

Supporting Statement A

For

Survey on Practices and Policies Related to the Treatment of Opioid Use Disorders

OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP)

EXECUTIVE OFFICE OF THE PRESIDENT

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INFORMATION COLLECTION TITLE: Survey on the Treatment of Substance Use Disorders

COLLECTION INSTRUMENT: Survey on the Treatment of Substance Use Disorders (Internet Based Survey)

AUTHORITY: 21 U.S.C. § 1703(b)(21)(B)(iii)

The Substance-Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act), 21 U.S.C. §§ 1701 *et seq.* authorizes the ONDCP Director to request data from any entity that will assist the agency in formulating national drug control policies, goals, objectives and priorities. *See* 21 U.S.C. § 1703(b)(21)(B)(iii). Moreover, the information that ONDCP collects from data collection instruments enables ONDCP to receive up-to-date information that is vital to measuring the effectiveness of federal, state, and local drug control programs. The Consolidated Appropriations Act, 2020, Pub. Law. Pub. L. No. 116-93, also authorizes ONDCP to incur expenses for drug control research activities.

PART A. JUSTIFICATION

A.1 CIRCUMSTANCES MAKING THE COLLECTION OF INFORMATION NECESSARY

Background

The human and economic toll of the opioid epidemic continues to burden the United States. According to the Center for Disease Control (CDC), drug overdose death rates from 2013 to 2017 increased in most states,ⁱ with more than 70,000 people dying from a drug overdose in 2017. About 68 percent of overdose deaths from that year involved a prescription or illicit opioid.ⁱⁱ Additionally, in 2015 the economic cost of the opioid epidemic was over \$500 billion or almost 3% of GDP for that year.ⁱⁱⁱ Therefore, it is imperative that decision makers in the behavioral health space implement and promote evidence-based treatment to combat the tremendous societal strain of the opioid epidemic. Medication assisted treatment (MAT) is well established as a clinically effective intervention for the successful treatment of opioid addiction and is promoted as a best practice standard among federal entities.^{iv} Given the prevalence of opioid use disorder among individuals within the criminal justice system,^v research has explored the effectiveness of MAT in reducing opioid use disorders (OUD) among this population with positive results. A recent meta-analysis of MAT among samples of incarcerated individuals found that methadone treatment increased treatment engagement while reducing illicit opioid use and injection drug use.^{vi}

Drug courts are intended to divert those who commit drug-related offenses away from detention or incarceration and into treatment.^{vii} As of 2018, there were about 1,550 adult drug courts in operation nationally.^{viii} Research supports that those reporting OUD are significantly more likely to be justice system-involved compared to their non-opioid using counterparts; and, history of justice involvement increases for individuals as their opioid use increases.^{ix} Therefore, drug

courts are uniquely positioned within the justice system to access this high-risk population and divert them away from costly incarceration and into the treatment they need. A comprehensive public health approach to the opioid epidemic must consider the role of MAT within adult drug courts, however, as discussed below, limited research has been conducted on this relationship.

Utilization of MAT in Adult Drug Courts

In 1999, the first national survey exploring the availability of MAT, specifically methadone, in adult drug courts was conducted.^x Of 212 sampled drug courts, methadone was provided in 39% of them. The next national survey was conducted in 2013 with a sample of 93 drug courts from 49 states, DC, and Puerto Rico. Researchers found that 56% of drug courts reported that at least some of their opioid dependent participants were receiving MAT. The most frequently cited factor for limited or no availability of MAT was cost in the case of buprenorphine treatment (43%) and that the court does not allow it (52%) in the case of methadone treatment.^{xi} Additionally, in 2012, a survey on MAT practices and policies from 50 criminal justice agencies across the country, including 8 drug courts, found that MAT was provided in less than half (3) of sampled courts. When surveyed about factors which influence the use of MAT, drug courts cited liability concerns, a lack of qualified medical staff, and reimbursement difficulties.^{xii} National data from 2014 found that underutilization of MAT is evident in the justice system more broadly with only one in twenty justice involved adults referred to OUD treatment receiving MAT. The study found that specifically courts and diversionary programs were the least likely to refer to MAT.^{xiii} A study of a narrow convenience sample of 20 drug courts in Indiana found that roughly half of the programs required participants to discontinue methadone or buprenorphine within 30 days regardless of medical indication or necessity.^{xiv}

