

SUPPORTING STATEMENT

The National Prisoners Statistics Program (NPS)

Through the National Prisoner Statistics program (NPS), the Bureau of Justice Statistics (BJS) collects annual aggregate counts of prisoners in the custody and under the jurisdiction of state and federal correctional authorities, as well as the number of prisoners admitted to or released. BJS uses the NPS to report each year on the changes to and movement through state and federal prison systems by sentenced offenders. These statistics are part of BJS's core corrections statistics, as they contribute fundamentally to BJS's mission of describing movements of offenders through the criminal justice system. The current NPS collection approved by the Office of Management and Budget (OMB # 1121-0102), due to expire July 31, 2020 (the *National Prisoner Statistics Summary of Sentenced Population Movement* (NPS-1B)), collects information on the prison population on December 31st of each year. The NPS-1B collects prisoner counts by race/ethnicity, the number of admissions and releases in the calendar year (by type), capacity figures, and the testing policies and number of prisoners with HIV or confirmed AIDS. BJS is requesting a 3-year clearance slightly earlier than the normal OMB review cycle so that an additional question on the number of U.S. citizens may be added to the NPS form. This clearance request will cover BJS collection of prison data from 2019, 2020, and 2021, collected in calendar years 2020-2022.

Specifically, BJS uses the NPS data to describe changes in the composition and factors affecting the expansion and contraction of the prison population in the United States. These are issues that have been at the forefront of discussions of corrections policy for decades. In its most recent annual bulletin on prisoners, BJS used NPS data in concert with data from the National Corrections Reporting Program (NCRP; OMB #1121-0065) to explain longitudinal changes in the demographic, sentencing, and offense characteristics of state prisoners caused by changes in the types and volume of prison admissions and releases since 1978. Over the years, BJS has used the NPS data to chart the nation's prison population following several policy reforms at the state and federal levels, most recently the Second Chance Act and the Justice Reinvestment Program, and changes in the federal sentencing guidelines to drug crimes.

The NPS collects aggregate data on a number of standardized measures from each state department of corrections (DOC), the Federal Bureau of Prisons (BOP), and corrections officials in five U.S. territories and commonwealths. The variables collected include sex-specific counts of:

- The number of prisoners in the physical custody of the state/BOP/territory/commonwealth on December 31 of the previous calendar year, including counts of those with unsentenced commitments, those sentenced to one year or less, and those sentenced to more than one year;
- The number of prisoners under the jurisdiction (legal authority) of the state/BOP/territory/commonwealth on December 31 of the previous calendar year, regardless of where they are being physically held, including counts of those with

unsentenced commitments, those sentenced to one year or less, and those sentenced to more than one year;

- A breakdown of the total count of prisoners under jurisdiction by the location of holding, including out-of-state prisons, in local jails, or private prisons on December 31 of the previous calendar year;
- The race and Hispanic origin of all prisoners under custody on December 31 of the previous calendar year;
- The number of total admissions, broken down by type of admission, during the entire previous calendar year;
- The number of total releases, broken down by type of release, during the entire previous calendar year;
- The design, rated, and operational capacity of all prison facilities on December 31 of the previous calendar year;
- The number of prisoners under their custody on December 31 of the previous calendar year who were non-citizens of the U.S., disaggregated by sentence length;
- The number of prisoners under their custody on December 31 of the previous calendar year who were under the age of 18 years, but held in an adult facility;
- The number of prisoners confirmed to be HIV positive or have AIDS on December 31 of the previous calendar year, as well as several questions regarding the testing policies for this disease.

The current clearance request contains changes to one of the items collected on the NPS-1B form that was cleared through July 31, 2020. BJS will expand its question on non-U.S. citizens to request that the state DOCs and the federal BOP also report the number of prisoners who are *U.S. citizens*, disaggregated by length of sentence. Based on informal conversations with seven data providers, BJS anticipates that the modification of the citizenship questions will add an additional 30 minutes of burden for the individual jurisdictions to set up data extraction programs to provide these counts during the first year (2020, to obtain prisoner data from 2019).

A. Justification

1. Necessity of Information

Between 1978 and 2009, the U.S. prison population increased 426%, from 307,300 total prisoners in state and federal facilities in 1978 to 1,615,500 at yearend 2009. The years after 2009 have brought slight declines (less than 2.5% each year), and even a small increase of 0.4% between 2012 and 2013. The change between 2009 and 2018 was a decrease of 9%, with 1,465,000 persons imprisoned on December 31, 2018, 150,500 fewer prisoners than in 2009. The size and impact of imprisonment in the United States have been at the center of several policy discussions by state legislators, governors, the U.S. Congress, and the U.S. Attorney General over the years. Imprisonment, the nation's most serious punishment for crime short of execution, is its most costly sanction. In 2015, the most recent year for which data are available,

state governments spent \$49 billion on corrections, 86% or \$42 billion of which was spent on institutional corrections. The federal government spent an additional \$9 billion. The sizable investments by states and the federal government in recent years in managing prison populations have led to renewed discussions at the state and federal levels about the purposes and benefits of incarceration, and these debates have only intensified as state and federal budgets have tightened.

The National Prisoner Statistics Program (NPS) is BJS's official data collection to measure the size, composition, and changes over time in the U.S. prison population. Since its inception, the counts from NPS have been used by a wide range of researchers, stakeholders, and policy makers in evaluating the efficacy of existing prison policies.

NPS was created in 1926 in response to a congressional mandate to gather information on persons incarcerated in state and federal prisons. Originally under the auspices of the U.S. Census Bureau, the collection moved to BJS following the agency's establishment in 1979. The data provide an enumeration of persons in prison and key characteristics of the population and are published annually. NPS has been modified through the decades to keep up with the changing information needs of the public, researchers, and federal, state, and local governments; while items and definitions have changed over the years, BJS strives to make the data as comparable and consistent as possible.

