

SUPPORTING STATEMENT

2012 Census of Problem-Solving Courts

The Bureau of Justice Statistics (BJS) proposes to implement a *Census of Problem-Solving Courts* (CPSC). Problem-solving courts (PSCs) are typically specialized court dockets/calendars that target defendants who have ongoing social and/or psychological conditions that underlie their repeated contact with the criminal justice system. Ascribing to a therapeutic jurisprudence approach, which seeks to help defendants in trouble through nonadversarial proceedings, these courts emphasize defendant treatment and rehabilitation to reduce recidivism.¹ When a problem-solving court is implemented in a jurisdiction, it selectively affects the volume and characteristics of the flow of that jurisdiction's cases into the correctional system; and when the problem-solving court is effective, it selectively affects recidivism patterns and subsequent flows into all aspects of the justice system. Most of the existing information about PSCs consists of court evaluations or outcome analyses. No prior census of these courts has been conducted to date despite the proliferation of such courts during the past thirty years.² The CPSC is designed to provide BJS with its first detailed systematic empirical examination of PSCs. The CPSC will enable BJS to meet one of its core mandates: to collect, publish, and disseminate information on the operation of the nation's criminal justice system. More specifically, the census will generate accurate and reliable national statistics on PSC operations, staffing, services, case volume, and information on offender participants. The census will also enable BJS to incorporate the knowledge of these selective interventions into its understanding of jurisdictional differences in case flows through the criminal justice system. Information on problem-solving courts will be collected for the most recent 12-month period in 2012.

A. Justification

1. Necessity of Information Collection

Under Title 42, United States Code, Section 3732 (see Attachment 1), 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. The judicial/court system is an essential component of the criminal justice system. The proposed *Census of Problem-Solving Courts* (CPSC) will provide national and state-level data about these specialized courts, which are a growing component of the criminal justice system. Attachment 2 illustrates BJS' sequence of events in the criminal justice system. (The judicial component includes the prosecution and pretrial services, adjudication, and sentencing/sanction sequences shown on the flowchart.) Depending on type of court, court structure, and participant eligibility, a PSC may "straddle" several stages of the judicial and corrections components. (For example, PSCs may be *administered* through prosecutors' offices, judges/courts, or probation departments.) No BJS data collection currently collects the kinds of information the CPSC is expected to collect, in part, because existing BJS data collections generally seek information from only one component (e.g., community corrections).

¹ Neubauer, David W. (2008). *America's Courts and the Criminal Justice System*.

² Marlowe, D.B. (July 2011). *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Courts in the United States*. National Drug Court Institute: Washington, DC.

PSCs are a unique component of the criminal justice system because they emphasize a therapeutic approach when dealing with defendants rather than simply treating them as criminals needing punishment. While taking a unique approach to dealing with defendants, PSCs are a subset of state courts. They are part of a state's existing court structure, representing specialized dockets/calendars of currently existing state courts rather than "independent courts" per se. For example, a PSC may be a specialized docket of a general jurisdiction court that meets twice a month, which only handles those issues specific to the PSC (e.g. habitual drug offenders). The job duties entailed with working on the PSC represent only a part of the judge's/court staff's larger duties to the general jurisdiction court.

The scope of PSCs is wide. For example, drug courts, a common type of problem-solving court, view defendants as persons with an addiction problem who must admit their addiction and seek treatment. Instead of sending (at least a portion of) these defendants to a correctional setting, judges order defendants into treatment programs and monitor their progress as a condition of their sentence.³ Mental health courts are another type of problem-solving court. After a specialized screening and assessment verifying eligibility, mental health courts divert willing defendants with mental illness into judicially supervised, community-based treatment programs instead of institutionalization. These treatment programs are designed for the defendant by both court staff and mental health professionals. Other types of commonly utilized PSCs include domestic violence courts, community courts, and DWI courts.

Since the creation of the first drug court in 1989, the number of drug and other types of PSCs (PSC) has grown considerably, totaling over an estimated 3,200 courts as of December 2007.⁴ Much of the existing information on PSCs, however, is often limited to evaluation or outcome analyses of specific court programs. The few existing rigorous empirical studies tend to examine the more prevalent PSCs (e.g., drug and mental health courts) but provide little or no information on other types of PSCs. PSCs are an increasingly important component of the criminal justice system, but BJS has neither a data collection devoted exclusively to providing information on PSCs nor one providing accurate and reliable national- or sub-national level statistics on offenders who enter PSCs.

The data gathered in the CPSCs are not available from any other single data source. This census fits within the larger BJS portfolio of data collections that, together, cover all components of the administration of justice in the nation's state courts. BJS' *National Census of State Prosecutor Offices* (NCSP) (OMB Control # 1121-0149)⁵ series provides information on the administration, governance, staffing, budgets, and caseloads of the nation's state prosecutors offices. *State Court Organization* (SCO) (OMB Control # 1121-0283) examines the organization, governance, funding, staffing, and budgets of the nation's state trial and appellate courts. The *National Judicial Reporting Program* (NJRP) (OMB Control Number 1121-0130) provides detailed information on felony sentencing from a nationally representative stratified sample of state courts. These data collections, combined, provide an overview of the core components of the judicial/court components of the criminal justice system, including judges, prosecutors, and

³ Neubauer, David W. (2008). *America's Courts and the Criminal Justice System*.