Most recently, a 2019 single-site study over four years, sampling 187 adult drug court participants with an opioid addiction, found that only 46% received MAT.^{xv} Other studies have documented increased use of MAT in some drug courts; however, serious implementation challenges persist. At least three studies found no improvements in outcomes for drug court participants receiving MAT, which apparently resulted from unwarranted delays in starting the medication regimens, negative attitudes toward MAT held by many staff members and fellow participants, and substantially greater use of extended-release naltrexone compared to methadone or buprenorphine, which may not have been medically indicated.^{xvi xvii xviii} Because naltrexone is nonaddictive, non-intoxicating and has fewer side effects than methadone and buprenorphine, some drug courts may favor access to this medication or require it to be used as a front-line regimen before trying other medications. This practice is unjustified for several reasons, not least of which is the fact that overriding patient preference and medical judgment in the choice of medications is associated with significantly lower treatment retention and success rates.^{xix xx} Moreover, because physiological tolerance to opioids declines substantially while patients are receiving naltrexone, participants who drop out of treatment face an increased likelihood of overdose and death if they discontinue the regimen and return to previous levels of opioid use.^{xxi} ^{xxii} Therefore, it is critical to learn whether drug courts are unduly favoring the use of naltrexone, and what educational efforts are needed to increase acceptance and use of other addiction medications.

Despite its evidenced effectiveness and wide acceptance as an opioid dependence intervention, MAT is underutilized in drug courts. Barriers to more universal utilization still exist and center around practical considerations such as cost, court policy restrictions, liability and lack of local MAT providers. Historically negative attitudes toward MAT and a belief that the treatment substitutes one addiction for another, also may inhibit MAT expansion in courts despite contrary evidence.^{xxiii} A survey of court employees in Indiana explored personnel attitudes toward MAT and found a positive association between trainings and positive attitudes towards the treatment suggesting that educational opportunities for drug court staff could aid in more universal utilization of MAT in courts.^{xxiv} Additionally, the most recent 2013 national survey of MAT in drug courts found the most frequently selected response category for the majority of attitudinal questions was “uncertain”^{xxv} underscoring a significant knowledge gap among court staff.

Need for More Research

In order to develop a more targeted response to the underutilization of MAT in adult drug courts, more data surrounding current policy and practices is needed, including what training and educational opportunities are available to drug court personnel surrounding MAT. The seven years since the most recently disseminated national survey has seen an evolution of the opioid crisis in conjunction with policy responses from states. However, the exact status of the accessibility and availability of MAT to drug court participants remains undocumented. The landscape needs to be reassessed to promote established best practice standards in addressing the needs of opioid addicted individuals in adult drug courts. The proposed survey, the Survey on Practices and Policies Related to the Treatment of Opioid Use Disorders (the survey), will fill this knowledge deficiency.

A.2 PURPOSE AND USE OF THE INFORMATION COLLECTION

The Office of National Drug Control Policy has deemed it necessary to investigate how adult drug courts are responding to the opioid epidemic. The electronically administered proposed survey will help ONDCP learn more about state drug courts’ efforts to serve persons suffering from opioid use disorders, focusing particularly on the use of MAT for OUD. As mentioned earlier, previous surveys have found that nearly half of drug courts are not using MAT or had blanket prohibitions against methadone or buprenorphine. At the same time, ONDCP funded a suite of resources to increase use of MAT in treatment courts, including online and in-person training workshops, practitioner fact sheets, pocket guides for staff members and participants, professional tool kits, and sample policies and procedures materials. In addition, CSAT and BJA amended their funding conditions for drug court discretionary grants to require drug courts to allow participants access to all forms of MAT, including methadone and buprenorphine. The proposed Survey will examine statewide MAT efforts and policies and procedures concerning MAT, including whether there have been recent changes in state certification requirements, training modules, or funding mandates to increase MAT adoption. Survey participants will be the nation’s 54 State and Territory Drug Court Coordinators. The National Association of Drug

