

THE PRIVACY ACT OF 1974

5 U.S.C. ' 552a

As Amended

' 552a. Records maintained on individuals

(a) Definitions

For purposes of this section--

- (1) the term "**agency**" means agency as defined in section 552(f) of this title;
- (2) the term "**individual**" means a citizen of the United States or an alien lawfully admitted for permanent residence;
- (3) the term "**maintain**" includes maintain, collect, use or disseminate;
- (4) the term "**record**" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;
- (5) the term "**system of records**" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;
- (6) the term "**statistical record**" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13;
- (7) the term "**routine use**" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;
- (8) the term "**matching program**"--
 - (A) means any computerized comparison of--
 - (i) two or more automated systems of records or a system of records with non-Federal records for the purpose of--
 - (I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or
 - (II) recouping payments or delinquent debts under such Federal benefit programs, or
 - (ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

(B) but does not include--

(i) matches performed to produce aggregate statistical data without any personal identifiers;

(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

(v) matches--

(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel; or

(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986;

(9) the term "**recipient agency**" means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10) the term "**non-Federal agency**" means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11) the term "**source agency**" means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a

matching program;

(12) the term "**Federal benefit program**" means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13) the term "**Federal personnel**" means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) Conditions of disclosure

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be--

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711(e) of Title 31.

(c) Accounting of Certain Disclosures

Each agency, with respect to each system of records under its control, shall--

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of--

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to records

Each agency that maintains a system of records shall--

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and--

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either--

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer

designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency requirements

Each agency that maintains a system of records shall--

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by Executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual--

(A) the authority (whether granted by statute, or by Executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include--

- (A)** the name and location of the system;
 - (B)** the categories of individuals on whom records are maintained in the system;
 - (C)** the categories of records maintained in the system;
 - (D)** each routine use of the records contained in the system, including the categories of users and the purpose of such use;
 - (E)** the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;
 - (F)** the title and business address of the agency official who is responsible for the system of records;
 - (G)** the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;
 - (H)** the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and
 - (I)** the categories of sources of records in the system;
- (5)** maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;
- (6)** prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;
- (7)** maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;
- (8)** make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;
- (9)** establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;
- (10)** establish appropriate administrative, technical and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;
- (11)** at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested

persons to submit written data, views, or arguments to the agency; and

(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) Agency rules

In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall--

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g) (1) Civil remedies

Whenever any agency

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule

promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of--

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of \$1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of legal guardians

For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i) (1) Criminal penalties

Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

(j) General exemptions

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is--

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific exemptions

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is--

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would

otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(1) Archival records

(1) Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of Title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be

published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m) Government contractors

(1) When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under section 3711(e) of Title 31 shall not be considered a contractor for the purposes of this section.

(n) Mailing lists

An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Matching agreements-- (1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying--

(A) the purpose and legal authority for conducting the program;

(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to--

(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) applicants for and holders of positions as Federal personnel, that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E) procedures for verifying information produced in such matching program as required by subsection (p);

(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall--

(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii) be available upon request to the public.

(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if--

(i) such program will be conducted without any change; and

(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) Verification and Opportunity to Contest Findings

(1) In order to protect any individual whose records are used in a matching

program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until--

(A)(i) the agency has independently verified the information; or

(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that--

(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of--

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) Sanctions

(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

(2) No source agency may renew a matching agreement unless--

(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B) the source agency has no reason to believe that the certification is inaccurate.

(r) Report on new systems and matching programs

Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) Biennial report

The President shall biennially submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report--

(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding two years;

(2) describing the exercise of individual rights of access and amendment under this section during such years;

(3) identifying changes in or additions to systems of records;

(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(t) Effect of other laws

(1) No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.

(u) Data Integrity Boards

(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3) Each Data Integrity Board--

(A) shall review, approve, and maintain all written agreements for receipt

or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including--

(i) matching programs in which the agency has participated as a source agency or recipient agency;

(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

(iii) any changes in membership or structure of the Board in the preceding year;

(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H) may review and report on any agency matching activities that are not matching programs.

