

SUPPORTING STATEMENT

2006-2007 Survey of Public Defenders Offices

The Bureau of Justice Statistics proposes to conduct a nationwide ~~survey-census~~ of all public defender offices supported at the state or local level. The Survey of Public Defender Offices (SPDO) is a data collection effort involving an examination of all publicly-funded and operated offices that provide indigent defense services. Specifically the project will focus on various attributes of public defender offices including office expenditures, number and type of cases handled, size and characteristics of staff, funding sources, special units operated, and reliance on outside legal services.

A. Justification

1. Necessity of Information Collection

Under Title 42, United States Code, Section 3732 (see Attachment A), the Bureau of Justice Statistics (BJS) is directed to collect and analyze statistical information concerning the operation of the criminal justice system at the Federal, State and local levels. Indigent defense programs are an essential component of the criminal justice system.

Although the U.S. Supreme Court has mandated that the States provide counsel for indigent persons accused of crime, documentation on the nature of these services is not readily available. States have devised various systems, rules of organization, and funding mechanisms for indigent defense programs. In essence, each State has adopted its own approach for providing counsel to indigent defendants. The last survey of public defense agencies, conducted in 1999 (1121-0095), profiled all indigent defense programs funded at the state level ~~and~~ ~~and in the~~ 100 of the Nation's most populous counties ~~largest cities in the country~~. Because the 1999 survey revealed that public defenders handle a substantially greater portion of indigent defense cases than do assigned counsel or contract attorneys, this survey will focus specifically on public defender offices that are state- or county- based. The focus on public defender offices will eliminate the previous difficulties experienced with collecting complete and accurate information from those providing indigent defense services on a contractual or assigned counsel basis. The updated data collection effort will be expanded to include all such offices in operation across the country and is necessary to provide a clearer and more current understanding of the changing nature of indigent defense services in the United States.

Court appointed legal representation plays a ~~critical~~ important role in the Nation's criminal justice system. Data from the last survey of indigent defense counsel indicated that most criminal defendants rely on some form of publicly provided defense counsel, primarily public defenders. The 1999 survey of indigent defense programs revealed important information on the overall staffing, size, expenditures, funding sources, and caseloads of indigent defense programs. This information was available to government officials, state court administrators, and members of the indigent defense counsel community as benchmarks for comparative analysis with similarly situated indigent defense programs and other criminal justice service providers. Data were used to better understand the level of resources devoted, but to indigent defense, workload strain, and the expanding responsibilities of indigent defense providers.

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aAfter nearly eight years, the nature of indigent defense in the U.S. these topics needs to be revisited. Since 1999, there have been two BJS data collection efforts focused on prosecutors . The information gathered from these surveys suggests that case types, handling, and outcomes have changed during this period. As indigent defense counsel is critical to the functioning of the court system, it is necessary to collect information on justice system changes from this perspective as well.

The most recent indigent defense reports produced by BJS included “State—Funded Indigent Defense Services, 1999” and “Indigent Defense Services in Large Counties, 1999.” These and earlier reports on indigent defense can be accessed at the following internet link:
<http://www.ojp.usdoj.gov/bjs/id.htm>.

2. Needs and Uses

Data collected in the 1999 National Survey of Indigent Defense Systems were reported in two BJS publications, *Indigent Defense Services in Large Counties* published in 2000 and *State-Funded Indigent Defense Services* published in 2001. Since no current studies about publicly-funded defense exist on the national level, indigent defense practitioners and researchers are forced to rely heavily on either this older data or on area-specific case studies. Often times, the older data no longer reflects the shrinking resources and increased caseloads experienced by many indigent defense providers and the case studies may not be applicable to a demographically different locale. Future research and publications about indigent defense will require timely data that reflect the current condition of public defender offices in the United States and the changes that have taken place over the past several years.

The new 20067 Survey of Public Defender Offices is essential to provide timely and accurate information on the overall conditions characteristics of public defenders' offices and the changes that have occurred in these offices since the late 1990's. The 20067 Survey of Public Defenders will provide State and local criminal justice planners, practitioners, and policy makers with much needed comprehensive data on the size and characteristics of public defender officers, the number and type of cases handled, office expenditures, funding sources, and the reliance on outside legal services. State court administrators and members of the indigent defense counsel community will be able to use the data to compare their services, budgets, and caseloads to similar offices and to other justice service providers. The data collected will also be used by Department of Justice officials, State and local officials, public defenders, criminal lawyers, researchers and planners to analyze current trends and practices of public defense systems. It will be available for use by the Department of Justice and Congress for program planning and resource allocation. This survey is the only source of this essential information at the national level. If these data are not collected, a serious gap will exist in our knowledge of public defenders systems and their operational components. If resources permitted, the information would be gathered on a more frequent basis to ascertain a more complete picture of the changing nature of indigent defense nationwide.