⁴ Huddleston, C.W., Marlowe, D.B., & Stockstill, K. (2008). *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Courts in the United States*. National Drug Court Institute: Washington, DC.

⁵ Past NCSPs provide no information on problem-solving courts. BJS' redesign, however, may inquire as to whether the prosecutor *participates* in problem-solving courts. This redesign is not designed to obtain the court operations, staffing, services, case volume, and aggregate participant information the CPSC will collect.

defense attorneys responsible for adjudicating and sentencing criminal cases in state courts. These collections, however, are incomplete because they do not obtain information necessary to describe PSCs.

BJS currently sponsors the *State Court Organization* (SCO) data collection, which provides detailed information on the structure and framework of state trial and appellate courts. *State Court Organization 2004*, the most currently available SCO, currently provides BJS with its *only* information on PSCs. The information is limited, providing BJS with only the number of some types of PSCs in each state. This information does not provide for a comprehensive accounting of PSCs because it provides specific counts for only the most common types of PSCs (e.g., drug courts, mental health courts, etc.) but not for less common or newly developing types of PSCs (e.g., veterans courts). Furthermore, SCO does not provide the kinds of detailed information BJS needs on problem-solving court structure, operations, staffing, participant eligibility, and offender characteristics. BJS is in the process of conducting an updated SCO, but it will suffer from the same limitations regarding PSCs. The CPSC will complement SCO by obtaining information necessary for BJS to more completely speak to the organization and composition of each state's court system, which it currently cannot do with regard to PSCs.

The CPSC will also complement BJS' core court data collection, the *National Judicial Reporting Program* (NJRP). NJRP collects sentencing information on felony cases handled in state adult criminal courts. As currently designed, NJRP does not collect sufficient detail on cases to determine which of these court cases were handled in PSCs (as opposed to general trial courts). Furthermore, NJRP currently *cannot* provide information on those PSCs primarily handling misdemeanor cases, which make up a sizable portion of problem-solving court caseloads. The CPSC will augment this core data collection by providing information on the volume of, and aggregate statistics on, defendants processed by PSCs. In addition, the proposed CPSC will provide information that will help BJS understand the process used to select cases onto these specialized dockets of the criminal court.

The Census of Problem-Solving Courts (CPSC) is necessary to improve BJS' ability to provide data on this lesser understood (but high profile) component of the court system. Initially, it will improve BJS' ability to analyze, publish, and disseminate information on PSCs. Considering the growth in the number of PSCs over recent decades, the estimates collected by this first CPSC can serve as the foundation to measuring changes in key PSC statistics if future versions are funded. It will also provide information that can help BJS evaluate the necessity expanding or modifying existing BJS court related data collections.

In addition to providing BJS with greater ability to produce and disseminate information on the court system itself, the CPSC is necessary to fill gaps in BJS' data collections on community corrections. Probation – a form of community supervision – is a judicial act⁶ in which courts order offenders to a period of correctional supervision in the community, generally in-lieu of incarceration.⁷ Participants are required to abide by judicially specified conditions of probation (e.g., maintaining employment, refraining from alcohol consumption, and reporting periodically to a probation officer) or their probation may be revoked.⁸ While some probationers may

⁶ Neubauer, David W. (2008). *America's Courts and the Criminal Justice System*.

⁷ Glaze, L.E., and T.P., Bonczar. (2011). *Probation and Parole in the United States, 2010*. Bureau of Justice Statistics, Washington, DC.

⁸ Neubauer, David W. (2008). *America's Courts and the Criminal Justice System*.

participate in probation diversion programs, which may include PSCs, this need not be the case as not all probation departments offer such programs.

BJJ's *Annual Probation Survey* (APS) collects aggregate information (i.e., probation department counts) that describes the characteristics of probationers, such as sex, race, offense, supervision status, and supervision completion rates. This data collection currently does not provide information on problem-solving court diversion programs and neither do proposed updates. BJJ has considered collecting limited information about probation agencies provision of diversion programs (e.g., the proposed *2012 Census of Adult Probation Supervising Agencies*); however, such plans do not currently include gathering the detailed information about PSCs the CPSC will collect. The CPSC will improve BJJ's ability to provide information previously unavailable from BJJ's existing data collections on probation, including information on participant eligibility, services provided for participants, and detailed information on problem-solving court operations and staffing. Furthermore, such information may provide information necessary to expand BJJ's data collections on probation.

PSCs are often described as ascribing to a therapeutic approach – seeking to address the “underlying issue of deviance” to reduce recidivism – rather than taking the traditional, punitive approach commonly found in adult criminal courts, thereby making adult criminal courts more like juvenile courts. BJJ currently cannot address whether the growth in PSCs merely represents a recent fad or a fundamentally new approach in the court system. Furthermore, the increased popularity of PSCs affects other components of the criminal justice system. For example, placing offenders into PSCs may be diverting offenders away from jail and prison into various diversion programs mandated by their participation in PSCs. A knowledge of such diversion programs at the local level will help BJJ better understand that jurisdiction's changing flows of offenders into probation programs and correctional institutions. Additionally, PSCs may affect caseloads of law enforcement agencies and in prosecutors' offices if PSCs' effects prove successful in reducing recidivism patterns of high rate offenders.