The information gathered in the NPS represents a long-standing effort to provide national and state-level estimates of the prison population, as well as changes in the movement of prisoners and the sex and racial distribution. While other professional associations and interest groups have conducted periodic collections of similar data, the NPS is the only ongoing annual collection that uses comparable reporting and standardized definitions across jurisdictions, has adapted to changing data needs, and has made the effort to present consistent data across years and jurisdictions. The burden involved in collecting the NPS is warranted by the fact that the NPS data are widely used by the components of the U.S. Department of Justice, Congress, journalists, researchers, students, and the individual states as a source of national and comparative data on prison populations (see examples of this in the Needs and Uses section below). The NPS series as a whole is a source of valuable information for criminal justice planning and policy development at the state and federal levels.

The detailed summaries of the prison population in the NPS, combined with data from other BJS sources, provide information with which decision makers can measure the effects of sentencing and release policies on the sources of growth and change in the prisoner population. By gathering annual admission, release, and standing population figures, the NPS series represents the core set of data that agencies and communities use to develop approaches to address issues such as changes of the prison population composition and size, and the needs of offenders returning to the community following incarceration.

In addition to being used to describe movements of sentenced prisoners, the NPS is used to measure changes in the number of prisoners serving sentences of more than 1 year. This

demarcation—between those serving more than 1 year and all prisoners—enhances comparability among states, as states vary on the types of prisoners that they hold, including some unsentenced prisoners and prisoners serving less than 1 year. The NPS data on admissions of probation and parole violators, as well as other conditional release violators, are used to describe movements of offenders under correctional supervision between various stages of the criminal justice system.

If these data were no longer collected, the data users would be forced to gather information from multiple entities that maintain different population measurement standards and definitions. Legislative, judicial, and executive government decision-makers would lose a source of valuable information for criminal justice planning and policy formulation and researchers would lose a trusted source of trend data on the size and characteristics of the prison population if the NPS data series was discontinued.

The Omnibus Crime Control and Safe Street Act of 1968 (see Appendix 1), as amended (34 U.S.C. § 10132) authorizes BJS to compile data on the movement and characteristics of state and federal prison populations. Under Title 34 of the United States Code, § 10231, BJS collects NPS data for statistical purposes only, does not release data pertaining to specific individuals in the NPS, and has in place procedures to guard against disclosure of personally identifiable information. NPS data are maintained under the security provisions outlined in U.S. Department of Justice regulation 28 CFR §22.23, which can be reviewed at: <http://bjs.ojp.usdoj.gov/content/pub/pdf/bjsmpc.pdf>.

Until July 31, 2014, the U.S. Census Bureau served as the primary collection agency for NPS and this project was funded through an interagency agreement on an annual basis. Starting on August 1, 2014, collection of the NPS data was transferred to Abt Associates, Inc., BJS's data collection agent for the National Corrections Reporting Program (NCRP), which collects individual-level data on state prisoners. In 2015, BJS held a competitive solicitation that combined collection of NPS and NCRP for 5 years; Abt Associates was awarded this project through a cooperative agreement. BJS will offer a competitive solicitation for collection of the next 5 years of data in 2020.

2. Needs and Uses

As the nation's official measure of the state and federal prison system, NPS is uniquely situated to answer policy questions in characterizing and explaining the causes behind the prison population growth during the past decades. In 2014, the National Research Council (NRC) of the National Academies published a report on the causes and consequences of mass incarceration.¹ NPS data served as the basis for this report, documenting the growth of the overall prison population over time and the racial disparities in this population. NRC specifically called out the use of longer sentence lengths and actual time served in prison as one factor behind the growth

¹ Jeremy Travis, Bruce Western, Steve Redburn, eds. (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. National Research Council, National Academy Press, Washington, D.C.

in the prison population, and suggested that sentencing policies should be a focus of future data collection in the corrections field.

In its annual bulletin published in 2014 (*Prisoners in 2013*, NCJ 247282), BJS used NPS and NCRP data to highlight changes in actual time served for state prisoners released in 2002 and 2012. While there was little difference between the two years in the median number of months served when offense categories were aggregated, state prisoners released in 2012 who were sentenced for murder or nonnegligent manslaughter served more than 4 years longer than state prisoners released in 2002, and almost a year longer for those convicted of rape or sexual assault. While the individual-level NCRP data can provide the detailed sentencing, time served, and offense information, since not all states are represented for each year in NCRP, NPS population totals allow for national estimates to be made based on the detailed data.

NPS totals for population, admissions, and releases were also used in a 2016 BJS special report on the aging of the state prison population (*Aging of the State Prison Population, 1993-2013*, NCJ 248766). While still a relatively small proportion of the total population, persons age 55 or more sentenced to more than one year in state prison increased from 26,300 in 1993 to 131,500 in 2013 (from 3% to 10%). Some of this increase was due to a larger number of admissions of state prisoners ages 55 or older (from 6,300 in 1993 to 25,700 in 2013), but the majority of the change was due to longer sentences and more actual time served by older prisoners over time. The NPS data allowed BJS to state that almost 40% of state prisoners still serving sentences on December 31, 2013 (51,300 prisoners) had served 10 years or more, compared to 9% in 1993 (2,400 prisoners). Since older persons have a longer period over which to accumulate a criminal history than younger offenders, they will be more likely to receive enhanced sentences under states' multiple strikes sentencing policies, which NRC noted were adopted in the 1990s and 2000s.

