**Documentation**

**Legal Authority**

§ 46.90, 54, 55 Wis. Stat.

**Purpose**

The purpose of documentation is to support findings, provide information should the case reoccur, and provide necessary information for continuity of care to referral agencies.

Documentation provides a detailed and reliable case history, baseline data, evidence for involvement (APS and/ or legal), and justification for staff and funding for program.

Documentation also provides valuable data for research into rising trends and evidence-based practice. Data collected can be used for advocacy, resource allocation, and public awareness.

**Minimum Standards of Documentation**

The test of a good APS Case Record is when any reasonable and prudent person can read and review the records and draw his/ her own conclusion as to what occurred, based on interview statements and supportive evidence.

Things to consider when creating a case record are who will read it; where will it end up; how long it will take; and who benefits.

A complete case record should contain these elements as they are available, and should be located in either the WITS state reporting system or elsewhere in case record as indicated:

1. Names and available/ relevant contact information of all involved parties**: in case record/ WITS**
2. Relevant agency previous contact: **in case record**
3. If the report is screened out, reasons for doing so: **in WITS.**
4. Summary of contacts made during the investigation including documentation of “reasonable efforts” of no contact was made (*See Response and Investigation section titled “Reasonable Efforts”)*: **in case record.**
5. Documentation of options discussed, referrals made and/ or services provided: **in WITS** 
   1. If none were made, documentation of the reasons why referrals were not made or services provided such as not warranted or not available: **in case record**
6. Documentation of any refusal of services including, if known, the reasons for refusal**: in WITS and case record**
   1. Evidence of capacity if in question: **in case record.**
7. Allegation findings**: in WITS**
8. Supporting evidence**: in case record.** Conclusions drawn based on the preponderance of evidence including:
   1. Agency history
   2. Quotations of statements made during the investigation
   3. Key differences in competing stories and credibility of the reporters
   4. Sight, sound, and smell information gathered at the scene
   5. Summary of documentation received
   6. Actions observed
9. Opening and closing dates**: in WITS**

Additionally, a complete case record would retain any documentation gathered such as:

* Photographic evidence (labeled)
* Written assessments/ reassessments
* Written service plans
* Police reports
* Medical records
* Financial records
* Agency generated reports
* Legal documentation
* Referral documents
* Copies of written correspondence

**Reports versus Record**

A case file refers to any documentation related to the response, investigation, assessment and disposition of the report.

A report refers the summary print out generated by the WITS reporting system.

There are different parameters of records release when referring to a report versus a case file. It is recommended that the investigator check with their corporation counsel/ supervisor before releasing either.

**Records; confidentiality**. §46.90 (6) Wis. Stat.

(ac) In this subsection:

1. “Departmental report form" includes documentation of an elder-adult-at-risk agency's response to or investigation of a report made under sub. [(5)](http://docs.legis.wisconsin.gov/document/statutes/ch.%20975) and is the information required to be submitted to the department.

2. “Record" includes any document relating to the response, investigation, assessment, and disposition of a report made under this section.

(am) The elder-adult-at-risk agency shall prepare a departmental report form of its response under sub. [(5)](http://docs.legis.wisconsin.gov/document/statutes/ch.%2054) to a report of suspected abuse, financial exploitation, neglect, or self-neglect. If the elder-adult-at-risk agency refers the report to an investigative agency, the investigative agency shall advise the elder-adult-at-risk agency in writing of its response to the report. The elder-adult-at-risk agency shall maintain records of suspected abuse, financial exploitation, neglect, or self-neglect.

(b) Departmental report forms are confidential and may not be released by the elder-adult-at-risk agency or other investigative agency, except under the following circumstances:

1. To the elder adult at risk, any person named in a departmental report form who is suspected of abusing, neglecting, or financially exploiting an elder adult at risk, and the suspect's attorney. These persons may inspect the departmental report form, except that information identifying the person who initially reported the suspected abuse, financial exploitation, neglect, or self-neglect, or any other person whose safety might be endangered through disclosure, may not be released.

2. To the agency or other entity from which assistance is requested under sub. [(5) (f)](http://docs.legis.wisconsin.gov/document/statutes/51.62). Information obtained under this subdivision shall remain confidential.

3. To an individual, organization, or agency designated by the department or as required by law for the purposes of management audits or program monitoring and evaluation. Information obtained under this subdivision shall remain confidential and may not be used in any way that discloses the names of or other identifying information about the individuals involved.

4. For purposes of research, if the research project has been approved by the department or the elder-adult-at-risk agency and the researcher has provided assurances that the information will be used only for the purposes for which it was provided to the researcher, the information will not be released to a person not connected with the study under consideration, and the final product of the research will not reveal information that may serve to identify the individuals involved. The information shall remain confidential. In approving the use of information under this subdivision, the department shall impose any additional safeguards needed to prevent unwarranted disclosure of information.

5. Under a lawful order of a court of record.

6. To any agency or individual that provides direct services under sub. [(5m)](http://docs.legis.wisconsin.gov/document/statutes/ch.%2048), including an attending physician for purposes of diagnosis and treatment, and within the department to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of individuals committed to or under the supervision of the department. Information obtained under this subdivision shall remain confidential.

7. To the guardian of the elder adult at risk or the guardian of any person named in a report who is suspected of abusing, neglecting, or financially exploiting an elder adult at risk. These persons may inspect the departmental report form, except that information identifying the person who initially reported the suspected abuse, financial exploitation, neglect, or self-neglect, or any other person whose safety might be endangered through disclosure, may not be released.

8. To law enforcement officials in accordance with the policy developed under sub. [(3) (a)](http://docs.legis.wisconsin.gov/document/statutes/46.90(5)).