3. Use of Technology to Minimize Burden

The goal of the Survey of Public Defender Offices will be to use electronic data collection methods for at least ~~XX~~15% of the surveyed public defender offices. In an effort to minimize respondents' burden, the data collection plan allows for the respondent to submit data in an automated or manual form. Respondents will be mailed questionnaires but will be encouraged to complete online data collection forms for this survey. For offices that are-do not ~~equipped to~~ transmit the data electronically, the survey will be completed manually and mailed to the project monitor. Based on electronic responses in similar recent data collection efforts, such as Survey of Prosecutors, Census of Medical Examiners and Coroners Offices, and Census of Publicly Funded Forensic Crime Laboratories, ~~We~~ anticipate that ~~XX~~85% of the public defender offices will respond through the paper-based survey.

In addition to exploring electronic data collection opportunities, publications from [the](#) Survey of Public Defender Offices will be generated in both printed *and* electronic formats and will be available [on](#) the BJS webpage. Moreover, the data from [the](#) Survey of Public Defender Offices will be available for public use at the University of Michigan Inter-University Consortium for Political and Social Research.

4. Efforts to Identify Duplication

No other governmental or private organization collects nationwide comprehensive information on indigent defense services. To identify possible duplication of effort, BJS consulted with other agencies within the Office of Justice Programs, the National Legal Aid and Defenders Association, and the National Association of Criminal Defense Lawyers.

5. Minimizing Burden on Small Business[Efforts to minimize burden](#)

~~Not applicable. No information will be gathered from small businesses or other small entities. In an effort to minimize respondent's burden, the data collection plan allows for respondents to submit data in an automated or manual format. The data collected are readily available from current reporting and record keeping practices of its the respondents. All public defender offices within the scope of the survey will be asked to respond in order for the data to eventually be used for micro-level comparisons on an interactive website.~~

6. Consequences of Less Frequent Collection

There has not been [a](#) nationwide census of all public defender offices. The last national survey that included public defenders, the National Survey of Indigent Defense Systems, was conducted in 1999 among [indigent defense programs in the Nation's 100 most populous counties, an additional 197 counties, and the 21 states that entirely funded indigent defense programs.](#) Since this study was conducted almost eight years ago, no current information is available regarding the workload, staffing, procedures, policies or clientele of public defender offices across the country.

7. Special Circumstances that would Increase Respondent Burden

None. There are no special circumstances that would require a respondent to report more than once, report in less than 30 days, retain records over three years, or in any other foreseeable way increase the respondents' burden to provide information.

8. Adherence to 5 CFR 1320.8(d) and Outside Consultations

BJS will have consulted with scholar experts and policymakers who specialize in public defender services. Some of the consulting specialists who will be consulted include public defenders and other defense attorneys, political and social scientists, law professors, and government officials. BJS will publish the 60 day and 30 day notices in the Federal register to inform and seek comment from the public.

Throughout the development of the project, the questionnaire, and the contact roster the following persons have been consulted:

Kristine Orlando
Policy Advisor
Bureau of Justice Assistance
810 7th Street N.W.
Washington, DC 20351
202-616-3209 INT 062

Kim Norris
Senior Policy Advisor for Adjudications
Bureau of Justice Assistance
810 7th Street, N.W.
Washington, D.C. 20531
202-307-2076

Linda Truitt
Social Science Analyst
National Institute of Justice
810 7th Street N.W.
Washington, D.C. 20531
(202) 353-9081

BJS will also work with representatives of the public defense organization, the National Legal Aid and Defender Association:

Jo-Ann Wallace
Defender Service
National Legal Aid and Defender Association
1624 K Street N.W. Suite 800
Washington, DC 20006
202-452-06208. ~~Public Comments and Consultations~~

~~On August XX, 2006 a notice was placed in the Federal Register (Volume XX, Number XX) on page XXXX announcing the proposed information collection and requesting comments from the public. In the 60 days following the published notice, no inquiries or comments were received regarding the Survey of Public Defender Offices.~~

~~During the development of the questionnaires, a number of persons were consulted. The surveys were reviewed by the following persons:~~

