

SUPPORTING STATEMENT

2010 Survey of State Court Criminal Appeals (SSCCA)

The Bureau of Justice Statistics (BJS) proposes to implement a survey of state court criminal cases on appeal. In 2008, BJS awarded funds to design and develop a survey capable of obtaining statistical information on criminal appeals in state intermediate appellate courts and courts of last resort. The 2010 SSCCA will build on the design and development project by focusing on criminal appeals disposed in calendar year 2010 and will aim to obtain information on certain key case characteristics of these appeals. Some of the information collected will include the types of criminal cases appealed to state intermediate appellate courts and courts of last resort, the legal issues raised on appeal, the impact of the appellate process on trial court outcomes, the extent that appellate claims are decided on the merits, and case processing time for criminal appeals. The 2010 SSCCA will also examine all death penalty cases decided on appeal in 2010 as well as cases that were adjudicated in both intermediate appellate courts and courts of last resort.

A. Justification

1. Necessity of Information Collection

¹Under 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. An essential component of the criminal justice system is the judicial system.

Presently, BJS sponsors several data collection series that focus on criminal case processing in the nation's trial courts. These programs include State Court Processing Statistics (SCPS) and the National Judicial Reporting Program (NJRP). SCPS examines felony case processing from initial appearance through pretrial release, adjudication, and sentencing in a sample of the nation's 75 most populous counties, while NJRP collects information on the sentencing of convicted felons in a national sample of counties.¹ Neither programs track convicted persons who decide to file an appeal in the nation's intermediate appellate courts or courts of last resort. For these reasons, BJS currently does not have the capacity to provide statistical information on the impact of the appellate process on criminal cases in state courts.

The importance of obtaining criminal appellate data was noted in 2008 when BJS convened a multidisciplinary workshop for professionals on the use of its statistical publications and programs.² At this workshop, comments were made about the need to examine criminal cases on appeal to better understand the rates that criminal cases are affirmed or reversed on appeal as well as the extent that death penalty cases are upheld on appeal. In addition, the Committee on National Statistics (CNSTAT) report on BJS programs stressed the need for BJS to augment its

¹ For more information about SCPS and NJRP, see *Felony Defendants in Large Urban Counties, 2006* and *Felony Sentences in State Courts, 2006* at <http://bjs.ojp.usdoj.gov/index.cfm>.

² See Bureau of Justice Statistics Data Users Workshop complete transcript at <http://bjs.ojp.usdoj.gov/content/duw.cfm>.

prosecution and adjudication research agenda by building representative samples of state courts, including both trial and appellate courts.³

2. Needs and Uses

In 2008, BJS began the process of addressing this important gap in its prosecution and adjudication programs by sponsoring a design and development effort aimed at developing an implementation plan for examining a national sample of criminal appeals disposed in state intermediate appellate courts and courts of last resort (see attachment 1). This project resulted in several recommendations to implement a national survey of criminal appeals.⁴ As a result of this effort, BJS has funded a data collection effort aimed at collecting appeals data from a nationally representative sample of criminal cases disposed in all of the nation's 143 state intermediate appellate courts and courts of last resort. The purpose of this project will be to provide current data on the appellate courts' processing of criminal appeals as well as add to the knowledge of the criminal justice field by obtaining empirical data on key characteristics of criminal appeals, the manners in which appellate courts dispose of criminal appeals, the processing times for criminal appeals, and the impact of appellate litigation on the trial court outcomes of criminal cases. The National Center for State Courts (NCSC) has been awarded funds to collect data for this project. The primary research questions that this project will address include:

- Of those cases appealed, how many are decided in favor of the criminal defendant?
- How often is the trial court decision affirmed, reversed, modified, or remanded for a new trial at the intermediate appellate court level?
- If the case is then appealed to the court of last resort from the intermediate appellate court, what types of appeals are accepted by the court of last resort?
- How often does the court of last resort affirm, reverse, or modify the findings of the intermediate appellate court?
- How expeditious are intermediate appellate courts or courts of last resort in disposing of their criminal appeals? What differences in case processing time occur in terms of reaching key appellate benchmarks such as filing the trial court record, transcripts, appellate court briefs, oral arguments, and final decisions?
- What types of legal issues are raised on appeal?
- What are the characteristics of death penalty cases decided on appeal? How many death penalty cases are reversed or affirmed on appeal? How much time does it take to resolve a death penalty case on appeal?