BJS also uses the NPS data to look at timely issues in corrections, including the sentencing of juveniles to adult prisons and the use of private prison facilities to house offenders. In light of recent rulings by the Supreme Court (*Miller v. Alabama* in 2012 and *Montgomery v. Louisiana* in 2016) and other state and federal courts about the sentencing and imprisonment conditions of offenders age 17 or younger, BJS examined the rapid decline of these prisoners held in adult state correctional facilities. In 2018, states held 734 youths in adult facilities, down 81% from 2000 when the population was close to 4,000 prisoners age 17 or younger.²

In the annual bulletin *Prisoners in 2014* (NCJ 248955), BJS examined the use of private prison facilities by state and federal correctional authorities since BJS began measuring this in 1999. The percentage of state prisoners housed in private facilities has generally remained unchanged over 15 years, increasing from 5% in 1999 to 8% in 2018. The percentage of prisoners held in private facilities contracted by the federal Bureau of Prisons (BOP), however, grew from 3% of the total federal prison population in 1999 to 15% in 2018, despite a sharp decrease in 2017 after the Deputy Attorney General directed the BOP director to reduce the use of private prisons (<https://www.justice.gov/archives/opa/file/886311/download>). While the subsequent

² Carson E. Ann (2014). *Prisoners in 2013*. U.S. Department of Justice, Bureau of Justice Statistics, NCJ 247282.

administration reversed this policy, the use of private prison facilities has been a focus of debate at both the state and federal levels of government.

In support of Executive Order #3 (January 25, 2017; <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>), the Departments of Justice (DOJ) and Homeland Security (DHS) have requested that BJS expand its data collection on non-U.S. citizens under correctional authority. To meet this request, BJS in 2017 expanded the NPS-1B collection of data on non-citizens by expanding the question on the number of non-U.S. citizens to show these counts by sentence length. The modification to the NPS-1B collection proposed in this clearance package will add a similar question for U.S. citizens. BJS's experience with obtaining these data from state DOCs and the BOP has shown that a number of prisoners are classified as being of unknown citizenship, and that jurisdictions vary in how they count these persons. While many agencies make the assumption that persons of unknown citizenship are U.S. citizens, some agencies count them as probably non-citizens. Adding a question on citizens will allow jurisdictions to accurately report the number of known citizens and non-citizens.

BJS's recurring uses of NPS data

BJS makes the NPS data available to correctional administrators and staff, Congress, researchers, and the public through multiple reports on the status of the corrections population each year, the most recent of which are *Prisoners in 2017* (NCJ 252156) and *Correctional Populations in the United States, 2016* (NCJ 251211). These reports contain state-level counts of the prison population, admissions, releases, and juveniles, non-citizens, and prison capacities, and present the percent change in these measures over time. In addition to these annual reports, BJS publishes a periodic snapshot of the HIV prisoner population from these data, (the latest of which is *HIV in Prisons, 2001-2015* (NCJ 250641), which it intends to update in 2020 with data from the 2016-2018 NPS collections.

NPS counts of custody and jurisdiction populations are used to calculate prison mortality rates in the annual statistical tables from BJS's *Mortality in Local Jails and Prisons* (formerly called the *Deaths in Custody Reporting Program – Prisons*) (MCI; OMB# 1121-0049); *Mortality in State and Federal Prisons, 2000-2014: Statistical Tables*, NCJ 250150). The state prison population counts were also used to calculate the cost per prisoner and changes in those costs over time in the BJS report *State Corrections Expenditures, FY 1982-2010* (NCJ 239672).

Over the past few years, BJS has released several reports on the recidivism of state and federal offenders. While the primary data used in this analysis came from NCRP and FJSP, national estimates of recidivism rates are based on the NPS jurisdiction population. Finally, NPS data serve as the official prison population counts for computing the weights for the BJS prisoner surveys (including the omnibus *Survey of Prison Inmates (SPI)*³ and the *National Inmate Survey (NIS)*, the primary data collection vehicle for the *Prison Rape Elimination Act*). Special reports published in recent years using the SPI or NIS data and NPS control totals for the prison

³ Glaze L. 2019. Methodology: Survey of prison inmates, 2016. U.S. Department of Justice, Bureau of Justice Statistics, NCJ 252210.

population include estimates of the source and use of firearms of prisoners,⁴ drug use and abuse,⁵ and mental health of state and federal prisoners⁶ Finally, state prison population totals from NPS were used in conjunction with NCRP and DCRP data to adjust mortality rates for prisoners' race, sex, and age distributions.

BJS statisticians use the NPS data to answer questions posed by Department of Justice officials and officials of other Federal agencies, State and local officials in conjunction with jail administrators, researchers, and planners to analyze the current trend and growth patterns, and the public seeking information. Users of this data include the following:

- Congress – to evaluate the adequacy of correctional facilities and state resources to meet prison population needs and to assist the states and the Bureau of Prisons in protecting prisoners;⁷
- National Institute of Corrections – to evaluate State and Federal prison conditions, establish standards, and assess the needs for technical assistance and training for prison staff and administrators;⁸
- Bureau of Justice Assistance – to allocate formula grants proportional to number of prisoners held by each state, such as the Residential Substance Abuse Treatment for State Prisoners and the Second Chance Act grants;
- State corrections officials – to assess conditions within their own jurisdictions relative to others and to determine needs and budget requirements;
- Department of Education – to serve as control totals for their survey on prisoner literacy
- Department of Housing and Urban Development (HUD) – to determine the number of persons who might be eligible for HUD benefits once they were released from prison
- Researchers – to estimate the impact of imprisonment on crime, as well as evaluate correctional and criminal justice policies⁹;
- The public – to make informative decisions about crime and punishment within their own jurisdictions.¹⁰
- The media – to publish national and state-level stories on prison populations, including on differences in imprisonment rates by race/ethnicity, temporal trends in state and

⁴ Alper M, Glaze L. 2019. Source and use of firearms involved in crimes: Survey of Prison Inmates, 2016. U.S. Department of Justice, Bureau of Justice Statistics, NCJ 251776.

⁵ Bronson J, Streep J, Zimmer S, Berzofsky M. 2017. Drug use, dependence, and abuse among state prisoners and jail inmates, 2007-2009. U.S. Department of Justice, Bureau of Justice Statistics, NCJ 250546.

⁶ Bronson J, Berzofsky M. 2017. Indicators of mental health problems reported by prisoners and jail inmates, 2011-2012. U.S. Department of Justice, Bureau of Justice Statistics, NCJ 250612.

