



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Statistics

Washington, D.C. 20531

MEMORANDUM

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DATE: June 12, 2023

SUBJECT: BJS request to contact state court leaders for frame development and data extracts, under the OMB generic clearance agreement (OMB Number 1121-0339).

Introduction

The Bureau of Justice Statistics (BJS) is conducting a feasibility test to restart and expand the Civil Justice Survey of State Courts (CJSSC) and to assess the ability of courts to provide electronic data extracts for civil cases. Last collected in 2005 under OMB Control Number 1121-0300, the CJSSC examined data on the adjudication of tort, contract, and real property cases by trial in state courts of general jurisdiction. The CJSSC was fielded in 1992, 1996, 2001, and 2005. Unlike BJS's data collection efforts in the criminal justice area, this data collection series covered civil disputes involving personal injury claims and contractual cases between private individuals or organizations.

Summary of the Current Request

BJS requests clearance under its generic clearance agreement (OMB Control Number 1121-0339) to (1) contact court leaders in 23 counties in 20 states and the state court leaders of New

Hampshire and Michigan to determine the availability, quality, and coverage of selected civil cases (e.g., if these cases can be determined by a case type indicator or whether all civil cases are coded as “general civil,” what case elements are available in each case type, and, in two-tiered systems, how the selected civil case types are divided between the courts); (2) determine if the court has documentation about their electronic data, and whether other court staff will need to be interviewed about court data structure and availability; and (3) collect and assess data from 20 of those jurisdictions. Multiple contacts may be required in each jurisdiction. BJS is also requesting permission to follow-up with court leaders if needed about information collected in the interviews or subsequent documentation provided. This contact is dependent on the interviews and the data codebooks or descriptions of extracts provided by the interview subjects.

Background

The information collected by the CJSSC included the types of plaintiffs and defendants involved in these cases (i.e., individuals or businesses), jury and bench trial winners, the amount of compensatory and punitive damages awarded, case processing time, and post-trial activity (through the Civil Justice Survey of State Courts Trials on Appeal study conducted in 2005 (OMB Control Number 1121-0326)). These data have been used to produce various BJS reports on civil trial litigation. The most recent BJS civil reports are Civil Bench and Jury Trials in State Courts, 2005 and Appeals of Civil Trials Concluded in 2005 and are available at <https://bjs.ojp.gov/data-collection/civil-justice-survey-state-courts-cjssc>.

BJS was able to describe the scope of civil trial litigation for certain case types due to the CJSSC. The concentrated focus on trial dispositions, however, overlooks the fact that civil trials are rare events when compared to other types of dispositions, including settlements, default judgments, dismissals, and cases that are withdrawn by one or both litigants. The 1992 CJSSC collected information about all types of case outcomes for tort cases and found that only 2.9% of all torts filed in 1992 were resolved by a trial while 73.4% were resolved by settlement (see Table 2 in <https://bjs.ojp.gov/content/pub/pdf/TCILC.PDF>). In 1996, however, BJS revised the CJSSC to examine only trial outcomes.¹ The 1992 collection remains the only BJS collection that published non-trial resolution data for civil cases.

The CJSSC used a similar sampling strategy to the State Court Processing Statistics (SCPS) series, which included a sample of state courts in 40 of the largest 75 US counties. In 2009, BJS paused the SCPS data collection to examine various ways to expand the representativeness of the sample while minimizing the cost of data collection. The CJSSC was also paused as a result.

In 2018, BJS restarted its criminal courts data collections with the Criminal Cases in State Courts project (OMB Control Number 1121-0371) followed in 2020 by the National Pretrial Reporting Program (OMB Control Number 1121-0375). With the early successes in the two criminal courts data collections, BJS began reconsidering the CJSSC. Before BJS invests in a full data

¹ There is no documentation regarding this change to the data collection in any of the existing codebooks.

collection, BJS needs to evaluate the feasibility of expanding the CJSSC data collection and to assess the ability of civil courts to provide electronic data extracts like the CCSC and NPRP projects.

BJS's authorizing statute allows for the collection of data about the civil justice system, with the limitation that such civil matters impact criminal justice matters directly or are intertwined.² At the time, BJS determined that in addition to tort, contract, and real property cases, several other civil case types are directly intertwined with the criminal justice system. First, domestic violence protection orders are civil court orders. Violations of civil protection orders can be handled in civil courts using a contempt of a court or by the prosecutor filing criminal charges. Second, child support enforcement matters also have civil and criminal consequences. Failure to pay child support can result in driver's license suspension or revocation. If the person continues driving after license suspension, the person may be charged by the state in traffic court. Further, judges can order incarceration for failure to pay child support. All 50 states have provisions for prosecutors to file criminal charges for failure to pay child support.³ Third, all 50 states and the District of Columbia allow for involuntary civil commitments if a person is found to be a danger to themselves or others, often resulting from threats of harm to themselves or others. These commitments can be short or long term, and, by definition, are involuntary holds at hospitals or other public institutions.

