

## Executive Summary

The Long-Term Care Ombudsman Program's (LTCOP or the "Program") primary purpose is to promote and protect specific rights that are guaranteed to long-term care residents under federal and state laws (CFR 45 Section 1324, and IC 12-10-13) -- through empowerment, education, and advocacy.

Ombudsmen advocate for the quality of life and care of residents in long-term care facilities, which includes nursing homes and licensed assisted living facilities.

This past program year (10/1/22 through 9/30/23, or FFY23) has been another year of change and growth for Indiana's Program. We again experienced considerable turnover in local Ombudsmen, but continued to work to educate long-term care residents, their family members, and others about the Program, and investigated nearly 2,000 complaints.

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*Indiana has 521 nursing homes and 374 assisted living facilities, with approximately 67,000 LTC residents.*

*As of 9/30/23, the state has 22 certified LTC Ombudsmen working in the field with residents.*

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Despite the turnover in Ombudsmen this past year, the number of instances of information and assistance provided to individuals and to staff by the Ombudsmen in FFY23 was similar to or above the previous year, and the number of visits for all facilities and successful routine access increased significantly.

Using a combination of Covid-related funding streams, we were able to implement numerous projects, including:

- contracting with a consultant to revise the LTCOP Policies and Procedures manual, which has not been updated for many years;
- putting an experienced LTC Ombudsman in place to implement a statewide LTCOP volunteer plan (achieved 2/1/23);
- hiring a temporary contractor to work as a certified LTC

Ombudsman Specialist for Assisted Living residents;

- purchasing LTCOP-branded pens and luggage tags for residents' wheelchair/walker identification to serve as a tangible reminder of their Ombudsman; and
- continuing the contract of a current LTC Ombudsman to provide the LTCOP State Office with 15 hours per week of assistance with phone calls and archiving a backlog of records.

The additional funding the Program has received over the last three years has been beneficial to the Program as we invest in its infrastructure and work to develop and support a team of strong resident advocates throughout the state. The money has enabled us to begin demonstrating the valuable service Indiana's LTCOP is capable of providing its long-term care residents when adequate resources are available to it. However, this additional funding is temporary, so we must seek other consistent funding sources – in addition to the federal and state funding the Program already receives.

Indiana's State Ombudsman plans to use the next two Program years to tell Hoosier LTC residents' stories through our program data so we can educate legislators and others in Indiana communities, and advocate for additional state funding for the Program.

# Indiana Long-Term Care Ombudsman Program FFY23 Annual Report

## FFY23 in Review

This past program year (10/1/22 to 9/30/23) has once again seen change and some growth for Indiana’s Long Term Care Ombudsman Program (LTCOP or Program).

### Local LTC Ombudsman Program Staffing

The State LTC Ombudsman decertified<sup>1</sup> two of its 22 local LTC Ombudsmen (see [Appendix A](#) for a map of Ombudsman location and description of the Program’s organizational structure) during FFY23.

We moved an Area 8 local Ombudsman into a position in which they functioned as the Program’s statewide Volunteer Ombudsman Program Manager. A new person hired to take their place in Area 8 began certification training in July but soon quit the position in August 2023. Three newly hired candidates were added to our local Ombudsman representative staff in August, to cover Areas 7 and 13, and Area 8. Another Ombudsman who was with the Program for 25 years resigned 9/30/23.

Because the Program is understaffed, when a vacancy in a local Ombudsman position occurs, the Deputy Director from the State Office covers as the Ombudsman for that area. In addition to their responsibilities at the State Office, the Deputy Director acted as the local Ombudsman in two areas simultaneously: Area 7 for nearly ten months, and in Area 13 for approximately four months during the past year until replacements could be hired and trained as certified Ombudsmen.