⁷ NPS figures have been cited consistently in legislation to illustrate the number of persons affected by incarceration, estimated persons at risk within facilities, and former offenders in need of community resources. Examples include the Deaths in Custody Reporting Act of 2000 (P.L. 106-297), the Prison Rape Elimination Act of 2003 (P.L. 108-79), the Second Chance Act of 2007 (P.L. 110-199), and the First Step Act of 2018 (P.L. 115-756).

⁸ Most recently, national estimates of sexual victimization in prison facilities generated by NPS totals have been used as a basis for training and assistance in prisons across the nation to revise policy pertaining to prisoner safety.

⁹ A consistent inquiry from researchers and students is trend data by state, race, sex, and admission and release type that only the NPS can provide.

¹⁰ Corrections staff receive regular inquiries from ASKBJIS, our online information request mechanism. The NPS data are used daily to answer questions regarding prison population size by state, incarceration rates, juveniles held in adult facilities, non-citizens held, admissions and releases by type, and prisoner characteristics by race and sex.

federal prison populations, and the impact of state and federal level policies on the prison population.

BJs attends the American Correctional Association (ACA) conference regularly and briefs the Association of State Correctional Administrators (ASCA) and other professional members on findings from the NPS collection, the status of current collections, planned changes or upcoming surveys, as well as to receive any feedback they have on the collection and BJS reports. Professional conferences are also an opportunity to discuss current and future data collections with stakeholders, emphasizing that any and all input they have for survey items, implementation, and collection are important to BJS.

External use of NPS data

BJs first made the NPS data available to the public through an online data analysis tool on the BJS website (<http://www.bjs.gov/index.cfm?ty=nps>) in July 2013. Each year since, updated data have been released in the tool to coincide with the release of the annual *Prisoners* report. In addition to allowing users to create and download custom tables from the data going back to 1978, BJS maintains longitudinal “quick tables” of commonly requested variables and key statistics (total and sentenced jurisdiction counts, custody counts with and without private prisons, prison admission and release types, and special populations) by sex and jurisdiction that can be immediately downloaded by the public and cover the entire span of data (currently 1978-2017). Between August 1, 2017 and August 1, 2019, the tool was accessed 13,800 times, with 6,300 new users.

Also in 2013, BJS archived NPS data for public use for the first time at the National Archive of Criminal Justice Data (NACJD). In subsequent years, updated data have been archived within 2 months of publication of each *Prisoners* report (the most recent data available are 1978 – 2016: <https://www.icpsr.umich.edu/icpsrweb/NACJD/series/886>, although the 2017 data are at the archive awaiting processing). Since the NPS consists of aggregate counts of prisoners, the NACJD disclosure review board judged the collection had no danger of identifying individuals, and so gave it the most permissive level of restriction, fully open access to the public. The last full year of NPS data made available (1978 – 2016) was archived in September 2018, and had 318 unique users downloading files, including 42 faculty members, 78 graduate and 40 undergraduate students, and 158 additional persons who did not list their affiliation. The data were downloaded by users at 74 distinct academic institutions, including universities in the United States, Canada, Ireland, and the Netherlands, several policy organizations including the Brookings Institution and the Pew Charitable Trusts. The Federal Reserve Bank of Minneapolis and the Federal Reserve Board of Governors also downloaded the NPS data.

Multiple nonprofit and policy agencies use NPS data for online fact sheets and data tools, including the Sentencing Project (<http://www.sentencingproject.org/criminal-justice-facts/>), the Vera Institute for Justice (<http://trends.vera.org/incarceration-rates?data=prison&geography=states>), the Pew Public Safety Performance Project (<http://www.pewtrusts.org/en/projects/public-safety-performance-project/research-and-analysis>), Justice Policy Institute (<http://www.justicepolicy.org/research/10708>), the Kaiser

Foundation (<http://www.ips.tennessee.edu/sites/site3/files/Health%20coverage%20and%20care%20for%20the%20adult%20criminal-justice%20involved%20population.pdf>) and the Brennan Center for Justice (<https://www.brennancenter.org/sites/default/files/analysis/UpdateChangesinStateImprisonment.pdf>). The annual release of the *Prisoners* report is usually covered by the Washington Post, New York Times, AP, and other news agencies, and during the past year, the following news and agencies have been directed to the BJS Prisoners webtool or archived data: Time Magazine, ABC News, NBC/MSNBC News, CBS Evening News, 60 Minutes, Reuters, BBC News, the Marshall Project, and VICE Media.

NPS data have also been used extensively by researchers from a variety of academic fields including criminology, economics, public health and demography. Examples of published research and theses in the past three years using NPS include:

Harris A. 2016. *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*. New York, NY: Russell Sage Foundation.

Hollingsworth, JE. 2017. *Effects of Immigration on Incarceration Rates in the United States*. Thesis, Lamar University.

Kranz CF. 2017. *Hepatitis C Screening and Treatment of Prisoners: Analysis of Policy and Practice in Kentucky*. Thesis, University of Kentucky.

Light MT, Miller T, Kelly BC. 2017. Undocumented immigration, drug problems, and driving under the influence in the United States, 1990-2014. *American Journal of Public Health*. 107, (9), 1448-1454.

Selby RJ. 2017. *Essays on health and development economics*. Dissertation, University of Oregon.

Aylward A. 2018. *Spillover Effects of Mass Incarceration in the US: A Mechanism for Educational Inequality*. Dissertation, New York University.

Blake W. 2018. *A Study of the Intrinsic Value of Community-Based Learning Skills Among African American Males*. Dissertation, Fielding Graduate University.

Bose S. 2018. Demographic and spatial disparity in HIV prevalence among incarcerated population in the US: A state-level analysis. *International Journal of STD and AIDS*. 29, (3), 278-286.

Cherng ST, Shrestha S, Reynolds S, Hill AN, Marks SM, Kelly J, Dowdy DW. 2018. Tuberculosis incidence among populations at high risk in California, Florida, New York, and Texas, 2011-2015. *American Journal of Public Health*. 108, (S4), S311-S314.