Court Professionals (NADCP) and its partner Carnevale Associates, LLC (CALLC) will conduct the survey and analysis effort.

The practical utility of this information is to provide comprehensive, accurate, detailed, and temporally relevant data that is useful to federal, state and local governmental agencies and non-governmental organizations in developing or improving MAT-related programs that serve and treat adult drug court participants with OUD. The 42-question survey contains questions that cover the following areas:

- The top five substances used most frequently by state drug court participants
- The approximate percentage of adult drug court participants that have a moderate to severe opioid use disorder
- Any changes in the prevalence of opioid use among adult drug court participants.
- If MAT is available to drug court participants in each state/territory
- The proportion of state adult drug courts that refer or provide MAT for clients with OUD
- If states have policies governing the use of MAT for OUD
- If a state does have policies governing the use of MAT for OUD, the types of policies implemented and the length of time they have been implemented
- The types of MAT available, if applicable, the conditions under which MAT is available, and the approximate proportion of drug courts that provide MAT under these conditions
- The proportion of adult drug court clients with OUD that graduate while receiving MAT
- The availability, use, and training of naloxone to reverse opioid overdose and mortality
- When applicable, if states are considering expanding the use of MAT
- When applicable, factors that limit the use of MAT in states/territories
- If a state/territory has been subject to civil judgements or administrative penalties related to the delivery of MAT for OUD
- State- and territory-wide funding mandates or mechanisms to expand the use of MAT for OUD in drug courts
- Any changes in certification procedures for treatment providers to administer MAT for OUD
- Any training provided in state/territory adult drug courts to improve the delivery of MAT for OUD

Data from the survey will be used to inform ONDCP and its stakeholders about the current status of the use of MAT for OUD in adult drug courts. MAT use in drug courts, the conditions under which it is available, and the types of MAT offered are unknown. It is also unknown if drug courts take measures to prevent opioid overdose, hence the section on naloxone availability and training. The information collected from the survey is vital to determine ONDCP-funded program needs, target resources, and will serve as a comparison to earlier surveys to determine if more than half of our nation's drug courts offer MAT as a treatment option for OUD.

A.3 USE OF INFORMATION TECHNOLOGY AND BURDEN REDUCTION

An online survey system (Cvent) will be used to make the survey easily accessible to a variety of potential respondents and to reduce the time/burden it may take. This system is used by NADCP to administer all of its training and post-training follow-up evaluations, thus there are no additional staff training or costs. It automates the data collection process which reduces the burden (time, effort and funding) to ONDCP which is supporting this effort. The team's preliminary assessment is that the online survey will take most respondents approximately 17 minutes, much less time than interviews or pen and paper responses. Paper versions of the survey instrument will not be sent to respondents. However, if desired by the respondent, the survey can be printed out to review. Raw survey data will be exported from Cvent into Microsoft Excel and SPSS for analysis. Summarized survey results will be made available to the public on NADCP's website.

A Privacy Impact Assessment (PIA) was not done for this project because the records that will be part of the survey are not designed to collect, store or retrieve Personally Identifiable Information, such as an individual's name or other identifier. However, a PIA will be conducted if the ONDCP Privacy Act Officer or other entity deems necessary.