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*“I must extend my kudos to your team. I have had the opportunity to speak with...several [ombudsmen] and I continue to be impressed by their dogged determination to make sure residents in long term care in Indiana are supported and heard.”*

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- IDOH staff member

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## Use of Covid-Related Program Funding

The Program has benefitted over the last three years from Covid-related funding received from our federal partners at Administration for Community Living (ACL). Because of this additional money, we have been able to do things we would not otherwise have had the funding to accomplish. Unfortunately, this funding is not sustainable, so the Program is continuing to search for additional funding sources.

### Volunteer Program Development

Through our CARES Act-funded project with IUPUI’s O’Neill School of Public Environment and Affairs that ended 9/30/22, we gained a roadmap to build a sustainable statewide Ombudsman Volunteer Program. During FFY23, a certified and experienced LTC Ombudsman moved from working as a local Ombudsman in Area 8 (Marion and surrounding counties) to function as the state’s LTC Ombudsman Volunteer

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<sup>1</sup> The State Long-Term Care Ombudsman may decertify any Long-Term Care Ombudsman if the ombudsman has failed to abide by the requirements of ombudsman conduct as specified in the Older Americans Act, 45 CFR 1327.19, and in accordance with Indiana State Law IAC 1-8-9.

Program Manager. This position was funded by American Rescue Plan Act (ARPA1) funds the Program received, which must be expended by 9/30/24. Our goal is to demonstrate by the end of the funding period that a volunteer program is a viable way of adding more eyes and ears in facilities throughout the state without the expense of hiring additional paid Ombudsmen. The Program intends to locate additional state funding that would support bringing the Volunteer Program Manager in-house to a state employee position by 9/30/24. The Volunteer Manager further developed a strategic plan for the volunteer program, created applications, intake forms, applicant screening tools, and a background check system, as well as forms for interviewing, reference checks, and training. As of 9/30/23, the Program had 13 Ombudsmen volunteers, trained one, and talked with ten other potential volunteer applicants. Several of the current volunteers work in Area 3, which has had its own volunteer program for many years .

### Other Additional Funding Uses

The Program continued using the Coronavirus Response and Relief Supplemental Act (CRRSA) and American Rescue Plan Act 1 (ARPA1) funding to extend the contracts of two temporary staff: a LTC Ombudsman in the Evansville area who works 15 hours per week assisting the State Office by answering phone calls and archiving a backlog of facility and IDOH reports. Their contract extends to 9/30/24. Additionally, a former Ombudsman worked as the Program's Social Media Coordinator through 9/30/23; this contract was paid using CRRSA funds.

CRRSA funding was also used to pay a portion of the consultant's contract fee to work with us to update and revise the Program's Policies and Procedures, which have not been modified in many years. The remainder of this contract is covered by American Rescue Plan Act (ARPA1) funding, which was received 4/1/21 and must be spent by 9/30/24.

CRRSA funding also paid for 14 Ombudsmen to attend the 2022 IDOH Fall Conference, which focused on mental health challenges in long-term care.

Taking advantage of a second round of American Rescue Plan Act (ARPA2) funding received 4/1/21, we added a temporary contractor to the State Office staff in July 2023, who will function as our certified LTC Ombudsman Assisted Living Specialist through 9/30/25. They are an experienced LTC Ombudsman working to develop a program that will demonstrate the benefits of having at least one LTC Ombudsman devoted statewide to issues concerning Assisted Living facilities: increased resident and family member knowledge of the Program and how to contact their local Ombudsman; and working with residents and family members to build and grow facility Resident and Family Councils. The Program is searching for additional funding so the Assisted Living Specialist can be hired as a permanent state employee in this role within the State Office.

### Social Media/Marketing

Using a combination of CARES Act and CRRSA funding, the Program hired a former Indiana LTC Ombudsman to function as our Social Media Coordinator. They continued in that role as a temporary contractor through 9/30/23. The [LTCOP's Facebook page](#) was created in early November 2021.