- Clear TR, Reisig MD, Cole GF. 2018. The corrections system. *American Corrections*. Boston, MA: Cengage.
- Craigie T-A, Myers SL, Darity WA. 2018. Racial differences in the effect of marriageable males on female family headship. *Journal of Demographic Economics*. 84, (3), 231-256.
- Kang-Brown J, Hinds O, Heiss J, Lu O. 2018. The New Dynamics of Mass Incarceration. New York, NY: Vera Institute of Justice.
- Karstedt S, Bergin T, Koch M. 2018. Critical junctures and conditions of change: Exploring the fall of prison populations in US states. *Social and Legal Studies*. 1-23.
- Light MT, Marshall, J. 2018. On the weak mortality returns of the prison boom: Comparing infant mortality and homicide in the incarceration ledger. *Journal of Health and Social Behavior*. 59, (1), 3-19.
- Pettit B, Gutierrez C. 2018. Mass incarceration and racial inequality. *American Journal of Economics and Sociology*. 77, (3-4), 1153-1182.
- Enders W, Pecorino P, Souto A-C. 2019. Racial disparity in U.S. imprisonment across states and over time. *Journal of Quantitative Criminology*. 35, (2), 365-392.
- Kaplan J, Chalfin A. 2019. More cops, fewer prisoners?. *Criminology and Public Policy*.
- Light MT, Thomas JT. 2019. Segregation and violence reconsidered: Do White benefit from residential segregation? *American Sociological Review*.
- Nastasi V, Staley SR. 2019. Bridging the Divide: Licensing and Recidivism. *Policy Brief*. Tallahassee, FL: James Madison Institute.
- Nosrati E, Kang-Brown J, Ash M, McKee M, Marmot M, King LP. 2019. Economic decline, incarceration, and mortality from drug use disorders in the USA between 1983 and 2014: An observational analysis. *The Lancet Public Health*. 4, (7), e326-e333.
- Oakford P, Brumfield C, Goldvale C, Tatum L, diZerega M, Patrick F. 2019. Investing in Futures: Economic and Fiscal Benefits of Postsecondary Education in Prison. Vera Institute of Justice; Georgetown Center on Poverty and Inequality.
- Rafail P, Mahoney M. 2019. A long road to freedom: The exoneration pipeline in the United States, 1989-2015. *Sociological Quarterly*.
- Rocque M, Saunoris JW, Marshall EC. 2019. Revisiting the relationship between the economy and crime: The role of the shadow economy. *Justice Quarterly*. 36, (4), 620-655.

3. Use of Information Technology

The NPS-1B and NPS-1B(T) surveys are mailed to each respondent with a letter requesting participation and information on how to report online using the web form. In 2016, all but 7 respondents submitted their data on the web. Seven states chose to fax their forms to BJS's data collection agent, where staff entered the data into the secure website for the respondents. In 2017, all respondents are being encouraged to submit data via the website.

4. Efforts to Identify Duplication

This research does not duplicate any other questionnaire or work being done by any other Federal agencies. BJS is the only Federal government agency that collects comparable data on prisoners in State and Federal correctional facilities.

The NPS collection complements other BJS data collections on prisons and prisoners, including the National Corrections Reporting Program (NCRP), the Survey of Prison Inmates (SPI; previously referred to as the Survey of Inmates in State and Federal Correctional Facilities (SISFCF)), the National Inmate Survey (NIS), and the Census of State and Federal Adult Correctional Facilities (CSFACF).

The NCRP collects annual individual-level administrative records on all admissions and releases to and from the custody of state prisons, as well as records for prisoners in custody on December 31. Information collected in NCRP includes sentencing and offense characteristics and demographic data. During the past three years, BJS has invested much time and effort in improving not only the quality and usefulness of the data, but also the number of states participating in this voluntary collection. All 50 states submitted at least some data to NCRP in 2013, up from 41 in 2003, 38 in 1992, and 32 in 1983, the first year NCRP was collected. BJS is still receiving NCRP data for 2017 and 2018 (49 states have submitted data to date). Although the NCRP is not yet a complete representation of the state prison population, and captures the custody, rather than the jurisdiction population in state prisons, BJS can compare the data from the NCRP to NPS on population flows and make national estimates with greater confidence. NCRP also provides information that NPS does not capture, in particular the offense, age and expected release date of prisoners. These variables allow BJS to publish annual distributions of offense and age, as well as length of stay estimates that can be applied to the aggregate totals obtained from NPS.

The SPI is an omnibus survey conducted periodically within a nationally representative sample of prison facilities and prisoners to obtain information on specific topics including criminal history, socioeconomic conditions, drug and alcohol use and treatment, mental health and medical problems, and participation in prison programming. The survey was conducted every 5-6 years through 2004, but the introduction of the NIS and its associated burden on prison facilities forced BJS to refrain from fielding another iteration of SPI until January of 2016. Since

SPI is designed to be nationally representative, BJS applies the distribution of various prisoner characteristics and demographics from this survey to the NPS population control totals by sex to produce national level estimates for the prison population. In addition, the self-reported race and ethnicity distributions collected during SPI are used to correct estimates obtained through NPS/NCRP administrative data. This is particularly useful since several states' offender management data systems do not contain all of the federally supported racial categories, and none allow for the capture of multiple individual races beyond "two or more races."

The NIS is a collection that meets the requirement of the Prison Rape Elimination Act (PREA; P.L. 108-79) to produce facility-level estimates of sexual victimization by staff or other prisoners. The NIS has been fielded three times to date (2007, 2008-2009, and 2011-2012), with future iterations planned in 2020. Field staff conduct interviews with prisoners held in a 10% sample of the nation's prisons using an audio computer-assisted self-interview (ACASI) technique that utilizes a touchscreen laptop and audio feed to maximize respondent confidentiality and minimize literacy issues. While it is not feasible to interview every prisoner in the country, the estimates generated from the NIS can be weighted to the national prison population figures obtained in the NPS to estimate the prevalence of sexual victimization in facilities across the nation.