~~Howard Davidson, Director
American Bar Association Center on Children and the Law
740 15th Street, N.W.
Washington, D.C. 20005
(202) 662-1740~~

~~Kevin Driscoll, Senior Legislative Counsel
American Bar Association
Government Affairs Office
740 15th Street, N.W.
Washington, D.C. 20005
(202) 662-1766~~

~~Barbara Gletne, Director
Department of Community and Human Services
700 Fifth Avenue, 38th Floor
Seattle, WA 98104
(206) 296-7689~~

~~Patricia Puritz, Director
American Bar Association Juvenile Justice Center
740 15th Street, N.W.
Washington, D.C. 20005
(202) 662-1515~~

~~James Thomas, Vice-President
National Center for State Courts
1331 17th Street, Suite 402
Denver, CO 80202
(303) 293-3063~~

~~Scott Wallace, Director
Defender Services
National Legal Aid and Defender Association
1625 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 452-0620~~

~~Public defenders who will be asked to provide information were also consulted. The surveys were reviewed by the following people:~~

*Ann Christian, Director
Indigent Defense Services Division
The State Court Administrator's Office
Supreme Court of Oregon
Supreme Court Building
Salem, OR 97310
(503) 986-5907*

*Helen Fremont, Staff Counsel
Committee for Public Counsel Services
470 Atlantic Avenue, Suite 700
Boston, MA 02110
(617) 482-6212*

*Dennis Keefe, Chief Public Defender
Lancaster County
555 South 10th Street
Lincoln, NE 68508
(402) 441-7631*

*Ken Koski, Deputy Public Defender
State of Wyoming Public Defender's Office
2020 Carey Avenue, 3rd Floor
Cheyenne, WY 82002
(307) 777-7137*

*Tyre Lee, Director
South Carolina Office of Indigent Defense
P.O. Box 56
Chester, SC 29706
(803) 734-1343*

*Dennis Murphy, Attorney-in-Charge
The Legal Aid Society
Criminal Defense Division
90 Church Street, 15th Floor
New York, NY 10007
(212) 577-3362*

*Jelphi Picou, Director
Louisiana Indigent Defense Board
210 Baronne Street, Suite 906
New Orleans, LA 70112
(504) 568-8530*

Kim Taylor-Thompson, Professor of Law

*Clinical Law Center
249 Sullivan Street
New York, NY 10012
(212) 998-6430*

*Ivelisse Torres, Chief Public Defender
Office of the Public Defender
State of New Jersey
25 Market Street, CN 850
Trenton, NJ 08625
(609) 292-8827*

*Jo-Ann Wallace, Director
Public Defender Service for the District of Columbia
451 Indiana Avenue, N.W.
Washington, D.C. 20001
(202) 628-1200*

9. Provision of Payments or Gifts to Respondents

Not applicable. The Bureau will not provide any payment or gift of any type to respondents. Respondents participate on a voluntary basis.

10. Assurance of Confidentiality

The data collected will detail characteristics, policies and procedures for publicly funded indigent defense services and are, therefore, in the public domain and not subject to confidentiality guarantees. All data, except for names of respondents, are available for public use.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature. Information is requested on the administration and procedures of public defender offices and generally about the types of cases handled.

12. Estimate of Respondent Burden

Like the previous 1982 study, the new The National Survey of Indigent Defense Systems Public Defender Offices -questionnaire will consist of two questionnaires will be sent to the approximately 1400 state- and locally-funded public defender offices across the country. The first questionnaire (the county questionnaire) will be sent to

~~approximately 750 counties to obtain information on expenditures for indigent defense and to obtain the names and addresses of programs within the county that receive government funds to deliver indigent defense services. Each county respondent office will be asked to respond once. The average time required for each county jurisdiction is 1.0 hours, with the respondent burden estimated at 750-1,400 hours. The estimated burden was derived from past experience with surveys of similar complexity and from review of the proposed county questionnaire by a sample of county officials.~~

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~~The county survey form, in most cases, will be filled out by one person per respondent equivalent to the GS-13/01 level (\$52,176). The cost per survey form to the respondent would be about \$25.08. For all respondents combined the cost would be about \$18,810.~~

~~A second questionnaire (the program questionnaire) will be sent to programs obtained from the county questionnaires to collect information about the administration, policies and procedures of each indigent defense program. This is estimated at approximately 750 program respondents. Each program respondent will be asked to respond only once. The average time required for each program respondent is 2.0 hours, with the respondent burden estimated at 1500. The estimated burden was derived from past experience with surveys of similar size and complexity and from review of the proposed program questionnaire by a sample of indigent defense practitioners.~~