The proposed study seeks to address these questions by capturing key components of criminal appellate litigation that are useful and applicable to the legal community. Some of the data elements captured include (1) case type litigated on appeal (2) whether the appeal was dismissed prior to being decided on the merits, (3) the appellate court's decision to affirm, reverse, or modify trial court outcomes, (4) the decision method, including whether the appeal ended in a full opinion, memorandum, or summary/dispositional order, (5) legal or factual issues raised on appeal, and (6) different stages of appellate case processing (e.g., filing of notice of appeal,

³ See Groves, Robert and Daniel Cord (Eds. (2009). Ensuring the Quality, Credibility, and Relevance of U.S. Justice Statistics. National Research Council of the National Academies at <http://www.nap.edu>.

⁴ See section A-8 for information about key recommendations from the design and development report.

generation of trial court record/transcript, oral argument) and time spent at each of these different stages.

The SSCCA will be able to provide important information about criminal case processing to appellate court judges and administrators as well as to prosecutors and defense attorneys engaged in criminal litigation in the nation's appellate courts. The ability of the SSCCA to inform appellate court judges, managers, and administrators will be of particular importance because efforts to collect comprehensive data on the disposition of criminal appeals from a national sample of cases disposed in state intermediate appellate courts and courts of last resort have been extremely rare. Consequently, detailed information on criminal appeals has previously come from the infrequent special surveys that have been conducted. One of the most comprehensive is the *State Supreme Court Data Project*, funded by the National Science Foundation, which created a database on State Supreme Court decisions in all fifty states from the 1995 through 1998 sessions.⁵ Although this project provided important information about the appellate process, it only focused on state courts of last resort and did not attempt to ascertain the nature of criminal appellate litigation in the nation's intermediate appellate courts.⁶

Other studies on appellate litigation have focused either on civil appeals or have examined criminal appellate litigation in a relatively limited number of jurisdictions. For example, NCSC has conducted several studies focusing on case processing time for criminal appeals disposed in the intermediate appellate courts and courts of last resort of five states.⁷ While these studies provided an important overview of the factors influencing case processing time in criminal appeals, they were not national in scope and did not address important research questions related to the rates appellate courts affirmed or reversed criminal cases on appeal.

One systematic overview of appellate litigation occurred in the civil area where BJS collected information on a sample of cases concluded by trial in state courts that were appealed to an intermediate appellate court or court of last resort.⁸ The civil appeals data were utilized to examine the overall rates of appeal in civil trials as well as the percentage of civil trials decided on the merits that affirmed or reversed trial court outcomes. These appellate data have also generated interest among empirical legal scholars who have analyzed them for the purpose of seeing which party (e.g., plaintiff or defendant) was more likely to prevail on appeal.⁹

⁵ Brace, Paul and Kellie Sims Butler (2001) "New Perspectives for the Comparative Study of the Judiciary: The State Supreme Court Project," *The Justice System Journal* 22.

⁶ According to the National Center for State Courts Court Statistics Project, an estimated two-third of appeals filed in 2008 were processed at the intermediate appellate court level. For more information about aggregate appellate caseload statistics, see R. LaFountain, R. Schauffler, S. Strickland, C. Bromage, S. Gibson & A. Mason *Examining the Work of State Courts, 2008* at http://www.ncsconline.org/D_Research/csp/CSP_Main_Page.html.

⁷ See Hanson, Roger A. (2001) *Jurisdiction, Caseload, and Timeliness in State Supreme Courts*. National Center for State Courts: Williamsburg, VA and Chapper, Joy A. and Roger A. Hanson (1990) *Intermediate Appellate Courts: Improving Case Processing*. National Center for State Courts: Williamsburg, VA.

⁸ See BJS report *Appeals from General Civil Trials in 46 Large Counties, 2001-2005* at <http://bjs.ojp.usdoj.gov/> for an examination of civil trials on appeal. Also, see OMB Number 1121-0326 for information about BJS' Civil Justice Survey of State Courts, Trials on Appeal project.

