

## SUPPORTING STATEMENT

### A. Justification

#### 1. Necessity of the Information Collection

The National Prisoner Statistics Program (NPS) was initiated by the Bureau of the Census in 1926 in response to a Congressional mandate to obtain national measures of inmates in State and Federal correctional institutions. The Census Bureau collected state-specific information on persons admitted to and released from prisons and the number present at yearend through the NPS-1 data collections. The Census Bureau added a new component to the NPS series, the NPS-8, to obtain annual counts of inmates executed under civil authority in 1930.

In 1947, the program was transferred to the Federal Bureau of Prisons (BOP), U. S. Department of Justice. BOP expanded NPS-8 to include counts of persons received and removed from under sentence of death as well as one-day counts and characteristics of those under sentence of death.

In 1971, responsibility for the program was assigned to the Law Enforcement Assistance Administration, now the Bureau of Justice Statistics (BJS). Since 1973, the collection and analysis of these data, authorized by The Omnibus Crime Control and Safe Streets Act (see Appendix 1), as amended (Title 34, United States Code, Section 10132), has been carried out by BJS, with the Census Bureau acting as the collection agent. Under Title 34 of the United States Code, § 10231, BJS collects NPS-8 data for statistical purposes only, does not release data pertaining to specific individuals in the NPS-8, and has in place procedures to guard against disclosure of personally identifiable information. NPS-8 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>.

NPS-8 covers all persons held in a state or federal correctional facility under sentence of death at any time during the calendar year. The coverage includes capital prisoners transferred from death row to non-correctional institutions such as mental hospitals and prisoners who may have escaped custody. Excluded are capital prisoners who for any reason remain in local correctional institutions outside the jurisdiction of state or federal correctional authorities from whom data are collected for this series.

The death penalty is the most severe sanction a person can receive for committing a crime. Unlike a sentence to life in prison, once carried out, a capital sentence cannot be reversed. Consequently, ensuring fairness in the administration of death sentences is of overriding importance. The annual NPS-8 collection includes information on the laws authorizing the death penalty and characteristics and dispositions of persons who have been sentenced to death. This information is critical to describing the administration of justice in the U.S. and the use of its most severe sanction.

The NPS-8 fits within the larger BJS portfolio of surveys that inform the nation on the nature and composition of inmates sentenced to state and federal prisons. BJS' National Prisoner Statistics prison population reports (NPS-1, OMB Control Number 1121-0102) provide aggregated annual counts and movements of sentenced inmates, while the National Corrections Reporting Program (NCRP, OMB Control Number 1121-0065) provides individual-level data on offenses, sentence length, and the characteristics of persons admitted to, released from, and in the custody of state prison in most states. While NPS-1 and NCRP describe all prisoners and their characteristics, the NPS-8 allows BJS to examine not only the small subset of inmates who have been sentenced to death, but also to track changes in the laws that guide who may receive the most punitive sentences.

The Federal Government has collected and published statistics on executions for 88 consecutive years and has provided data on persons under sentence of death since 1953. Critical elements of the NPS-8 collection include state, sex, race and Hispanic origin, dates of birth and sentence, and means of removal from under sentence of death (including date of removal). In recent years, the NPS-8 collection has added information on the criminal history of death row inmates and tracked changes in statutes relating to the death penalty. Other entities<sup>1</sup> maintain rosters of persons under sentence of death and executed, but these rosters typically include only state, sex, and race of inmates. The extensive time-series data combining inmates under sentence of death and state and federal capital statutes, which are collected through the NPS-8, are not available from any other source.

BJS uses data from NPS-8 to produce an annual report describing capital statutes and inmates under sentence of death in each State, the District of Columbia, and the Federal system at the end of each calendar year. The Capital Punishment series is designed to provide detailed information about these prisoners (available on the BJS website at <https://www.bjs.gov/index.cfm?ty=tp&tid=18>).

As reported in *Capital Punishment 2017 – Selected Findings*, 34 states authorized capital punishment and the federal government. As of December 31, 2017, a total of 32 states and the Federal Bureau of Prisons held 2,703 prisoners under sentence of death. The number of inmates executed has generally declined since 1999. During 2017, 23 executions were carried out, which was 3 more than in 2016. Those executed during 2017 had been under sentence of death an average of 20 years and 3 months, which was an increase of 3 years and 3 months from 2016. Of the 23 prisoners executed in 2017, a total of 16 (more than two-thirds) had been sentenced in 1999 or earlier.