As of 9/30/23, our Facebook page had 455 Page followers and 335 Page likes. Our audience tends to be heavily skewed towards women (89.4% of our followers). Our followers fall within three main age groups: 35-44 (25.9%), 45-54 (25.4%), and 55-64 (24%). 13.8% of our followers are in the 65+ age range.

When we began the Program’s Facebook page, we expected our target audience to be family members of residents, and the data reflect that.

Our Facebook followers are spread throughout Indiana, with the top three cities (in order) being Indianapolis, Mishawaka, and South Bend. The most popular posts tend to be the *Ombudsman Spotlights*, in which each LTC Ombudsman including those on State Office staff, has been featured; the accompanying photo and story focuses on case examples and what Ombudsmen do on a daily basis to advocate for Hoosier residents.

Unsurprisingly, our presence on X (f/k/a Twitter) remains less significant. We have 51 followers on the platform.

The Social Media Coordinator also worked with Indiana’s Family and Social Services Administration’s (FSSA) Communications team to update the LTC Ombudsman pages within FSSA’s website, including a list of helpful FAQs.

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*“I wish to shout out a great big THANK YOU to the ombudsman organizations!! Never would I have been able to navigate the ins and outs of the last few weeks without these ladies...I will always be grateful. Thank you so much for advocating for the elderly.”*

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- POA for LTC resident

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## Program Branding

Using CRRSA funding still available to us through 9/30/23, the Program purchased LTCOP-branded pens and luggage tags (for residents’ wheelchair and other assistive device identification) for giveaways, and two branded table runners intended for use in booths at health and community fairs. The LTCOP manned an exhibit booth at the Anthem Senior and Caregiving Expo in Indianapolis on 11/22/22, a first for the State Office. Over 500 attendees were at the Expo.

## Program Data Collection

The federal data collection system was extensively revised in 2019, including the choice of complaint codes for the ombudsmen as they document their work with residents. Around the same time, the

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*“...this is a perfect example of why ombudsmen are so vital to the community. You are unsung heroes, doing difficult work without receiving anywhere close to the recognition you deserve. Thank you for everything you do for the vulnerable people across Indiana. Thank you and all the ombudsmen for everything you do to help me in my cases. I am grateful to you. Thank you, thank you, thank you.”*

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- Attorney, on the outcomes of a 2-year case

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software Indiana’s Program was using for documentation became inoperable, and a new system was purchased. The software developer that designed our new system (PeerPlace), continues to work with ACL to ensure alignment of our data with the National Ombudsman Reporting System (NORS) so we can submit annual data on Indiana’s LTC residents and demonstrate the effectiveness of the Program.

Indiana’s LTC Ombudsmen have been using PeerPlace for over four years now. Due to the recent rapid turnover in ombudsmen and the complexities of complaint coding, the State Office is

continuing to monitor their data entry and provide trainings and 1:1 technical assistance when necessary. Future trainings will continue to focus on the importance of documentation, properly coding complaints, complaint verification and disposition (resolution), and documentation of activities especially for complaint-related visits.

### Local LTC Ombudsman Activities

In addition to making complaint-related visits to residents living in nursing homes and licensed assisted living facilities, Indiana’s 22 local LTC Ombudsmen stay very active providing this specialized advocacy service. These visits help residents and local Ombudsman representatives get to know each other and build trust so residents feel comfortable in sharing their concerns with the Ombudsman. But visiting facilities on a regular basis are just one of the things they do.

“Activities” are just one measure the Program is required to track for federal reporting purposes. It is through these Activities that the Ombudsmen perform their federally-mandated responsibilities to residents. The table below lists the type and number of activities Indiana’s LTC ombudsmen performed during FFY23, as compared with the previous year.