⁹ Eisenberg, T and M. Heise (2009). "Plaintiff-phobia in State Courts: An Empirical Study of State Court Trials on Appeal." *Journal of Legal Studies*: 38: 121.

Given the dearth of studies in the area of criminal appeals, findings from the SSCCA will provide a great deal of information about the appellate process to judges at both the intermediate appellate court and court of last resort levels, appellate court clerks, prosecutors, public defenders, and lawyers engaged in criminal appellate defense. These appellate court practitioners will be able to use the SSCCA as a benchmark for examining how their courts compare in several key areas including the types of cases appealed, caseload attrition, affirmance and reversal rates, and case processing time. They should also be able to use the SSCCA to inform best practices and procedures in areas such as electronic filing. Many appellate courts are moving toward electronic filing systems; however, they are unable to assess at this time whether their time rules for filing paper documents should apply to electronic filing systems. By being able to ascertain through the SSCCA the average time parties require to file key documents such as the trial court record, transcript, or briefs, appellate courts will be better positioned implement electronic filing systems that comport with the actual time parties expend filing key documentation.

In addition to providing empirical information to the judges, managers, and lawyers who practice or work in the nation's appellate courts, the SSCCA will provide a better understanding of how frequently criminal convictions are upheld or overturned on appeal. This information is particularly important for death penalty cases whose imposition has become increasingly controversial in light of DNA evidence leading to the exoneration of persons sentenced to death.¹⁰ The SSCCA will provide a national level overview of how many death sentences were overturned on appeal in 2010 and the amount of time courts spend adjudicating these cases. Since the SSCCA will collect information on all death penalty appeals disposed in 2010, it will allow for comparisons of death penalty litigation across the nation's appellate courts.

3. Use of Information Technology

The SSCCA will utilize a variety of information technology applications including online case management systems and data extracts of docketing information to minimize respondent burden. Through the use of these information systems, NCSC staff will be able to code the data elements and case documents used to gather the information required for this project and negate the need for the respondent appellate courts to actually collect information from the sampled criminal appeals. The data collection will utilize online-accessible case management systems now available in many appellate courts, with the capacity to provide detailed information about appellate cases. Appellate courts with these capabilities will provide NCSC staff with online access of their appellate data for the purpose of data collection. Upon accessing these online systems, NCSC staff will use the information available in these systems to code the various aspects of these criminal appellate cases. In addition, appellate courts with the capacity of providing electronic extracts of their docketing information will be asked to transfer these materials electronically to NCSC. By utilizing these information technology approaches, the respondent appellate courts will not need to expend their limited staff resources coding the selected cases for the SSCCA data collection.

The publication of the 2010 SSCCA findings will be generated in both printed *and* electronic formats. The SSCCA report will be available on the BJS webpage in a PDF file and the tables in

¹⁰ Adam Liptak, Ex-Justice Criticizes Death Penalty, New York Times, November 27, 2010.

this report will be available on the BJS webpage in an Excel format. Lastly, the data for SSCCA will be available for downloading and further analysis at the Inter-University Consortium for Political and Social Research (ICPSR). This will enable researchers to download electronic versions of the SSCCA data for further analysis.

4. Efforts to Identify Duplication

As discussed in the “needs and uses” section, there have been relatively few empirical attempts to obtain criminal appellate data at the national level. One of the few studies on criminal case processing in appellate courts was the conduct by the National Science Foundation from 1995 through 1998. While this study illuminated key aspects of criminal appeals process, it focused only on courts of last resort at the exclusion of intermediate appellate courts and is now relatively dated. Other studies conducted in the area of criminal appeals have focused on appellate activity in a relatively small number of courts, were restricted to an examination of case processing time, and have excluded a variety of key case outcomes such as the rates in which criminal cases are affirmed or reversed on appeal. The only multisite study of appeals that examined a variety of case outcome components in intermediate appellate courts and courts of last resort was the BJS Civil Trials on Appeal Study; however this study focused on civil as opposed to criminal appeals in states courts. BJS, moreover, will inform other agencies at the Office of Justice Programs such as the National Institute of Justice and the Bureau of Justice Assistance of this project so that they do not attempt to engage in similar research.