~~The county program form, in most cases, will be filled out by one person per respondent equivalent to the GS-14/01 level (\$61,656). The cost per survey form to the respondent would be about \$59.28. For all respondents combined the cost would be \$44,460.~~

~~The total respondent burden for the entire project is estimated at 2250 hours. The total cost to all respondents is estimated at \$63,270.~~

13. Estimate of Respondent's Cost Burden

This data collection will require only information that is already generated and maintained by the respondents. ~~There is no BJS does not foresee~~ additional costs to respondents other than the ~~cost time spent~~ of filling out the questionnaire.

14. Cost to Federal Government

The total annual cost to the Federal government for this survey is estimated at ~~\$446,555~~500,540, all to be borne by the Bureau of Justice Statistics. ~~Cost estimates by the Spangenberg Group are based on estimated expenditures for the National Survey of Indigent Defense Systems project. Office costs are based on 50 percent of the salary and benefits (25 percent of salary) of a GS 13/04 Statistician and of a GS 11/01 Statistician and per employee administra~~The total cost to the Government includes an estimated \$385,000 for work performed by the grantee and \$115,540 for work at BJS, as described below.~~tive cost of the Bureau of Justice Statistics (\$32,065 per year).~~

<u>Cost estimate summary</u>	
<u>BJS Costs</u>	
<u>Salary (50% GS-14 & GS-09 Statistician)</u>	<u>\$68,000</u>
<u>Benefits @ 33%</u>	<u>\$22,440</u>
<u>Travel</u>	<u>\$5,000</u>
<u>Equipment and supplies</u>	<u>\$1,500</u>
<u>Consultants and contacts</u>	<u>\$5,000</u>
<u>Other costs</u>	<u>\$0</u>
<u>Indirect costs @ 20%</u>	<u>\$13,600</u>
<u>Subtotal</u>	<u>\$115,540</u>
<u>Collection Costs (grantee)</u>	<u>\$385,000</u>
<u>Total cost to government</u>	<u>\$500,540</u>

Summary of Cost Estimates

Contractor Costs (The Spangenberg Group)

<u>Salaries</u>	<u>\$142,900</u>
<u>Benefits</u>	<u>36,082</u>
<u>Travel</u>	<u>24,300</u>
<u>Supplies</u>	<u>1,380</u>
<u>Consultants/Contracts</u>	<u>81,070</u>
<u>Other</u>	<u>15,498</u>
<u>Total direct cost</u>	<u>\$301,230</u>
<u>Indirect cost</u>	<u>66,270</u>
<u>Subtotal</u>	<u>\$367,500</u>

Office Costs (BJS)

<u>Salaries</u>	<u>\$50,418</u>
<u>Benefits</u>	<u>12,605</u>
<u>Other Administrative cost</u>	<u>16,032</u>
<u>Subtotal</u>	<u>\$ 79,055</u>

Total Cost \$446,555

15. Reason for Change in Burden

The last National Survey of Indigent Defense Systems was conducted in 1982, with a smaller follow-up study completed in 1986. Since these studies were done so long ago, the Bureau of Justice Statistics nor the Office of Justice Programs has any documentation or records about what currently is in the OMB inventory. Consequently, we have entered "0" for the current OMB inventory. Reinstatement, with change, of a previously approved collection, for which approval expired seven years ago.

16. Publication Plans and Schedule

Information collected from the Survey of Public Defender Offices will be published by BJS and made available to the public through the National Archive of Criminal Justice Data, operated by the Inter-university Consortium for Political and Social Research.

The ~~county and program~~ questionnaires for the Survey of Public Defender Offices will be mailed out in ~~March-November~~ of 2007. The data collection period will continue for ~~up to twelve~~ months ~~to accommodate smaller offices will few full-time staff.~~ ~~and The collection period~~ will include the opportunity for ~~multiple~~ follow-up telephone calls and faxes to non-respondents. Data is scheduled to be delivered to BJS by ~~February-December 28, 2008~~2008. Analysis of the information and preparation of the various reports by BJS will be completed by ~~February 28~~April 2009, 2009. After the publication of the BJS reports, the data will be archived at the National Archive of Criminal Justice Data.

17. Display of Expiration Date

The expiration date will be shown on the survey form.

18. Exception to the Certificate Statement

None. There are no exceptions identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.