue. In this context, messaging to counter calls for more discrimination against Muslims has also shifted ground. Responses to the call for temporarily halting Muslim immigration to the U.S. after the attacks in Paris mostly relied on appeals to open society values, while the response to proposed patrols of U.S. Muslim neighborhoods after the Brussels bombings was dominated by efficacy arguments, with New York City Police Commissioner Bill Bratton and New York City Mayor Bill de Blasio dominating mainstream coverage with their assertion that the city's past program of blanket Muslim surveillance without suspicion was fruitless and ineffective. Over the coming months, through a grant from the

Opportunities Fund, [ReThink Media](#) will dig deeper into questions of what messages work and don't work when speaking about anti-Muslim discrimination, the first such research conducted by OSF on that topic since 2009.

We are also working to broaden the coalition of groups working to combat bias and hate speech. In partnership with the Ford Foundation and [Security and Rights Collaborative](#), U.S. Programs hosted the third Solidarity Summit in Miami in late February to bring together racial justice leaders with Muslim, Arab, and South Asian national security leaders to discuss building and supporting bridges between their communities. At the Summit, these leaders discussed how they are working together across culture, race, ethnicity, and religion to build solidarity. The U.S. Programs grantee participants included the ACLU, Leadership Conference for Civil and Human Rights, Organization for Black Struggle, and Race Forward.

There has been a significant influx of new funds in support of the Movement for Black Lives and other racial justice initiatives, particularly from organizations and foundations that have not previously been big players. The NoVo Foundation's March [announcement](#) that it will invest \$90 million over seven years to fight the structural inequalities facing young women of color in the United States and Google.org's \$5 million [Racial Justice Initiative](#) are just two examples. Increased interest in supporting the racial justice field is a positive sign for many working in this space, but it also creates certain complexities that emerging groups and philanthropy must navigate to ensure resources are coordinated effectively and for greatest impact.

Goal 4: An Economy Governed by Policies at the Local and National Level that Promote Equitable Growth and High-Road Development

Organized Labor

The Supreme Court [deadlocked 4-4](#) in the case of *Friedrichs v. California Teachers Association*, which would have threatened the ability of public-sector unions to collect fees from workers who chose not to join and did not want to pay for the unions' collective bargaining activities. The case, part of a decades-long campaign by a group of prominent conservative foundations aimed at weakening unions, would have had profound implications for the American union movement. While the lower court's decision in favor of the union was upheld, the Supreme Court's decision set no precedent and left the door open for further challenges once the Supreme Court returns to full capacity. Grantees such as National Domestic Workers Alliance, Workers Lab, OUR Walmart, and Coworker.org continue their work to develop new models of worker organizing with built in revenue models that can help to fill the gap in grassroots and political power left by the shrinking labor movement.

Minimum Wage

Advances in the labor market regulatory regime gained momentum with minimum wage increases to \$15 an hour by 2022 [announced in both California and New York](#). The Fair Scheduling issue,

which seeks to provide employees with reliable and consistent work schedules, has also gained ground, thanks in large part to the work of grantee Center for Popular Democracy, with the collaborative [action of nine attorneys general](#) from CA, CT, DC, IL, MD, MA, MN, NY, and RI requesting information from large retail companies regarding their use of ‘on-call’ shifts. These changes in labor law are occurring in the context of growing awareness of the ‘fissuring’ of the American workplace, documented in a high profile [report](#) that found in the decade between 2005 and 2015, a significant rise in alternative work arrangements, defined as temporary help agency workers, on-call workers, contract workers, and independent contractors or freelancers, throughout the economy and not just isolated in the “gig economy” of Silicon Valley.