5. Efforts to Minimize Burden

BJS, in consultation with its data collection agent, the National Center for State Courts (NCSC), sought to create data collection forms and instructions that are accurate, easy to understand, and which imposed the least possible burden on the subjects being surveyed by seeking facts and opinions from state appellate court clerks, court technology officers, and appellate court judges. Pretests of the survey instrument have demonstrated that the data collected are readily available from current reporting and record keeping practices of its respondents. BJS and NCSC will also take advantage of information available through online accessible case management systems to further minimize respondent burden.¹¹

6. Consequences of Less Frequent Collection

While the BJS has sponsored a variety of studies examining criminal case processing and sentencing in trial courts, little information exists on the appellate phase of criminal case processing. At present, BJS has only sponsored data collection in area of appellate courts examining civil appeals. While the civil appeal project provides important information about civil litigation in nation’s appellate courts, BJS has not attempted to examine the criminal side of appellate litigation. Therefore, the consequences of less frequent data collection would mean that no information would be available on the impact of appellate litigation on trial court outcomes in the criminal field. In particular, an appellate study can reveal the frequency in which criminal trial court outcomes are affirmed, modified, or reversed on appeal and the extent that defendants

¹¹ See respondent burden section for more information about the utilization of online data collection efforts and burden hours.

have their convictions overturned on appeal. The proposed study can also address important issues concerning the amount of time courts take to process criminal appeals. Lastly, the extant study can illuminate key concerns on the processing of death penalty appeals including the overall rate in which death penalty convictions are overturned or affirmed on appeal. These types of data are crucial to various groups engaged in the practice of criminal litigation in the nation's state appellate courts including appellate judges, appellate court clerks, prosecutors, defense attorneys, legal aid societies, death penalty advocates, and academics.

7. Special Circumstances

No special circumstances have been identified for this project.

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

In the design and development phase of the SSCCA, BJS and NCSC consulted with policymakers, survey practitioners, research specialists, judges, and practitioners who specialize in appellate courts and procedure. Some of the specialists consulted include staff from the National Conference of Appellate Court Clerks (NCACC), the Conference of Chief Justices (CCJ), Council of Chief Judges of the State Courts of Appeal (CCJSCA), and the Conference of Appellate Technology Officers (CATO). Academic researchers (e.g., scholars of criminal appellate procedure) were also consulted. Pretests of the survey instruments were also conducted during the design and development phase of the SSCCA.

The results of these inquiries were evaluated and integrated into the SSCCA design and development project and eventually incorporated into a final report.¹² The SSCCA report informed a variety of key decisions BJS made on implementing the current criminal appeals project. One primary approach taken by BJS was that the sample should be based on appellate rather than trial courts. Producing a sample of cases disposed at the trial court level that were appealed was rejected by BJS because of the expense and time needed to identify those 21 million criminal cases disposed in the nation's trial courts that could eventually be appealed. BJS decided that the more expeditious alternative involved generating a master list of 97,000 estimated criminal appeals decided in 2010 from which to draw a probability sample.¹³

The design and development report also informed BJS' decision to restrict the data collection effort to direct appeals. Direct appeals occur when the defendant appeals a final judgment from the trial court. According to the design and development project, these appeals are uniformly classified across the various states and relatively straightforward to identify and code. The other appeals listed result from various circumstances including appeals from non-final judgments or post-conviction appeals in which the constitutionality of the conviction or conditions of confinement, rather than the case itself, was challenged. According to the design and development report, these appeals were not uniformly classified - some states labeled them as

¹² For more specific information about the findings from the design and development report, please see appendix 1 National Center for State Courts. (2009). *Implementation Plan: Survey of State Court Criminal Appeals Design and Development*. Williamsburg, VA.

¹³ Appellate court filing figures garnered from NCSC's *Court Statistics Project* at http://www.ncsconline.org/D_Research/csp/CSP_Main_Page.html.

civil and others criminal - and they were extremely difficult to code. For these reasons, the BJS decided to exclude all but direct criminal appeals for further data collection.

