

**DEPARTMENT OF JUSTICE****[AAG/A Order No. 199-2000]****Privacy Act of 1974; System of Records**

The Department of Justice (DOJ), Justice Management Division (JMD), proposes to modify the Employee Assistance Program (EAP) Treatment and Referral Records, Justice/JMD-16. The primary purpose for establishing the system of records was to permit the standard medical practice of retaining and recording the mental health history of EAP clients, the rationale for the counseling and referral provided by the EAP counselor and to record the number of contacts made over time. The Department now proposes to modify the routine uses of records maintained in the system to reflect changes in program personnel, policy and procedures. The existing routine use allowing for disclosures to state or local authorities to report, where required under State law, incidents of child abuse or neglect, has been revised to include incidents of elder or domestic abuse or neglect. In addition, to reflect the fact that the Department refers EAP clients to contract counselors, the Notice adds a routine use allowing for the disclosure of records to such contractors. The Notice also adds a routine use permitting disclosures to any person who is responsible for the care of an EAP client when the EAP client to whom the records pertain is mentally incompetent or under legal disability. Finally, the Notice adds a routine use allowing for disclosures to any person or entity to the extent necessary to meet a bona fide medical emergency. When this last routine use was suggested when the Department published its original EAP System of Records notice, it was eliminated based on the argument that exemption (b)(8), 5 U.S.C. sec. 552a(b)(8), to the Privacy Act, already provided authority to make such disclosures. Recognizing that there is ambiguity in exemption (b)(8) as to whether records about an individual may be disclosed to a third person, we have added this routine use to clearly allow for such disclosures in medical emergencies.

In addition, the Department is revising the System Location and System Manager and Address sections to reflect personnel changes, and updating the "Storage" and "Retention" sections to reflect a partial automation of the system.

Title 5 U.S.C. sec. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on the proposed modifications. The Office of

Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to review the proposed modifications. Therefore, please submit any comments by 40 days from publication of this notice. The public, OMB and the Congress are invited to submit written comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530, (202) 307-1823.

As required by 5 U.S.C. sec. 552a(r), the Department of Justice has provided a report on the proposed changes to OMB and the Congress.

A modified system description is set forth below.

Dated: June 1, 2000.

**Stephen R. Colgate,**

*Assistant Attorney General for Administration.*

**JUSTICE/JMD-016****SYSTEM NAME:**

Employee Assistance Program (EAP) Counseling and Referral Records, Justice/JMD-016.

**SYSTEM LOCATION:**

Records are maintained by the JMD EAP staff. Interested parties wishing to correspond regarding records should direct their inquiries to the EAP System Manager, DOJ EAP and Worklife Group Assistant Director, Justice Management Division, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC, 20530, or call (202) 514-1846.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former employees of the Offices, Boards, Divisions and occasionally Bureaus of the Department (as listed at 28 CFR 0.1), including the Office of the Inspector General, the Executive Office of the U.S. Trustees, the Executive Office for Immigration Review and the Office of Justice Programs, who have sought counseling or have been referred for counseling or treatment through the EAP. To the limited degree that counseling and referral may be provided to family members of these employees, these individuals are covered by the EAP System. The remainder of this notice will refer to all persons covered by the System as "EAP client(s)." Categories of records in the system:

Records include any record, written or electronic, which may assist in diagnosing, evaluating, counseling and/or treating an EAP client, or resolving an EAP client's complaint or management's concerns (management consultation)

regarding the EAP client's performance, attendance, or conduct problems. Included are the EAP counselor's intake/termination and outcome documents; case notes; pertinent psychosocial, medical and employment histories; medical tests or screenings, including drug and alcohol tests and information on positive drug tests generated by the staff of the Drug Free Workplace Program or treatment facilities from which the EAP client may be receiving treatment; treatment and rehabilitation plans; behavioral improvement plans; and records of referrals. Referrals include those to community treatment resources and social service agencies that provide legal, financial or other assistance not related to mental health or general medical services. Where clinical referrals have been made, records may include relevant information related to counseling, diagnosis, prognosis, treatment and evaluation, together with follow-up data that may be generated by the community program providing the relevant services. Other records included in the system are the written consent forms used to permit the disclosure of information outside the EAP. Records may also include account information, such as contractor billings and government payments, when EAP services are provided by an EAP contractor.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

42 U.S.C. sec. 290dd-2; 42 CFR part 2; 5 U.S.C. 3301, 7361, 7362, 7901 and 7904; 44 U.S.C. 3101; Executive Order 12564; and Pub. L. 100-71, 101 Stat. 391, sec. 503 (July 11, 1987).

**PURPOSE:**

Records are maintained to document the work performed by the EAP on behalf of the EAP client and to allow for the tracking of the EAP client's progress and participation in the EAP or community programs. These records may also be used to track compliance with Abeyance or Last Change Agreements that include treatment options, in which the EAP is an integral part of establishing and/or monitoring treatment compliance as directed by the EAP client. Routine uses of records maintained in the system, including categories of users and purposes of such uses:

In addition to those disclosures permitted by the Privacy Act itself, 5 U.S.C. sec. 552a(b), relevant information may be disclosed from this system of

records without EAP client consent as follows:<sup>1</sup>

1. To appropriate State or local authorities to report, where required under State law, incidents of suspected child, elder or domestic abuse or neglect.