#Instances of Ombudsman Activities		
	FFY22	FFY23
Information & assistance to individuals	4,705	4,830
Community education	43	73
Training sessions for facility staff	4	7
Information & assistance to staff	1,101	1,816
Number of facilities that received one or more visits	274	490
Number of visits for all facilities	866	1,830
Number of facilities that received routine access	9	47
Participation in facility survey	220	554
Resident council participation	60	146
Family council participation	13	38

With the significant turnover in Ombudsmen the Program has experienced over the past two years and several new Ombudsmen still in their first year of working in the field, it is gratifying to see the number of activities accomplished during FFY23 increase somewhat over the previous year.

It takes time for new Ombudsmen to develop the necessary highly specialized

skills this position requires, and to build relationships with residents. Despite this challenge, we are happy to see the number of instances of information and assistance to individuals and to staff in FFY23 were similar to or above the previous year, and the number of visits for all facilities and successful routine access increased significantly.

The National Ombudsman Reporting System (NORS) defines routine access as the total number of nursing facilities visited by an Ombudsman *not in response to a complaint*, in all four quarters of the reporting period. There was an error in our reporting of FFY21 routine access visit data; no facility received a visit from an Ombudsman in each of the four quarters of that year. Trainings on documenting routine access have been provided to the local Ombudsmen, resulting in an increasingly more accurate number of those types of visits in FFY22 and FFY23.

## FFY23 Complaints

A complaint is an expression of dissatisfaction or concern brought by a resident or complainant, which requires Ombudsman investigation and action by or on behalf of one or more residents of a long-term care facility relating to health, safety, welfare, or rights of a resident.

During FFY23, the Program received and worked to investigate 1,861 complaints, an increase of nearly 31% over the number of complaints received the previous year (1,424). Complaints are considered verified when most or all facts alleged by the complainant are likely to be true upon investigation; 1,601 (86%) of the 1,861 complaints were found to be verified.

The increase in the number of complaints over last year is likely due to fewer vacancies in local Ombudsman positions leading to an increase in visibility in the facilities, newer Ombudsmen who now have at least a year’s experience and are more comfortable in this challenging role, along with increased (temporary) assistance with incoming calls.

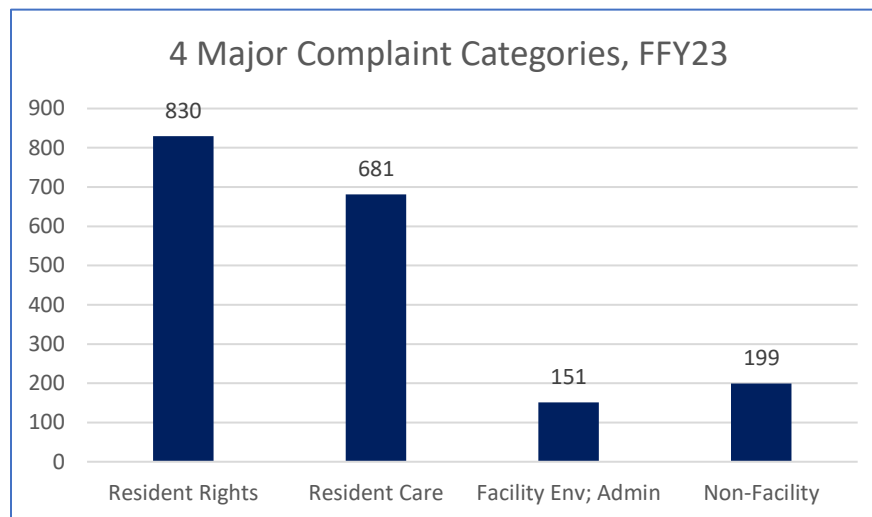
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It takes time for new Ombudsmen to develop the necessary highly specialized skills this position requires, and to build relationships with residents in their area.

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## Complaint Categories

When working on a complaint, the Ombudsman assigns it a complaint code that belongs within one of four major complaint categories<sup>2</sup> that are coded to the National Ombudsman Reporting System (NORS), as demonstrated in the graph below of the number of complaints received in each category.