In summary, BJJ has neither a data collection devoted exclusively to providing information on PSCs nor one providing accurate and reliable national- or sub-national level statistics on problem-solving court characteristics or the offenders who enter them. The CPSC, therefore, is critical to BJJ's larger court statistics portfolio because if, in fact, PSCs represent a significant change in the way the judicial/court component processes offenders, BJJ will need a data collection to measure this aspect of the court system. One implication of this necessity is that the CPSC, pending future funding, would be conducted every five years in order to measure change in PSCs, including the growth, scope, and participant intake volumes. Another implication is that data collected from the CPSC could be used to supplement (or expand) data collected from other BJJ data collections, including NCSP, SCO, NJRP, and APS. The CPSC will fill a gap in BJJ's data collection portfolio by providing information on an essential component of the justice system, which is an overview of PSCs throughout the nation.

2. Needs and Uses

BJJ Needs and Uses

BJS does not currently have a data collection dedicated to generate information about PSCs. Because of this, BJS cannot fully meet its mandate to publish and disseminate information about this growing and high-profile component of the criminal justice system and its effects on other components of the criminal justice system. A key goal for BJS and the CPSC is to collect empirical information on this relatively new facet of the criminal justice system – one that is pulling offenders, staff and resources from other parts of the system. In many states and local jurisdictions, it is believed that PSCs are dramatically changing the flows of offenders through various branches of the criminal justice system. For example, it is possible that changes in the volume and composition of the prison populations in some states are due to the diversion of selected offenders into PSCs; if so, without the information from these PSCs (and specifically state-level PSCs data) such changes could not be explained. BJS clearly needs to acquire an understanding of the characteristics and activities of PSCs if it is to effectively monitor trends in justice system case processing and outcomes.

BJS will use CPSC data in the following ways:

- Augment the *NJRP* data collection by providing information, which it currently does not collect, on the volume of, and aggregate statistics on, defendants processed by PSCs versus other types of courts,
- Provide information on the process used to select cases onto these specialized dockets of the criminal court, which will allow BJS to better understand the flows of such cases through the criminal justice system,
- Allow BJS to produce national estimates on PSCs, develop specialized lists and sampling frames for future research on PSCs, and
- Evaluate if PSCs represent a significant change in the way the judicial/court component of the criminal justice system processes offenders and if offender participation in PSCs is affecting the flows of offenders into jails/prisons and probation.

In terms of specific items covered by the CPSC questionnaire and how they relate to BJS needs and uses, the data collection instrument is divided into several sections: (1) court operations, staffing, and funding, (2) court provided services, treatment, and supervision (3) participant eligibility, entry, and benefit, (4) case-type and caseload information, (5) data collection practices, and (6) aggregate participant data. The items collected in each of the sections will allow BJS to produce the first ever benchmark information on the nation's PSCs, make comparisons across states, and if future CPSCs are funded, serve as a baseline to measure change in PSCs. BJS will use of the above-mentioned problem-solving court sections through the following analytical frameworks:

- *Court operations, staffing, and funding:* BJS will obtain information on court operations, court staffing, staff expertise and training, and funding. Obtaining court operations information is critical to understanding the organization and structure of PSCs and the frequency of court sessions. BJS will use the staffing questions to determine the size and type of dedicated PSC staff and better understand the prevalence of any specialized PSC training and requirements for continued professional education of PSC staff. Obtaining funding source information will allow BJS to illuminate the contribution of various PSC funding sources (e.g., government budgets, grants, private funds, etc.). This section will allow BJS to compare court operations, staffing, and funding across states and type of problem-solving court.

- *Court provided services, treatment, and supervision:* The CPSC will obtain information on services, treatment, and supervision provided by each PSC. This information will be utilized by BJS to better understand the ways PSCs deliver (*i.e.*, do) therapeutic jurisprudence in an attempt to reduce recidivism. By obtaining this information, BJS will be better able to demarcate how PSCs differ among themselves and from other more traditional courts. This section will allow BJS to compare services, treatment, and supervision across and within states and across the various types of PSCs.
- *Participant eligibility, entry, and benefit:* In addition to the type of case, participant eligibility and point of entry into problem solving courts varies across PSCs. This information will enable BJS to identify variations in screening and entry criteria within specific types of PSCs. BJS will also be able to address the variations in benefits to participants that successfully participate in PSCs.
- *Case-type and caseload:* BJS will obtain information on the types of cases handled by PSCs including felony, misdemeanor, delinquency, and status offenses. The CPSC will also collect information on problem-solving court maximum participant capacity and current participant volume. This information will be obtained by BJS to better understand the workloads of PSCs. Such information will allow BJS to examine differences in case volumes between states and across various types of PSCs. It can also be used to gain a better understanding of over/under capacity by problem-solving court type.
- *Data collection practices:* The CPSC will inquire about the use of case management/information systems, tracking past PSC participants, and PSC evaluations. This will allow BJS to provide a national benchmark on those data collection practices currently being used in PSCs nationwide.
- *Aggregate participant data:* These items pertain to court-level volume statistics covering admissions, exists, and types of exit (*e.g.*, successful completion or failure), average length of participants in PSCs, and select participant demographics during a 12 month period. Collecting this information will allow BJS to provide national benchmarks for program completion rates, offender demographic characteristics, and PSC case volume, which can then be compared across states and across PSC type. If future CPSCs are funded, this information will be important to addressing potential changes in overall PSC “effectiveness” and equity in PSC offender participation. This information is also critical in developing any future sampling frames of PSCs and PSC participants.