## 2. Needs and Uses

The NPS-8 data collection fulfills a wide variety of needs for the criminal justice and the broader research and public policy community, both in the U.S. and internationally.

The death penalty is the most severe sanction that can be imposed by courts, which leads to increased scrutiny to ensure that these sentences are imposed fairly. This is evidenced by the fact that capital cases appear on the U.S. Supreme Court docket each term. BJS's capital punishment data have helped inform the courts regarding the ways in which death sentences are administered. BJS's capital punishment statistics have been cited in opinions issued by Supreme Court justices.<sup>2</sup>

The ability of courts to efficiently process cases, to bring defendants to trial, and to handle appeals in a timely fashion has become an issue of concern for criminal justice administrators. Capital cases can have a profound impact on court operations. Because of the finality of the death penalty, both the trial and appeals process for capital cases have become specialized relative to other types of court cases. The bifurcated trial (the first stage is held to determine guilt and the second to decide the sentence), defense counsel trained and experienced in the handling of capital cases, and automatic appeals unique to capital cases can absorb the limited resources of not only courts, but also of legislatures and correctional systems. Researchers have used NPS-8 data to conduct comparative

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<sup>1</sup>For example, the NAACP Legal Defense Fund, Inc. (<https://www.naacpldf.org/our-impact/criminal-justice/capital-punishment/>), the Death Penalty Information Center (<http://www.deathpenaltyinfo.org>), or the Death Penalty News & Updates website (<http://people.smu.edu/rhalperi/>).

<sup>2</sup>See, for example, *Davila v. Davis*, 137 S.Ct. 2058 (2017) (dissenting Opinion) or *Glossip v. Gross*, 576 U.S. \_\_\_ (2015).

analyses of matters such as reversal rates in capital cases,<sup>3</sup> legislative policy issues,<sup>4</sup> and the impact on state financial resources<sup>5</sup>.

The NPS-8 has been a key resource for researchers to track the status of the death penalty, which has become increasingly complicated since yearend 2007. At that time, 37 states and the federal government had capital statutes, while 13 states and the District of Columbia did not authorize the death penalty.<sup>6</sup> By December 31, 2017, the number of states with valid capital statutes had declined to 34 with several others restricting the application of the death penalty.

Following a court's determination that an inmate will be sentenced to death, execution is not the only possible outcome. A number of factors may affect the ultimate disposition of a death sentence. Researchers have used the means of removal variable from NPS-8 to focus on specific outcomes, such as death by means other than execution<sup>7</sup> or commutation.<sup>8</sup> Still others use data as a foundation to consider the systemic and cultural issues surrounding the death penalty<sup>9</sup> and to study the fairness of the application of the death penalty.<sup>10</sup>

Interest in the death penalty is not limited to the United States. The United Nations has a number of committees to monitor issues in the international arena and these committees generate periodic country-specific reports assessing an individual country's record on various human rights matters. These reports rely on NPS-8 data to assess the record of the United States in areas such as human rights.<sup>11</sup>

Data gathered in the NPS-8 collection form the basis for historical trend analysis and fulfill a wide variety of needs within BJS and for the broader research and public policy community.<sup>12</sup> This brief review of some recent uses of NPS-8 data demonstrates the importance of these data to the national debate on capital punishment.

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3Baumgartner, F. and Lyman, T. (2016). Louisiana Death Sentenced Cases and Their Reversals, 1976-2015. *The Southern University Law Center Journal of Race, Gender, and Poverty*, 7, 58-75.

4Widgery, A. (2019). The State of Capital Punishment. National Conference of State Legislatures (retrieved from [http://www.ncsl.org/Portals/1/Documents/cj/State-of-Capital-Punishment\\_v04.pdf](http://www.ncsl.org/Portals/1/Documents/cj/State-of-Capital-Punishment_v04.pdf), 30 October 2019).