Nearly half (830 or 45%) of all complaints submitted during FFY23 concerned **Residents’ Rights**. Next, **Resident Care** complaints comprised 37% of the total, with 681 complaints. No less important, approximately 8% of complaints (151) received were about **Facility Environment and Administration**, while **Non-Facility** issues accounted for nearly 11% (199).

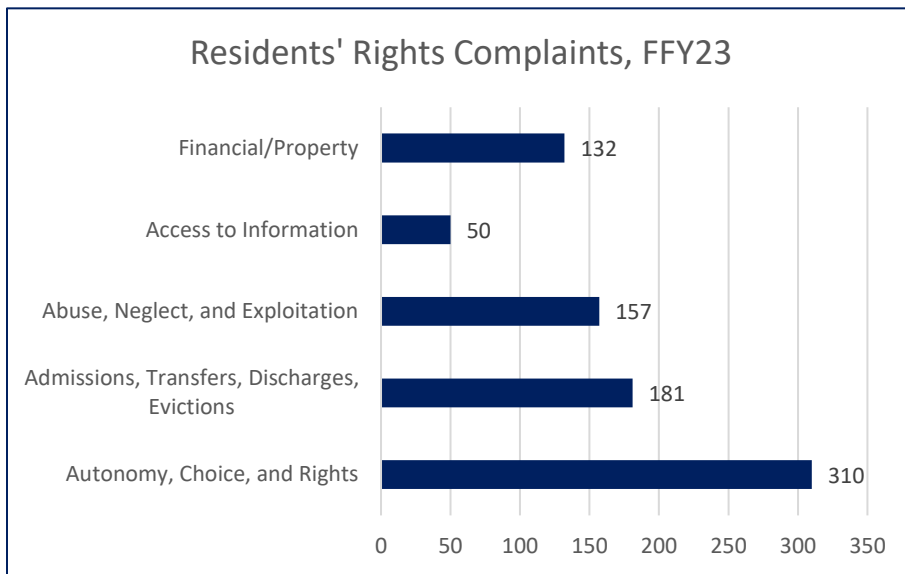
## Residents’ Rights

Residents’ Rights are guaranteed by the federal 1987 Nursing Home Reform Law. The law requires nursing homes to “promote and protect the rights of each resident” and places a strong emphasis on

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<sup>2</sup> National Ombudsman Reporting System (NORS), Table 2: Complaint codes and definitions; Administration for Community Living/Administration on Aging – Office of Long-Term Care Ombudsman Programs; OMB Control Number 0985-0005; Expiration Date: 10/31/2024.

individual dignity and self-determination. People living in long-term care facilities maintain the same rights as individuals in the larger community, and if a nursing home participates in Medicare or Medicaid, it must meet federal residents' rights requirements.

