



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2026-074

October 9, 2026

The Honorable Glenn Barnes
State Representative
2004 West Vaugine Avenue
Pine Bluff, Arkansas 71601

Dear Representative Barnes:

I am writing in response to your request for an opinion on Arkansas Code § 12-12-1711 and Adult Protective Services' authority to interview family caregivers and agents holding powers of attorney during financial exploitation investigations involving adults with dementia, memory loss, or severe cognitive impairment. You state that the Department of Human Services (DHS) interprets the statute to prohibit their participation, even though caregivers holding powers of attorney are often the only people who can provide investigative facts.¹

Against this background, you ask:

Does Arkansas Code Annotated § 12-12-1711 require, permit, or prohibit Adult Protective Services from interviewing family caregivers and Powers of Attorney during financial exploitation investigations involving adults with dementia, memory loss, or severe cognitive impairment?

RESPONSE

Arkansas Code § 12-12-1711 permits Adult Protective Services (APS) to interview family caregivers and agents under powers of attorney when they have relevant information. It does not prohibit those interviews, nor does it require them in every case. But APS must conduct a thorough investigation, so the facts in a particular case may make an interview necessary.

¹ For the purposes of this opinion, I assume that the facts as presented in your request are true. As a general matter, I am not authorized to act as a factfinder in the course of issuing Attorney General opinions. *See* Ark. Att'y Gen. Op. 2017-028 ("The fact finding required ... is beyond the scope of an Attorney General's opinion."). Nevertheless, my research indicates that DHS routinely interviews family caregivers and agents acting under powers of attorney during APS investigations.

DISCUSSION

Arkansas Code § 12-12-1711 does not prohibit APS from separately interviewing family caregivers or agents under powers of attorney. The statute instead requires DHS to conduct a “thorough investigation” of suspected adult maltreatment.² APS performs that investigative function in the cases assigned to it by § 12-12-1710.

For an allegation of exploitation, DHS generally must complete its investigation and enter an investigative determination within 90 days.³ DHS may extend that period for up to 45 days if untimely or uncooperative records, interviews, or information from a necessary source prevent completion of the investigation or written report.⁴ The statute also directs DHS to examine the allegations and other information that DHS receives or collects “from any source.”⁵

The investigation and written report must address the nature, extent, and cause of the maltreatment; identify the person responsible; and evaluate persons responsible for the maltreated person’s care. The report must also address the home environment, the maltreated person’s relationship with next of kin or another person responsible for the person’s care, and other pertinent information.⁶

These provisions do not identify every person whom the investigator must interview. But they contemplate interviews as one method of obtaining information and allow DHS to gather information from any relevant source. When a caregiver or agent possesses information necessary to identify the responsible person, evaluate the person’s care, or explain the financial transactions at issue, an interview—or another lawful means of obtaining the same information—may be necessary to complete the thorough investigation and report that the statute requires.⁷

Failure to conduct the investigation that the statute requires can affect the validity of the resulting agency decision. In *Williford v. Arkansas Department of Human Services*, the Arkansas Court of Appeals held that DHS had not conducted the required investigation because DHS did not contact any witnesses, did not conduct any interviews, and instead relied on an investigation performed by the nursing-home administrator.⁸ The Court held that the agency decision was “in violation of

² A.C.A. §§ 12-12-1710, 12-12-1711(a).

³ *Id.* § 12-12-1711(b)(1)(A)(i).

⁴ *Id.* § 12-12-1711(b)(1)(B).

⁵ *Id.* § 12-12-1711(b)(2).

⁶ *Id.* § 12-12-1711(b)(3)(A)–(E).

⁷ A.C.A. § 12-12-1711(b)(2)–(3).

⁸ *Williford v. Ark. Dep’t of Hum. Servs.*, 2018 Ark. App. 314, at 9–11, 551 S.W.3d 401, 406–07.

statutory provisions” and “made upon unlawful procedure,” so it reversed the decision without reaching whether substantial evidence supported the agency’s decision.⁹

The statute expressly restricts how APS must interview the maltreated person. When an alleged incident occurred in a home, the investigator must visit the home and interview the person “alone and out of the hearing of any next of kin or other person responsible for the maltreated person’s care.”¹⁰ Nothing in that provision bars APS from separately interviewing those individuals.

The statutory definitions support that reading. “Exploitation” includes misuse of a power of attorney and certain improper acts by a caregiver or fiduciary.¹¹ The statute defines a “caregiver” to include a related or unrelated person who assumes responsibility for the protection, care, or custody of an endangered or impaired person, and a “fiduciary” to include an agent under a financial or healthcare power of attorney.¹² A caregiver or agent may therefore possess relevant information, hold records, bear responsibility for the adult’s care, or be the alleged perpetrator.

Nothing in the statute imposes a categorical bar on interviewing caregivers or agents. To the contrary, the statute directs DHS to identify the responsible person, evaluate caregivers, and collect relevant information from any source, while expressly restricting only how APS must interview the maltreated person.

Assistant Attorney General Justin L. Hughes prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tim Griffin', with a horizontal line above it.

TIM GRIFFIN
Attorney General

⁹ *Id.* at 407; *see* A.C.A. § 25-15-212(h)(1), (3).

¹⁰ A.C.A. § 12-12-1711(b)(3)(F)(i)–(ii).

¹¹ *Id.* § 12-12-1703(7)(B)–(C).

¹² *Id.* § 12-12-1703(4), (8)(B)(v).