

## PURPOSE

The Michigan Department of Health and Human Services (MDHHS) is a public body, required by law, to provide public records to persons requesting public records unless those records are exempt from public disclosure by the Freedom of Information Act (FOIA) or another statute.

This policy is intended to ensure uniformity in the release of Adult Protective Services (APS) records and other public records that may be contained within APS records.

## FREEDOM OF INFORMATION ACT (FOIA)

The entire department record, **except for the identity of the referral source (RS)**, may be subject to disclosure under FOIA. However, FOIA provides that the department may exempt information of a personal nature from disclosure where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

## FOIA Requests

Since other information may also be confidential in addition to the above, all written FOIA requests received by the local office **must be submitted immediately** to the MDHHS, Legal Affairs Administration, Legal Compliance Section, by emailing [MDHHS-FOIA@michigan.gov](mailto:MDHHS-FOIA@michigan.gov).

**Note:** A written FOIA request is a request for records made in writing specifically referencing FOIA. This request may be made by anyone.

If an individual or entity is requesting information through FOIA, but has not submitted a formal request, direct them to the GovQA web portal. GovQA allows the requester to establish an account, submit a FOIA request and track the progress of their request. Requesters should be directed to the [MDHHS Public Records Center](#) for information and instructions.

## Individuals Who Do Not Require a FOIA Request

There are individuals and entities that may receive APS case information without submitting a FOIA request. There are, however, restrictions that may apply to the information they have access to.

### ***Redacted Reports***

The following individuals may receive a ***redacted copy*** of an APS investigation report without submitting a FOIA request:

- County medical examiner.
- Department of Attorney General.
- Law enforcement officers investigating alleged criminal activity (this applies to reports specifically regarding their investigation).
- Licensing and Regulatory Affairs (LARA) licensing staff involved with investigations in licensed homes for the aged.
- Department of Attorney General, Medicaid Fraud Control Unit.
- Local prosecuting attorney.
- Disability Rights Michigan.
- Recipient Rights officers and rights advisors who work under local, community mental health service providers (CMHSP's).

The local MDHHS office will redact all records for requests exempted from the FOIA process.

Information that must be redacted includes any information that may identify the RS, social security numbers, and dates of birth.

After redactions are completed, the local MDHHS office must submit the APS investigation report and supporting documents to the Supportive Adult Services Section through the policy mailbox [MDHHS-Adult-Services-Policy@michigan.gov](mailto:MDHHS-Adult-Services-Policy@michigan.gov) for review. This must be done before giving the report to the requester listed above.

### ***Unredacted Reports***

The following individuals may receive an ***unredacted copy*** (reports include referral source information) of an APS investigation report without submitting a FOIA request:

- LARA licensing staff involved with investigations in nursing homes and licensed adult foster care homes.
- Recipient Rights officers for MDHHS/Behavioral Health and Developmental Disability operated facilities; Caro Center, Kalamazoo Psychiatric Hospital, and Walter Reuther Psychiatric Hospital.

**Note:** Any questions regarding FOIA and/or those who may receive information without submitting a FOIA request, should be submitted to the Supportive Adult Services Section policy mailbox with the subject line ***Redaction Guidance***. The policy mailbox address is [MDHHS-Adult-Services-Policy@michigan.gov](mailto:MDHHS-Adult-Services-Policy@michigan.gov).

## **COURT ORDERS AND SUBPOENAS**

All court orders and subpoenas must be responded to promptly. Judge signed subpoenas must be treated as court orders.

As soon as a MDHHS employee receives a court order or subpoena, they must notify their immediate supervisor and the court order/subpoena must then be forwarded to the MDHHS Legal Affairs Administration for guidance.

Notification to Legal Affairs is completed by scanning the court order or subpoena and any supporting documentation and emailing the document(s) to [MDHHS-Subpoena@michigan.gov](mailto:MDHHS-Subpoena@michigan.gov).

## **LEGAL BASE**

Staff who investigate APS referrals must become familiar with the following laws and rules in relation to the provision of adult protective services:

- Social Welfare Act, MCL 400.11-400.11 a-f.
- Freedom of Information Act, Act 442 of 1976.