Finally, the CSFACF is a survey of all state and federal prison facilities in the nation conducted approximately every five to seven years, although due to reduced resources, the last complete CSFACF was conducted in 2005. A greatly reduced iteration of the census was conducted in 2012 solely to update operational status of each facility for use in the SPI sampling frame. The complete CSFACF provides detailed information on the types of prisoners housed, facility age and type, security level, court orders, programs, health and safety conditions, confinement space, employment, and operating costs. The Prison Census furnishes the sampling frame for the SPI and the NIS. The collection, in conjunction with the NPS information, allows for a more detailed examination of the conditions, treatment, and safety of the prison population at a facility, state, and national level. BJS fielded the latest iteration of CSFACF in August 2019.

Until 2017, the Association of State Correctional Administrators (ASCA) conducted a state prison data collection called the Performance Based Measures System (PBMS; http://www.asca.net/system/assets/attachments/8847/PBMS%20KeyIndicators%20%208_11_15.pdf?1440079069). This collection required states to submit data monthly, and requested more than 130 core elements over nine correctional areas, including mental health, budget, personnel, institutional security, and academic education. PBMS obtained a few of the variables also collected in NPS, including prisoner demographics, custody counts, operational capacity, and types of admission. The purpose of PBMS, to provide corrections administrators with performance indicators over a period of time to allow for monitoring of the prison system, was very different from NPS in form and content. BJS uses the NPS to describe changes in state correctional populations and measure transitions and outcomes. The PBMS was a reporting system for state correctional administrators interested in measuring performance. As of June 2016, only 24 states provided PBMS with more than 50% of the core elements on a monthly basis, and neither California nor Florida, states with the second and third largest prison

populations, respectively, participate in PBMS. ASCA discontinued PBMS in 2017 due to lack of funding.

5. Efforts to Minimize Burden

The NPS instrument has been designed to capture the data required to describe the U.S. prison population with the least amount of burden to correctional authorities. Respondents are offered the opportunity to submit their data via fax if it would be more burdensome for them to enter the data on the online portal. This research does not involve small businesses.

6. Consequences of Less Frequent Collection

The NPS data are collected annually. Less frequent collection of the data would introduce the first break in series since the inception of NPS in 1926, and greatly limit BJS's capability to measure changes in the prison population and track the decline that started in 2009. All collections that rely on NPS data for official prison population counts (including the Mortality in Correctional Institutions Program, Capital Punishment, National Corrections Reporting Program, National Inmate Survey, and Survey of Prison Inmates) would be forced to use older data to calculate mortality and imprisonment rates and weight survey data to the national totals. In addition, all annually reported measures of change in sex, race, age, and offense (and cross-classifications of these groups) composition of prison populations would be put at risk, as BJS would have to rely on older data and some type of weighting or estimation routine that might be insensitive to changes within any combinations of groups for which BJS produces these estimates.

Restarting data collection after a year's furlough would be costly and difficult. Less frequent collection of data would impose burden on respondents who have set up computerized methods to generate the NPS data. In some states, data on admissions into and releases from prison are updated in real time, and if aggregations of annual admissions and releases for NPS were requested on a schedule other than annual, some states would only be able to provide records for those prisoners being admitted or released for the most recent twelve months.

7. Special Circumstances

There are no special circumstances in conducting this information collection. Collection is consistent with the guidelines as listed in 5 CFR 1320.6. These data will be collected in a manner consistent with the guidelines in 5 CFR 1320.6.

8. Adherence to 5 CFR 1320.8(d) and Outside Consultation

The research under this clearance is consistent with the guidelines in 5 CFR 1320.6. The 60 and 30-day notices for public comment were published in the Federal Register on August 19 and November 18, respectively. BJS advertised these notices on its webpage.

BJS received four comments in response to the 60-day notice. Two commentators (both medical doctors) had the same questions, and asked that BJS add questions to the NPS to collect the number of correctional facilities with medical sections accredited by the American Correctional Association (ACA) or the National Commission on Correctional Health Care (NCCHC), and the number of injuries sustained annually by correctional employees and inmates and the health care provided for these injuries. The NPS is an aggregate collection of data on the state and federal prison populations, and does not currently collect any information on accreditation or staffing of individual facilities. These data are more appropriate to the periodic CSFACF, which obtains facility-level information. While accreditation of individual facilities would be useful to know, this information can change more rapidly than would be captured in the periodic CSFACF or annual NPS, so the most up-to-date information should be obtained directly from ACA or NCCHC. These data are available here:

http://www.aca.org/ACA_Prod_IMIS/ACA_Member/Standards_Accreditation/Accredited_Facilities/Facility_Directory/ACA_Member/Standards_and_Accreditation/Accredited_Facility_Directory.aspx?hkey=861cb92c-7d8d-4b10-aa0c-c3990b905d63. Currently, the CSFACF does not collect information on the health care provided as a result of injuries sustained by officers and inmates, but it does collect the number of physical and sexual assaults that resulted in serious injuries to staff and inmates, as well as a count of less injurious disturbances. Obtaining medical information on individuals' specific injuries and treatment is beyond the scope of BJS collections since publication of such information could result in the identification of individuals.

The third comment came from the president of International Citizens United for Rehabilitation of Errants (CURE), who requested that BJS collect information on persons serving civil commitments. These persons suffer from severe mental illness that requires hospitalization or structured living accommodations and care that they are unable or unwilling to seek on their own. In these cases, the state can issue a court order to mandate treatment in a facility or as part of return to a community setting. In particular, persons who have committed and served time for sexually violent crimes and are deemed to present a danger to the public are held in the state's custody under civil commitment while they receive treatment for their psychiatric condition. The commenter argued that sexually violent offenders held by states under civil commitment laws meet the mission of BJS is "To collect, analyze, publish, and disseminate information on crime, criminal offenders, victims of crime, and the operation of justice systems at all levels of government".

