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## Supporting Statement

### **A. Justification**

The National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation (USDOT) is seeking approval from the Office of Management and Budget (OMB) to conduct a survey of DWI (Driving While Impaired) Courts and Hybrid DWI/Drug Courts to obtain information on Court program activities and operations. This information will be used by NHTSA to design a program to evaluate the effectiveness of DWI Courts.

#### **A.1. Explain the circumstances that make the collection of information necessary. Identify any Legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

##### ***a. Circumstances making the collection necessary***

NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Alcohol-impaired driving remains a serious traffic safety problem, with nearly 10,000 people killed in alcohol-impaired driving crashes during 2011. Drivers with a blood alcohol concentration level (BAC) of .08 or higher (alcohol-impaired) involved in fatal crashes in 2011 were seven times more likely to have a prior conviction for driving while impaired than were drivers with no alcohol.<sup>1</sup>

DWI Courts are a relatively new intervention approach to combat alcohol-impaired driving and are authorized under MAP-21, the current DOT authorization. Borrowing from the Drug Court Model, they are directed at repeat offenders and offenders having high BACs at time of arrest. These Courts attack the source of the problem by taking a comprehensive approach to changing behavior that includes treatment. There are criteria that offenders must meet in order to be eligible to enter the DWI Court program, assessment to determine eligibility and appropriate treatment, and monitoring that includes a schedule of testing for substance use.

Drug Courts have been in existence far longer than DWI Courts, and there is a body of research attesting to their effectiveness. However, Drug Courts and DWI Courts may treat different populations, and questions about the effectiveness of DWI Courts and their services have yet to be adequately answered. With increasing numbers of DWI Courts being established, and substantial resources being directed towards them, there is

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<sup>1</sup> Traffic Safety Facts 2011 Data: Alcohol-Impaired Driving. DOT-HS-811-700. Washington, DC: National Highway Traffic Safety Administration, U.S. Department of Transportation. December 2012. Accessed at [www-nrd.nhtsa.dot.gov/Pubs/811700.pdf](http://www-nrd.nhtsa.dot.gov/Pubs/811700.pdf)

a strong need for empirical evidence to show they are effective, and to demonstrate the methods by which they achieve effectiveness.

In April 2011, NHTSA held a workshop to identify important questions that need to be answered regarding how to obtain effective outcomes from DWI Courts; and to identify information needs of the people involved in the operation of DWI Courts. Input was also solicited regarding research designs for evaluating DWI Courts. Most attendees at the workshop were staff from NHTSA and other Federal government agencies involved with issues related to impairment: the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the Center for Substance Abuse Treatment (CSAT), the Centers for Disease Control (CDC), and the National Institute of Justice (NIJ). In addition, several attendees either worked in the justice system or came from organizations involved with the Courts: the National Association of Drug Court Professionals (NADCP), the National Center for State Courts (NCSC), the American Probation and Parole Association, and NHTSA's Judicial Fellow. With few well-designed studies of DWI Courts to which workshop participants could point, the discussion concentrated on the many unknowns about the operation and effectiveness of DWI Courts. The workshop participants voted on which questions they believed an evaluation of DWI Courts should answer. Those questions receiving the most votes were:

- Do DWI Courts work?
- Who is the target population; for whom do DWI Courts work best?
- What DWI Court components are effective and how effective are they?

After the workshop was completed, NHTSA staff reviewed the many points raised at the workshop, and discussed how the agency should proceed in order to create the body of information needed by practitioners in the field. While there was a degree of clarity in outcome measures to which an evaluation program should attend (such as recidivism), there was no adequate record of DWI Court program activities currently in practice for designing conditions to test for program evaluation. The NHTSA staff determined that it was first necessary to find out what the DWI Court programs were doing before planning a comprehensive evaluation program. While there are general Guiding Principles for DWI Courts<sup>2</sup> that have been issued by the National Center for DWI Courts (a professional services division of the National Association of Drug Court Professionals, or NADCP<sup>3</sup>), it's not known the extent to which the Guiding Principles are being followed.

NHTSA has decided that the best approach would be to start with a survey sent to all DWI Courts, and Hybrid DWI/Drug Courts (a Drug Court that also takes DWI offenders), to identify how the Court programs are operating. This would provide the information needed to determine the activities and service dosage levels that would be of highest priority to set as test conditions in program evaluation efforts. The survey would also identify potential sites for program evaluation efforts. The National Institute of

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<sup>2</sup> National Center for DWI Courts. The Ten Guiding Principles of DWI Courts. Accessed at [http://www.dwicourts.org/sites/default/files/ncdc/Guiding\\_Principles\\_of\\_DWI\\_Court\\_0.pdf](http://www.dwicourts.org/sites/default/files/ncdc/Guiding_Principles_of_DWI_Court_0.pdf)

<sup>3</sup> NADCP is the national organization representing Drug Court, DWI Court, and other problem-solving court professionals throughout the United States.