(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines

prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that--

- (i)** the matching program will be consistent with all applicable legal, regulatory, and policy requirements;
- (ii)** there is adequate evidence that the matching agreement will be cost-effective; and
- (iii)** the matching program is in the public interest.

(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) Office of Management and Budget Responsibilities

The Director of the Office of Management and Budget shall--

- (1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of

this section; and

(2) provide continuing assistance to and oversight of the implementation of this section by agencies.

The following section was originally part of the Privacy Act but was not codified; it may be found at ' 552a (note).

Sec. 7 (a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to--

(A) any disclosure which is required by Federal statute, or

(B) any disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

The following sections were originally part of P.L. 100-503, the Computer Matching and Privacy Protection Act of 1988; they may be found at ' 552a (note).

Sec. 6 Functions of the Director of the Office of Management and Budget.

(b) Implementation Guidance for Amendments-- The Director shall, pursuant to section 552a(v) of Title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

Sec. 9 Rules of Construction.

Nothing in the amendments made by this Act shall be construed to authorize--

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

Sec. 10 Effective Dates.

(a) In General-- Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) Exceptions-- The amendment made by sections 3(b) [Notice of Matching Programs - Report to Congress and the Office of Management and Budget], 6 [Functions of the Director of the Office of Management and Budget], 7 [Compilation of Rules and Notices] and 8

[Annual Report] of this Act shall take effect upon enactment.

Go to: [FOIA Home Page </04foia/>](#)//[Justice Department Home Page </>](#)

Updated page November 2, 1999 usdoj/oip/pam

Have you been involved with (Insert Program Name) for at least 14 days?

If yes, we are looking for individuals to participate in a 1 hour group discussion about your experience with _____(Pgm Name TBD by PGM staff).

**To sign up go to room ## or see
(Insert name of staff member)**

A **\$20 Gift Card** will be provided in appreciation of your time and for participation in the group discussion.

Client Focus Group Sign Up Roster

(To be completed by Grantee staff member designated to assist with focus group recruitment)

	Participant Initials	Date of birth	Race	Gender	Serostatus	Time in treatment (in weeks)	Type of treatment (inpatient or outpatient)	Number of times in treatment	Prison/ Jail reentry (yes/no)	How did client come to participate in focus group *
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										

- *1. Individually approached by staff member
- 2. Saw flyer and signed up
- 3. Heard about focus group from another client
- 4. Heard announcement in a group session or other setting

Consent Form for Participation in the Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services (TCE-HIV) Multi-site Evaluation

CLIENT FOCUS GROUP

A. BACKGROUND AND PURPOSE

JBS International, the Alliance for Quality Education, Battelle Memorial Institute, and the Oregon Health & Science University (JBS team) have a contract with the Substance Abuse Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) to conduct a multi-site study of the TCE-HIV program. The JBS Team is not part of CSAT or any other federal agency.

The purpose of this study is to learn more about the effect of substance abuse treatment programs supported by TCE-HIV funding. The goal of the study is to improve care for racial and ethnic minorities at risk for HIV/AIDS. Information from your participation will help the JBS team understand how programs can better reduce substance abuse and HIV risk behaviors. You are being asked to participate in this study because you are a client who receives services from a TCE-HIV program.

B. PROCEDURES

If you agree to participate, the following will occur:

- You will take part in a focus group discussion. The focus group will be about your experiences and opinions about this program.
- The discussion will include questions about drug use and sexual activity.
- The group discussion will take place at a time and location convenient to you.
- You will complete a form providing background information (e.g., your age, gender).
- Total time commitment will be approximately 60 minutes.
- The discussion will be audio taped to ensure accuracy in reporting your statements. No names or identities will be used in any published reports.

All information you provide is anonymous. Input you provide during the discussion will be combined with information from other focus groups from across the United States. The combined information will be analyzed. Only combined results will be presented in reports.