Past research into this topic by BJS has suggested that states vary in their designation and implementation of civil commitment laws for sexually violent offenders. In a number of states, civilly-committed offenders are under the jurisdiction of the state department of health, while others remain under the jurisdiction of the department of corrections. BJS agrees that it would be good to enumerate and describe this population, but because not all state DOC respondents

would be able to report this number, it would be premature to add an item on civil commitment inmates on NPS. BJS proposes to study this issue further by conducting guided interviews of the state NPS respondents under BJS's generic clearance. This will allow BJS to identify the number of states where the appropriate respondent is outside of the DOC, how burdensome it would be to gather this information, and decide whether NPS is the best vehicle to collect these data. Depending on the scope of new respondents who would represent agencies outside the state criminal justice system, BJS may work with the National Center for Health Statistics to develop and/or conduct a data collection on violent sexual offenders serving civil commitments.

Finally, the manager of criminal justice research at the Pew Charitable Trust's Public Safety Performance Project requested copies of the NPS-1B and NPS-1B(T) forms so that they could consider whether or not to submit a formal comment. BJS furnished the data collection forms to Pew, but had not received a comment from that organization by the expiration of the 60-day notice.

BJS consults annually with data providers, data users, and criminal justice experts in order to improve survey methodology, data collection, reporting procedures, data analysis, and presentation.

BJS consulted current NPS data respondents from 7 jurisdictions to gauge their ability to disaggregate counts of U.S. citizen prisoners by sentence length, and the estimated burden to obtain these counts.

9. Paying Respondents

No gifts or incentives will be given.

10. Assurance of Confidentiality

Under Title 34 of the United States Code, § 10231, BJS collects NPS data for statistical purposes only. NPS data are gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes. Data are collected at the level of the responding jurisdictions, and respondents are notified that BJS will publish the aggregate counts provided. BJS does not ask for or receive data from individual prisons in the collection, but rather from the central department of corrections, so no single facility is submitting data to be published separately. No individually identifiable information is provided. All counts are aggregated and cannot be attributed to an individual. NPS data are maintained under the security provisions outlined in U.S. Department of Justice regulation 28 CFR §22.23, which can be reviewed at: <http://bjs.ojp.usdoj.gov/content/pub/pdf/bjsmpc.pdf>.

Respondents are informed in the cover letter that participation in this data collection effort is voluntary.

11. Justification for Sensitive Questions

Not applicable. There are no questions of a sensitive nature included in the NPS series.

12. Estimate of Respondent Burden

There are 56 respondents in the NPS data collection universe; the 50 states departments of corrections (DOCs), the Federal Bureau of Prisons (BOP), and the departments of corrections from the U.S. Territories of Guam, the Virgin Islands of the United States, and American Samoa, and the Commonwealths of Puerto Rico and the Northern Mariana Islands. BJS contacts each jurisdiction in mid-December by mail (Appendix 2).

It is estimated that each of the 51 non-U.S. territorial respondents will use 6 hours to complete the NPS-1B form each year, with an additional 30 minutes to disaggregate the U.S. citizen prisoner counts in the 2019 NPS data (collected during calendar year 2020) (Appendix 3) by modifying their existing data extraction protocols. Additional burden is not anticipated for the second and third years of the clearance period, since states run the same analysis each year, only changing the dates for data extraction.

Data are collected through a secure online website (screenshots from the 2018 collection in Appendix 4), and 20 minutes is allotted for non-response follow-up emails (Appendix 5), or to clarify any responses that are unclear. Since there are no major changes to the NPS-1B form and all participants are familiar with the survey, we anticipate there will be little follow-up contact required. Finally, 10 minutes of burden are added for the state DOCs and BOP to review and approve their data in 5-10 final tabulations of the jurisdiction-level data, provided by BJS (Appendix 6).

The NPS-1B(T) form (Appendix 7) used by the territories and commonwealths is shorter, so it is estimated respondents will require 2 hours to complete the survey, inclusive of non-response follow-up emails and final tabulation review. There will be no changes to the NPS-1B(T) form.

Table 1. Burden of NPS-1B and NPS-1B(T) 2019 collections (data collected in calendar year 2020)

Jurisdiction	Number of jurisdictions	Form	Task	Average burden per jurisdiction	Total estimated burden
State departments of corrections and the	51	NPS-1B	Assemble and report data	6 hours	51 jurisdictions * 6 hours = 306 hours

Federal Bureau of Prisons			Disaggregate U.S. citizen prisoner data by sentence length	30 minutes	51 jurisdictions * 30 minutes = 25.5 hours
			Non-response follow-up contact; clarification questions (if needed)	20 minutes	51 jurisdictions * 20 minutes = 17 hours
			Review and approve final data tabulations	10 minutes	51 jurisdictions * 10 minutes = 8.5 hours
U.S. Territories and Commonwealths	5	NPS-1B(T)	Assemble and report data; follow-up; review final tabulations	2 hours	5 territories * 2 hours = 10 hours
TOTAL	56				367 hours

The total burden estimate for the 2019 NPS in calendar year 2020 is 367 hours. This represents an increase of 25.5 burden hours over the collection of NPS data in subsequent years.

Table 2. Burden of NPS-1B and NPS-1B(T) 2020 and 2021 collections (data collected in calendar years 2021 and 2022)

Jurisdiction	Number of jurisdictions	Form	Task	Average burden per jurisdiction	Total estimated burden
State departments of corrections and the Federal Bureau of Prisons	51	NPS-1B	Assemble and report data	6 hours	51 jurisdictions * 6 hours = 306 hours
			Non-response follow-up contact; clarification questions (if needed)	20 minutes	51 jurisdictions * 20 minutes = 17 hours
			Review and approve final data tabulations	10 minutes	51 jurisdictions * 10 minutes = 8.5 hours
U.S. Territories and Commonwealths	5	NPS-1B(T)	Assemble and report data; follow-up; review final tabulations	2 hours	5 territories * 2 hours = 10 hours
TOTAL	56				341.5 hours

The total burden estimate for 2019 and 2020 NPS data (collected during calendar years 2021 and 2022) is 341.5 hours. Burden hours remain the same for the 51 non-territorial and territorial jurisdictions for these years as when OMB clearance was last sought.

