



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Statistics

Washington, D.C. 20531

MEMORANDUM

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SUBJECT: BJS request to conduct frame building outreach for the Census of Public Defender Offices (CPDO), under the OMB generic clearance agreement (OMB Number 1121-0339).

Introduction

The Bureau of Justice Statistics (BJS) is planning its second iteration collecting data on indigent defense providers through the Census of Public Defender Offices (CPDO). This iteration of CPDO is the latest in a series of BJS-sponsored research efforts dedicated to the study of indigent defense systems and providers. The CPDO will enhance a growing BJS Indigent Defense program by generating a complete census of all public defense offices which will serve as the foundation for administering a survey capturing key aspects of office operations nationwide.

Conducted in 2007, the first CPDO (OMB Control Number 1121-0095, expired 7/31/2010), yielded informative findings on the presence and operational elements of public defender offices nationwide. The 2013 National Survey of Indigent Defense Systems (NSIDS, OMB Control Number 1121-0095, expired 5/31/2017) expanded the scope from the focus on public defender offices to include other common indigent defense delivery systems such as contract and assigned counsel. Following NSIDS, the Survey of Publicly Appointed Defense Attorneys: Design Study (SPADADS, OMB Control Number 1121-0339, expired 4/30/2019) was completed in 2021 to design a preliminary sampling plan and outreach strategy, and subsequently test a collection instrument to directly survey public defenders providing defense counsel to adults and juveniles facing criminal charges. Finally, incorporating findings and recommendations from SPADADS, the Survey of Public Defenders (SPD, OMB Control Number 1121-0339) pilot study, administered in 2021, tested outreach strategies and the SPD survey instrument that measures essential characteristics of public defenders nationwide to better understand indigent defense. Administering the SPD pilot revealed the need for an updated, comprehensive frame of public defender offices from which to sample for future BJS indigent defense research.

For purposes of the CPDO, the definition of a public defender office is an office that has a physical address with attorneys working for it who are W-2 wage-earning employees that provide public defense representation for adults or juveniles who are accused of a crime or delinquency or accused in a trial court of violating conditions of a sentence. Offices that only have attorneys working for them who are independent contractors (1099s), tribal public defense offices, and federal public defense offices are not considered public defender offices for purposes of this survey data collection, and thus are not included in this definition. Public defender offices include specialty public defender offices, such as conflict defense offices (those that take cases where the public defender office has a conflict of interest, such as representing co-defendants accused of the same crime), appellate or post-conviction offices, and capital case public defender offices. Non-profit 501(c)(3) organizations that provide public defense through a contract with a state or local government employing W-2 wage-earners would also be considered public defense offices.

Comprised of two components, CPDO aims to build a current frame of public defender offices and administer a survey to all identified offices. The first step, and the purpose of this clearance request, is to collect office leader contact information from all public defender offices in the nation. This universe frame will allow the team to subsequently administer a survey to all identified office leaders in the second step. Additionally, compiling a comprehensive roster identifying all public defense offices in the U.S. will allow BJS to pursue full implementation of the SPD which relies heavily on statistically sound sampling strategies and comprehensive, current knowledge of the universe.

As part of the SPADADS developmental work, BJS determined that about half (28) of the states and the District of Columbia have statewide indigent defense systems, while the other 22 states provide indigent defense at the local level.¹ The bifurcated centralization status of indigent defense administration will drive the level of effort required to identify all public defense offices within a state, with de-centralized states requiring more outreach to ensure full identification and enumeration.

¹ Hussemann, J., Adams, W., Davies, A., Hall, H., Lyon, J. and Hu, C. (2021). *Survey of Publicly Appointed Defense Attorneys: Design Study*. NCJ 252676, available at: <https://www.ojp.gov/pdffiles1/bjs/grants/252676.pdf>.

