

## MEMORANDUM

**MEMORANDUM TO:** Shelly Wilkie Martinez  
Official of Statistical and Science Policy  
Office of Management and Budget

**THROUGH:** Lynn Murray  
Clearance Officer  
Justice Management Division

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Acting Director  
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**DATE:** January 12, 2015

**SUBJECT:** BJS request for OMB Clearance to conduct surveys of 22 state sentencing commissions to assess the feasibility of obtaining case-level data on felony and misdemeanor cases processed in the state courts to support the National Judicial Reporting Program (NJRP) under the generic clearance agreement OMB Number 1121-0339.

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### INTRODUCTION

The Bureau of Justice Statistics (BJS) is planning to conduct a survey of the 22 state sentencing commissions, administrative agencies responsible for maintaining effective, fair, and efficient sentencing systems for each state. This survey will assess the feasibility of collecting statewide data on felony and misdemeanor cases processed in state trial courts to support the work of BJS's National Judicial Reporting Program (NJRP). Not only will this project inform BJS about the feasibility of statewide data collection about court proceedings for felony and misdemeanor cases, but it will also help BJS to identify challenges and strategies to successfully and efficiently field such an administrative data collection program on a yearly basis.

### BACKGROUND

The National Judicial Reporting Program (NJRP) compiled case-level data on the sentences felony offenders receive in a nationally representative sample of counties biennially from 1986 through 2006. The program collected information through extraction of data from state and county court management information systems on the conviction offense, mode of conviction, type of sentence, and sentence length. The NJRP also compiled data on felony offender

characteristics including age, race, and gender. The NJRP provided federal, state, and local government agencies, as well as researchers and policy analysts, with information on the disposition of adult felony cases in state courts and felony offender characteristics. Some of the many analytical uses of the NJRP data included the comparison of felony convictions in state and federal courts and examinations of changes in felony cases sentenced in state courts over time.

The data were extracted in the last year of collection from courts in a nationally representative sample of 300 counties throughout the United States (Rosenmerkel, Durose, & Farole, 2010). The final sample of counties for the 2002, 2004, and 2006 data collections consisted of 58 of the 75 largest counties and 242 other counties. Further, the final sample contained counties from all states except for, by chance, Nevada, South Dakota, and Wyoming. In 2006, the NJRP obtained case-level information on a sample of 494,055 convicted felons representing the estimated 1,132,292 persons convicted of a felony in state courts during that year.

After the 2006 collection, BJS temporarily suspended the NJRP to conduct a redesign of the program that would improve the comprehensiveness and continuity of data collected on criminal cases processed in state courts. BJS's goal in this redesign was to develop a methodology for collecting statewide data from all 50 states annually with decreased burden on the states in providing the data. BJS has been working with state court administrative offices to assess the quality and availability of data contained in their administrative systems. However, it is anticipated that other state agencies have data that would be relevant to the NJRP. In BJS's Federal Justice Statistics Program, multiple agencies submit court-related data, including the Administrative Office of the United States Courts, the Executive Office for United States Attorneys, and the United States Sentencing Commission. The combination of these three agencies' data provides comprehensive criminal case processing information at the federal level. Therefore, at the state level BJS is investigating if agencies other than courts (such as state sentencing commissions) have data that could be used to support the goals of NJRP.

## **REQUEST FOR DEVELOPMENTAL WORK**

BJS plans to engage in developmental research for the NJRP project under the generic clearance (OMB number 1121-0339). BJS is exploring options for how the national statewide data collection of information on court proceedings for felony and misdemeanor cases could be structured and implemented to achieve the comprehensive and efficient ongoing collection of data. To this end, it is important to canvass state capacities to report detailed data concerning court proceedings, including convictions and sentencing. The results will inform the development of an effective design for a future iteration of NJRP data collection.

BJS has developed a preliminary study to assess the feasibility of gathering data concerning court proceedings for felony and misdemeanor cases from all 22 state sentencing commissions. This feasibility study is called the State Sentencing Commission Study (SSCS). The study began by examining information related to data accessibility that was publicly available for all 22 sentencing commissions. Results from this review led to the design of the SSCS.

This document is a request to OMB for developmental research under BJS's generic clearance and seeks permission to conduct a survey (attachment A) of all 22 sentencing commissions to (a)

assess the feasibility of collecting data on court proceedings for felony and misdemeanor cases and (b) identify strategies to collect these data with decreased burden for the states. The generic clearance will provide BJS with a means to meet the obligations of the Paperwork Reduction Act of 1995 (PRA). The following sections describe proposed plans and methods to field the SSCS:

Task 1: Identify the points of contact

The SSCS will be administered through several steps. First, it will be necessary to identify points of contact (POCs) with detailed knowledge about the data collected by each sentencing commission. Because variation exists across commissions in terms of the agencies or branches in which the commissions are housed and the sources of the data provided to them, the team will research and consider the contexts in which the commissions operate and their data sources prior to identifying the most likely points of contact. Contact information available publicly from the National Association of Sentencing Commissions and individual state sentencing commission websites will also be used.