BJS published the 60 day notice in the *Federal Register* on January 31, 2011 and published the 30 day notice in the *Federal Register* on April 4, 2011. The 60-day notice elicited comments which were addressed in detail. The comments and responses are included in an attached document which has been uploaded in ROCIS.

9. Paying Respondents

Given the current budget climate for the courts, it is likely that court staff, while able to provide information about case access and answer case-specific questions, will not be in a position to code the sampled appeals. As such, NCSC project staff will code the data elements and case documents used to gather the information required for this project. Hence, neither BJS nor NCSC will provide any payment or gift of any type to the respondents participating in the SSCCA. The respondent appellate courts will participate in the SSCCA on a voluntarily basis.

10. Assurance of Confidentiality

The data collected will detail the processing characteristics of criminal cases appealed to the nation's intermediate appellate courts and courts of last resort and are, therefore, in the public domain and not subject to confidentiality guarantees. The identities of the litigants, judges, prosecutors, and defense attorneys will be kept anonymized by removing any personally identifiable information related to the parties or attorneys, including judicial names and court case numbers. BJS will, however, provide basic information on the court where the sampled criminal appeals were disposed, such as court type, jurisdiction, and number of appeals disposed.

BJS, through collaboration with NCSC, will take all precautions to ensure that no outside parties will be able to access the SSCCA data with identifiable information. First, NCSC has several safeguards in place to maintain confidentiality of the participating respondents. These include the utilization of firewalls, virus protection software, and security login checks to safeguard the confidentiality of the data collected for this project. NCSC will also store any paper data collection forms submitted in a locked file. Before submitting the final dataset to BJS, NCSC will purge any information that could be used to identify litigants, judges, or attorneys who participated in the surveyed case.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature.

12. Estimate of Respondent Burden

The SSCCA will collect data on a national sample of about 5,000 criminal appeals concluded in all of the nation's 143 intermediate appellate courts and courts of last resort in 2010. Given the current budget climate and limited resources available to the appellate courts, appellate court staff will not be asked to code the sampled appeals. As such, project staff from the NCSC will

code the data elements and case documents used to gather the information required for this project. Rather than coding appeals, the respondent burden will involve providing the necessary materials to NCSC staff for the purposes of data coding.

The burden hour computation involves both sample list generation and case level data collection. Each of the nation's 143 intermediate appellate courts and courts of last resort will be asked to generate a sample of all their direct criminal appeals disposed in 2010 from which a probability sample can be drawn for the SSCCA. It is estimated that it should take 3 hours for each of the nation's 143 appellate courts to generate an appropriate sample list for a total of 429 hours (143 appellate courts * 3 hours per court = 429 hours).¹⁴

Once the sample lists are completed, the burden hour component will involve case level data collection. As previously stated, the burden hours will not be associated with coding data collection instruments but with providing the necessary materials for NCSC staff to engage in data collection and coding. There are three major sources of information NCSC staff will use to code information on criminal appeals including the legal briefs submitted by the parties, the court docketing information, and the opinions produced by the courts. The appellate court briefs are the legal documents submitted by the defense attorneys and prosecutors arguing why a particular case should or shouldn't be overturned on appeal; the docketing information includes key case dates such as the dates of filing, oral argument, and appellate court disposition; and the opinion includes the appellant's court decision to affirm, modify, or reverse a case. The legal briefs, dockets, and opinions are crucial components of the SSCCA data collection and the degree that courts make this information accessible online are essential to burden hour computation.

According to the criminal appeals design and development project, the nation's 143 appellate courts fall into three broad categories in terms of online data availability. About a quarter of appellate courts either have all or none of their legal briefs, docketing, and opinion data available online. For these courts, NCSC staff will either utilize the internet to collect all requisite SSCCA data or will travel to these courts and code the cases remotely. Estimates from the criminal appeals design and development project showed that about 36 of the nation's 143 appellate courts fall into the categories of either having all (26 courts) or none (10 courts) of their data available online for data collection. No burden hours will be involved for the 26 courts in which all data will be collected through online systems. For those 10 courts where onsite travel is required, it is estimated that court staff will expend an average of 2 hours assisting NCSC personnel in pulling case files or providing training on the operation of their case management systems. Thus, the 10 onsite data collection courts will require an estimated 2 hours per court for a total of 20 hours to complete data collection.