5See, for example, McFarland, T. (2016). The Death Penalty vs. Life Incarceration: A Financial Analysis. *Susquehanna University Political Review*, 7(4), 46-87. Johnson, C. and Quigley, W.P. (2019). An Analysis of the Economic Cost of Maintaining a Capital Punishment System in the Pelican State (Retrieved from <http://law.loyno.edu/sites/law.loyno.edu/files/images/Economic%20Cost%20Paper%20LA%205.1.2019.pdf>, 30 October 2019).

6See *Capital Punishment, 2007*, NCJ 224528, <https://www.bjs.gov/content/pub/html/cp/2007/cp07st.pdf>.

7Williams, J.J., and Murry, C.L. (2016). Dying on Death Row (Other Than by Execution). *Corrections Today*, 78(4), 40-44. Heise, M. (2015). Suicide on Death Row. *Journal of Forensic Sciences* 61(6), 1656-1659.

8Tartaro, C. and Lester, D. (2016). The Death of Death Row Clemency and the Evolving Politics of Unequal Grace. *Alabama Law Review*, 65(5), 949-987.

9McLeod, M.S. (2016). Does the death penalty require death row? The harm of legislative silence. *Ohio State Law Journal* 77(3), 525-592. LaChance, D. (2016). *Executing Freedom: The Cultural Life of Capital Punishment in the United States*. Chicago, IL: University of Chicago Press.

10Beckett, K. and Evans, H. (2016). Race, Death, and Justice: Capital Sentencing in Washington State, 1981-2014. *Columbia Journal of Race and Law*, 6(2), 77-114. Malcom, J.G. (2018). Capital Punishment: A One-Sided Contribution to a Complex Debate. *Federalist Society Review*, 19, 202-205.

11International Covenant on Civil and Political Rights. (2012). Periodic Report of the United States of America to the U.N. Committee on Human Rights.

(<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/429/66/PDF/G1242966.pdf>) . United Nations Office on Drugs and Crime (2019). Tenth survey on capital punishment and the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, covering the period 2014-2018 ([https://www.unodc.org/documents/justice-and-prison-reform/Reports/Death\\_Penalty\\_2020/Questionnaire\\_cp\\_EN.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Reports/Death_Penalty_2020/Questionnaire_cp_EN.pdf))

12See, for example, Dieter, R.C. (2015). The future of the death penalty in the United States. *University of Richmond Law Review* 49(3), 921-938. Tabak, R.J. (2016). Capital punishment. In M.E. Wojcik (Ed.), *The State of Criminal Justice 2016* (pp. 237-317). American Bar Association. Baker, D.V. (2016). *Women and Capital Punishment in the United States: An Analytical History*. Jefferson, NC: McFarland and Company.

In addition, NPS-8 data are accessed by a wide-spectrum of users via public use files, reports and statistics available from the BJS website, and information requests made directly to BJS by phone and e-mail. Students, advocacy groups, attorneys, and employees of all branches and all levels of government use NPS-8 as a source of national and comparative data on capital punishment. The number of users accessing or sending queries through the BJS website for capital punishment statistics has made the NPS-8 one of the most requested BJS data collections. If these data were no longer collected, information seekers would no longer have the benefit of adequate historical and current facts on the subject.

### 3. Use of Information Technology

A web-based data collection for inmates under sentence of death was implemented for the NPS-8 and NPS-8A portion of the collection during the 2008 data collection cycle. A similar web-based reporting option was implemented for the NPS-8B/8C portion of the collection during the 2009 data collection cycle.

The web-based data collection tools for these forms were revamped for the 2011 data collection cycle. The current web interface allows respondents reporting on inmates under sentence of death (NPS-8A) to access a form for each individual who was reported as being under sentence of death on December 31 of the previous reference year. Respondents can revise data to each online form, as necessary. Respondents can also submit a new record for any inmates newly received under sentence of death since the previous year's submission (NPS-8). A separate electronic collection was designed for respondents reporting changes to the death penalty laws in their jurisdictions (NPS-8B/8C). The interface for this system allows respondents to fill out the forms as well as submit supplemental materials documenting the content of capital statutes and legislative changes to those statutes.