2. To any person or entity to the extent necessary to prevent an imminent crime which directly threatens loss of life or serious bodily injury.

3. To JMD contractors that provide counseling and other services through referrals from the EAP staff to the extent that it is appropriate, relevant, and necessary to enable the contractor to perform his or her counseling, treatment, rehabilitation, and evaluation responsibilities.

4. To any person who is responsible for the care of an EAP client when the EAP client to whom the records pertain is mentally incompetent or under legal disability.

5. To any person or entity to the extent necessary to meet a bona fide medical emergency.

**POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information in this system is maintained on paper and computer discs which are stored in locked GSA-approved security containers.

**RETRIEVABILITY:**

Records are indexed and retrieved by identifying number or symbol, cross-indexed to EAP client names.

**SAFEGUARDS:**

Paper records and computer discs are kept in locked GSA-approved security containers, and the computer discs are password protected. Only EAP staff will have access to the records. Records may be reviewed by any EAP staff member as may be needed to provide EAP services. No record may be released by the DOJ EAP staff without prior approval of the DOJ EAP System Manager.

**RETENTION AND DISPOSAL:**

Records are retained for three years after the EAP client ceases contact with the counselor (in accordance with General Records Schedule No. 1, Item No. 26) unless a longer retention period is necessary because of administrative or judicial proceedings. In such cases, the records are retained for six months after the conclusion of the proceedings. Paper records are destroyed by shredding, which must be performed by an EAP staff member. Computer discs are erased, degaussed or physically destroyed by an EAP staff member.

**SYSTEM MANAGER AND ADDRESS:**

DOJ EAP and Worklife Group  
Assistant Director, Justice Management  
Division, U.S. Department of Justice 950  
Pennsylvania Ave. NW, Washington, DC  
20530, (202) 514-1846.

**NOTIFICATION PROCEDURE:**

Some as Record Access Procedures.

**RECORD ACCESS PROCEDURES:**

Make all requests for access in writing to the EAP System Manager identified above. Clearly mark the envelope and letter "Freedom of Information Act/Privacy Act Request." Provide the full name and notarized signature of the individual who is the subject of the record, the dates during which the individual was in counseling, any other information which may assist in identifying and locating the record, and a return address.

**CONTESTING RECORD PROCEDURES:**

Director all requests to contest or amend information to the EAP System Manager identified above. The request should follow the Record Access Procedures, listed above, and should state clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope and letter "Freedom of Information Act/Privacy Act Request."

**RECORD SOURCE CATEGORIES:**

Records are generated by EAP personnel, referral counseling and treatment programs or individuals, the EAP client who is the subject of the record, the personnel office and the EAP client's supervisor. In the case of drug abuse counseling, records may also be generated by the staff of the Drug-Free Workplace Program and the Medical Review Officer.

**EXEMPTIONS CLAIMED FOR THIS SYSTEM:**

None.

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**DEPARTMENT OF JUSTICE**

**Immigration and Naturalization Service**

**[INS No. 2065R-00]**

**RIN 1115-AE26**

**Extension of Re-registration Period and Work Authorization for Hondurans Under Temporary Protected Status Program**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice.

**SUMMARY:** This notice extends the re-registration period until July 5, 2000 for those eligible nationals of Honduras (or aliens having no nationality who last habitually resided in Honduras) who may re-register for Temporary Protected Status (TPS) and apply for a new period of employment authorization. On May 11, 2000, through a notice in the **Federal Register** at 65 FR 30438, the Attorney General extended the TPS designation of Honduras for an additional 12-month period, until July 5, 2001. The May 11, 2000 **Federal Register** notice also set the end of the filing period for re-registration at June 12, 2000, which is now being changed to July 5, 2000.

In addition to extending the re-registration period, this notice extends until December 5, 2000 the validity of Employment Authorization Documents (EADs) that were issued to Honduran nationals (or aliens having no nationality who last habitually resided in Honduras) under the initial TPS designation and that are set to expire on July 5, 2000. To be eligible for this automatic extension of employment authorization, an individual must be a national of Honduras (or an alien having no nationality who last habitually resided in Honduras) who previously applied for and received an EAD under the initial January 5, 1999 designation of Honduras for TPS. This automatic extension is limited to EADs bearing an expiration date of July 5, 2000 and the notation:

- "A-12" or "C-19" on the face of the card under "Category" for EADs issued on Form I-766; or,
- "274A.12(A)(12)" or "274A.12(C)(19)" on the face of the card under "Provision of Law" for EADs issued on Form I-688B.

**EFFECTIVE DATES:** The extension of the TPS designation for Honduras is effective July 6, 2000, and will remain in effect until July 5, 2001. The re-registration period began May 11, 2000 and will remain in effect until July 5, 2000. All EADs that were issued to

<sup>1</sup> To the extent that the release of alcohol and drug abuse records is more restricted than other records subject to the Privacy Act, DOJ will follow such restrictions. See 42 U.S.C. 290dd-2; 42 CFR part 2.