



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Statistics

Washington, D.C. 20531

MEMORANDUM TO: Bob Sivinski
Office of Statistical and Science Policy
Office of Management and Budget

THROUGH: Melody Braswell, Clearance Officer, Justice Management Division
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FROM: Elizabeth Ann Carson, Acting Chief, Corrections Unit, BJS

SUBJECT: BJS request for OMB Clearance to conduct a survey to determine states' ability to provide U.S citizenship status information of prisoners to the National Corrections Reporting Program under the generic clearance agreement OMB Number 1121-0339

DATE: December 20, 2017

Introduction

The National Corrections Reporting Program (NCRP; OMB 1121-0065, expires 10/31/2018) collects individual-level administrative records on annual movements of offenders in five cohorts: admissions to state prison, releases from state prison, persons held in state prison at yearend, entries to state post-custody community supervision (PCCS) or parole programs, and discharges from state PCCS/parole programs. Since 1983, the Bureau of Justice Statistics (BJS) has annually reported on the movements of offenders through state prison systems through the NCRP. These statistics are part of BJS's core corrections statistics, as they contribute fundamentally to BJS's mission of describing transitions and progression of offenders through the criminal justice system.

The NCRP data are provided by state departments of corrections (DOC), although in five states with separate parole authorities, the DOCs submit prison data and paroling authorities provide the PCCS information. The District of Columbia provides only PCCS data, for a total of 56

NCRP respondents. Participation in NCRP is voluntary; however, not every state that submits data on an annual basis is able to provide data on each cohort type or report on each requested data element. In 1983, 32 states submitted at least one record type, and for the first time in 2012, 50 states provided data for at least one record type. Inmate-level data collected through the NCRP allow BJS to describe the demographic information, conviction offenses, sentence length, type of admission, type of release, and time served of the state prison population and to produce national-level recidivism studies.

On January 25, 2017, the President of the United States signed an Executive Order (EO; #13768) that directed the Attorney General and the Secretary of Homeland Security to report quarterly on the “immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.”¹ As a result, BJS has been asked by the Office of the Deputy Attorney General (ODAG) to provide statistics on non-U.S. citizens in state correctional systems and local jails. Hence, BJS is exploring the feasibility of incorporating citizenship information into its annual correctional data collections.

To determine the feasibility of collecting citizenship information on prisoners, BJS is seeking OMB approval under BJS’s generic clearance (OMB 1121-0339, expires 02/28/2019) to conduct semi-structured telephone interviews (Appendix A) of NCRP data respondents from state DOCs regarding their ability and willingness to provide data on U.S. citizenship status, country of birth, and country of current citizenship; to provide information on the quality of these data; and to identify the impact requesting this additional information might have on NCRP response rates.

BJS’s National Prisoner Statistics program (NPS, OMB 1121-0102, expires 07/31/2020) is the only active corrections data collection that collects citizenship information on the state and federal prison population; however, these data are obtained at an aggregate rather than prisoner level. Aggregate data preclude more granular subgroup comparisons that would be possible through an inmate-level data collection such as the NCRP. Since data providers draw from the same underlying data systems when responding to the NCRP and NPS, this suggests that they should have inmate-level citizenship information available to include in their NCRP data submissions.

Adding the proposed data elements to the NCRP would enable BJS to examine differences in the commission of offenses by whether a prisoner is a U.S. citizen, country of birth, and country of current citizenship and differences in length of sentences imposed on these groups. Further, the individual-level data in NCRP on prison admissions and releases, and on entries and discharges from parole or community supervision, over multiple years would enable BJS to examine recidivism rates by U.S. citizenship status.

Early stage scoping interviews, conducted in 2012 with 18 states under a generic clearance for future BJS prison facility census collections, included questions on whether DOCs obtained citizenship status for prisoners and the sources of these data. All 18 states confirmed that they had a citizenship indicator for prisoners in their offender management data files. However, the majority of DOCs said that the information was based on self-reports by the prisoners at admission, and there was no verification with external sources as of 2012. Informal discussions with nine current NCRP data providers also indicated that all would be able to provide the non-U.S. citizen prisoner information, and that doing so would require an additional 30 minutes of

¹ *Enhancing Public Safety in the Interior of the United States*. Section 16(c). <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>

burden during the first year of data collection to alter their data extraction programs. This informal outreach suggests that states are able to provide inmate-level citizenship information in some form; however, a more formal outreach to states requested under this generic clearance would confirm the feasibility of providing the data to BJS, identify the processes by which BJS would need to request these data, and would provide indications of the quality of data collected.