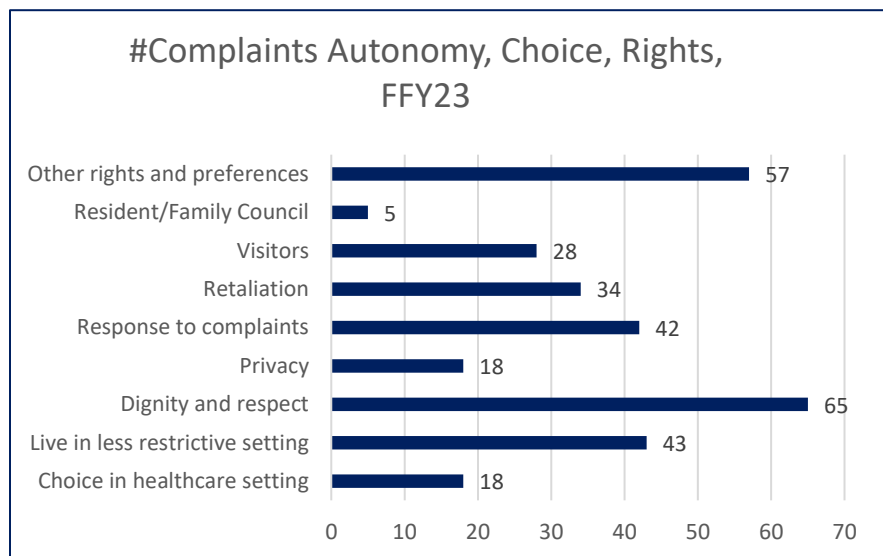


Over one-third (310) of complaints regarding **Residents' Rights** in the past year concerned **Autonomy, Choice, and Rights**, along with 181 (22%) complaints dealing with **Admissions, Transfers, Discharges, and Evictions**, whereas nearly one in five complaints received in this category (157 or 19%) were regarding **Abuse, Neglect,**

**and Exploitation.**

Drilling down in the **Autonomy, Choice, and Rights** category, the Program received the most complaints about dignity and respect (21%, or 65 of 310) complaints, followed by 57 complaints regarding “other rights and preferences,” the wish to live in a less restrictive setting (43), and facility response to residents’ complaints (42). See the graph below for other complaints in this category.

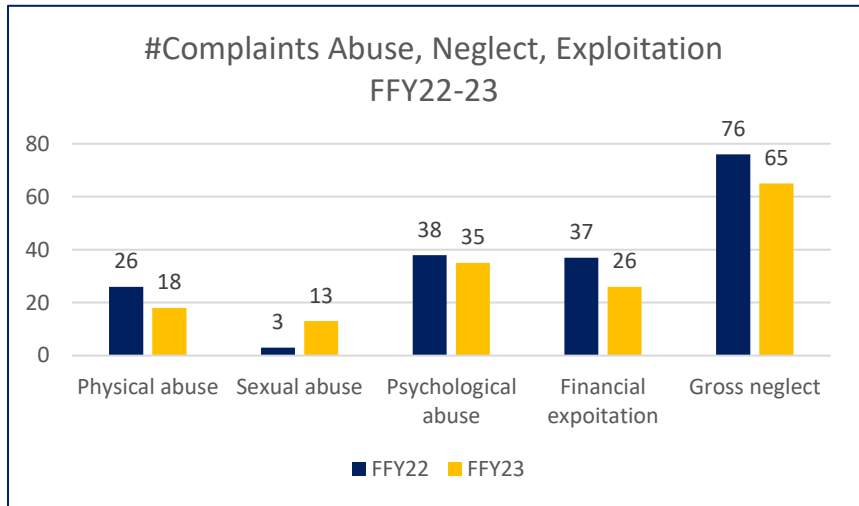
A change in federal complaint categories and codes combined several codes, so the 57 complaints under “other rights and preferences” include a range of concerns from resident smoking preferences to restrictions on residents’ ability to go out into the community and participate in activities.





During this program year, the Program received 157 complaints regarding **Abuse, Neglect, and Exploitation (ANE)**, or a 12.7% decrease from last year's number of complaints in this category (180). Of the 157 complaints submitted this year, 65 or 41% were found to involve gross neglect.