A.4 EFFORTS TO IDENTIFY DUPLICATION AND USE OF SIMILAR INFORMATION

This survey does not duplicate any current data collection efforts that are conducted on a regular basis or on a nationally representative sample. There are no federal surveys that request comprehensive information on MAT. In terms of data collected by federal agencies, the Bureau of Justice Assistance surveys its drug court grantees each January and July and asks two questions about MAT availability and access. However, these questions are only asked of current grantees: those receiving either a drug court planning or drug court implementation grant. This does not represent the entire universe of drug court programs and is only two relevant questions.

From 2004 to 2016, NADCP conducted the Painting the Current Picture Survey (PCP Survey). Every six months, NADCP collected information to provide a snapshot of the status of drug and other problem-solving courts that was posted on the National Drug Court Institute website. This information was collected from state and territory drug court coordinators, the same population that will be surveyed under this proposed effort. The PCP survey contained five questions about the availability and accessibility of MAT in drug courts, statewide MAT policies, and barriers to MAT implementation. However, the PCP Survey is no longer conducted, and a replacement survey has not been implemented.

The last national survey of MAT in drug courts (which NADCP coauthored) was completed in 2012 (Matusow et al., 2013). This was a one-time privately funded survey, similar in scope to the proposed effort. It was national in reach but pertained to the local level, had a small sample size due to a low response rate, and was not nationally representative. The proposed survey is a census format, where all 50 states, the District of Columbia, and three territories will be asked to participate. This format was used successfully with the previous PCP survey and will have better representation to update our knowledge and determine whether NADCP's efforts and those of

our sponsors (ONDCP, CSAT, BJA) have been effective in increasing uptake of MAT and enhancing practitioner knowledge and acceptance. It is different from previous studies in that it will examine statewide efforts, policies and procedures concerning MAT, including whether there have been recent changes in state certification requirements, training modules or funding mandates to increase MAT adoption.

A.5 IMPACT ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The survey is designed to minimize burden on respondents. For instance, there are yes/no skip patterns throughout the survey. Respondents are asked a question before each section to determine if that section is relevant to them. Therefore, if a respondent answers “no” at the beginning of a section, they are skipped through that particular section. This would especially ease any burden for respondents from states who do not permit the use of MAT. Also, there are very few open-ended questions. Questions are primarily structured so respondents are not required to enter exact numbers or percentages. Answer choices such as “none” “very few - less than 10%”, “some - about 25%”, “about half”, “most - about 75%”, and “all are nearly all” are provided as opposed to asking the respondents to provide a number, which could require extra time to look these numbers up. To provide a check on the accuracy of data collected, respondents are also asked if their answers are based on 1) Actual statewide or territorial data; 2) an informed estimate; or, 3) anecdotal information. Finally, throughout the survey, “don’t know”, “unknown or unable to answer”, or “not applicable” options are provided for all questions. This alleviates any pressure on the respondent to be required to answer questions that may take extra time.

A.6 CONSEQUENCES OF COLLECTING THE INFORMATION LESS FREQUENTLY

Currently, there is a major impetus to increase the use of MAT in the criminal justice system, including drug courts. Federal funding agencies, such as the Bureau of Justice Assistance and the Substance Abuse and Mental Health Services Administration encourage the use of MAT among their grantees. Further, the current National Drug Control Strategy recommends the expanded use of drug courts and diversion programs to promote entrance into treatment and making MAT a standard of care for opioid addiction^{xxvi}. If the proposed data collection is not conducted, federal agencies will not know if grantees are adhering to these recommendations and achieving the goal of making MAT the standard of care. Comprehensive data about MAT use in existing drug courts are not currently collected and the most recent data on the topic (2012) were not generalizable and collected before these initiatives were implemented.

At this time, the survey is being proposed as a one-time data collection. However, subject to future OMB approval, it could serve as a baseline survey and conducted annually to measure the progress of the use of MAT in drug courts. It could be modified and expanded to accommodate other entities in the criminal justice system or different treatments for different illicit substances.

