

Procedure for Seeking an Independent Investigation due to Conflict of Interest with APS Reports

A conflict of interest refers to a situation where an Adult Protective Services (APS) worker or agency has a personal or financial relationship with an adult they are investigating for abuse or neglect, potentially influencing their ability to make impartial decisions and act in the best interest of the adult at risk or elder adult at risk. The U.S. Department of Health and Human Services (HHS) has established federal regulations for APS programs, mandating robust conflict of interest policies to ensure ethical and consistent practice. Wisconsin APS agencies should work to ensure an unbiased and accurate investigation of all adult at risk or elder adult at risk APS reports. The purpose of this document is to outline the statutory requirements and best practice recommendations for procedure when there is a real or perceived conflict of interest between the County of Origin and the subject of the investigation that threatens an impartial response.

The Wisconsin State Statutes that provide guidance regarding APS response and investigations specifically discusses the procedure for ensuring an impartial investigation in [§ 46.90\(5\) \(a\)2](#) and [§ 55.043 \(1r\) \(a\)2](#) stating: *"If an agent or employee of an elder-adult-at-risk agency required to respond under this subsection is the subject of a report, or if the elder-adult-at-risk agency or an agency under contract with the county department determines that the relationship between the elder-adult-at-risk agency and the agency under contract with the county department would not allow for an unbiased response, the elder-adult-at-risk agency shall, after taking any action necessary to protect the elder adult at risk, notify the department. Upon receipt of the notice, the department or a county department under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct an independent investigation. The powers and duties of a county department making an independent investigation are those given to an elder-adult-at-risk agency under pars. (b) to (f) and sub. (6)."*

Additionally, County APS Agencies should develop training and/or local policies to ensure that County APS staff understand:

- What constitutes a conflict of interest?
- County process if a conflict of interest is suspected.
- Who makes the final decision to transfer the investigation to an impartial Investigative County?
- Notification to DHS regarding need for impartial investigation due to conflict of interest.
- Transfer process between the County of Origin and the accepting Investigating County.
- Follow-up between the Investigating County and County of Origin.
- Responsibility with WRAPS reporting on the APS Response.

In these instances, the County of Origin, is the APS agency that received the APS report and has identified the possible conflict of interest for completing an unbiased response for the adult at risk or elder adult at risk. It is this County's responsibility to ensure that the subject of the report receives an unbiased investigation in accordance with local policy and procedures. The County of Origin is responsible for ensuring the immediate safety of the adult at risk or elder adult at risk while contacting another APS Agency to complete an unbiased APS investigation.

The APS agency that has accepted the case to complete an independent investigation is referred to as the Investigative County. The County of Origin will open a WRAPS incident report provide statutory notification to the DHA APS Program office using **F-21150** regarding the need for impartial investigation. The County of Origin will provide the Investigative County with pertinent information regarding the APS report and any collateral information necessary for investigation. The Investigative County will proceed with duties and investigative authority per: Wis Stats. 46.90 pars. (b) through (d) and sub (6) and Wis Stats. 55.043 pars. (b) through (d) and sub. (6). The Investigative County will provide the County of Origin with the outcomes of the investigation and recommendation on needs for services. County of Origin will use this information to complete their local APS record, coordinate services, and complete data into WRAPS. Further detail regarding the County roles with this process are described below.

Roles of the County of Origin

- Determine need for impartial investigation due to conflict of interest.
- Take immediate action to protect the adult at risk.
- Call 911 or contact law enforcement immediately if a report leads the worker to believe that a crime is occurring or imminent or if s/he believes that substantial physical harm, irreparable injury, or death may occur to an adult at risk.
- Compile information from the report of abuse, neglect or financial exploitation and any available information related to the APS report to share with the Investigating County. Open a local APS record.
- Start a WRAPS Incident Report sections A, B, and C regarding the APS referral.
- Contact Investigating County by phone to establish a "warm transfer." Provide details and share contact information for follow up.
- Complete DHS Notification Regarding Need for Independent Investigation **F-21550** and e-mail to the Department of Health Services at DHSAPS@dhs.wisconsin.gov.
- Assist Investigative County in gathering requested information as needed.
- Follow up with Investigating County on investigation outcomes and service recommendations accepted by the adult at risk or elder adult at risk.
- Include any documentation from the Investigating County summarizing investigation and response outcomes into local APS record.
- Once the independent investigation is completed, the County of Origin will assume responsibility for follow-up, program coordination, service delivery, and the initiation of judicial proceedings as required. The County of Origin maintains total responsibility for cost of services and follow-up recommended by the Transfer County if the subject of the report is their legal resident. For those cases in which the subject of the report is not a legal resident of the County of Origin, the County of Origin must work with the County of Legal responsibility to access services.
- Complete WRAPS Incident Report Section: Investigation Outcomes.

Roles of the Investigative County

- Accept the APS referral from the County of Origin and ensure the confidentiality of the APS record. The Investigative County will have access to records as allowed under [§ 46.90\(6\)\(b\)9](#) and [§ 55.043\(6\)\(b\)9](#).
- Provide a timely response to APS report and Communication back to County of Origin regarding investigative outcome.
- The Investigative County is empowered with all the powers and duties held by the County of Origin prior to the investigation, including, but not limited to:
 - A visit to the residence of the adult at risk.
 - Observation of the adult at risk.
 - An interview with the adult at risk.
 - An interview with the guardian or agent under an activated power of attorney.
 - Review of treatment and patient health care records of the adult at risk.
 - Review of any financial records of the adult at risk.
- After investigating the report, the Investigative County will report its recommendations back to the County of Origin. Recommendations may include:
 - Services for the adult at risk/elder adult at risk or the alleged abuser.
 - Continued investigation.
 - Referral to law enforcement.
 - Petition for guardianship, protective placement or protective services.
- Documentation regarding the investigation should be provided to the County of Origin for continuity of care and completion of APS record.
- The report to the County of Origin should include all information needed for it to complete the report in WRAPS incident report section D: Investigative Outcomes on the [Wisconsin Incident Report Data Collection Form](#)

Technical Assistance

If procedural questions arise or there is disagreement regarding the need to perform an independent investigation of recommendations made by the Investigative County that cannot be addressed through inter- county collaboration, technical assistance is available from the DHS program office staff at DHSAPS@dhs.wisconsin.gov.