This study proposes to contact all 22 state sentencing commissions. The names of the commissions are presented in Table 1.

Table 1. State Sentencing Commissions

State Sentencing Commissions
Alabama Sentencing Commission
Alaska Judicial Council
Arkansas Sentencing Commission
Connecticut Sentencing Commission
Delaware Sentencing Accountability Commission
DC Sentencing & Criminal Code Revision Commission
Illinois Sentencing Policy Advisory Council
Kansas Sentencing Commission
Louisiana Sentencing Commission
Maryland State Commission on Criminal Sentencing Policy
Massachusetts Sentencing Commission
Minnesota Sentencing Guidelines Commission
Missouri Sentencing Advisory Commission
New Mexico Sentencing Commission
New York State Permanent Sentencing Commission
North Carolina Sentencing & Policy Advisory Commission
Ohio Criminal Sentencing Commission
Oregon Criminal Justice Commission
Pennsylvania Commission on Sentencing
Utah Sentencing Commission
Virginia Criminal Sentencing Commission
Washington State Sentencing Guidelines Commission

Task 2: Administer the survey

Task 2 will include reaching out to the identified POCs to confirm they are the appropriate person to receive the survey or to identify the appropriate POC. They will then be sent a paper copy of the survey by either email or mail, depending on their preference. The survey (attachment A) consists of nine sections. The content of these sections is summarized in Table 2.

Table 2. Summary of NJRP SCS Survey

Section	Domain	Number of Questions	Description
1	Introduction	N/A	Introduction to survey procedures and recording
2	Overview	1	Overview of electronic data stored by commission including contents and potential access by BJS
3	Coverage	4	Information on source of data and completeness of reporting by courts/agencies
4	Unit of Count	1	How cases and defendants are recorded in system
5	Charge and Disposition	3	How information on charges and dispositions is maintained
6	Data elements	1	Information included in system
7	Sources of data	1	Agencies that contribute to data
8	Data Completeness	4	Frequency of reporting and form of reporting, amount of missing data
9	Data Requests and Access	5	How to access data and time required for process

The design of the SCS reflects its aim to gather detailed information on the feasibility of collecting case-level statewide data in the future. Questions allow agencies to provide estimates when precise time figures are unavailable. The domains covered in the survey will help BJS identify the breadth of the data that commissions can provide, an initial assessment of the quality of the data that could be provided and the process by which the data could be accessed.

Once the POCs are surveyed, the project team will review responses and follow up to resolve open issues that may arise (see attachment B for follow up protocol). Thank you notes (attachment C) will be sent to POCs upon survey completion.

Task 3: Summarize Survey Data

The objective of Task 3 is to compile and assess the NJRP SCS survey responses. The findings from the survey will be compiled into a *NJRP Design and Development Report: Sentencing Commission Study*, which will highlight the survey's findings and include methodological recommendations. The report will discuss the feasibility of collecting statewide case-level court processing data in those states with sentencing commissions.

## EXPECTED BURDEN TO COMPLETE THE NJRP SSCS SURVEY

It is expected that the selected POC will not have to gather information from other sources. Representatives from three state sentencing commissions--Washington, Oregon, and Illinois--participated in a pilot study, and each completed the survey in between 30 and 45 minutes. For those sentencing commissions that do not maintain data, the time to complete the survey will be considerably shorter. If needed, a follow up interview will be conducted to clarify any answers from the respondent.

The estimated maximum time to complete the SSCS for each agency is 1-1.5 hours depending on whether follow-up is required. It is expected that follow-up will be required with one-half of the agencies. The total burden, therefore, across all respondents at all commissions is 26.5 hours. The burden hour estimates are divided across the three activities, including identification of points of contact (11 hours), survey (11 hours), and follow-up (5.5 hours). The burden hour estimates are based on prior experience collecting similar data and from the pilot study. Table 3 summarizes the expected burden estimates.

Table 3. Expected Burden to Complete the NJRP SSCS Survey

Activities	Average burden per respondent	Total estimated burden hours
Identifying points of contact to complete survey instrument	.5 hour	.5 hour x 22 respondents = 11
Completing survey	.5 hour	.5 hours x 22 respondents = 11
Survey followup	.5 hour	.5 hour x 11 respondents = 5.5
		Total Respondent Burden = 26.5 hours

## HUMAN SUBJECTS RESEARCH APPLICABILITY

§45 CFR 46.102 defines a human subject as a living individual about whom an investigator conducting research obtains data through intervention or interaction with an individual or with his/her identifiable private information. IRB approval is being sought through the Westat review board. The survey will be conducted once approval is obtained.

## CONTACT INFORMATION

The contact people for questions regarding data collection and aspects of the design of this research are listed below:

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## **APPENDICES**

- A. National Judicial Reporting Program State Sentencing Commission Study Survey
- B. Follow-Up Phone Call/Email
- C. Thank You Email
- D. Participant Letter