Opportunity Housing and Access to Credit

In April, the Obama Administration [announced](#) that housing discrimination based on an arrest record is illegal under the Fair Housing Act. The [guidance](#) issued by the U.S. Department of Housing and Urban Development (HUD) stated that housing policies regarding all people with criminal convictions, including those who were convicted yet never incarcerated, were also discriminatory. This new guidance, citing last year’s Supreme Court decision, stated that housing bans based on criminal records have a disparate impact. U.S. Programs grantee [The Fortune Society](#) is currently suing a large apartment complex owner in Queens for its policy of excluding prospective tenants with criminal records. Broader racial segregation is also [complicating](#) Mayor de Blasio’s plans to build 80,000 affordable housing units over the next ten years, as these plans would require addressing the City’s entrenched racial housing patterns. Groups like U.S. Programs grantee NYU Furman Center are [weighing in](#).

The team of Stanford economist Raj Chetty, who was a guest at February’s board meeting, released a [new study](#) in April linking life expectancy to geography. The study found that life expectancy and geography correlations are most true for the nation’s poor. The Stanford Institute for Economic Policy Research is a current U.S. Programs grantee, conducting the second part of [its landmark study](#) on geographic barriers—including racial segregation—to upward mobility.

Landmark Treasury Department Regulations Prevent an Estimated \$35 Billion Tax Break for Pfizer

On April 4, the US Treasury Department issued a landmark anti-inversion [regulation](#) that prevents tax breaks for US corporations merging with foreign companies. Americans for Tax Fairness, and its coalition of 450 organizations, was instrumental in this victory. ATF is the leading national network dedicated to raising federal revenues and ensuring corporate accountability through tax reform and U.S. Programs helped to launch it in 2013. Under the framing “tax dodgers and price gougers” and heralded in [The Nation](#), for the past several years ATF targeted big pharma for its efforts to offshore profits, raise the price of medicines, and avoid paying taxes that provide critical revenue for education and the social safety net. Just two days after the Treasury regulations were announced, pharmaceutical giant Pfizer canceled a two-year in the making inversion plan with Ireland-based Allergan. This slated merger would have allowed tax breaks on existing offshore profits to the tune of \$35 billion. As U.S. Programs prepares to sunset the Fiscal Equity portfolio in 2016, we are

encouraged by precedent set by this victory, the growing public awareness and outrage, and momentum to carry the fiscal equity field's work forward and attract new prospective funders.

Assessing the viability of Presidential candidate budget platforms

As Presidential hopefuls have released their social spending and budget platforms, U.S. Programs anchor grantee, the Center on Budget and Policy Priorities, has proven an invaluable source for credible and timely data/analysis, including this recent CBPP [report](#), released in March, which investigates proposed tax cuts and the impact this would have on low- and middle-income Americans. The report garnered significant national media attention and shined a light on the negative impacts draconian budget cuts would have on America's most vulnerable communities.

The Stanford Social Innovation Review recently [profiled](#) the Center on Budget and Policy Priorities' highly effective state-based network. The article highlights the founding and impact of the State Priorities Partnership, a network of 40 research and advocacy groups, which has grown significantly in numbers, geographic reach, and impact since it was established in the 1990s. The article notes the close collaboration and commitment of SPP's donor collaborative, of which OSF is a founding partner. The way SPP successfully brings, educates, and coordinates the efforts of national and local funders is noteworthy and potentially a useful model for OSF to explore in other fields we support. Finally, CBPP's Vice President for Health Policy, Judy Solomon, was selected by the White House as one of 10 recipients of its Affordable Care Act "Champions of Change" in recognition of her instrumental role in the development and passage of the ACA.

Open Places Initiative

Open Buffalo has continued to build relationships with national and local funders. The Chorus Foundation [selected Buffalo](#) in November of 2015 as one of three sites, and Open Buffalo and Push Buffalo (another U.S. Programs grantee) as the two anchor institutions, to receive eight years of annual support at a minimum of \$500,000 per year to bring about economic and climate justice.