The remaining 107 appellate courts vary in terms of online data availability and will require a combination of online data collection and submission of copied case materials to NCSC for complete data collection. For example, some of these courts provide online access to opinions and legal briefs, but not to docketing information, while others offer online accessibility for dockets and opinions but provide no online access for submitted briefs. Among these appellate

¹⁴ All burden hour estimates were derived from the pretests and associated project activities of the criminal appeals design and development project.

courts, the burden will involve either copying the necessary information in the legal briefs and opinions for submission to NCSC or in cases where docketing information is being requested, submitting the docketing information to NCSC through administrative data transfer.¹⁵ According to the criminal appeals design and development project, an estimated 90 courts will provide copies of submitted legal briefs and 14 will provide copies of court opinions. Assuming 35 appeals per court (5,000 appeals / 143 courts = 35 appeals) and 10 minutes to copy each legal brief or opinion for mailing to NCSC, the total burden hours to copy these paper documents for each court should be about 6 hours for the legal briefs and 6 hours for the opinions (35 appeals * .17 hours per opinion/brief = 6 hours). In addition to providing copies of legal briefs and opinions, an estimated 57 courts will provide data extracts of docketing information and it is estimated that each of these courts will require 3 hours to provide the necessary docketing information.¹⁶

Therefore, it is estimated that a total of 795 hours will be needed for the 107 appellate courts with limited internet accessibility to provide the documentation in the form of mailed legal briefs/opinions or docket extracts to complete the SSCCA data collection. The 795 number is calculated by first computing the total burden hours appellate courts need to provide copies of submitted legal briefs (90 courts * 6 hours per court to provide copies of submitted legal briefs = 540 hours); and secondly, by computing the total burden hours for providing data extracts of docketing information (57 courts * 3 hours per court to provide extracts of docketing information = 171 hours); and thirdly, by computing the total burden hours for providing copies of court opinions (14 courts * 6 hours per court to provide copies of court opinions = 84 hours). Hence, 540 hours for providing copies of submitted legal briefs + 171 hours for providing data extracts of docketing information + 84 hours for providing copies of court opinions = 795 hours.

When the burden hours for sample list generation is added, the total burden hours for the SSCCA project sums to 1,244 hours (20 hours for onsite data collection + 795 hours to provide necessary case documentation + 429 hours for sample list generation = 1,244 hours).

The burden hours for the SSCCA 2010 project are further summarized in the following table.

¹⁵ NCSC will pay all expenses associated with copying and mailing the necessary materials. An administrative data transfer includes transmission of documents in several ways including a data export into a spreadsheet/ASCII format or screen shots either printed/saved electronically in PDF.

¹⁶ The number of courts with partial online accessibility will not sum to 107 because these courts overlap in terms of the types of data being requested.

Estimate respondent burden for Survey of State Court Criminal Appeals, 2010			
Data collection task	Number of appellate courts	Number of hours per court	Total burden hours
<i>Sample list generation</i>	143	3 hrs.	429 hrs.
<i>Collection of case level appellate data through courts with complete online case management systems</i>	26	0 hrs.	0 hrs.
<i>Collection of case level appellate data through NCSC staff onsite travel</i>	10	2 hrs.***	20 hrs.
<i>Collection of case level appellate data through courts with partial online data accessibility</i>			
Court staff requested to provide copies of submitted briefs	90	6 hrs.**	540 hrs.
Court staff requested to provide data dumps of docketing information	57	3 hrs.	171 hrs.
Court staff requested to provide copies of court opinions	14	6 hrs.**	84 hrs.
Sub-total of courts with partial online accessibility *	107	--	795 hrs.
Total Burden Hours	143		1,244 hrs.
<p>* The number of courts with partial online data accessibility will not sum to 107 because these courts overlap in terms of the types of data being requested. Some courts provide online access to opinions but not docket information, while others provide online access to dockets and opinions but not to the submitted briefs.</p> <p>** Copying estimates are based on 10 minutes to copy each opinion and/or brief. Assuming 35 appeals per court would mean it should take each court 6 hours (35 appeals times .17 hours per opinion/brief = 6 hours) to copy all necessary materials.</p> <p>*** This represents an average across the estimated 10 travel courts. It is expected that some of these 10 courts will provide assistance pulling files, some will provide guidance on using the court's case management system, some will not provide any assistance at all.</p>			