13. Estimate of Respondent's Cost Burden

Respondents will incur costs associated with their time to respond. The information requested is normally maintained electronically as administrative records in state departments of correction. BJS estimates a cost of \$38.50 per hour for respondent time (based on Bureau of Labor Statistics averages from the Current Population Survey for persons with advanced degrees). In calendar year 2020, the cost for the 7 hour burden is estimated at \$269.50 per jurisdiction. In calendar years 2021 and 2022, the cost for the 6.5 hour burden to complete the NPS-1B is estimated at \$250 per jurisdiction per year. The estimated annual cost for completing the NPS-1B(T) for each of the 3 years is \$77 per jurisdiction. The estimated cost burden for all 56 respondents is \$14,130 in calendar year 2020 and \$13,135 in calendar years 2021 and 2022 each.

14. Cost to Federal Government

The cost to the Federal Government for the collection and dissemination of NPS-1B data is estimated to be \$175,635 for fiscal year 2019. These figures are based on the approved collection budget and 2019 General Schedule (GS) Locality Pay tables. Costs for 2020 and 2021 will be slightly higher adjusting for wage increases.

\$100,000 – Abt Associates, Inc.

- \$68,100 for data collection, data processing, and program management
- \$20,550 for computer programming, providing BJS with publication-ready tables and final datasets
- \$11,350 in miscellaneous charges, including printing and postage for annual data request packages, telephone calls, company server computer expenses

\$75,635 - Bureau of Justice Statistics

- 10% GS-15, Statistician (\$15,164)
- 5%, GS-15, Supervisory Statistician (\$7,582)
- 2% GS-15, Chief Editor/Supervisory statistician, (\$3,330)
- 5% GS-14, Editor (\$6,641)
- 2% GS-12, Designer (\$1,890)
- 2% GS-14, Information Technologist (\$2,735)
- 5% GS-14, Information Technology Specialist (\$6,836)
- 2% GS-9, Information Specialist (\$1,304)
- Senior BJS Management (\$5,900)
- Fringe benefits (@28% of salaries - \$14,387)
- Other administrative costs (@15% of salary & fringe \$9,866)

The cost to the government for three years of NPS data collection will be approximately \$530,000.

15. Reasons for Change in Burden

The increase in burden from the previous clearance application is limited to the collection of 2018 NPS-1B data occurring in 2020, due to the addition of a question on the number of U.S. citizens in prison disaggregated by sentence length. BJS has received requests from DOJ, DHS, and the White House for more detailed information on non-U.S. citizens held in state and federal prisons.

16. Project Schedule and Publication Plans

To make the NPS data available to the public in a more timely fashion, BJS is attempting to release its annual *Prisoners in YYYY* bulletin in September as opposed to November or December. During the next three years, BJS expects to publish the following standard reports using NPS data:

Tentative report title	Anticipated publication month and year
<i>Prisoners in 2018</i>	October, 2019
<i>Correctional Populations in the United States, 2019</i>	November, 2019
<i>Mortality in Local Jails and State Prisons - Statistical Tables 2000-2016</i>	December, 2019
<i>Prisoners in 2019</i>	October, 2020
<i>Correctional Populations in the United States, 2019</i>	November, 2020
<i>Mortality in Local Jails and State Prisons - Statistical Tables 2000-2018</i>	December, 2020
<i>Prisoners in 2020</i>	October, 2021
<i>Correctional Populations in the United States, 2020</i>	November, 2021
<i>Mortality in Local Jails and State Prisons - Statistical Tables 2000-2019</i>	December, 2021

In addition, BJS will publish a number of discretionary reports using NPS data in the next few years. These reports will include, but are not limited to:

- Profile of state and federal prisoners (expected publication winter, 2019)
- Alcohol and drug use and treatment reported by prisoners (expected publication, winter 2019)

- Time to employment for released state prisoners (expected publication winter, 2019)
- Mortality of released state prisoners (expected publication spring, 2020)
- Parents in prison and their minor children (expected publication spring, 2020)
- Mental health of state and federal prisoners (expected publication spring, 2020)
- Medical problems of state and federal prisoners (expected publication summer, 2020)
- Veterans in state and federal prison (expected publication summer, 2020)
- Disabilities among state and federal prisoners (expected publication fall, 2020)
- Misconduct in state and federal prisons (expected publication fall, 2020)
- Education and employment characteristics of state and federal prisoners (expected publication spring, 2021)
- Characteristics of soon-to-be-released state and federal prisoners (expected publication winter, 2021)
- Drug offenders in state and federal prison (expected publication winter, 2021)
- Lifetime likelihood of imprisonment (expected publication winter, 2021)

Annual NPS data will be added to the Corrections Statistical Analysis Tool – Prisoners (CSAT-Prisoners) on the BJS website concurrent with the release of the annual *Prisoners in YYYY* reports. Starting in 2020, the CSAT-Prisoners tool will be expanded to include detailed offense, demographic, and sentencing information from the NCRP, weighted to national jurisdiction counts from NPS.

Within 2 months of publication of the *Prisoners in YYYY* bulletins each year, BJS will submit the NPS data to NACJD for archiving. Dependent on NACJD workload, the NPS data should be released to the public within 3-6 months of the publication of the annual *Prisoners* report.

17. Display of Expiration Date

The burden statement, OMB Control Number, and the expiration date will be published on the NPS-1B and NPS-1B(T) forms and on the web submission tool.

18. Exceptions to the Certification Statement

There are no exceptions to the Certification Statement. The collection is consistent with the guidelines in 5 CFR 1320.9.