A.7 SPECIAL CIRCUMSTANCES RELATING TO THE GUIDELINES OF 5 CFR 1320

This information collection fully complies with 5 CFR 1320.5(d)(2).

A.8 COMMENTS IN RESPONSE TO THE FEDERAL REGISTER NOTICE AND EFFORTS TO CONSULT OUTSIDE AGENCY

On October 8, 2019, a 60-Day Federal Register Notice was published at 84 FR 53762, Page: 53762 (1 page), Document Number: 2019-21921. There were no public comments received.

On December 12, 2019, a 30-Day Federal Register Notice was published at 84 FR 67964, Page: 67964 (1 page), Document Number: 2019-26803. On December 16, 2019, an error was noted in the Notice's contact information. The Notice was revised and resubmitted.

On December 26, 2019, a corrected 30-Day Federal Register Notice was published at 84 FR 71005, Page: 71005 (1 page), Document Number: 2019-27709. There were no public comments received.

A.9 EXPLANATION OF ANY PAYMENT OF GIFT TO RESPONDENTS

ONDCP will not be providing gifts or incentives to respondents.

A.10 ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS

The survey will not request the respondents' names, social security numbers, contact information or any other personally identifiable information (PII). The survey will request the state the respondent represents. However, the survey notes the following on the first page:

Responses will be reported in the aggregate and will not be attributed to any individual state or territory.

By default, the company privacy policy of the software used to electronically administer the survey (Cvent) is always displayed at the footer of the survey. This statement informs respondents how their data are stored, processed, and protected by Cvent. There is also an option for NADCP to provide a link to their privacy policy in the footer to inform respondents. In addition to not collecting PII, Cvent will not store IP addresses that could be used to track respondents' location via an IP address to further ensure privacy to the extent permitted by law.

In addition to the fact that PII will not be collected, the survey's data and the process to collect it are not subject to the Privacy Act. The Act "governs the collection, maintenance, and disclosure of information from or about identifiable individuals (not statistical or aggregate information)." The data collected from this survey will not conduct any individual-level analyses and will be aggregated to determine overall trends in the availability and accessibility of MAT for OUD in drug courts, policy shifts, systematic attitudinal change, and history of training. As stated above, respondents are informed of the aggregated data on the first page of the survey.

The NADCP/CALLC team is working with Whitworth University to obtain Institutional Review Board (IRB) approval for the survey. The IRB process assesses the risk and benefits to subjects in research to ensure they are protected from any harm, including potential confidentiality breaches. It is anticipated that the survey will receive an expedited review process. An expedited review may be used for research which involves only procedures that involve no more than minimal risk. This review process may also be used to review minor changes in previously approved research during the period for which the approval is valid, and research which falls within the several exempt categories. One of the exempt categories is: Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies.

A.11 JUSTIFICATION FOR SENSITIVE QUESTIONS

The survey will not ask any questions that are personal or sensitive in nature. The questions only pertain to the nature and extent of availability and accessibility of MAT for OUD in each state or territory’s adult drug courts.

A.12 ESTIMATES OF HOUR BURDEN INCLUDING ANNUALIZED HOURLY COSTS

The estimates of hour burden are based on pilot tests of the survey with eight individuals that averaged 17 minutes to take the survey. The estimates are below in Table A.12-1

Table A.12.1 Estimates of Hour Burden

Form Name	No. of Respondents	Frequency of Response	Average Burden per Response (in hours)	Total Annual Burden (in hours)
Survey on Practices and Policies Related to the Treatment of Opioid Use Disorders	54	1	17 minutes	15 hours

There is no direct cost to respondents other than their time. The annualized cost to respondents is based on NADCP’s knowledge of State Drug Court Coordinator’s Salaries (average of \$96,000 per year in 2020 dollars), translated to an hourly rate. Therefore, the cost to each respondent to take the 17-minute survey (.28 of an hour) is \$12.92 per response. The annualized cost to respondents is detailed below in Table A.12.2.