In Puerto Rico, Espacios Abiertos continues to establish its scope and role, including in the context of the ongoing economic crisis. Through social media and collaboration with journalists, it has been [educating the general public](#) about the pros and cons of the legislation being considered in Congress to address the economic crisis. It has also been promoting the value of an island-wide Earned Income Tax Credit (EITC). In March, Espacios Abiertos staff testified at a [hearing convened by the Puerto Rican legislature about EITC](#). Espacios Abiertos has also been working with the Center on Budget and Policy Priorities to explore launching a [State Priorities Partnership](#) affiliate in Puerto Rico. U.S. Programs grantee The Center for a New Economy is also involved in the planning. Open Places Initiative staff have reached out to the Annie E. Casey Foundation, which has expressed interest in joining in supporting the affiliate. In the interim, the Center on Budget and Policy Priorities has been advising Espacios Abiertos on its campaigns to promote EITC and limit budget cuts as well as on issues relating to the [resolution of the crisis](#).

Minutes of the Meeting of the U.S. Programs Board Of the Open Society Institute February 11-12, 2016

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 11 and 12, 2016. There were present Board members: Yochai Benkler, Deepak Bhargava, Leon Botstein, Rosa Brooks, Geoffrey Canada, Steve Coll, Eli Pariser, Alexander Soros, Jonathan Soros, Andy Stern, Bryan Stevenson and Christopher Stone.

Attending portions of the meeting by invitation were: Caroline Chambers, Maria Cattai, Leslie Gross-Davis, Eric Halperin, Damon Hewitt, Laleh Ispahani, Susanne James, Sarah Knight, Erica Teasley Linnick, Diana Morris, Lenny Noisette, Andrea Batista Schlesinger, Gail Scovell, Charis Shafer, Laura Silber, Herb Sturz, Bill Vandenberg, Tom Watson, and Ken Zimmerman. Guests invited to present were: Pedro Abramovay, Akwe Amosu, Lenny Benardo, Chris Canavan, Dr. Raj Chetty, Peter Colavito, Netsy Firestein, Sherrilyn Ifill, Rob Johnson, Dr. Robert Jones, Dr. Sylvia Manzano, Julie McCarthy and Roger Vann.

Geoffrey (“Geoff”) Canada welcomed the Board members and the previous USP Board meeting minutes were approved unanimously. He noted that Danielle Allen would join the USP Board in May, and introduced Executive Director Ken Zimmerman.

Ken Zimmerman then reported on the state of USP and introduced a few issues not discussed in the USP Board book. He gave an update on the strategic plan revision process for 2017-2020 noting issues such as political discourse and climate change with specific reference to timing and tactical considerations. He emphasized the importance of Board input. He discussed potential developments in current events concerning voting rights and noted achievements in immigration reform and efforts in this area that are still underway. Chris Stone took a moment to frame USP issues in a global context with specific reference to migration, international human rights, economic inequality and racial segregation.

Ken Zimmerman introduced and welcomed Dr. Raj Chetty, Professor of Economics at Stanford University, Rob Johnson, President of INET, and Sherrilyn Ifill, President and Director-Counsel of the NAACP Legal Defense and Education Fund, participating via phone. Eric Halperin, Senior Advisory, Equality Fund, USP, introduced the topic of economic advancement. Dr. Raj Chetty presented on economic inequality, upward mobility and race. Rob Johnson noted the changing nature of economics scholarship while Sherrilyn Ifill discussed the suppression of Black mobility, referencing the NAACP Legal Defense and Education Fund’s recent complaint filed in Baltimore against the U.S. Department of Transportation and comparing two Baltimore neighborhoods in terms of mobility. The Board asked about mobility from an international context, about

infrastructure investments, gentrification, job creation, investment in youth, the American dream as a soporific on social change, mobility statistics controlled for education and income equality.

After the break, Deepak Bhargava introduced the issue of childcare sectoral strategy and introduced Netsy Firestein, Executive Director of the Labor Project for Working Families, who outlined the economic implications of childcare and the low wages and poor working conditions of the childcare workforce, which is made up of a majority female, minority population. Peter Colavito, Service Employees International Union, stressed the need for broad demand for child care as a public good and for building on existing coalitions. The Board questioned if the solution should be universal, noted the larger problem of unpaid labor, and queried the guests about the military examples of universal childcare.

