



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
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THROUGH: Alexis R. Piquero
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DATE: **September 22, 2022**

SUBJECT: BJS request to conduct further testing for the Survey of Public Defenders (SPD), under the OMB generic clearance agreement (OMB Number 1121-0339).

Introduction

The Bureau of Justice Statistics (BJS) is conducting additional research to support its pilot efforts collecting data directly from public defenders through the Survey of Public Defenders (SPD) project. Through SPD, BJS measures essential characteristics of public defense nationwide to better understand indigent defense. Data collected from the SPD will permit a systematic assessment of attorney experiences and provide insight into emerging issues in public defense topics such as access to training in specialty topics, evidentiary subject matter experts, and support staff.

The developmental work for SPD began in a previous cooperative agreement, the Survey of Public Defenders: A Design Study (SPDDS), which designed a preliminary sampling plan, outreach strategy, and survey instrument. As part of that developmental work, BJS determined that about half (27) of the states and the District of Columbia could provide complete statewide

rosters of active public defenders, while the other 22 states could not.¹ The bifurcated centralization status of offices drove the sampling design of the pilot study.

Conducted in the summer and fall of 2021, the SPD pilot assembled full rosters of public defenders by surveying the offices from which attorneys were then sampled. The sample was comprised of four randomly selected states with centralized public defense systems (Frame 1), and 24 randomly selected jurisdictions (counties or county clusters) in states that were not able to provide statewide lists of public defenders (Frame 2). Offices in both frames were asked to provide information on attorney contact information, work status (full time or part time), and demographics. Relying on the rosters of public defenders, a sample of 265 public defenders were randomly selected for the pilot test: 79 public defenders were selected randomly from the 4 states in Frame 1 (approximately 20 per state), and 186 public defenders were selected randomly from the 24 counties (up to 12 per jurisdiction) in Frame 2. Eligibility for the survey was limited to public defenders who represented at least one criminal defendant in calendar year 2020. The survey covered a range of topics such as caseloads, work experiences of public defenders, including access to and use of support staff, time spent on various work-related activities, client and case attributes, attorney education and experience. The survey took an estimated 25 minutes and did not require respondents to consult outside sources.

The purpose of the SPD pilot was to assess outreach, endorsement, and recruitment strategies to determine if a sufficient response rate could be achieved from which to generate national estimates and to examine what contact strategy was most effective in securing survey participation among public defenders. The project team randomly assigned sampled offices to receive one of three outreach strategies. The first, or traditional, outreach strategy included an emailed letter outlining the purpose of the study, a letter of support from public defense organizations, emailed and mailed personalized survey information, and at least two follow-up contacts (via email and phone) from the project team. The second and third outreach strategies included the same content; however, the second group received an additional letter of support from the public defense office leader or chief, and the third group received a letter of support from a public defender client advocacy organization.

Due to the timing of the SPD pilot test, which coincided with the ongoing COVID-19 pandemic, challenges with data collection were inevitable and included unexpected difficulties obtaining accurate, comprehensive, and up-to-date rosters from public defender offices. Additionally, BJS's information about the provision of indigent defense in the counties in Frame 2 was dated and incomplete, negatively impacting the Frame 2 sampling. The project team also encountered issues obtaining responses from public defenders who were adjusting to remote work and client representation requirements. Despite the COVID-19, roster, and frame challenges, the pilot yielded a 74% response rate among sampled attorneys. BJS decided to conduct additional research to determine what strategies might produce comprehensive and accurate rosters that will lead to higher office response rates.

Under this clearance request, BJS requests approval to conduct research to understand what strategies, including offering reimbursement, will increase the number and completeness of

¹ Maine is able to provide a statewide roster of indigent defense attorneys, but Maine does not utilize public defenders. Therefore, Maine is ineligible for the SPD.

attorney rosters. The research team will collect information from the pilot offices about reimbursement rates required for the data extraction necessary to assemble comprehensive rosters of attorneys.

BJS proposes to interview (**Attachment A**) partially responding and nonresponding pilot offices to collect the information of interest. Offices considered partially responding either provided some of the requested roster information or opted to verify a pre-existing roster.

The project team relied on rosters obtained through NAPD membership or other publicly available sources when offices were slow to provide their own rosters or expressed reluctance to do so. In these instances, the project team provided offices with the pre-existing rosters and requested verification and updating from office leaders as well as permission to sample from those lists. However, rosters obtained through this verification process were more likely to include former public defenders, have outdated contact information, and omit newly hired attorneys than rosters provided specifically for this project.

The project team has identified nine sites from the pilot that were either nonresponsive or relied on verifying and approving a pre-existing roster. The offices selected represent a cross-section of offices contacted in the pilot study in terms of state or county offices and population served.

	Public Defender Office/State	Details
1	Montana	NAPD roster used
2	Orange Co, CA	Refusal
3	Wayne Co, MI	NAPD roster used
4	Franklin Co, OH	Website roster used
5	King Co, WA	NAPD roster used
6	Lake Co, IL	Refusal
7	Pierce Co, WA	NAPD roster used
8	Paulding Co, GA	Non-response
9	Coconino Co, AZ	NAPD roster used

Summary of current request. BJS requests clearance under its generic clearance agreement (OMB Control Number 1121-0339) to contact a total of nine public defender offices to conduct interviews. The interviews will cover the availability of demographic data, quantify compiling the office roster, identify existing reimbursement schedules, and determine whether offices may receive reimbursement while remaining compliant within ethics regulations.

Participants will not receive any compensation for the time required to complete the interview, but the research team will send a thank you email to each respondent within 48 hours of the interview. The research team will review the feedback and determine any revisions necessary to the survey instrument and/or recruitment strategy.

Burden Hours

The research team will contact office leaders at nine sites via email or phone (**Attachment B**) to schedule a brief interview. BJS expects that it will take approximately 15 minutes to schedule an interview with each office and an additional 15 minutes to complete the interview. The total response burden expected in this supplemental phase of the effort is 4.5 hours. The interview will be implemented over the course of approximately 4 weeks.

Task #	Task Description	Number of respondents	Estimated burden (in minutes)	Total burden (in hours)
1	Schedule 10 interviews with selected offices	10	15	2.5
2	Administer interviews	10	15	2.5
	Total burden			5.0

Institutional Review Board

The Urban Institute’s Institutional Review Board (IRB) reviewed and approved the supplemental work for the supplemental research supporting SPD per 28 CFR part 46 in September 2022 (**Attachment C**). The project will be reviewed again on or before September 19, 2023.

Contact Information

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

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Attachments

Attachment A: Interview Protocol
Attachment B: Email to initiate scheduling
Attachment C: Human Subjects approval