#### ***Percent of Respondents Who Submitted Electronically***

	2016	2017	2018
NPS-8/8A Respondents	98%	95%	99%
NPS-8B/8C Respondents	73%	88%	73%

#### ***Percent of Forms Submitted Electronically***

	2016	2017	2018
NPS-8 Forms	87%	100%	100%
NPS-8A Forms	95%	95%	99%
NPS-8B Forms	50%	82%	71%
NPS-8C Forms	83%	94%	74%

The web-based data collection tools for both the inmate records (NPS-8/8A) and the status of death penalty laws (NPS-8B/8C) are designed to promote efficiency and reduce the reporting burden. Skip patterns are built in; as such, a respondent's answer to a previous question is used to determine which subsequent questions are applicable. BJS and the Census Bureau continue to explore alternative methods for submitting data electronically which may be more suitable for the capabilities and capacities of individual respondents (e.g. uploading of extracted data in spreadsheets).

#### 4. Efforts to Identify Duplication

No other governmental organization collects nationwide comprehensive information on inmates under sentence of death. Information such as statutory, demographic and criminal history data collected from the NPS-8, NPS-8A, NPS-8B, and NPS-8C is not attainable from any other data source. The Death Penalty Information Center (DPIC) maintains a searchable database with individual-level information on inmates executed between 1977 and 2019 (<http://www.deathpenaltyinfo.org/views-executions>). Data elements included in the DPIC database consist of execution date, state and county of conviction; offender age, sex, and race; sex and race of victims; method of execution; and other case factors such as whether the inmate waived appeals, was a foreign national, or was a juvenile at the time of the capital offense. Much of the other information available from this website (characteristics of death row inmates, time on death row, state death penalty laws, etc.) cites BJS's NPS-8 data and reports. BJS's data collection represents official statistics reported by the state and federal government agencies responsible for overseeing death row inmates and capital cases in each jurisdiction.

BJS also conducted a search of the National Archives of Criminal Justice Data (NACJD) to identify other data collections with information on inmates under sentence of death and capital statutes. NACJD, which is sponsored by the research and grant-making bureaus in the Office of Justice Programs (BJS, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Bureau of Justice Assistance), has a stated mission "to facilitate research in criminal justice and criminology, through the preservation, enhancement, and sharing of computerized data resources; through the production of original research based on archived data; and through specialized training workshops in quantitative analysis of crime and justice data." NACJD maintains nearly 2,000 publicly-available criminal justice-related data collections and citations for more than 13,000 books, articles, conference proceedings, and other publications derived from these data collections. The search revealed no duplication with NPS-8. The information and comparisons available to users of the NPS-8 series are unique to this project.

#### 5. Impact on Small Businesses

N/A. The information collection does not involve small businesses or other small entities. The respondents are State and Federal agencies (Departments of Correction personnel and Attorneys General staff).

#### 6. Consequences of Less Frequent Collection

The NPS-8, NPS-8A, NPS-8B, and NPS-8C are completed once a year. Imposition of a death sentence is a rare event. In 2006, only 2% of sentences imposed on felons convicted in state courts for murder were death sentences.<sup>13</sup> The 2,703 inmates under sentence of death at yearend 2017 represented only 0.22% of all sentenced inmates in jurisdictions with a valid capital statute at that time. Collecting data annually allows BJS and others to track annual changes in the capital statutes, which ultimately determine which offenders can be tried and sentenced to death.

Furthermore, the data maintained through the NPS-8 data collection records the flow of inmates in and out of death penalty status since 1973. Less frequent data collection would introduce gaps in the data series. This would impact users' ability to track changes and their impacts on prison populations.

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<sup>13</sup>See *Felony Sentences in State Courts, 2006 – Statistical Tables*, table 4.4.

7. Special Circumstances Influencing Collection

N/A. The NPS-8 is a voluntary data collection and imposes no penalty for those who choose not to participate. The NPS-8 collection is consistent with the public protection guidelines as specified in 5 CFR 1320.6.

8. Consultations Outside the Agency

The research under this clearance is consistent with the guidelines for 5 CFR 1320.6. The 60-day and 30-day notices for public commentary have been published in the Federal Register, on October 16, 2019, at 84 FR 55333-55334 and on December 19, 2019, at 84 FR 69767-69768, respectively. BJS advertised these notices on its webpage and twitter feeds.

In response to the 60-day notice, BJS received one comment from the legal director of the Criminal Justice Legal Foundation. The commenter suggested adding multiple items related to the capital offense and criminal history of inmates who are sentenced to death. These items include: the statute identifying the specific elements of the crime which made the offenses eligible for the death penalty (aggravating factors) and were found by the jury found to be present; specific offenses committed concurrently to the capital offense; and expanding collection of the prior felony convictions to include both homicide and non-homicide offenses. BJS acknowledges the utility of this information to users of this data collection; however, the costs in terms of burden and resources would be high.