Because the goal is to obtain current citizenship status, BJS will rank the source and types of data the DOCs can provide to determine the quality of the data.

1. BJS considers current citizenship status data (a yes/no U.S. citizenship variable OR country of current citizenship) that the state DOCs have verified by Immigration and Customs Enforcement (ICE), the Department of Homeland Security (DHS), or the Social Security Administration (SSA) to be of the highest quality. Based on annual submissions of aggregate citizenship data in the NPS, very few state DOCs are believed to currently perform external verification of inmate's citizenship status by federal sources.
2. Of somewhat lower quality are data on current citizenship (a yes/no U.S. citizenship variable OR country of current citizenship) that was given by the courts or law enforcement to the DOC during the admission of the inmate to prison, without ICE, DHS, or SSA verification.
3. Of even lower quality are data that show current citizenship status (a yes/no U.S. citizenship variable OR country of current citizenship) based on self-report by the inmates, that has not been externally verified. Based on submissions to the NPS, BJS believes that the majority of states obtain citizenship data this way.
4. Finally, the lowest quality data on current citizenship are those derived from self-reported country of birth. Country of birth does not denote citizenship for inmates who have been naturalized and given citizenship rights by the United States or some other country. In the 2016 NPS, four states (Colorado, Missouri, New York, and Tennessee) volunteered that they were reporting country of birth for non-citizens, although not all states reported how they collect the data to NPS.

BJS also plans to ask respondents whether the inclusion of these data in an amended NCRP data request would impact states' willingness to participate in future NCRP collection years. It is unclear whether and to what extent states might decline participating in this voluntary collection. BJS strives for full state participation in each collection, thus an indication that states would no longer participate in the NCRP is a factor BJS would need to consider when deciding to add citizenship information in future collections.

Request for developmental work

BJS plans to conduct developmental work for NCRP under the generic clearance agreement (OMB 1121-0339). This survey will assist BJS in understanding the quality and availability of the data state DOCs possess on inmate citizenship and how to collect the information. If BJS determines that most states would be willing to provide good-quality citizenship data without impacting NCRP response rates, BJS will request permission from OMB through NCRP's full clearance package (OMB 1121-0065, exp 10/31/2018) to collect this information from states on an annual basis. This survey also will inform BJS about the conditions under which the state DOCs would release inmate-level information if BJS were to pursue including it in the future. BJS will not add new data elements until a revised NCRP package has been reviewed and approved by the OMB.

Survey Design and Collection Procedures

The survey will collect information on the availability and quality of citizenship data on prisoners held by state DOCs. The survey will be administered to 56 respondents: the 50 state DOCs, plus the separate PCCS agencies from the District of Columbia, Georgia, Massachusetts, Nevada, Pennsylvania, and South Carolina.

Due to the sensitive nature of citizenship information, BJS anticipates that some state data providers may need to consult other DOC or state government personnel. For this reason, BJS will first send an email to each data provider a week prior to the anticipated phone interview to schedule the interview, provide a copy of the questions that will be asked (Appendix B), and explain why BJS seeks to collect prisoner citizenship information. Data providers will be encouraged to collect any necessary information to answer the questions in advance, including names and contact information for state officials from whom BJS would need to seek permission to obtain the citizenship information for future collection.

Abt Associates, Inc., (Abt) the BJS data collection agent for NCRP, will phone each NCRP data provider and ask the 10 questions. Responses will be entered into an Excel spreadsheet on a secure server, and the file will be encrypted with password protection prior to being transferred to BJS via Abt Associates' secure file transfer protocol (SFTP) site.

Burden Hours for the Survey

Abt Associates will contact respondents from 50 state DOCs and 6 jurisdictions' independent PCCS boards. Based on informal conversations with 6 states, we anticipate that respondents will need a maximum of 10 minutes to prepare responses to the questions, and a maximum of 20 minutes to respond to the telephone survey.