In addition the previously described CPSC sections, a screening question (Q2) near the beginning of the questionnaire will filter out courts that inadvertently made the CPSC frame list. Any courts that inadvertently made the list but failed the screener question would be ineligible for the census and not allowed to continue completing the questionnaire.

The first proposed BJS publication on PSCs will (1) provide an overview on the prevalence of PSCs; (2) describe court characteristics, staffing, and operations; and (3) provide aggregate participant information. Examples of the types of questions, by topic, that will be discussed in the publication are listed below:

- PSC Prevalence
 - How many PSCs are there nationally and sub-nationally?
 - What is the distribution of PSCs by type (*e.g.*, drug, mental health, domestic violence)?

- PSC Characteristics, Staffing, and Operations
 - How do the staffing patterns of PSCs vary by court type?
 - What are the services (*e.g.*, victims services, counseling, support services) commonly used by active participants?
 - At what point(s) in the justice system process are participants admitted into PSCs?
 - How do case processing times (*i.e.*, time in system) vary across PSCs?
 - What sources of funding do PSCs use?
- Aggregate Participant Information
 - How many offenders are admitted to PSCs?
 - How does participation vary by gender, especially with regard to PSC type?
 - Prior research on gender differences in PSC enrollment and completion rates are mixed.⁹
 - What proportion of participants exit problem-solving court programs by successful completion, voluntary withdrawal, or failure/termination?
 - How do the reasons for case terminations vary across PSCs?

It is envisioned that this initial report will provide national- and state-level statistics on PSCs. Future reports will follow a similar format.

The Future of BJS' Problem-Solving Courts Data Collections

Upon completion of this first CPSC data collection, BJS will be better positioned to more fully evaluate the necessity of future problem-solving court data collection needs in order to meet its core mission of data collection and data dissemination. As part of this evaluation, BJS will review all aspects of the CPSC collection, including the design of the questionnaire content, response to each mode of administration, methods for identifying the universe of problem-solving court respondents, and will use these lessons to improve any future research efforts on PSCs. For example, this information could be used to improve response rates and reduce coverage errors for any future CPSC. Such information would also be important to any enhancements BJS may seek to make on related data collections (*e.g.*, NCSP, SCO, NJRP, and APS) that would seek to obtain information on PSCs. In addition, BJS can use the information collected from this first CPSC to explore the possibility of using the census to create future sampling frames, budget permitting, capable of tracking defendants processed by these courts or to develop shorter supplemental surveys of PSCs focusing on special topics.

Data Users: Needs and Uses

In 2008, BJS convened a multidisciplinary *Data Users Workshop* wherein participants discussed BJS' various statistical publications and programs.¹⁰ Part of the discussion at the workshop indicated that state court practitioners, in particular, were interested in obtaining *unbiased*

⁹ For example, see Boothroyd, R.A., Mercado, C., Poythress, N.G., Christy, A., & Petrila, J. (2005). Clinical outcomes of defendants in mental health court. *Psychiatric Services*, 56 (7), 829-833; DeMatteo, D., Marlowe, D.B., Festinger, D.S., & Arabia, P.L. (2009). Outcome trajectories in drug court: do all participants have serious drug problems? *Criminal Justice and Behavior*, 36(4).

information on specialty courts (*i.e.*, PSCs), noting much of the current data available about PSCs was developed by those stakeholders heavily invested in the results. It was further noted the independence of BJS would be helpful with offsetting any potential “bias problems.”

The proposed CPSC will also be a reference for judges, court administrators, court managers, chief technology officers, and other members of the court community, as well as by federal and state policymakers, criminologists, researchers, journalists, members of the public and others interested in PSCs. It will provide information on court structure, staffing, operations, and offender participants. No other census of PSCs currently exists to provide such information for interested stakeholders. The table below provides an example of the type of information that will be available through the publicly available *Census of Problem-Solving Courts 2012* dataset (referenced questions in Attachment 3).

ESTIMATES THAT CAN BE GENERATED FROM CPSC 2011	RELEVANT QUESTIONS
Number of PSCs by court type (e.g., drug, mental health)	Q1
Number of PSCs having a dedicated prosecutor(s)	Q2a
Level of government PSC operates	Q4
Number of full-time or part-time staff members	Q6a and Q6b
Court session frequency (e.g., daily, weekly, monthly)	Q7
Type of cases (e.g., felony, misdemeanor, status offense, other)	Q12
Court funding sources (e.g., local government budget, client fees, etc.)	Q16
Commonly used services (e.g., batterer program, substance abuse treatment, life skills)	Q17
Participant eligibility (e.g., prior criminal history, residential status)	Q18
Participant point of entry (e.g., pre-post, post-plea/pre-sentence, etc.)	Q19
Number of active participants	Q27
Court's information on participant exit type(e.g., successful completion,	