Currently, BJS collects data on individuals under sentence of death from the staff at state departments of correction (DOCs) and the Federal BOP. Based on experience collecting data, BJS believes that the DOCs would have difficulty reporting the information detailed in the comment. The commenter suggested collecting this information from respondents in the offices of the Attorneys General (AGs) and stated that he believed it would be of little to no burden to collect. BJS disagrees with this assessment. The front-end burden on AG respondents during the first year of collection would be large, especially for states with large numbers of inmates already under sentence of death. Furthermore, the addition of these data elements to the current data collection would also create the need for a secondary data collection stage, during which BJS would have to contact the AG respondents a second time once the DOCs reported newly-received inmates.

Collection of this information would also increase the overall cost of the data collection. In addition to creating a secondary data collection stage, collection of this information would require standardization coding of each jurisdiction's statutory information into categories to create comparability across jurisdictions and to make the information usable for analysis. This would increase the overall project period for this collection. More time would be spent cleaning and editing the new fields, creating a delay in delivery of the final datafile to BJS.

Finally, if BJS were to add the collection of aggravating factors into the data collection, consideration should also be given to collecting data on mitigating factors since the final judgment by a jury rests on the aggravating factors outweighing the mitigating factors. While some mitigating factors are specified by law, many statutes allow for an open-ended list of factors that may be considered in mitigation.

In summary, BJS believes this effort would be overly burdensome to our AG respondents. Furthermore, BJS currently lacks the resources, both staffing and budgetary, to implement such a change.

BJs and Census Bureau staffs maintain frequent contact with data providers and data users in an effort to improve data collection, reporting procedures, data analysis, and presentation.

In the spring of 2019, BJS consulted 8 current NPS-8 data respondents on such issues as instructions for completion of questionnaires and burden estimates, format and content of the questions, data collection methods, and design of data display.

9. Payment other than Remuneration to Contractors

N/A. No payment other than remuneration is provided to contractors.

10. Assurance of Confidentiality

Respondents are advised that data are collected according to the provisions of the Title 34 USC, Sections 10134 and 10231, which establish the allowable use of data collected by BJS. Under these sections, all information which can identify individuals is held confidential by BJS and “shall be used only for statistical or research purposes, and shall be 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” (Section 10134). As the collection agent for BJS, the Census Bureau collects these data with assurances pursuant to these sections.

All names and personal identifiers are removed from the data files prior to their submission to the National Archives of Criminal Justice Data, which serves as the public repository for all BJS datasets. Moreover, as required under these sections, any BJS report using these data will only be statistical in nature and will not identify individual subjects. Personal information provided by respondents regarding inmates under sentence of death is kept confidential and the identity of inmates is neither published nor released. NPS-8 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>.

11. Justification for Sensitive Questions

N/A. There are no questions of a sensitive nature included on the NPS-8, 8A, 8B, or 8C.

12. Estimate of Respondent Burden

The NPS-8 is completed for each person who is reported as newly received under sentence of death by the DOCs or BOP during the reference year. We estimate the average reporting time to be about 30 minutes per form. The NPS-8A is used to add or correct information for a person who was on death row at the end of the previous reference year. We estimate an average reporting time of 30 minutes per form. The NPS-8 and NPS-8A forms are sent to 37 respondents in the departments of correction in the 34 states with death penalty statutes and the Federal Bureau of Prisons.

One NPS-8B is completed by a respondent in the Office of the Attorney General in each state that had no death penalty statute as of December 31 of the previous reference year, and one NPS-8C is completed by a respondent in the Office of the Attorney General of each state with a death penalty statute in force as of December 31 of the previous reference year. In total, 52 death penalty statute forms are completed per reference year: one for each

of the 50 States, the District of Columbia, and the Federal Bureau of Prisons, each requiring 15 minutes.

The 37 respondents for the NPS-8/8A and the 52 respondents for NPS-8B/8C result in a total of 89 respondents for this data collection.