Table 1. Burden estimate for survey

Tasks	Average burden per jurisdiction	Total estimated burden hours
Initial email receipt, additional time for respondents to gather information if necessary	10 minutes	56 respondents X 10 minutes = 9.3 hours
Telephone survey	20 minutes	56 respondents X 20 minutes = 18.7 hours
Total respondent burden for all respondents = 28 hours		

Analysis Plan

The goals of the proposed NCRP citizenship survey are to (a) determine which states will be able to provide U.S. citizenship status, country of birth and country of current citizenship to BJS through the NCRP; (b) identify the nature and quality of the citizenship information state DOCs collect; and (c) delineate the processes by which BJS will need to request these data. BJS will take states' prison population sizes into account, so that larger states' responses are weighted more than smaller states. The decision rules are as follows:

1. If any single state says that it will discontinue participation in NCRP because of the addition of a citizenship question, BJS will recommend that the variable not be added to the data collection, as this would compromise the integrity of the rest of the NCRP data.
2. If more than 20% of prisoner records would come from states that cannot provide the data due to state or DOC policy, BJS will recommend that the variable not be added to the data collection, as this would result in high levels of missing data for the citizenship variable.
3. If more than 40% of prisoner records in NCRP would come from states that could only report country of birth, BJS will recommend that the variable not be added to the data collection, since country of birth is a poor proxy for citizenship.
4. If more than 70% of prisoner records would be verified through either ICE, DHS, SSA, or through court or law enforcement documents, BJS will recommend that the variable be added to the data collection, since we believe these are the two most trustworthy sources of data.
5. If more than 60% of prisoner records would come from the combination of inmate self-report without verification, or through the reporting of place of birth, BJS will recommend that the variable not be added to the data collection, since we believe these are the two least trustworthy sources of data.

If results from the brief survey result in a BJS recommendation to request the citizenship information, BJS will include these variables in its resubmission to OMB for NCRP data collection clearance (OMB 1121-0065, current approval expiration 10/31/2018). Upon OMB approval, BJS will use the information gathered from the survey to contact and request data from the appropriate officials in each state in the collection of 2018 data, starting January 1, 2019.

It is possible that even despite a negative recommendation, ODAG will request that BJS collect citizenship data in NCRP. If this is the case, BJS will include the variables in its resubmission to OMB for NCRP data collection clearance along with a plan to evaluate and if necessary remediate the quality of the resulting data to ensure that it meets BJS standards for dissemination.

Informed Consent and Data Confidentiality

These interviews are not collecting information on individuals. The only personally-identifiable information to be collected will be the names and contact information of the state NCRP respondent answering the survey questions, and the identified person to whom BJS should address future requests to obtain citizenship data through NCRP if this differs from the data provider. Because the survey elicits factual information about capabilities and data systems and the only human subjects data collected is name and contact information for any follow-up questions, Abt's IRB has determined that the data collection does not involve human subjects research.

BJS protects data confidentiality to the fullest extent under federal law in accordance with the BJS Data Protection Guidelines – (https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf). Data collected by BJS and its contractors are maintained under the relevant confidentiality provisions of 28 C.F.R. Part 22: data identifiable to a private person may be used or revealed only for research or statistical purposes, or where prior consent is obtained; access to identifiable information is limited to requisite project and IT staff; BJS contractors are required to submit a Privacy

Certificate that describes procedures in place to adequately safeguard identifiable data; and project staff must certify in writing to abide by BJS's confidentiality requirements.

OJP maintains a robust IT security program in accordance with applicable federal and DOJ policies, procedures, and guidelines. BJS contractors are similarly required to maintain the appropriate administrative, physical, and technical safeguards to protect identifiable data and ensure that information systems are adequately secured and protected against unauthorized disclosure. Specifically, BJS and its contractors are required to: assess and secure information systems in accordance with the Federal Information Security Modernization Act (FISMA); adhere to National Institute of Standards and Technology (NIST) guidelines to categorize and secure data; employ adequate controls to ensure data are not comingled with any other dataset or product; reduce the volume of PII collected and retained to the minimum necessary; limit access to identifiable data and for only the approved purposes; complete annual computer security awareness training; and comply with DOJ policies on remote access and security incident reporting.

Contact Information

Questions regarding any aspect of this project can be directed to -

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Appendix A: NCRP Citizenship Information Survey Script

Appendix B. Draft email to respondents in advance of survey