Other Federal Uses of CPSC data

As the CPSC is a new data collection, there are not existing users of the data. It is expected, however, that the CPSC data will be used by several federal stakeholders. Examples of such federal users include:

- The National Highway Traffic Safety Administration (NHTSA) has a longstanding mission of reducing crash-related injuries and fatalities while ensuring the highest standards of safety on the nation's roadways. One avenue of research NHTSA seeks to expand concerns DWI (Driving While Intoxicated) Courts. BJS staff has been in conversation with colleagues from NHTSA who indicate they are at the beginning stages

¹⁰ See Bureau of Justice Statistics Data Users Workshop complete transcripts at <http://bjs.ojp.usdoj.gov/content/pub/pdf/transcript.pdf> (p. 90).

of designing a research program to evaluate DWI Courts. NHTSA is interested in using CPSC data as a starting point for identifying the universe of DWI courts. NHTSA has also indicated that it will use CPSC data on DWI courts to place their evaluation program in a national context, and to help them to identify what is occurring across DWI Courts more generally. Overall, representatives from NHTSA indicate that CPSC data on DWI courts can help them to better structure their upcoming evaluation program.

- The National Institute of Justice (NIJ) sponsors criminal court research and court-based program evaluation to identify tools, programs and policies that satisfy criminal justice goals including: public safety, cost-efficiency and fair and equitable treatment of victims and defendants. NIJ's criminal courts research on problem-solving courts helps meet this need by supporting research to identify best practices of court-based interventions for offenders and communities that address substance abuse, mental health and other criminogenic needs. For example, NIJ regularly supports evaluation research on drug courts and domestic violence courts. (See the recent NIJ publication, "A National Portrait of Domestic Violence Courts" NIJ document 229659 as an example of such evaluation research). Information collected from the CPSC can help to place NIJ's findings on various drug courts or domestic violence courts within a national context of PSCs; it could also provide them with an updated universe list of PSCs for future research.
- The Bureau of Justice Assistance (BJA) has the mission to provide leadership and services in grant administration and criminal justice policy development to support local, state, and tribal justice strategies to achieve safer communities. Through this mission, BJA supports several PSC initiatives. For example, *The Drug Court Discretionary Grant Program* provides financial and technical assistance to states, state courts, local courts, units of local government, and Indian tribal governments to develop and implement treatment drug courts that effectively integrate substance abuse treatment, mandatory drug testing, sanctions and incentives, and transitional services in a judicially supervised court setting with jurisdiction over nonviolent, substance-abusing offenders. Data collected from the CPSC may be helpful to BJS grant applicants needing supplementary information on comparative or representative drug courts to help complete their grant applications.

3. Use of Information Technology

The CPSC questionnaire will be designed for online data collection using commercially available specialized survey software (see Attachment 3). This software will allow the National Center for State Courts (NCSC), the data collection agent, to send an email to respondents explaining the CPSC project and containing a hyperlink to the questionnaire. Additionally, the software allows for real-time online tracking of respondents, thereby allowing BJS and NCSC to monitor the questionnaire completion of each respondent. Some courts may not have access to the Internet or lack the capabilities to respond to an electronic questionnaire. Therefore, a "paper-based" data collection form will also be made available (see Attachment 4). An export of the questionnaire (into a Word document or PDF file) will be available for respondents who need to print the questionnaire and return it via a non-online method (e.g. U.S. postal mail or fax).

The publication of CPSC 2012 findings will be generated in electronic formats. The CPSC report will be available on the BJS website as PDF files. The dataset, and supporting documentation, will be made available for download via the Inter-University Consortium for Political and Social Research (ICPSR). This will enable researchers to access the electronic versions of the CPSC data for further analysis.

4. Efforts to Identify Duplication

BJS staff has completed reviews of problem-solving court data collections conducted by BJS, other federal agencies, and other organizations in order to identify duplication. This review has led to a conclusion that the CPSCs will provide information that is not collected elsewhere.

Related BJS Projects

The existing BJS data collections providing information on PSCs are limited. *State Court Organization 2004* is the only BJS data collection to provide information on PSCs. However, it only provides a count of PSCs by type of court (e.g. drug, domestic violence, etc.) and by state but does not provide information on the administrative or organizational structure of PSCs. In addition, SCO does not detail the characteristics of offenders being processed by these courts. The planned SCO update, *State Court Organization 2011*, will have the same limitation with regard to PSCs.

Non-BJS Prior Studies and Related Projects

The Bureau of Justice Assistance (BJA) has funded several related projects on PSCs. BJA, in association with the National Drug Court Institute (NDCI), conducted surveys of drug courts and other PSCs in 2005 and 2007.¹¹ The NDCI surveys provide information on the number of drug (and other problem-solving) courts and limited offender information characteristics. The NDCI surveys' target population was state-level primary points of contacts, not the courts themselves. These studies may suffer from coverage error and the resulting information is dated.