Justice (NIJ) carried out a similar type of survey as a prelude to its Multi-Site Adult Drug Court Evaluation. NHTSA has used the NIJ survey instrument as an initial template from which the NHTSA DWI Court survey instrument has been constructed (Attachment 4).

***b. Statute authorizing the collection of information***

Title 23, United States Code, Chapter 4, Section 403 (Attachment 1) gives the Secretary authorization to use funds appropriated to carry out this section to conduct research on all phases of highway safety and traffic conditions; and to conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives (See 23 U.S.C. 403(a)(1), 23 U.S.C. 403 (a)(5)).

**A.2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The data collected in the survey will be used by NHTSA to design a program to evaluate DWI Courts. Once a comprehensive evaluation has been completed, the results will provide guidance to practitioners in the field on best practices in operating DWI Courts, and how resources can best be applied. A model of how evaluation results can be made available to achieve this is provided by the NIJ on its Website for the Multi-Site Adult Drug Court Evaluation at <http://www.nij.gov/topics/courts/drug-courts/madce.htm> .

Benefits from the program evaluation won't be realized for a number of years. However, the survey would also provide immediate value by identifying educational or other support service needs of DWI Courts. The information would be made available to organizations that provide such support, such as the National Center for DWI Courts. In addition, NHTSA will generate a report from the survey results for dissemination to the Courts to inform them as to what the DWI Courts, as a whole, are doing.

**A.3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical or other technological collection techniques or other information technology. Also describe any consideration of using information technology to reduce burden.**

The survey will be administered entirely over the Web. NHTSA will employ the services of a Contractor that will develop a Website for administering the survey. Access to the survey will require use of a PIN provided by NHTSA. Requirements for the Website stipulated by NHTSA in the Contract include:

- Basing the visual layout of the questions on principles of heuristics that people follow in interpreting visual cues;
- Making the survey easily navigable from page to page;
- Incorporating user assistance tools, such as help screens for certain items (e.g., the respondent could click a link to get a definition that would come up if needed);

- Inserting placeholders so that respondents could pause and leave the system and then re-enter (at the point of departure) without losing the responses previously entered;
- Programming in consistency checks; and
- Providing capability for the Courts to upload documents so that they can provide any evaluation reports they already have concerning their programs.

In addition, a capability will be built in for shared responding. The nature of this survey likely will require more than one person to respond for any individual DWI Court because the requested information is not held by a single source but instead is split across different professional categories operating within the Court. Therefore the system will need to be designed so that sections of the survey can be transferred to others working within the Court program.

**A.4. Describe efforts to identify duplication. Show specifically why any similar information, already available cannot be used or modified for use for the purposes described in Item 2 above.**

While there has been substantial research conducted regarding Drug Courts, the results of that research cannot be used to answer questions about the effectiveness of DWI Courts. There are indications that the characteristics of people that enter DWI Courts are different from the characteristics of those that enter Drug Courts. Moreover, there is evidence that when a Drug Court takes in DWI offenders and they receive the same treatment as is provided to the drug offenders; there are smaller effects for the DWI offenders compared to the drug offenders. One interpretation is that the recidivist DWI offender may be a different pathology than the typical drug offender, needing a specialized program.

NHTSA was alerted to an effort being conducted by the Bureau of Justice Statistics (BJS) to conduct a census of Problem-Solving Courts that includes DWI Courts. NHTSA staff met with the BJS staff involved in the census survey to determine the extent to which that survey could meet NHTSA's information needs. While it would provide some helpful information to the NHTSA effort, both parties agreed that the BJS objectives were different and that NHTSA was seeking information that the census survey would be unable to provide.

NHTSA is also aware of a survey of DWI Courts conducted by the National Center for DWI Courts (NCDC). However, the survey was designed to generate basic statistics for DWI Courts and not cover the breadth of topics needed by NHTSA for its program evaluation planning. NHTSA is receiving input for its DWI Court Survey from the NCDC.

In sum, this is a relatively new intervention area that has been subjected to limited inquiry. NHTSA has checked with the sources most knowledgeable about research conducted with DWI Courts, and found that no survey has been conducted that meets NHTSA's information needs.

**A.5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

The collection of information does not involve small businesses, but does involve small entities (Court systems) within the public sector. The mode of survey administration (Web-based) was selected as the most convenient for Court respondents. It involves technology commonly in use within Court systems, and allows respondents to select when they will take the survey so that they can participate when it is convenient to their schedules.

NHTSA has worked to limit the number of questions being asked. While it is estimated that the interview duration may still be as long as 40 minutes due to the need for respondents to retrieve some information, it is expected that this burden will be split among multiple people because no single source is likely to be in possession of the different types of information being requested.