C. RISKS

There is a small risk of loss of privacy. However, extra measures will be taken to protect each participant's privacy. No names or identifiers will be used in any study reports. Also, the JBS team member leading the discussion will begin by asking the participants to agree to the importance of keeping information discussed in the focus group private. Only the JBS team will have access to information from the discussion. There is a risk that you may feel uncomfortable with some of the questions asked. However, you can answer only the questions you choose to answer.

Notice to Respondents

Public reporting time for this collection is estimated to average 60 minutes, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to SAMHSA OMB Officer, 1 Choke Cherry Road Room 7-1044, Rockville, MD 20850. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is XXXX-XXXX.

D. PRIVACY

The privacy of the information we collect about you will be very carefully protected. The evaluation staff is trained on handling sensitive data and the importance of privacy. All of the data will be kept in locked files at JBS International, and only the official project staff will have access to these files. At the end of the project all data will be given to CSAT. The data that is given to CSAT will not include names or participant identification. We have received a Certificate of Confidentiality (CC) issued by Substance Abuse and Mental Health Services Administration (SAMHSA), which is designed to protect identifiable research information from forced or compelled exposure. The Certificate of Confidentiality protects the investigators from being forced, even under a court order or subpoena, to release information that could identify you. However, we may release identifying information in some circumstances. For example, we may disclose medical information in cases of medical necessity, or take steps (including notifying authorities) to protect you or someone else from serious harm, including child abuse/neglect. DHHS may see your information if it audits us. This CC does not imply DHHS approval or disapproval of this evaluation.

E. BENEFITS

There is no direct benefit to you for participating in this research project. However, the information you share may benefit your TCE-HIV program and similar programs targeting persons similar to you.

F. COMPENSATION

At the end of the focus group discussion, you will be given a \$20 gift card for your participation.

G. RIGHT TO REFUSE OR WITHDRAW

Your participation in this focus group is completely voluntary. You may leave the focus group at any time. You will not receive the \$20 if you leave before the session ends.

H. PERSONS TO CONTACT

If you have any questions about this study, please contact Dr. Resa Matthew at JBS International.

Resa Matthew, Ph.D.
JBS International
5515 Security Lane, Suite 800
Bethesda, MD 20852
(301) 495-1080
rmatthew@jbsinternational.com

If you have any concerns about your rights in this study or questions about injuries related to the research project, please contact Dr. Amanda Gmyrek of the JBS International Institutional Review Board.

Amanda Gmyrek, Ph.D.
JBS International
5515 Security Lane, Suite 800
Bethesda, MD 20852
(301) 495-1080
agmyrek@jbsinternational.com

YOUR CONSENT

You have read this consent form. You have been given a chance to ask questions, and feel that all of your questions have been answered. You know that you are free to participate in the focus group or not. You know that after choosing to participate in the focus group, you may drop out at any time. You are signing below because you agree to participate in this focus group. You give permission for your responses to be audio-recorded.

Attachment 2b: Document 4 - Client Consent Form

Participant Name (Print)

Date

Participant Signature

I acknowledge that I witnessed the participant sign this consent form.

Witness' Name (Print)

Date

Witness' Signature

Researcher Signature

Date

JBS International, Inc. Institutional Review Board

5515 Security Lane, Suite 800

North Bethesda, MD 20852

301-495-1080

May 28, 2010

To: Resa Matthew, Ph.D.
Principal Investigator
JBS International, Inc.

From: Lisa Kretz, Ph.D.
IRB Member and Designee of the Chair
JBS International, Inc.

Amanda Gmyrek, Ph.D.
IRB Chair
JBS International, Inc.

Re: JBS IRB #RM10-001
Approved by Expedited Review
Approval Period from May 28, 2010 through May 27, 2011

Dear Dr. Matthew:

Your protocol entitled *Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS (TCE-HIV) Services Multi-Site Evaluation* (JBS IRB # RM10-001) has been **approved by expedited review** by the Institutional Review Board. This study fulfills the criteria for expedited review under 45 CFR 46.110, category # 7.