Under a cooperative agreement with Abt Associates, BJS convened an expert panel to discuss the feasibility of restarting the CJSSC, whether state court data systems could provide case-level data like the CCSC and NPRP collections, the data elements that should be collected, other civil case types that may qualify for data collection under BJS's statutes, and the needs of the field regarding the types of civil cases that are currently most common in state courts.

Experts advised that in addition to child support enforcement, involuntary civil commitments, and domestic violence protection orders, BJS should consider collecting data on other civil protective orders, guardianships of vulnerable persons, debt collection, landlord-tenant disputes, and evictions.⁴ The experts also recommended that BJS collect all manners of disposition of these cases, and to consider following the cases for one full year after the conclusion of the case to determine if post-judgment actions were filed by either the plaintiff or defendant. These post-judgment actions could include enforcements of judgements in debt collection cases, contempt of court orders for failure to comply, and appeals, if the decision came by jury or bench trial.

Request to Conduct Data Availability Interviews

² See 34 U.S. C. 34 §10132 Bureau of Justice Statistics and U.S.C. §10237. Limitation on civil justice matters

³ See Child Support and Incarceration, available at <https://www.ncsl.org/human-services/child-support-and-incarceration>

⁴ The previous iterations of the CJSSC included seller-plaintiff disputes, which included the sub-category of debt collections, and landlord-tenant disputes as sub-categories of the contract case type. The experts present would prefer BJS to report these case types separately from other contract disputes.

BJS seeks OMB approval to contact court leaders in up to 23 counties and 2 states (New Hampshire and Michigan) to conduct data availability interviews with those leaders or with subject-matter experts identified by the court (See Table 1 for the proposed list of states and counties). The 23 counties are from 20 different states. Twenty-two of the 25 jurisdictions have two-tiered trial court systems (e.g., limited jurisdiction and general jurisdiction courts), consequently, these jurisdictions require interviews with the limited and general jurisdiction court leaders. The detailed interviews will identify which courts hear the different civil cases of interest in each jurisdiction (e.g., tort, real property, contract, domestic violence and other civil protective orders, child support enforcement, guardianships, debt collection, involuntary civil commitments, landlord-tenant disputes, and evictions), identify what data are collected, determine the ease of accessing and extracting the information, and discuss the characteristics of the data, including data structure and data quality. State and county court leaders can respond to the interview themselves or refer the interviewer to a court data expert, or include both persons on the interview (See **Attachment A** for the site outreach and **Attachment B** for the proposed interview script for state and county court leaders). The interview will also ask the court leaders or referred data experts to provide codebooks or descriptions of any existing data extract(s).

Table 1. Proposed list of state and counties for the CJSSC feasibility test

| County | State | Two-tier Court System | Population Ranking Tier 1 – largest 75 counties by population Tier 2 – county rank 76-150 by population Tier 3 – county rank 151-200 by population |
|---------------------|---------------|-----------------------|---|
| | Michigan | Yes | |
| | New Hampshire | Yes | |
| Harris County | Texas | Yes | Tier 1 |
| Bexar County | Texas | Yes | Tier 1 |
| Alameda County | California | No | Tier 1 |
| New York County | New York | Yes | Tier 1 |
| Sacramento County | California | No | Tier 1 |
| Hillsborough County | Florida | Yes | Tier 1 |
| Cuyahoga County | Ohio | Yes | Tier 1 |
| Allegheny County | Pennsylvania | Yes | Tier 1 |
| Pima County | Arizona | Yes | Tier 1 |
| Pierce County | Washington | Yes | Tier 1 |
| DuPage County | Illinois | No | Tier 1 |
| Milwaukee County | Wisconsin | Yes | Tier 1 |
| Multnomah County | Oregon | Yes | Tier 2 |
| Jefferson County | Kentucky | Yes | Tier 2 |

| | | | |
|--|---------------|-----|--------|
| Suffolk County | Massachusetts | Yes | Tier 2 |
| DeKalb County | Georgia | Yes | Tier 2 |
| Denver County | Colorado | Yes | Tier 2 |
| Davidson County | Tennessee | Yes | Tier 2 |
| Hudson County | New Jersey | Yes | Tier 2 |
| Providence County | Rhode Island | Yes | Tier 2 |
| Virginia Beach City | Virginia | Yes | Tier 3 |
| East Baton Rouge Parish | Louisiana | Yes | Tier 3 |
| Bell County | Texas | Yes | Tier 3 |
| Note: County population size as of July 1, 2022 from Census Annual Estimates of the Resident Population for Counties, April 1, 2020 to July 1, 2020. | | | |

If the court leader or data expert identifies another person to join in the conversation, staff of Abt Associates, who are conducting the interviews on behalf of BJS, will attempt to schedule a telephone interview with all interested parties at one time. Because we do not know how often this will occur, BJS is budgeting time for separate interviews with two persons at this stage of contact.

In addition, BJS is budgeting time for at least two follow-up contacts in each jurisdiction to address questions that may arise after the telephone interviews are completed. For example, if a jurisdiction provides data codebooks or descriptions of existing data extracts, questions may arise about the codebook or extract that would require a follow-up call with the data expert. Such additional contacts may not be necessary for all jurisdictions; however, they cannot be scripted ahead of time as they are dependent upon information provided in the initial contact.