During the 2018 data collection, 46 NPS-8 forms, 2,707 NPS-8A forms, and 52 capital punishment statute forms (NPS-8B/8C) were completed by respondents. This totaled 1,389.5 burden hours. Assuming the response burden remains about the same, the burden in future years is estimated to be 1,389.5 hours.

#### NPS-8 2018 Responses

	<u>Number of Respondents</u>	<u>Average Number of Responses</u>	<u>Estimated Response Burden</u>	<u>Burden Hours</u>
NPS-8A	37	2,707	30 min	1,353.5
NPS-8	37	46	30 min	23
NPS-8B, NPS-8C	<u>52</u>	<u>52</u>	15 min	<u>13</u>
Total	89	2,805		1,389.5

Respondents incur costs associated with the time to respond to the NPS-8. BJS estimates an average salary of \$32 per hour for each NPS-8/8A respondent (based on Bureau of Labor Statistics averages for statisticians employed by state governments) and an average salary of \$43 per hour for each NPS-8B/8C respondent (based on Bureau of Labor Statistics averages for attorneys employed by state governments). The estimated total annual cost for all 89 respondents of the NPS-8 collection is \$44,607.

13. Costs for reporting and recordkeeping

N/A. No costs other than the cost of the hour burden exist for this data collection.

14. Cost to the Federal Government

The collection, processing, and dissemination of capital punishment data in Fiscal Year 2019 cost approximately \$372,700. The cost included the following:

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***Estimated costs for the NPS-8 for FY 2019***

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## BJS costs

Staff salaries	
GS-13 Statistician (25%)	\$24,900
GS-14 Supervisory Statistician (2%)	\$2,400
Fringe benefits (28% of salaries)	\$7,600
Subtotal: Salary & fringe	\$34,900
Other administrative costs of salary & fringe (30%)	\$10,500
Subtotal: BJS costs	<b>\$45,400</b>

## Census Bureau costs (Collection agent)

Census costs (salaries, fringe benefits, forms design, printing, mailout, fax, email and phone follow-up, programming, web maintenance, data collection, table production, and Census overhead)	<b>\$327,300</b>
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**Total estimated costs** **\$372,700**

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15. Reason for Change in Burden

Fluctuations in the flow and the population of inmates under sentence of death from one year to the next will result in corresponding changes in the annual response burden.

The NPS-8 data collection is based primarily on individuals under sentence of death. The number of death row admissions has generally been declining since 1999: the 34 persons admitted to prisons under sentence of death during 2017 was the lowest number since 1973, when 44 persons were put on death row. The number of persons removed from death row since 2001 has outpaced the number of admissions, resulting in a continuous decline in the number of persons under sentence of death. On December 31, 2017, 2,703 persons were under sentence of death, a decrease of 94 compared to year-end 2016. This was the seventeenth consecutive year that the number of prisoners under a sentence of death declined. Since 2007, 5 states have repealed their capital statutes. All of these factors have contributed to a decrease in the number of NPS-8 and NPS-8A forms completed each year and a corresponding decrease in the total response burden (from 1,540 burden hours in the current OMB inventory for NPS-8 to an estimated 1,389.5 requested burden hours.).

16. Project Schedule and Publication Plan

Due to delays in submitting the materials to OMB, the project schedule for the 2019 reference year has been delayed. The anticipated schedule for the 2019 reference year is as follows:

BJS anticipates that notifications that the data collection period has opened will be sent to all respondents in the second week of March 2020. BJS will request that the NPS-8B/C respondents submit their forms to our data collection agent, the U.S. Census Bureau by April 20, 2020. BJS will request that NPS-8/8A respondents submit their forms to Census by May 15, 2020. The Census Bureau will submit datafiles to BJS in early September, 2020. We anticipate that this will delay publication of the 2019 data, but will make every effort to deliver the report to BJS's publications unit by December, 2020.

In typical years that do not experience delays, Census Bureau staff calls/e-mails each respondent from the prior year to verify their contact information in November of the

reference year. At that time, the NPS-8/8A respondents are asked whether they prefer to respond using the mail-out/mail-back option or using the web-based data collection tool (use of the web-based tool is encouraged). Those opting to respond by mail are asked if they need blank NPS-8 forms to report inmates newly received under sentence of death during the current year and if so, how many forms they need.