Table A.12.2 Annualized Costs to Respondents

Form Name	No. of Respondents	Frequency of Response	Average time per Respondent	Annual Hour Burden	Hourly Wage Rate	Respondent Cost
Survey on Practices and Policies Related to the Treatment of Opioid Use Disorders	54	1	17 minutes (.28 hours)	15 hours	\$46.15	\$692.25

A.13 ESTIMATE OF OTHER TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORD KEEPERS

There are no capital expenditures associated with this project. NADCP and CALLC are using existing workspace, equipment, and software for this project. There are no other cost burdens to respondents or recordkeepers.

A.14 ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The budget for these activities, including costs already incurred to develop the draft survey instrument, sampling methodology, and analysis plan is \$208,825.55 over a two-year period from January 1, 2019 to December 31, 2020.

The salary for supervision of this project by a federal government employee at ONDCP was estimated to be approximately \$174,000, with the estimation that the employee would spend approximately 2 % of time overseeing this contract. Therefore, the cost is \$3,480 per year, or \$6,960 over two years.

The total cost to the government is \$215,786, which includes ONDCP employee supervision of contract.

A.15 EXPLANATION FOR PROGRAM CHANGES OR ADJUSTMENTS

This is a new collection of information.

A.16 PLANS FOR TABULATION AND PUBLICATION AND PROJECT TIME SCHEDULE

There are no complex analytical techniques that will be used for the survey data analyses. Descriptive statistics and frequency distributions will be used to answer questions including:

- What percentage of states have drug courts that use MAT?
- To what extent is MAT used in these states?
- What specific medications are available to drug court participants?

- What are the factors that limit MAT use?
- What are the types of policies implemented regarding the use of MAT?
- How many/what percentage of states are considering expanding the use of MAT?
- How many states have received training that improved the deliver of MAT?
- What are state practices regarding naloxone to reverse opioid overdose and mortality?

When applicable, answers to these questions will be compared to previous survey results. However, due to the comprehensive nature of the proposed survey, many of the questions are being asked of drug courts for the first time. The survey results will demonstrate if changes in the following have occurred: accessibility and availability of MAT; factors limiting use; circumstances where MAT is permitted; and, practitioner attitudes toward MAT. Survey results will also be used to determine if ONDCP-funded trainings and knowledge dissemination efforts have been effective in promoting MAT as the evidence-based standard of care for OUD. Finally, the survey will uncover where there are gaps in knowledge and practice so future training efforts can be modified and resources appropriately allocated.

Results from the surveys and their accompanying interpretations will be summarized in a final report and delivered to ONDCP and distributed widely to the treatment court field. At least two articles will be drafted and submitted to peer-reviewed journals. Specific journals have not been finalized, but it is anticipated that submissions will be made to at least two journal types - one public health and one criminal justice – to maximize the audience reached. The results will also be made available on NADCP’s website, through practitioner fact sheets, email messaging, and presentations at state, regional and national training conferences, including NADPC’s annual conference.

A.16 - 1 PROJECT TIME SCHEDULE	
Activity	Time Schedule
Notify participants of survey and send survey link	1 - 30 days after OMB approval
Monitor survey response activity and conduct activities to increase response rate, if necessary	During the 1-2 month period after OMB approval
Data cleaning	2 months after OMB approval
Data Analysis	During the 2-5 month period after OMB approval
Draft final report	5-6 months after OMB approval
Presentation/dissemination of findings to ONDCP and other stakeholders	6 months after OMB approval
Draft and submit journal articles to peer reviewed journals	7-12 months after OMB approval

A.17 REASON(S) DISPLAY OF OMB EXPIRATION DATE IS INAPPROPRIATE

The OMB expiration date will be displayed on each instrument form.

A.18 EXCEPTIONS TO CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS

No exception to 5 CFR 1320.9 is sought.

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