Next, Lenny Benardo, Regional Director of Eurasia, Akwe Amosu, Regional Director for Africa and Pedro Abramovay, Regional Director for Latin America, each briefly presented their perspectives on U.S. political current events. Then, Dr. Robert Jones, CEO of Public Religion and Research Institute, presented on political trends among white working class voters. The Board enquired about differences between age groups, attitudes towards government and possible drivers of the trends. The Board then discussed global illiberalism, ideological rhetoric, distrust in institutions and the rise of social media.

After the break, Laleh Ispahani, Director, Democracy Fund, USP, introduced the portfolio review, Money in Politics. Sarah Knight, Program Officer in the Democracy Fund, discussed current jurisprudence. Steve Coll praised how the portfolio review was presented. Julie McCarthy, Director of the Fiscal Governance Program, inquired about citizen engagement and the potential of new technologies to shape political influence. Jonathan Soros, participating via videoconference, also complimented the portfolio review memo and noted other strategic considerations. The Board discussed trends in the field and prioritization.

Alexander Soros then introduced Chris Canavan, Director, Global Policy Development, Soros Fund Management, who framed the topic of the debt crisis in Puerto Rico. Andrea Batista Schlesinger, Deputy Director of USP, noted what actions USP had been taken with regard to Puerto Rico. The Board discussed political leverage and the support and opposition to a Super Chapter 9.

Ken Zimmerman then framed the conversation of anchor grantees and reformulating the vision for these institutions, how they are engaged and what are the expectations for them. The Board discussed conditionality, the delicate balance of engagement, space for novel organizations, varying competencies, the potential for qualitative insights, reserving project funding for anchor grantees, the relative amounts given to anchor grantees and the negotiation between institutions and anchor grantees.

On day two, Ken Zimmerman opened the conversation on voter engagement. Bill Vandenberg then presented on goals of building Latino political power and a promising new effort to shrink the gap

between white voters and voters of color in eight southern and southwestern states by 2020. Erica Teasley Linnick, Senior Program Officer, Democracy Fund, USP, then discussed the opposition to discriminatory redistricting plans, building on the success of Automatic Voter Registration (“AVR”) in Oregon and California and the Electronic Registration Information Center (“ERIC”). Dr. Sylvia Manzano, a Principal at Latino Decisions, reported information on Latino voters noting that they are clustered in non-competitive states and that the electorate is generally young and variable. Roger Vann, Executive Director at State Voices, discussed the drivers in elections including historical moments. The Board discussed the importance of timing, the capacity of the field, student registration, the loss of the narrative around registration, historical framing, 2020 strategy, the on ramp to engagement and Syrian Americans and Muslim voters, and whether a sizable USP investment in Latino participation in 2016 could be warranted.

Andy Stern opened the update on police reform. Bryan Stevenson and Lenny Noisette, Program Director, Justice Fund, USP, made remarks about the work with police unions noting the critical role of local campaigns and local funders.

Andrea Batista Schlesinger then introduced the topic of reflections on the Opportunities Fund opening with questions of communications, definitive conclusions, responses to threats, impact assessment and reports back. The Board made observations about the speed in which grants are made via the Opportunities Fund, the organizational capacity of USP, possible reticence of staff to submit new ideas or engage with grantmaking via the fund, possible increase in the number of ideas, counterintuitive experiments, the Board’s role, the creation of a list of new and rejected ideas, more board-driven engagement and a possible Board open forum.

Geoff Canada opened the Board-led discussion of the Opportunities Fund. The Board discussed strategies for ideation, and then discussed varying uses for the Opportunities Fund. Topics delved into were: tax havens, global migration, youth and technology, progressive business leaders, the Muslim Arab and South Asian community, innovative models of social change and the use of technology, polling of the U.S. role around the world, learning from military social services, mobilization against Muslim racism, civic engagement of young liberals and engagement with conservative thinkers.

Geoff Canada adjourned the meeting and the Executive Session commenced.