9. To a federal agency, state governmental agency, agency of any other state, or local governmental unit in this state or any other state that has a need for a departmental report form in order to carry out its responsibility to protect elder adults at risk from abuse, financial exploitation, neglect, or self-neglect.

10. To the reporter who made a report in his or her professional capacity, regarding action to be taken to protect or provide services to the alleged victim of abuse, financial exploitation, neglect, or self-neglect.

(bd) If a person requesting a departmental report form is not one of the persons or entities specified in par. [(b)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(b)), the elder-adult-at-risk agency may release information indicating only whether or not a report was received and whether or not statutory responsibility was fulfilled.

(br) Notwithstanding par. [(b) 1.](http://docs.legis.wisconsin.gov/document/statutes/46.90(5)) to [10.](http://docs.legis.wisconsin.gov/document/statutes/16.009), an elder-adult-at-risk agency or an investigative agency may not release departmental report forms under this section if any of the following applies:

1. The elder-adult-at-risk agency determines that the release would be contrary to the best interests of the elder adult at risk who is the subject of the departmental report form or of another person residing with the subject of the departmental report form, or the release is likely to cause mental, emotional, or physical harm to the subject of the departmental report form or to any other individual.

2. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

3. The elder-adult-at-risk agency determines that disclosure would jeopardize ongoing or future civil investigations or proceedings or would jeopardize the fairness of such a legal proceeding.

(bt) Subject to pars. [(b)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(b)), [(bd)](http://docs.legis.wisconsin.gov/document/statutes/46.90(3)(a)), [(br)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(br)), [(bv)](http://docs.legis.wisconsin.gov/document/statutes/46.90(5)(f)), and [(bw)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(bt)), records under this subsection are confidential and may not be released by the elder-adult-at-risk agency or other investigative agency, except under the following circumstances, upon request:

1. To the elder adult at risk who is the alleged victim named in the record.

2. To the legal guardian, conservator, or other legal representative of the elder adult at risk who is the alleged victim named in the record, if the legal guardian, conservator, or other legal representative of the alleged victim is not the alleged perpetrator of the abuse, financial exploitation, or neglect.

3. To law enforcement officials and agencies in accordance with the policy developed under sub. [(3) (a)](http://docs.legis.wisconsin.gov/document/statutes/46.90(3)(a)) or with investigations conducted under sub. [(5)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(b)1.), or a district attorney, for purposes of investigation or prosecution.

4. To the department, under s. [51.03 (2)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(b)10.), or for death investigations under s. [50.04 (2t)](http://docs.legis.wisconsin.gov/document/statutes/46.90(5m)) or [50.035 (5)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(bd)); or to a sheriff, police department, or district attorney for death investigations under s. [51.64 (2) (a)](http://docs.legis.wisconsin.gov/document/statutes/51.64(2)(a)).

5. To an employee of a county department under s. [51.42](http://docs.legis.wisconsin.gov/document/statutes/46.90(5)) or [51.437](http://docs.legis.wisconsin.gov/document/statutes/51.03(2)) that is providing services either to the elder adult at risk who is the alleged victim named in the record or to the alleged perpetrator of abuse, to determine whether the alleged victim should be transferred to a less restrictive or more appropriate treatment modality or facility.

6. To a court, tribal court, or state governmental agency for a proceeding relating to the licensure or regulation of an individual or entity regulated or licensed by the state governmental agency, that was an alleged perpetrator of abuse, financial exploitation, or neglect.

7. To the department, for management, audit, program monitoring, evaluation, billing, or collection purposes.

8. To the attorney or guardian ad litem for the elder adult at risk who is the alleged victim named in the record, to assist in preparing for any proceeding under ch. [48](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(bw)), [51](http://docs.legis.wisconsin.gov/document/statutes/51.42), [54](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(bv)), [55](http://docs.legis.wisconsin.gov/document/statutes/50.04(2t)), [813](http://docs.legis.wisconsin.gov/document/statutes/50.035(5)), [971](http://docs.legis.wisconsin.gov/document/statutes/ch.%20971), or [975](http://docs.legis.wisconsin.gov/document/statutes/ch.%2051) pertaining to the alleged victim.

9. To a coroner, medical examiner, pathologist, or other physician investigating the cause of death of an elder adult at risk that is unexplained or unusual or is associated with unexplained or suspicious circumstances.

10. To staff members of the protection and advocacy agency designated under s. [51.62](http://docs.legis.wisconsin.gov/document/statutes/51.437) and the board on aging and long-term care under s. [16.009](http://docs.legis.wisconsin.gov/document/statutes/ch.%2055).

11. To an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of abuse, neglect, or financial exploitation of an elder adult at risk.

12. To a grand jury, if it determines that access to specified records is necessary for the conduct of its official business.

13. Under a lawful order of a court of record.

(bv) The identity of a person making a report of alleged abuse, neglect, self-neglect, or financial exploitation shall be deleted from any record prior to its release under par. [(bt)](http://docs.legis.wisconsin.gov/document/statutes/ch.%20813) or from any departmental report form prior to its release under par. [(b)](http://docs.legis.wisconsin.gov/document/statutes/46.90(6)(b)). The identity of any reporter may only be released with the written consent of the reporter or under a lawful order of a court of record.

(bw) A person to whom a departmental report form or a record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this subsection.

(by) A custodian of records or departmental report forms incurs no civil or criminal liability under this subsection and may not be found guilty of unprofessional conduct for the release or no release of records or departmental report forms in accordance with this subsection while acting in good faith and within the scope of his or her authority.

(d) Any person who requests or obtains confidential information under this subsection under false pretenses may be fined not more than $500 or imprisoned not more than one year in the county jail or both.

(e) Any employee who violates this subsection may be subject to discharge or suspension without pay.