

## **B. Collection of Information Employing Statistical Methods**

### **1. Universe and Respondent Descriptions**

This data collection project employs sampling methods. The sample design will be based on civil cases tried in 156 participating courts from the 2005 *Civil Justice Survey of State Courts* (CJSSC) that were appealed to approximately 65 separate courts of appeal in 36 states.<sup>1</sup> Since the survey of civil appeals will build on the CJSSC sample, initially this section will describe the sampling framework used to generate the national sample of general civil trials concluded in 2005. After detailing the national civil trial sample, a summary of the methodological framework for following civil cases appealed from the trial court will be provided.

#### *National sample of general civil trials*

The CJSSC was designed to generate national level figures on tort, contract, and real property (e.g. general civil) cases concluded by bench or jury trial in state courts of general jurisdiction in 2005. The 2005 CJSSC contained two sampling frameworks. First, the sample was designed so that inferences could be made about general civil trials litigated in the nation's 75 most populous counties. The sample design for the 75 most populous counties sample was the same as the ones used for the 2001, 1996, and 1992 BJS civil trial studies and was maintained in order to compute trends in civil trial litigation. The sample is a stratified sample with 46 of the 75 most populous counties selected.<sup>2</sup>

In addition to sampling civil trial litigation in the nation's 75 most populous counties, a sample of non-metropolitan counties, from which to estimate the civil trial litigation in counties outside the 75 most populous, was developed. The sample of civil trial litigation outside the nation's 75 most populous counties was constructed by first forming 2,518 primary sampling units (PSUs) from 3,066 counties--3,141 U.S. counties total minus the 75 counties from the 2001 CJSSC. The 2,518 PSUs were stratified into 50 strata according to census region, levels of urbanization, and population size. From the 50 strata, a total of 100 PSUs containing 110 counties were selected for the supplemental sample of counties outside the nation's 75 most populous.<sup>3</sup> Hence, a total of 156 counties, 46 representing the nation's 75 most populous, and 110 representing the remainder of the nation were used for the sample.

The second stage of the CJSSC sample design involved generating lists of general civil cases concluded by trial. Each participating jurisdiction was asked to identify a list of tort, contract, and real property cases that had been disposed of by jury trial or bench trial between January 1, 2005, and December 31, 2005. For the sample of civil trials occurring in the nation's 75 most populous counties, data on 7,682 bench and jury trials met the study criteria. For the sample of civil trials occurring outside the nation's 75 most populous counties, data on 1,190 civil trials met

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<sup>1</sup> One reason for the approximation is that if an appellant subsequently appeals to the state court of last resort, most of which have discretionary review, data will be collected for these civil appeals.

<sup>2</sup> For a list of the 46 counties used in the 75 most populous county sample, see the BJS report *Civil Bench and Jury Trials in State Courts, 2005* at <<http://www.ojp.usdoj.gov/bjs/abstract/cbjtsc05.htm>>

<sup>3</sup> A list of the 110 counties that accounted for the non – urban county CJSSC sample is also available in the BJS report *Civil Bench and Jury Trials in State Courts, 2005*.

the study criteria. The un-weighted data represented 8,872 tort, contract, and real property trials. When these trials are weighted, they represented 26,948 general civil bench and jury trials disposed in a national sample of counties.<sup>4</sup>

### *Methodological framework of general civil trials that were appealed*

The CJSSCTA will be based on those 8,872 general civil trials concluded in the CJSSC counties that were appealed to an intermediate appellate court or court of last resort. Preliminary data show the litigants filing a notice of appeal in 1,500 tort, contract, and real property trials in approximately 65 separate courts of appeal in 36 states. The study's plan is to track every general civil case concluded by bench or jury trial that was subsequently appealed to an intermediate appellate court or court of last resort.

Since the CJSSCTA is based on a national sample of civil trials, it will be capable of providing national estimates of the disposition of civil cases from the trial to the appellate courts. Overall, the project will have the capacity to provide national estimates on the rates of appeal and the levels of attrition civil cases experience in the appellate process. In addition, this project will highlight the rates that civil trials concluded in the national sample are affirmed, modified or reversed on appeal and the likelihood that the appeal will generate further activity in state supreme courts.

All 1,500 civil appeals will be followed until they are withdrawn, dismissed, or decided on the merits in the appellate courts. It is anticipated that the majority of appeals will be filed directly from the trial to the intermediate appellate courts in their respective states. In some states, however, civil appeals bypass the intermediate appellate court and are filed directly with the court of last resort. In addition, some civil appeals will be decided by the intermediate appellate court and subsequently appealed to the court of last resort. Both sets of appeals to the courts of last resort will be tracked in this data collection.

For appellate courts that sponsor alternative dispute resolution (ADR) programs, aggregate count information will be collected on those cases referred to and decided by ADR. Only courts with ADR annexed programs will be selected for this part of the survey. No sampling procedures will be used for the ADR part of this survey because aggregate count information will be collected for every case adjudicated through the ADR process.

## 2. Procedures for Collecting Information

Data on civil appeals will be collected from the case management systems and administrative files of the estimated 65 intermediate appellate courts and courts of last resort participating in the survey. Detailed information will be collected on the 1,500 estimated civil appeals through three methods. First, staff from the data collection agent (National Center for State Courts) will utilize the online case management systems of appellate courts to collect detailed case level appellate information. For those appellate courts without online case access, contractors will be hired to

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<sup>4</sup> These data were summarized in the BJS report *Civil Bench and Jury Trials in State Courts, 2005* available at <http://www.ojp.usdoj.gov/bjs/abstract/cbjtsc05.htm>

review appellate case files and complete data collection forms onsite or staff from the data collection agent will travel onsite to complete the data collection.

Regardless of which of these coding approaches are adopted, all coders will be required to undergo extensive training on the coding process. On-site coders will be required to pass a coding test after reviewing the coding instructions. Each on-site coder will be assigned to a staff member from the data collection agent, who will oversee the training process and monitor their progress.

### 3. Methods to Maximize Response Rates

In order to maximize the response rate and minimize non-response bias, every attempt will be made to collect complete and accurate information on all 1,500 civil appeals. The data collection agent will, if necessary, travel to sites that are unwilling to participate in the survey. For the Civil Justice Survey of State Courts, information was collected on every civil trial concluded in the 156 surveyed counties. Moreover, the amount of missing or incomplete information was negligible and did not hinder this project. We anticipate will similar response patterns for the CJSSCTA project.

### 4. Testing of Procedures

The CJSSCTA data collection forms were pre-tested prior to data collection. Several respondents completed the data collection forms and provide feedback in terms of clarity and accuracy. In addition, an advisory board met to consult on the overall substance of information collected and the format in which questions are asked on the data collection form. Appropriate revisions and modifications were made to these data collection forms based on this feedback

### 5. Contacts for Statistical Aspects and Data Collection

CJSSCTA project staff at the National Center for State Courts in collaboration with prosecution and adjudications staff at the Bureau of Justice Statistics take responsibility for the overall design and management of the data collection, including the development of the questionnaires and the analysis and publication of the data. BJS contacts include

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The National Center for State Courts (NCSC) CJSSCTA project staff manages, coordinates, analyzes, and publishes these data. Key NCSC contacts include:

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