Another study examined mental health courts. In 2005, the Council of State Governments (CSG) conducted an online survey of mental health courts.¹² This court-level survey provided self-reported information about court history, program administration, clients, entry process, treatment plans, and court data collection strategy. Findings from the survey represent those of mental health courts having registered for a 2005 Bureau of Justice Assistance (BJA) mental health courts conference.¹³ Key limitations of this CSG survey are that it is now dated and involved a non-representative sample of mental health courts. Furthermore, the information does not present information on other types of PSCs.

Beginning in 2009, BJA sponsored the Adult Drug Court Training and Technical Assistance Program. The program, implemented by American University, assists drug court programs in the development and implementation of improved practices for increased program effectiveness and

¹¹ Huddleston, C.W., Marlowe, D.B., & Stockstill, K. (2008). *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Courts in the United States*. National Drug Court Institute: Washington, DC.

¹² Criminal Justice/Mental Health Consensus Project. (2005). *Mental Health Courts: A National Snapshot*. Council of State Governments: New York.

¹³ CSG estimated that nearly 80% of all known mental health courts in 2005 participated in the survey.

long-term participant success. American University also implements the Drug Court Clearinghouse Project for BJA.¹⁴ This project documents the number of drug courts currently in operation but does not examine the administrative or organizational structure of drug courts. Moreover, this project does not cover the characteristics of offenders processed by these courts.

The CPSC 2012 builds upon these previous studies and will provide BJS with a more comprehensive picture of PSCs. None of the previous efforts provide information on court structure, staffing, and offender participant characteristics. In addition, these surveys have not attempted to examine in one survey the various types of PSC in operation. BJS and the National Center for State Courts will coordinate with American University/BJA to avoid possible data collection duplication.

5. Efforts to Minimize Burden

BJS and 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 impose the least possible burden on the respondents. To achieve this goal the project sought input from an expert working group consisting of court leaders, policy advisors, substantive experts, and survey design experts. Their recommendations resulted in reducing the length of the draft survey to be piloted.

In addition, the expert working group and NCSC in-house subject matter experts developed a list of nine courts to be participants in a pilot test. The nine PSCs were located in the states of California, Idaho, Indiana, Michigan, New York, Utah, Virginia, and Washington. The selected courts represented a range of problem-solving court types. Courts in the pilot test included representatives from: domestic violence courts, adult drug courts, family dependency courts, DUI courts, homeless courts, mental health courts, re-entry courts, prostitution courts, and community courts. Only one respondent from each court was instructed to complete the piloted questionnaire. Piloting of questionnaire occurred September 2011. Findings from the pilot include:

- Mean survey completion time was 46 minutes with a range of 15 minutes to 150 minutes,
- Courts often provided estimates rather than actual numbers on several questions,
- The language and terminology used in the survey were familiar and did not contain jargon, and
- No technical or functional issues were identified with the online survey software.

Staff from BJS and NCSC reviewed the results of the pilot test and made appropriate modifications to the questionnaire as needed, including eliminating questions when necessary. This resulted in further reducing the length of the final questionnaire to be administered to respondents. The pilot study revealed those agencies taking 150 minutes to complete the questionnaire spent considerable time trying to answer questions that are no longer part of the CPSC questionnaire. For example, several questions that would have been placed in the “data”

¹⁴ See American University website <http://www.american.edu/spa/jpo/drug-court-clearinghouse.cfm>

section of the revised questionnaire were eliminated altogether (see Part A Section 12 for more detail).

6. Consequences of Less Frequent Collection

BJJ currently does not have a dedicated data collection that examines PSCs. The CPSC 2012 will provide the first national-level empirical data on PSCs. The consequences of less frequent data collection, therefore, would be that no national or sub-national data on PSCs and their offender population would be available to BJJ and other interested parties. Not conducting the CPSC continues to limit BJJ's statistical portfolio in the area of courts, and it may prevent a fuller understanding of how criminal case processing flows may be affected by diverting cases into PSCs rather than into traditional courts.

7. Special Circumstances

No special circumstances have been identified for this project.

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

The research under this clearance is consistent with the guidelines in 5 CFR 1320.6. The 60-day notice for public commentary was published in the Federal Register, Volume 77, Number 58, pages 17522-17523 on March 26, 2012. The 30-day notice for public commentary was published in the Federal Register, Volume XX, Number XXX, pages XXXXX-XXXX, on MONTH X, 2012. No public comments were received in response to the 60-day notice.

In the design and development phase of the CPSC project, BJJ and NCSC consulted with members of an expert working group consisting of court leaders, policy advisors, substantive experts, and survey design experts. Some of those persons consulted include state court administrators from Maryland and Utah. Policy advisors from the Council of State Governments Justice Center (CSGJC) and the Bureau of Justice Assistance (BJA) were consulted. Substantive experts from the Center for Court Innovation (CCI) and the National Drug Court Institute (NDCI) were also consulted. The following individuals provided valuable information and comments on the content and design of the data collection instrument:

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These discussions resulted in a consensus that using a broad (and inclusive) definition of PSCs will allow respondents to determine what elements are present in their particular problem-solving court. This broad definition will allow for greater variation in response to (1) the problem being addressed, (2) the population served, and (3) and the types of services offered. This definition will include all programs or courts in which there is a specialized docket or calendar under the jurisdiction of the judiciary, inclusive of criminal, adult, and juvenile proceedings. Additionally, recommendations resulted in reducing the length of the piloted survey.

