



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Statistics

Washington, D.C. 20531

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

THROUGH: Melody Braswell, Clearance Officer, Justice Management Division
Jeffrey H. Anderson, Director, BJS
E. Ann Carson, Acting Unit Chief, Corrections Unit, BJS

FROM: Danielle Kaeble, Statistician, BJS

SUBJECT: BJS request for OMB Clearance to conduct a survey to determine states' ability to provide separate felon and misdemeanor probationer counts to the Annual Surveys of Probation and Parole under the generic clearance agreement OMB Number 1121-0339

DATE: October 28, 2019

Introduction

The Annual Surveys of Probation and Parole (ASPP; OMB 1121-0064, expires 10/31/2020, with request for approval currently ongoing) provide BJS with the capacity to report annually on changes in the size and composition of the community corrections populations in the United States. In 2016, probationers and parolees represented almost 70% of people in the correctional system. BJS has collected annual year-end counts and movements on and off supervision for the community corrections populations through the ASPP since 1977. The data from these surveys provide the only comprehensive national overview of the total community supervision population, as well as the individual parole and probation populations, at both the national and state levels. The surveys also track key outcomes of offenders on probation or parole, such as completion of supervision terms and return to incarceration (or recidivism).

The probation component of the ASPP – the Annual Probation Survey (APS) – is completed by two types of data providers: 35 central state reporters who provide data on the probation population supervised by all agencies in a state, 417 other reporters in 15 states who provide data for only one agency in the state, 1 District of Columbia reporter, and 2 Federal reporters. Currently, there are 455 APS reporters.

In 2017, OMB approved outreach to agencies that did not respond to APS to assess whether the additional agencies that were identified as potentially being eligible for inclusion in the survey were indeed in operation and supervised adult probationers. BJS contacted 3,567 agencies during

this outreach. A total of 66 agencies were identified that supervise at least one felony probationer, as were 239 agencies that only supervise misdemeanor probationers.

In 2018, BJS continued to investigate the completeness of the frame used on the APS. This work indicated that the level of coverage in the APS frame varies by type of agency: coverage is nearly universal for agencies that supervise felons (or a combination of felons and misdemeanants) but is incomplete for agencies that supervise only misdemeanants.

Recognizing this difference in coverage, BJS is considering a strategy where felon-supervising agencies would be asked to separate population data for felons from that for any misdemeanants they might supervise. This request would include all questions on the survey used to collect detailed population counts by various characteristics (e.g., reason for discharge, race/ethnicity, sex, most serious offense). In addition, BJS is considering the development of a new limited survey instrument for newly identified agencies that supervise only misdemeanants. This form would ask agencies to provide an overall population count and potentially additional details on the demographic or criminal justice characteristics of the population.

Request for developmental work

BJS plans to conduct developmental work for APS under the generic clearance agreement (OMB 1121-0339, expires 04/30/2022). This work will assist BJS in understanding the quality and availability of felony probation agencies to separate information on felons and misdemeanants, as well as the ability of misdemeanor probation agencies to provide population counts. BJS proposes to conduct outreach to agencies as described below to determine their ability and willingness to provide this information. If BJS determines that most agencies would be willing to provide good-quality data without impacting APS response rates, BJS will request permission from OMB through APS's full clearance package (OMB 1121-0064, exp 10/31/2020) to collect this information on an annual basis. BJS will not add new data elements until a revised APS package has been reviewed and approved by the OMB.

Survey Design and Collection Procedures

The proposed investigation would have two stages. In stage one, 75 current ASP respondents would be asked whether they could provide a breakdown of demographics and criminal justice characteristics for only those felons under their supervision, and if so, find out what the additional time burden would be. Respondents would not be asked for the actual population counts at this time. This portion of the investigation would obtain data from all central data reporters and a sample of other agencies that supervise both felons and misdemeanants.

In stage two, an additional 50 misdemeanor-only agencies not currently reporting to BJS would be contacted and asked whether they could provide population counts for January 1 and December 31 of each year, as well as counts of total admissions to and releases from probation over a calendar year. Respondents would only be asked about their ability to report the data, and would not be asked for the actual population counts at this time.

Contacts with current central reporters and non-central reporters would be made by project staff who have experience on the APS. For stage one, they will initiate contact via email (when possible), briefly explain the purpose of the outreach, include their 2018 APS responses as a

reference, and inform the reporter of an upcoming telephone contact to schedule the interview. An email template is included in appendix A. If email contact is not possible, BJS will phone the agency head and provide the information conveyed in appendix B.

Contacts of newly identified misdemeanor supervision agencies/courts will be made by project staff who have experience on the APS. This stage two contact will be initiated via phone with the agency/court head. A more formal protocol/phone script is in appendix C.

Burden Hours for the Survey

BJS will contact respondents from 75 currently responding agencies that supervise at least one felony probationer. We anticipate that each of these respondents will need a maximum of 75 minutes to prepare for and respond to the phone interview. We will also contact 50 misdemeanor-only agencies not currently reporting to BJS. We anticipate that these respondents will need a maximum of 30 minutes to prepare for and respond to the phone interview. The total burden for both stages will be 118.75 hours.