Under this clearance request, BJS and its data collection agents, National Opinion Research Center (NORC) at the University of Chicago, the Urban Institute, and the National Association for Public Defense (NAPD), propose to conduct outreach to update and supplement the existing roster of public defender offices maintained by NAPD. Through outreach, the project team aims to identify the following:

- Office leader name, title, work phone number, email and mailing addresses
- Office name, phone number, generic email and mailing addresses
- Counties with established public defender offices
- Regional or jurisdictional boundaries of offices covering more than one county
- Whether multiple providers are in a system, such as specialty providers

Summary of Current Request

BJS requests clearance under its generic clearance agreement (OMB Control Number 1121-0339) to contact approximately 30 state public defender offices. Additionally, BJS requests to contact approximately 527 counties in the remaining states without centralized public defense systems.² BJS estimates the ability to identify about half (264) of the public defense offices in those 527 counties. In each of the remaining 263 counties where a public defense office cannot be identified, BJS will make two contacts totaling an additional 526 outreach calls to this subset. For each of these remaining counties, the first outreach call will be to the local court or prosecutor and the second, to the local public defense office identified by the court or prosecutor if one exists. Therefore, the sum of all contacts will not exceed 820 to accurately identify all public defense offices in the U.S.

State Respondents

The contact to states with centralized systems will ask state public defense leaders to provide the general contact information for the office (mailing address, phone, any generic email), a list, in any format, of the counties with public defender offices, the names and contact information for the leaders of the county offices, and whether there are conflict public defender offices in any of the counties (and, if so, the contact information for those offices and their leaders). State leaders will also be asked if there are other specialty public defense offices in their state, such as post-conviction public defenders. The leaders will be asked about the coverage of specialty offices (e.g., whether statewide, regional, or specific counties), and for the contact information for the offices and their leaders. Proposed outreach, interview scripts and the requested data elements are included in **Attachment A**, **Attachment B** and **Attachment D**, respectively.

Local respondents

² Even some decentralized states, such as Texas, may be able to provide an existing list of offices within the state. For example, the Texas Indigent Defense Commission tracks and reports the number of county and regional public defense offices on their website: <https://www.tidc.texas.gov/improvement/system-building/>

In states where there is no statewide contact, or the statewide contact cannot provide information about all counties in the state, the team will contact individual counties to determine if they have a public defense office.

First, the team will conduct a thorough internet search. If a public defense office is identified, the team will directly contact the office to get the leader's information and any information missing from the internet search.

If the team cannot locate any information for a particular county from the internet or NAPD's mailing lists, the team may contact the court or prosecutor in the county to ask if there is a public defender or contract with a private firm for indigent defense. If there is not and the county uses appointed attorneys, the team will thank the contact and move on. If the contact indicates that there is a public defender office or a contract to provide indigent defense, the team will ask for the public defender office's name and phone number. They will then proceed to collect the public defender office's information and leader's information.

Some contracts with private law firms could be considered "public defense" depending on the definitions of services included with the contract. The team will ask the court or prosecutor for the name and contact information for the contracted law firm providing indigent defense. The team will then follow up with the law firm to determine whether the contract office would be considered within the established scope of a public defense office.

The court or prosecutor could also identify that a regional office provides coverage for their county. If so, the team will ask for the regional office's name and contact information and will follow-up. This contact may be able to provide information on the other counties included in the regional office's jurisdiction and should thus reduce the number of individual counties contacted in some of the states.

States may also have some county-based and some regional offices, and so the questions and outreach would be tailored to county-based offices only, regional offices only, and a mixture of county and regional offices.

Burden Hours

The research team estimates contact with a total of 820 sites to obtain key office and office leader contact information with an estimated cost of \$4,997.97 to the Federal government. BJS expects interactions with sites to take approximately 15 minutes either via phone or email.

Task #	Task Description	Number of respondents	Estimated burden (in minutes)	Total burden (in hours)
1	Contacts to courts or prosecutor offices to determine if there is a public defender office, regional public defender office, or contract in the county	263	15	263*.25=65.75
2	Follow-up calls to regional or local public defender offices identified through the court or prosecutor to establish location, jurisdiction, and office leader contact information	263	15	263*.25=65.75
3	Contacts to the public defender office, regional office, or contract law firm in the county to establish location, jurisdiction, and office leader contact information in non-statewide states	264	15	264*.25=66.25
4	Email or call 30 offices to establish location, jurisdiction, and office leader contact information for statewide leaders	30	15	30*.25=7.5
	Totals	820		205 hours

Institutional Review Board

NORC at the University of Chicago’s Institutional Review Board (IRB) reviewed the project per 28 CFR 46 and determined that all aspects of the project do not meet the definition of human subjects research (**Attachment C**).

Contact Information

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

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Attachments

Attachment A: Proposed email and phone outreach scripts
Attachment B: Proposed phone outreach scripts
Attachment C: NORC IRB determination
Attachment D: Proposed data elements