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| **Proposal Title** | Reforming surveillance by intelligence services |
| **Reserve Fund** | Global Reserve Fund |
| **Collaborating Programs** | Information Program, Open Society Justice Initiative, US Programs, OSF – Washington, D.C. (Mort Halperin), Documentary Photography Project, Program on Independent Journalism |
| **Coordinated by** | Vera Franz, Information Program |
| **Approver** | Darius Cuplinskas and Jim Goldston |
| **Date Approved** | 16 July 2014 |
| **Amount Requested** | $890,000 |
| **Unforeseen Need (250 words)** | In June 2013, Edward Snowden initiated one of the biggest and most consequential intelligence leaks in history, uncovering pervasive surveillance operated by the US intelligence community and its close allies. The ongoing leaks have created a unique opportunity for civil society to advocate for the reform of current legal frameworks and surveillance practices.    There is wide-spread agreement that Europe needs to lead on this reform effort, especially with regard to foreign intelligence collection. Germany has a strong constitutional basis for doing so, and the Court of Justice of the European Union has indicated in its recent ruling on data retention that it is willing to function as a custodian of the EU’s Charter on Fundamental Rights. The United States will only act if pressured by Europe in alliance with the U.S. internet industry. Yet, European civil society is severely under-funded, unable to seize the opportunity for reform created by the Snowden revelations. This project will resource civil society with the capacity to kick-start a reform effort in Europe, concentrating on strategic litigation and advocacy in key member states.    The reform of surveillance by intelligence agencies is a long-term project. Acting at this moment in time allows OSF to seed a serious reform effort in Europe, bridging the time over this coming year as other donors start to re-orient their funding strategies. OSF staff is advising peers on relevant funding opportunities, for example in the context of the “open internet funders” group gathered the Ford Foundation and OSF. |
| **Activities Proposed (500 words)** | The Information Program, OSF-DC, US Programs and OSJI are already working on surveillance reform, and will continue to play a leading role, through expert input, convening and advocacy, in developing and advancing legislative reform proposals focused on conditions and procedures for authorization of surveillance, limits on operational practices as well as oversight and accountability of intelligence agencies. Complementing this ongoing line of work, we propose that the reserve fund allocation will be used to resource the following new activities:    (1) Strategic litigation: Given Europe’s constitutional frameworks (including the EU Charter), strategic litigation is currently the most promising avenue for advancing the reform of surveillance. For example, the recent CJEU data retention ruling can be used to challenge data transfer agreements between the EU and US. OSF will resource civil society to conduct strategic litigation and help to coordinate the currently often disjointed litigation efforts, both within Europe and across the Atlantic. OSJI will litigate in its own name where appropriate.  *Grantees: Digital Rights Ireland, Open Rights Group, Digital Defence, others tbc ($280,000)*    (2) Public campaigning: Currently, there is no capacity to coordinate surveillance reform campaigns in Europe, and across the Atlantic. Also, the US and UK have the most developed surveillance reform campaigns, but support is needed for similar efforts, in particular for public outreach, in other countries such as Germany, Poland, and the Netherlands.    a. A European coordinator will enable ongoing communication about legislative reform proposals and related advocacy strategies. While campaigns in Europe are at different levels of maturity, the common campaigning goal for the coming 12 months will be the effective oversight of intelligence agencies. A first target will be the creation of parliamentary inquiry committees, following the example of Germany.  *Grantee: European Digital Rights ($120,000)*    b. In order to make progress with campaigning efforts outlined above, civil society needs to work to increase the public pressure on governments. We will support targeted public opinion work that is closely integrated with our grantees’ legislative reform campaigns. For example, we will support BritDoc to lead a multi-country public campaign around the launch of Laura Poitras’ film about Snowden and fund Tactical Technology Collective to pilot their “Me and My Shadow” and “Exposing the Invisible” public education campaigns in European countries. Given the overwhelming interest in OSF’s Moving Walls exhibition on surveillance “Watching You, Watching Me”, we will expand its public programming, exhibition, and tour.  *Grantees: Tactical Technology Collective, BritDoc, others tbc ($290,000)*    (3) Documentation of surveillance: The goal is to increase the quality and scope of the evidence of surveillance for use in advocacy campaigns as well as in courts. This will involve support for Citizen Lab, the premier technical research institute successful documenting censorship and surveillance over the past years, and a partnership with the Guardian Foundation and the Global Network for Investigative Journalism to conduct a series of meetings between surveillance experts and journalists from select countries to improve and increase journalistic coverage.  *Grantees: Citizen Lab, Guardian Foundation, others tbc ($200,000)* |
| **Statement of who within OSF would lead the work** | The Information Program will lead and coordinate this work within OSF. The reform of surveillance is the main focus of its digital civil liberties work at the moment, and the Program has hence staff capacity to provide leadership on this issue. The Program has for example hosted an OSF network call series on surveillance over the past months. Also, over the past six years the Program has seeded the European digital rights advocacy movement and hence has many of the relevant contacts (including with other funders) necessary to make this initiative a success. |
| **Contributions expected from various units within OSF and essential partners or grantees (250 words)** | No other foundation has the expertise and networks to help steer, through convening, grant-making, advocacy and litigation, this reform effort critical to the protection of open societies. OSF contributions will be as follows:   1. Information Program: Overall coordination, grant-making 2. OSJI: Coordination of litigation strategy, technical legal assistance to grantees, in-house litigation 3. US Programs: Identification of US grantees and partners to advance transatlantic coordination envisaged by this effort; convening support 4. OSF DC: Expert input and advocacy 5. Documentary Photography Project: Planning of Moving Walls public programming, exhibition, and tour 6. Program on Independent Journalism: Develop projects with investigative journalism partners, grant-making |