Both Michigan and New Hampshire’s state court leaders use their own civil data to make business decisions and were willing to participate in the project and were chosen purposively. For the CJSSC feasibility project, BJS divided the largest 200 US counties by population size in 2022 into 3 tiers. Tier 1 includes the largest 75 counties, Tier 2 includes the next 75 largest counties (76-150), and Tier 3 includes counties sized 151-200. BJS drew 12 counties from Tier 1, 8 counties from Tier 2, and 4 counties from Tier 3.

If initial contact is unsuccessful with a given county, BJS will replace it with another county not initially sampled. The goal is to conduct interviews in 2 states and 23 counties, and from the information collected, identify up to 20 sites from which data may be efficiently requested.

BJS estimates an initial contact with a court leader (or leaders in two-tiered systems), a potential second contact with a court data expert, and up to two follow-up contacts in each jurisdiction. Twenty-two of the 25 jurisdictions have two-tiered court systems so two sets of interviews will be needed, one for the general jurisdiction and one for the limited jurisdiction court. Two of the counties with two-tiered court systems are in a state with centralized reporting, so the counties do

not need to be interviewed separately. BJS expects at least two sets of interviews in 20 of the 22 jurisdictions.

Request to Secure Data Extracts

After the interviews, BJS estimates that there will be at least 10 and up to 20 data requests made from the 23 counties and 2 states. BJS assumes that a majority of the 20 data requests will be made to two-tiered systems, which may involve separate requests from limited- and general-jurisdiction courts. For each of the 20 jurisdictions from which data are requested, an average of 20 hours per court will be needed to complete the following tasks: initiate contact, complete any memoranda of understanding or data use agreements, compile and transfer the data, and answer any follow-up questions about the data (See **Attachment C** for a list of data elements BJS will seek from each jurisdiction).

BJS will accept the data extract in any format. BJS will not provide a structure to the extract unless requested by the site. BJS does not want to place additional burden on the site by asking their data team to format the extract. Similar to other data projects, Abt Associates will set up a secure file transfer protocol (SFTP), with each site being given distinct login information. Abt Associates will retrieve the data from the SFTP and store it on a secure network available only to the CJSSC team members and then delete the data from the SFTP. Abt Associates will follow BJS data protection guidelines as required under 34 USC § 10134 (section 304 of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. No. 90-351), as amended).

Burden Hours and Cost to the Federal Government

The estimated cost to the federal government for this feasibility test is \$347,303. This cost includes the time for the contractor and the BJS project manager to develop the interview materials, conduct the interview, receive data documentation and data from the requested sites, process the data, and provide an assessment of the feasibility of conducting a fully expanded CJSSC.

Respondent Burden

The burden-hour estimates for the respondents are provided in Table 1. The project team expects the initial contact, including attempts to arrange the interview, will take up to 10 minutes for a court leader to answer the questions. The second contact (either a substantive interview with the court leader or with an identified data expert) will require up to a 60-minute telephone interview. In two-tiered data systems, there may be a second 60-minute telephone interview with the limited jurisdiction court in the county. BJS does not expect a second interview in the two two-tiered states since all courts should report the data to the centralized state location. The additional follow-up is estimated at 30 minutes. The average time for up to 40 courts providing data is 20 hours for all necessary agreements, data compilation, transfer, and for BJS to follow-up with any questions about the data. The total number of respondents for this request are the 25 court

leaders, up to 25 data experts, up to 20 limited jurisdiction court leaders and up to 20 additional data experts, for a total of up to 90 unique individuals. The total burden time for all contacts under this request is 900 hours.

Table 1. Burden-Hour Estimates for Respondents

| Task # | Task Description | Number of respondents | Estimated burden (in minutes) | Total burden (in hours) |
|--------|--|------------------------------|-------------------------------|-------------------------|
| 1 | Initial contact with court leader regarding data access and scheduling the interview | 25 | 10 | 5 |
| 2 | Phone interview with court leader and/or data expert (up to 2) | 50 (25x2) | 60 | 50 |
| 3 | Phone interview with limited jurisdiction court leader and/or data expert | Up to 20 counties/40 persons | 60 | 20 |
| 4 | Additional follow-up to clarify any access or data questions (up to 2) | 50 (25x2) | 30 | 25 |
| 5 | Request data, complete paperwork, transfer data, and ask follow-up questions about the data (potentially 2 contacts in two-tier court systems) | 40(20x2) | 1,200 | 800 |
| | Total burden | Up to 90 unique individuals | | 900 hours |

Institutional Review Board

Abt Associates’ Institutional Review Board (IRB) determined the pilot testing protocol to be compliant with informed consent and data confidentiality standards (**Attachment D**).

Contact Information

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

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Attachments

Attachment A: Site outreach
Attachment B: State and county court data expert interview script
Attachment C: Data elements requested
Attachment D: Abt IRB review