The initial period of approval is **05/28/2010** through **05/27/2011**. Approval of this protocol will terminate on the above date unless a progress report and renewal request is submitted, ***in writing***, to the IRB. Your continuation request should be submitted to the IRB by **04/29/2011**.

The IRB Chair will send you an email reminder prior to the end of the protocol; however, it is your responsibility to assure that project activities are not conducted past the approval termination date. The continuation request must be submitted to the IRB via expedited review. **If you are not planning to collect data from human participants and have completed basic data analyses (and risk to subjects does not change) a renewal request is not necessary.** A closure report is required.

As the Principal Investigator, you have the ultimate responsibility for the conduct of the study, the ethical performance of the project, the protection of the rights and welfare of human subjects, and strict adherence to any stipulations imposed by the IRB. You must abide by the following principles when conducting your research:

1. Perform the project by qualified personnel according to the approved protocol.
2. Do not implement changes in the approved protocol or consent form without prior IRB approval (except in a life-threatening emergency, if necessary to safeguard the well-being of human subjects). This includes changes to the research design or procedures that could introduce new or increased risks to human subjects and thereby change the nature of the research.
3. Promptly report any adverse reactions or unanticipated reactions within five working days of occurrence. All fatal or life threatening events or events requiring hospitalization must be reported to the IRB ***in writing*** within 48 hours after discovery.

The investigator(s) identified above are required to retain an IRB protocol file, including a record of IRB-related activity, data summaries and consent forms. This file is to be made available for review for internal procedural (audit) monitoring.

If you have any questions, please contact me at 240-645-4385 or lkretz@jbsinternational.com.

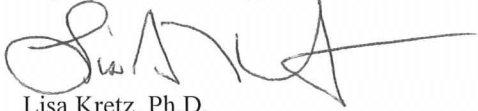
JBS International, Inc. Institutional Review Board

5515 Security Lane, Suite 800

North Bethesda, MD 20852

301-495-1080

Expedited Review Approved By:

A handwritten signature in black ink, appearing to read 'Lisa Kretz', with a long horizontal flourish extending to the right.

Lisa Kretz, Ph.D.

JBS IRB Member and Designee of the Chair

A handwritten signature in black ink, appearing to read 'Amanda Gmyrek', with a long horizontal flourish extending to the right.

Amanda Gmyrek, Ph.D.

IRB Chair



DEPARTMENT OF HEALTH & HUMAN SERVICES

Substance Abuse and Mental
Health Services Administration

Center for Mental Health Services
Center for Substance Abuse
Prevention
Center for Substance Abuse
Treatment
Rockville MD 20857

AUG 25 2010

Resa Matthew, Ph.D.
Project Director
JBS International, Inc.
5515 Security Lane, Suite 800
Rockville, MD 20852

Dear Dr. Matthew:

It is a pleasure to convey your Confidentiality Certificate to you. Note your expiration information on the last page of the Certificate. Please also note that SAMHSA policy prohibits use of SAMHSA Confidentiality Certificates to avoid child abuse reporting. If you revise the consent forms or protocol for your study so they differ from those in your application for this Certificate but you want to continue the protection of the Certificate, please contact me before you use the changed consent forms or protocol. My telephone number is (240) 276-2315 and my e-mail address is peggy.riccio@samhsa.hhs.gov.

Sincerely yours,

A handwritten signature in cursive script that reads "Peggy Riccio".

Peggy Riccio
SAMHSA CC Coordinator

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

CONFIDENTIALITY CERTIFICATE

issued to

JBS International, Inc.

Conducting the

**Targeted Capacity Expansion Program for Substance Abuse Treatment
and HIV/AIDS Services Multi-site Evaluation**

In accordance with the provisions of section 301(d) of the Public Health Service Act (42 U.S.C. section 241(d)) this Certificate is issued in response to the request of the principal investigator, Resa Matthew, Ph.D., Project Director, JBS International, Inc., 5515 Security Lane, Suite 800, Rockville, MD 20852; to protect the privacy of evaluation subjects by withholding their identities from all persons not connected with the project. Dr. Matthew is primarily responsible for the conduct of this project, which is funded by SAMHSA's Center for Substance Abuse Treatment under contract #HHSS283-2007-000031/HHSS283-00004T.