13. Estimate of Respondent's Cost Burden

We do not expect respondents to incur any costs other than that of their time to respond. All costs associated with mailing copies of the legal briefs and opinions will be borne by NCSC. The information requested is of the type and scope normally carried in their records and no special hardware or accounting software or system is necessary to provide information for this data collection. Respondents are not expected to incur any capital, start-up, or system maintenance costs in responding. Further, purchasing of outside accounting or information collection services, if performed by the respondent, is part of the usual and customary business practices and not specifically required for this information.

14. Costs to Federal Government

The total expected cost to the Federal Government for this data collection is \$1,362,728 all to be borne by the BJS. This work consists of planning, developing the questionnaire, preparation of materials, collecting the data, evaluating the results, and generating the PDF and web based

query reports. A BJS GS-Level 14 statistician will be responsible for overseeing the NCSC's work on this project. The budget for this project is shown below.

Estimated costs for the Survey of State Court Criminal Appeals (SSCCA) project

BJS costs		
	<u>Staff salaries</u>	
	GS-12 Statistician (25%)	\$17,000
	GS-14 Senior Statistician (33%)	\$37,000
	GS-14 Supervisory Statistician (3%)	\$5,600
	GS-13 Editor (10%)	\$10,000
	Other Editorial Staff	\$5,000
	Front-Office Staff (GS-15 & Directors)	\$3,000
	Subtotal salaries	\$77,600
	Fringe benefits (28% of salaries)	\$21,728
	Subtotal: Salary & fringe	\$99,328
	Other administrative costs of salary & fringe (15%)	\$14,899
	Subtotal: BJS costs	\$114,227
	<u>Data Collection Agent (NCSC)</u>	
	Personnel	\$387,750
	Fringe Benefits	\$141,671
	Travel	\$179,100
	Consultant	\$0
	Contracts	\$41,504
	Other	\$58,118
	Total Indirect	\$440,358
	Subtotal Data Collection Agent (NCSC)	\$1,248,501
	Total estimated costs	\$1,362,728

15. Reason for Change in Burden.

Not applicable. There is no reason for change in burden because this is a new collection.

16. Project Schedule

The project will be completed through the following schedule.

Planning and preparation

(Includes OMB review): January 2011 – June 2011

Data collection: June 2011 – May 2012

Data review and evaluation: June 2012 – July 2012

Publication: August 2012 – December 2012

After securing OMB approval, the SSCCA data collection will occur from June 2011 through May 2012. The data submission process will also involve BJS and NCSC engaging in a series of procedures to clean and verify the data submitted for analysis. After the data cleaning process is complete, data from the SSCCA 2010 project will be used in the production of reports examining criminal case processing in intermediate appellate courts and courts of last resort. Both reports will examine a variety of issues related to criminal appellate case processing including the case type litigated on appeal, whether the appeal was abandoned or dismissed prior to being decided on the merits, the appellate court's decision to affirm, reverse, or modify trial court outcomes, the decision method, including whether the appeal ended in a full opinion, memorandum, or summary/dispositional order, the legal or factual issues raised on appeal, and the different stages of appellate case processing (e.g., filing of notice of appeal, generation of trial court record/transcript, oral argument) and time spent at each of these different stages.

In addition to report production, BJS will consider integrating the SSCCA data into a web based query system that allows users to access these data by clicking on certain topical areas such as case type (e.g., death penalty, violent, drug, or property crime) and examining how these case fair during the various stages of appellate case processing. Lastly, the data for Survey of State Court Criminal Appeals will be available for downloading and further analysis at the Inter-University Consortium for Political and Social Research (ICPSR).

17. Display of Expiration Date

The expiration date will be shown on the survey form.

18. Exception to the Certificate Statement

New data collection.