At the end of December of the reference year, materials are mailed out to all respondents (for sample introductory letter, See Appendix 2). For NPS-8/8A respondents who requested the mail-out/mail-back option, NPS-8 forms are sent, as needed, in order for respondents to report inmates received under sentence of death from January 1 to December 31 for the current reference year (see Appendix 3). Respondents who reported inmates under sentence of death as of December 31 of the previous collection year are sent an NPS-8A form (Appendix 4) pre-filled with the previously-submitted data for each inmate. Respondents indicating a preference for the web-based data collection tool are mailed one NPS-8 form and a blank NPS-8A form to serve as a reminder of the information we have requested in the previous collection years.

In a separate mailing, all NPS-8/8A respondents are sent a username and password to access the web-based data collection tool and a flyer with instructions for submitting their forms (see Appendices 5 and 6). This flyer is also sent to respondents who requested the mail-out/mail-back option in the event that they decide to try the web-based data collection tool.

Respondents are given a submission date based on the size of the population of inmates under sentence of death in their jurisdiction. Those with larger numbers of inmates under sentence of death are given a later due date to allow sufficient time to review, update, and submit records. Typically, those with smaller population are given a deadline of mid-February. Those with a moderate population of death row inmates are given an extra week (around February 22). Respondents with a large population of inmates under sentence of death are given a deadline of mid-March.

NPS-8B or NPS-8C forms (see Appendices 7 and 8) are sent to a staff in the Attorney General's office of each state either by regular mail or by e-mail, based on the stated preference of each respondent. Each respondent receives an introductory letter which includes a username and password for them to access their forms via the web-based tool (Appendix 9) and a flyer with instructions for submitting their forms (Appendix 10), a form and a return envelope. The NPS-8B/8C respondents are asked to submit their responses by mid-February.

As paper forms are received, (generally mid-January to late April), data are entered in the database and reviewed. For respondents who submit data electronically, Census Bureau staff receive a notification that records have been updated, and these updates are incorporated into the database. Upon reviewing the changes, follow-up phone calls are made to the respondents, as necessary, and the data are corrected as appropriate.

In the summer following the report year, the Census Bureau delivers two data files to BJS: one file contains information about persons under sentence of death at any time during the report year (active file); the other provides information about persons who were previously under sentence of death (historical file).

### *BJS Bulletins*

BJS has typically disseminated an annual report of statistical tables in the fourth quarter of the calendar year. The statistical tables have included in the data release consist of a summary of current state and federal capital statutes as well as a summary the statutory changes which became effective in the reference year. Tables show annual movement of the population of inmates under sentence of death, characteristics of persons under

sentence of death at year-end, and details of persons executed. Also included are summary tables showing death sentences handed down by year of sentence and the outcomes of those sentences. Prior to the release of the statistical tables, BJS sends a letter to respondents to notify them of the expected release date and includes a courtesy copy of all state-specific tables for their review (see Appendices 11 and 12).

Due to resource and staffing constraints, BJS has fallen behind on meeting this release schedule and has produced abbreviated statistical tables in recent years. BJS is working to return to releasing full reports in the fourth quarter of the year following the reference period. While actual publication dates are out of the control of the statistician and program manager of the NPS-8 collection, BJS is committed to moving these reports into the publication queue as quickly as possible.

BJS anticipates producing 2 reports from this collection in 2020 and 2021:

- Capital Punishment, 2018 (draft report to enter BJS publication queue in April 2020)
- Capital Punishment, 2019 (draft report to enter BJS publication queue in late 2020)

BJS has typically archived the NPS-8 data annually at the National Archive of Criminal Justice Data (<https://www.icpsr.umich.edu/icpsrweb/NACJD/series/10>). NACJD has also experienced a drastic reduction in staffing over the past 3 years, so fewer datasets have been processed in a timely manner. The materials for the 2017 public use files are being processed currently by the archives, and the 2018 data will be sent to NACJD for processing at the same time the 2018 report is entered into the BJS publication queue (April, 2020). BJS is working with NACJD to clear the backlog of archival datasets, and hopes that moving forward, submission of the datasets to NACJD at the same time the reports are submitted to BJS's publications queue will result in more timely release of underlying data.

17. Request to Not Display Expiration Date

N/A. There are no exceptions to the certification.

18. Exceptions to Certification

There are no exceptions to the certification.