Under authority vested in the Secretary of Health & Human Services by that section, all persons who

1. are employed by JBS International, Inc., and its contractors and cooperating agencies as indicated in the application and
2. have, in the course of that employment, access to information that would identify individuals who are the subjects of the project entitled "Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services Multi-site Evaluation"

are hereby authorized to protect the privacy of the individuals who are the subjects of that project by withholding their names and other identifying characteristics from all persons not connected with the conduct of that project.

Project Purpose

The purpose of the project is to learn about the impact the TCE/HIV outreach/pretreatment and treatment program has on client outcomes and to understand the mechanism by which the TCE/HIV program affects positive change in the reduction of substance abuse and HIV risk behaviors in racial and ethnic minority communities. Data will be obtained from 40 treatment grantees and 8 outreach/pretreatment grantees. Focus groups will be conducted at the 40 treatment grantees in Year 2 and Year 4 of the 5-year project. It is expected that 360 clients (9 clients x 40 sites) will participate in the 2 years for a total of 720 client focus group participants. A process evaluation will be conducted with the 8 outreach/pretreatment grantees. Data will be collected and key staff will be interviewed.

Project Location

The focus groups will be conducted at 40 grantee sites, across the country. See the requester's cover letter for street addresses. Data will be gathered and interviews with staff will be conducted at the 8 outreach/pretreatment grant sites. See requester's cover letter for street addresses. Data will be housed and analyzed at JBS International, Inc., in Rockville, MD.

As provided in section 301(d) of the Public Health Service Act (42 U.S.C. sec. 241 (d)):

“Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.”

This authorization is applicable to all information obtained pursuant to the project entitled, “Targeted Capacity Expansion Program for Substance Abuse Treatment and HIV/AIDS Services Multi-site Evaluation” funded by SAMHSA’s CSAT contract #HHSS283-2007-00003I/HHSS283-00004T that could identify the individuals who are subjects or respondents in the evaluation project.

The following conditions apply to the protection provided under this Certificate:

- (1) This Certificate does not authorize JBS International, Inc., to refuse to reveal identifying information concerning evaluation subjects if any of the following conditions exist:
 - (a) The subject (or, if he or she is legally incompetent, his or her guardian) consents in writing to disclosure of identifying information.
 - (b) If authorized DHHS personnel request identifying information for audit or program evaluation of a project funded by DHHS or for investigation of DHHS grantees or contractors.
- (2) This Certificate requires that there be no disclosures of identifying characteristics of evaluation subjects in any Federal, State, or local civil, criminal, administrative,

legislative or other proceedings to compel disclosure of the identifying characteristics of such subjects, except as provided for in paragraph (1), above.

- (3) This Certificate does not otherwise govern the voluntary disclosure of identifying characteristics of evaluation subjects.
- (4) All evaluation subjects in the project will be given a fair, clear explanation of the protection this Certificate affords, and of the limitations and exceptions to the protection.
- (5) This project may also be subject to special rules for confidentiality of alcohol and drug abuse patient records, under section 543 of the Public Health Service Act (42 U.S.C. sec. 290dd-2), and implementing regulations at 42 CFR Part 2, which restrict voluntary disclosures of information from covered patient records.
- (6) This Certificate does not constitute an endorsement of the evaluation project.
- (7) The Certificate becomes effective as of the date of issuance or the commencement of the project, whichever is later, and will expire September 30, 2014, or sooner if the holder is notified of cancellation in accordance with the procedures set forth in 42 CFR section 2a.8. The protection afforded by this Certificate of Confidentiality is permanent for persons who participate as subjects in the evaluation during any time the Certificate is in effect.

8/25/10
Date



Daryl W. Kade, M.A.

Director, Office of Financial Resources
Substance Abuse and Mental Health Services Administration