Table 1. Burden estimate for survey

Stage	Tasks	Average burden per jurisdiction	Total estimated burden hours
Stage 1 (Current APS responding agencies that supervise at least 1 felon)			
	Initial email receipt, additional time for respondents to gather information if necessary	10 minutes	75 respondents X 10 minutes = 12.5 hours
	Telephone survey	65 minutes	75 respondents X 65 minutes = 81.25 hours
	Total respondent burden for all Stage 1 respondents = 75 minutes		
Stage 2 (Misdemeanant agencies not currently reporting to)			
	Initial email receipt, additional time for respondents to gather information if necessary	10 minutes	50 respondents X 10 minutes = 8.3 hours
	Telephone survey	20 minutes	50 respondents X 20 minutes = 16.7 hours
	Total respondent burden for all Stage 2 respondents = 30 minutes		
Total respondent burden for all respondents = 118.75 hours			

Analysis Plan

The goals of the proposed APS survey are to: (1) determine whether agencies that supervise both misdemeanor and felony probationers can provide separate demographic breakdowns for felons and misdemeanants, and (2) determine whether agencies that supervise misdemeanor probationers only, and who are not current APS respondents, can provide limited information about their probation populations.

BJS will evaluate the results from the stage one and stage two respondents separately. If stage one results show that most agencies (e.g. 80% or greater) can provide the requested information, BJS will request OMB approval to revise the current survey instrument and conduct a pilot test of the revised instrument. Upon OMB approval, BJS will pilot the instrument. If item nonresponse or other data quality issues are likely given the stage one findings, BJS will not request a modification of the existing instrument and will instead retain the existing instrument.

If stage two results show that misdemeanor agencies (e.g., 80% or greater) can provide the requested information and that high rates of item nonresponse are unlikely, BJS will submit a modification request to OMB to implement a new limited survey instrument and conduct a pilot test of the instrument with misdemeanor agencies not currently reporting. Upon OMB approval, BJS will pilot the instrument. If item nonresponse or other data quality issues are likely, given the stage two findings, BJS will not request a modification. Rather, the existing instrument will be retained while further investigation of potential improvements to the survey is conducted.

Informed Consent and Data Confidentiality

The only personally-identifiable information to be collected will be the names and contact information of the agency personnel answering the questions. Because the survey elicits factual information about the agency and the only human subjects data collected are respondent name and contact information for any follow-up questions, the IRB for BJS's APS data collection agent has determined that the data collection does not involve human subjects research. All information obtained during the survey will be maintained on secure servers at BJS and its data collection agent, and will not be shared with third parties.

As outlined in BJS's Data Protection Guidelines¹, BJS maintains a robust IT security program in compliance with the DOJ Cybersecurity Program and the DOJ IT Security Rules of Behavior (ROB) for General Users to facilitate the privacy, security, confidentiality, integrity, and availability of BJS computer systems, networks, and data in accordance with applicable federal and Department policies, procedures, and guidelines.

Technical control of the data is maintained through a system of firewalls and encryption. Data obtained from the ASPP surveys and this special APS activity will be stored in a computer file on BJS's secure hard drive behind the DOJ's firewall. The secure drive was created specifically for ASPP and limits access to only those BJS staff who work on the ASPP. The BJS information technology specialist assigns permissions to staff involved in the ASPP project to access the secure drive. Access is removed if staff discontinue work on the project, and a username and password verification are required to log on to the BJS computer system. All DOJ employees are required to undergo annual computer security training as well as periodic background investigations.

All BJS data are physically stored in a secure building in Washington, DC which houses DOJ's Office of Justice Programs (includes BJS). The building is staffed 24 hours a day, 7 days a week by armed guards, and employees must pass through an electronic badge swipe and subsequent acknowledgement of their photograph by a guard. Visitors must be sponsored by DOJ employees, submit to a metal detector test and video surveillance, wear a visitor's badge, and provide information that is recorded in a central log book. Servers containing BJS data are stored in a locked room secured by a personal identity verification management system with access limited to OJP information technology personnel. OJP has an intrusion detection system in the room housing the OJP servers. Should any data need to be stored on CD-ROMs, they reside in a locked office to which only the BJS director and deputy directors have key access, and all data use in this room is logged.

Should BJS decide to destroy data in the future, it will follow all federal government guidelines regarding the technical and physical wiping of data from servers, and any CD-ROMs or paper documents that may exist will be cross-cut shredded.

¹ https://www.bjs.gov/content/pub/pdf/BJS_Data_Protection_Guidelines.pdf

BJS data collection agents and 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.

Contact Information

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

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Appendix A: Stage One – Current Central Reporters and Non-Central Reporters Email Template

Appendix B. Stage One – Current Central Reporters and Non-Central Reporters Protocol/Phone Script

Appendix C: Stage Two – Frame Expansion Agencies/Courts Protocol/Phone Script