9. Paying Respondents

Not applicable. Neither BJS nor NCSC will provide any payment or gift of any type to respondents. Respondents will participate on a voluntary basis.

10. Assurance of Confidentiality

According to 42 U.S.C. 3735 Section 304, the information gathered in this data collection shall be used only for statistical or research purposes, and shall be gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes. The data collected through the *Census of Problem-Solving Courts 2012* represent institutional characteristics of publicly-administered courts and aggregated characteristics of the nation's PSCs. This information, therefore, is in the public domain. While the final data file made available to the public will contain court-level responses to the questionnaire, BJS will only publish aggregate counts of the information in BJS reports (e.g., state-level, sub-national, national).

11. Justification for Sensitive Questions

No personally identifiable information or questions of a sensitive nature will be asked. Additionally, information obtained about problem-solving court participants will only be obtained in the aggregate (e.g., percent of participants that are female).

12. Estimate of Respondent Burden

The CPSC data collection forms will be sent to each of the nation's approximately 3,800 PSCs.¹⁵ The initial data collection instrument will be in the form of an electronic survey that respondents gain access to via an introductory email. The survey covers court operations, staffing, court funding sources, offender eligibility, the number of active offender participants, and court-level aggregate offender participant data for the most recent 12-month period in 2012. Skip patterns structured into the survey will further reduce respondent burden.

BJS and NCSC expect that nearly all of the 3,800 PSCs will fully complete the census questionnaire. The expected average (mean) burden for each completed survey is approximately 30 minutes.¹⁶ The *revised* questionnaire reduces respondent burden by eliminating questions and improving question clarity. The ideal approach to confidently estimate the time for respondents

¹⁵ The estimate includes problem-solving courts of all types; it is based upon the limited information currently available from previous PSC data collections (e.g., NDCI, NCSC, and SCO), NCSC's prior access to existing lists of problem-solving courts (established via preexisting relationship with the problem-solving court community), and opinions received from the expert working group.

¹⁶ The mean completion time of the *piloted* questionnaire was 46 minutes, with a range of 15 minutes to 150 minutes (see Part A Section 5 for more detail).

to complete the revised questionnaire is to conduct a subsequent pilot test. This is not an option as nine respondents were already contacted during the initial pilot test. Therefore, alternative sources for estimating respondents' burden are necessary. The proposed estimate of 30 minutes for the *revised* questionnaire is based on the following four observations:

1. The *revised* questionnaire was significantly abbreviated as compared to the *piloted* version. The results of the original pilot test uncovered that the respondents predominantly spent their time answering the data reporting questions. The pilot version included 15 questions on reporting capabilities, and if answered affirmatively, requested actual data for those same questions. Whereas, the revised version includes only 6 questions requesting data.
2. The pilot test indicated that when no data were available for answering the data questions (responding "no data available" as compared to providing data or estimate), the time spent was estimated at 15 minutes to respond only to the process and procedure questions. We anticipate a small, but sizeable, percentage of courts to fall into this category, skewing the distribution of time spent responding to the questionnaire towards the lower end of the estimated range.
3. In place of a complete pilot test of the *revised* version, BJS requested that two in-house NCSC employees, who served until recently as problem-solving court coordinators, review and test the *revised* questionnaire.¹⁷ These individuals independently provided an estimate of approximately 30 minutes for completion.
4. Based on NCSC's prior experience working with courts in the State Court Organization project, knowledge of the ability of PSCs to access data, and awareness of the type of data capabilities generally found in the field, these estimates are reasonable.

Therefore, the burden hours for collecting census respondent data are conservatively estimated to sum to 1,900 hours (3,800 respondents x 0.5 hours = 1,900 hours).

In addition to census respondents' burden of completing the census questionnaire, the CPSC requires voluntary participation from State Points of Contacts (SPOCs) to develop an initial list of problem-solving court docket contact information.¹⁸ While SPOCs will not complete actual Census questionnaires, their effort is a necessary first step in identifying the universe of PSCs nationwide. BJS estimates it will take, on average, 20 minutes for each SPOC to provide the requested list of PSCs in their respective state. We expect SPOCs to provide the requested information by providing NCSC with copies of their already existing spreadsheets/databases or by using the provided Excel template to copy/paste specific court information from their spreadsheet into NCSC's provided spreadsheet (See Attachment 13). The 20 minute burden estimate is based upon NCSC's prior experience requesting respondents to provide similar data using similar methods. There are 54 SPOCs (including DC, Guam, Virgin Islands, and Puerto Rico). The total SPOC time burden is 18 hours (54 SPOCs x 20 minutes = 18 hours).

It is expected there will be 3,800 census respondents plus 54 SPOCs for a combined total of 3,854 respondents (see table below for further breakdown).

¹⁷ In-house testing consisted of NCSC staff using publically available information (e.g. court web sites and court evaluation materials) from several types of known PSCs, and their knowledge of PSCs in general, to "fill out" "test" questionnaires.

¹⁸ See Section B1 of this document for additional information.

Therefore the **total estimated burden** for the *entire* CPSC 2012 project is **1,918** hours (1,900 hours for the 1,900 census respondents + 18 hours for the 54 SPOCs = 1,918 hours).