**A.6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The number of DWI Courts has been expanding, but without definitive evidence about their effectiveness or how best to apply the resources being allocated to them. Critical questions about what works with whom need to be answered, and this survey is an important step in obtaining the answers. Without those answers, jurisdictions may be engaging in Court program activities that have minimal impact and waste valuable resources. It is NHTSA's responsibility to assess effectiveness and provide guidance on approaches that will lead to reductions in crashes and fatalities.

Data from the DWI Court Survey will be used to design an evaluation program that will provide DWI Courts with the information needed to determine the most effective ways of structuring their programs. By moving directly to a systematic plan for evaluating DWI Courts, NHTSA will avert having the research literature evolve as a collection of disparate studies focused on different things, thereby saving time, money, and effort. Development of the evaluation plan requires information on the techniques and tools being used by DWI Court programs, which the proposed NHTSA survey would provide. Without that information the agency would not be making decisions on an informed basis about what characteristics and dosage levels within the Court programs to evaluate.

**A.7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines set forth in 5 CFR 1320.6.**

No special circumstances require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

**A.8. Provide a copy of the FEDERAL REGISTER document soliciting comments on extending the collection of information, a summary of all public comments responding to the notice, and a description of the agency's actions in response to the comments. Describe efforts to consult with persons outside the agency to obtain their views.**

FEDERAL REGISTER NOTICE: A copy of the Federal Register Notice which notified the public of NHTSA's intent to conduct this information collection, and provided a 60-day comment period, was published on August 14, 2012 (Vol. 77, No. 157, Pages 48608-48609 (Attachment 2)). No comments were entered into the NHTSA docket in response to the 60-day Federal Register Notice

A copy of a second Federal Register Notice (Vol. 78, No. 77 Page 23825), which announced that this information collection request will be forwarded to OMB, was published April 22, 2013 (Attachment 3).

EXPERT CONSULTATION: As noted in Section A.1., NHTSA held a workshop with experts from both within and outside the Federal government to discuss information needs regarding DWI Courts. NHTSA is maintaining contact with many of them to provide ongoing consultation regarding the agency's research efforts directed at DWI Courts. This has included providing a draft of the questionnaire to this group and making revisions based on the comments received. NHTSA also is consulting with the National Center for DWI Courts regarding this effort.

**A.9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gift will be provided to respondents.

**A.10. Describe any assurance of confidentiality provided to respondents**

In the survey's introduction, respondents will be told that dissemination of the results would only involve summary statistics that could not be used to identify individual Court responses.

**A.11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private.**

While this survey deals with sensitive issues such as substance use and drug testing, it will not be collecting information on specific individuals. Rather, it will collect information on the policies and practices within each DWI Court, and the aggregate characteristics of the participants in the DWI Court program. Thus this survey does not involve self-reporting of sensitive information, nor does it involve respondents reporting sensitive information about distinct individuals.



**A.12. Provide estimates of the hour burden of the collection of information on the respondents.**

Data collection will involve a Web-based survey administered to as many as 650 DWI Courts and Hybrid DWI/Drug Courts. The survey is projected to average 40 minutes in duration. If all DWI Courts and Hybrid DWI/Drug Courts responded, total time burden would be:

$$650 \text{ Courts} \times 40 \text{ minutes} = 433.3 \text{ hours}$$

**A.13. Provide an estimate of the total annual cost to the respondents or record keepers resulting from the collection of information.**

It is expected that not all the information being requested by NHTSA from the Courts will be held by a single source, which would require more than one person at each Court to be involved in the response. Those respondents would also be expected to be in different occupational categories. Mean hourly wages provided by the Bureau of Labor Statistics for legal occupations overall (<http://www.bls.gov/oes/current/oes230000.htm>) is \$47.30. If all contacted DWI and hybrid DWI/Drug Courts respond, the total cost would be:

$$650 \text{ Courts} \times \$47.30/\text{hr.} \times .667 \text{ hours} = \$20,507$$

The survey would be administered a single time, and within a single year. Thus the total annual cost to respondents would be a maximum of \$20,507.

**A.14. Provide estimates of the annualized cost to the Federal Government.**

The estimated annualized cost to the Federal government is \$150,000.

**15. Explain the reasons for any program changes or adjustments in Items 13 or 14 of the OMB 83-I.**

This is a new information collection. As such, it requires a program change to add the estimated 433.3 hours for the new information collection to existing burden.

**A.16. For collection of information whose results will be published, outline plans for tabulation and publication.**

NHTSA will summarize the survey results in a report to be disseminated to Courts and other interested parties. The aggregated findings would be presented as percentage distributions across response categories, with some cross-tabulations involving key Court or program characteristics. Selected aggregated results may also be inserted in other published NHTSA materials addressing the topic of DWI Courts, or may

be inserted in published materials of an organization involved with DWI Courts. All published NHTSA materials would be posted on its Website.

**A.17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

NHTSA will display the expiration date for OMB approval.

**A.18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions” of the OMB Form 83-I.**

No exceptions to the certification are made.