Data will be collected from all identified PSCs. Preliminary estimates from BJS and NCSC suggest there are approximately 3,800 PSCs of various types throughout the nation. If during the frame development (see Part B Section 1) expands the list past the expected number of PSCs, BJS will return to OMB for approval with recalculated burden estimates.

13. Estimate of Respondent's Cost Burden

We do not expect respondents to incur any costs other than that of their time to respond. 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 the 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 \$476,789 all borne by BJS. This work consists of planning, developing the census questionnaire, preparation of materials, collecting the data, evaluating the results, and generating reports. A BJS GS-Level 11 statistician will be responsible for overseeing the NCSC's work on this project. The budget for the project is shown below.

Estimated costs for the Census of Problem-Solving Courts Project Over Life of Project

BJS Costs

Staff Salaries

GS-11 Statistician (15% per year X 2 years)	\$	21,238
GS-14 Senior Statistician (5% per year X 2 years)	\$	11,924
GS-15 Supervisory Statistician (3% per year X 2 years)	\$	8,416
GS-13 Editor (5% per year X 1 year)	\$	5,045
Other Editorial Staff (over life of project)	\$	2,500
Front-Office Staff (GS-15 & Directors over life of project)	\$	2,200
<i>Subtotal salaries</i>	\$	51,323
Fringe Benefits (28% of salaries)	\$	14,370
<i>Subtotal: Salary & Fringe</i>	\$	65,693
Other administrative costs on salary & fringe (15%)	\$	9,854
Subtotal: BJS costs	\$	126,870

Data Collection Agent (NCSC)

Personnel	\$	80,486
Fringe Benefits	\$	32,434
Travel	\$	38,980
Consultant	\$	-
Contracts	\$	99,299
Other	\$	1,245
Total Indirect	\$	97,475
Subtotal Data Collection Agent (NCSC)	\$	349,919
TOTAL ESTIMATED COSTS	\$	476,789

15. Reason for Change in Burden

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

16. Project Schedule

The project will be completed through the following schedule.

<u>Task</u>	<u>Start date</u>	<u>End</u>
Planning, Preparation, OMB Review	June 2011	Sept
Data collection	October 2012	May
Notification of impending due dates, nonresponse follow- up, thank you letters	November 2012	May
Data editing, verification, final callbacks	November 2012 (December 2012 for callbacks)	Aug
Analysis	July 2013	Aug

After securing OMB approval, the CPSC data collection will occur from October 2012 to May 2013. To alert respondents to the upcoming 2012 CPSC, respondents will be emailed in October 2012 to inform them about the CPSC data collection. This initial email will be an electronic letter from BJS explaining the online data collection and requesting their participation in the near future (see Attachment 5). The data collector, the National Center for State Courts, will send out a second email within two weeks of the initial email providing instructions on how to participate in the census and containing a hyperlink to the questionnaire itself (see Attachment 6). Paper forms, including electronic .PDF and MS-WORD copies of the questionnaire, will be made available as a back-up mode of submission to respondents upon request (see Attachment 4).

Nonrespondents will be contacted via emails, phone calls, or faxes beginning in mid-November to alert them to the impending November 28, 2012 due date (see Attachment 7). Respondents will also be contacted by telephone or e-mail to discuss any inconsistencies in the reported data or to ask for information not reported on the forms (see Attachment 8). Thank you letter emails will be sent in batches at the beginning of each month starting in September through May to respondents who have completed their responses (see Attachment 9).

After a majority of respondents have submitted data, preliminary analyses will begin. These preliminary analyses will be undertaken while data collection is still in progress in order to provide time for making callbacks to clarify data. The data editing process will 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 CPSC 2012 project will be used in the production of reports describing the prevalence of PSCs, the court characteristics, including staffing and operations, and aggregate participant information. The reports will use descriptive statistics and cross-tabs to examine PSCs at several scales, including nation and state. Key estimates to be presented include the number and type of problem solving courts; court operations including court staffing and court session frequency; sources of court funding; offender participant eligibility criteria; number of active offender participants; courts' information on aggregate offender participants' gender and race, and program exit type (e.g., successful/unsuccessful).¹⁹ Lastly, the data for the CPSC 2012 will be made available for downloading and further analysis at the Inter-University Consortium for Political and Social Research (ICPSR) immediately following publication of the BJS report.

17. Display of Expiration Date

The expiration date will be shown on the survey form.

18. Exception to the Certificate Statement

Not applicable. This is a new data collection.

¹⁹ Please see Section A2 of this document for further detail on the proposed report.

Attachments:

1. Title 42
2. BJS Sequence of Events Flowchart
3. Welcome Screen Shot to Online Survey
4. Census of Problem-Solving Courts 2012 paper/PDF survey instrument
5. BJS email letter
6. NCSC email with hyperlink to electronic questionnaire
7. Nonrespondent emails and phone scripts requesting completion of questionnaire
8. Item non-response follow-up communication scripts
9. Thank you emails
10. SPOC email script requesting information on state's PSCS
11. 60-day ICR notice that will be published in the Federal Register
12. 30-day ICR notice that will be published in the Federal Register
13. SPOC Excel spreadsheet template