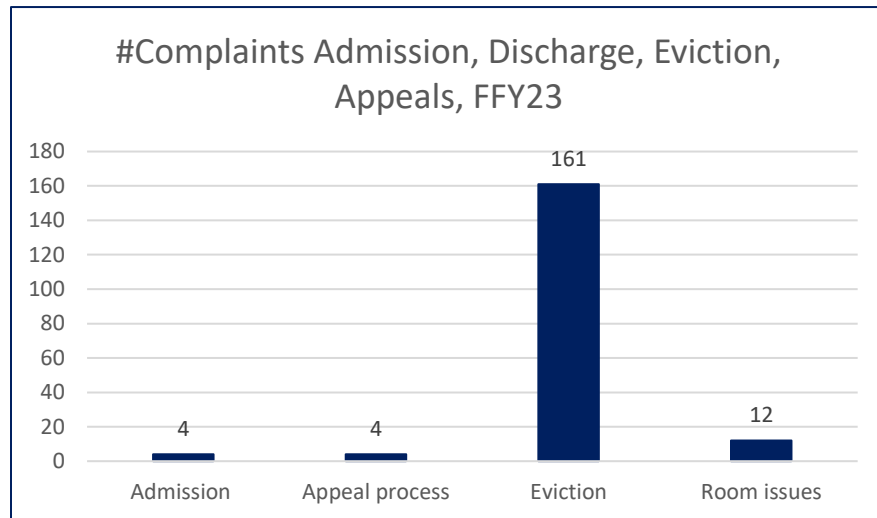
According to ACL, the definition of gross neglect is the failure to protect a resident from harm or the failure to meet needs for essential medical care, nutrition, hydration, hygiene, clothing, basic activities of daily living or shelter, resulting in serious risk of compromised health and/or safety, relative to age, health status, and cultural norms.



health and/or safety, relative to age, health status, and cultural norms.

Still within the **Residents' Rights** major category, complaints regarding facility-initiated **evictions/transfers and discharges** continue to be one of the top complaints Ombudsman programs receive nationwide. Of 181 total complaints received in this category, nearly 90% (161) were regarding discharges and/or evictions. While these types of complaints can become complex and time-consuming for Ombudsmen, the threat of an unanticipated and/or unwanted transfer or discharge from a long-term

care facility can be traumatic for residents and their family members.



Back to the major **Residents' Rights** category (see graph top of page 8), complaints regarding **Access to Information** comprised a little over 2% (50) of all complaints. Access to information complaint categories include 1) access to one's own information and

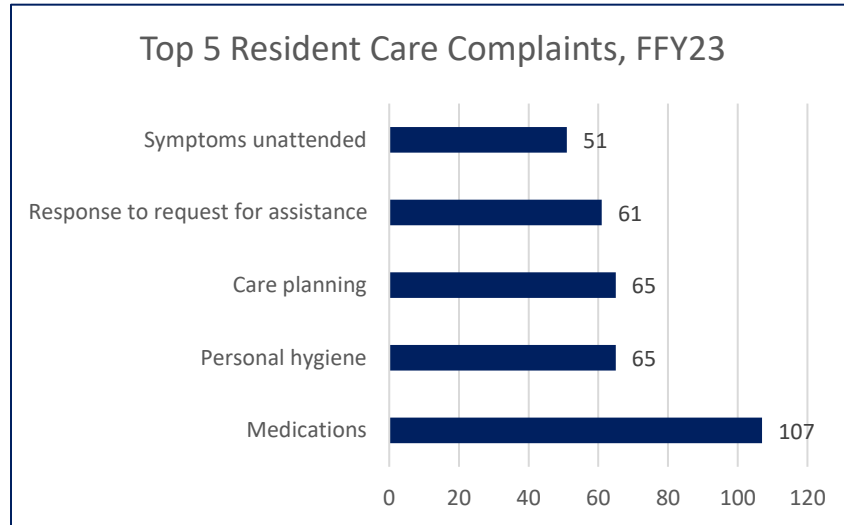
records (44 complaints), 2) language and communication barriers (6), and willful interference (0).

Also, within **Residents' Rights**, nearly 7% (132) of all complaints received were regarding **Financial, Property** (this does not include exploitation or instances involving facility staff, as those fall into different complaint categories). This category includes complaints related to billing and charges (69), and personal property (63).



## Resident Care

The Program received 681 complaints regarding Resident Care, which are regarding not only concerns about the actual care provided, but also issues surrounding activities, community integration, and social services.



Over one-fourth (518 or 76%) of total complaints the Program received were regarding the care itself that was provided.

The graph on the left shows the top five resident care concerns during the past year, with medication issues leading the way at 107 complaints. Other complaints received in the Resident Care category include concerns about Accidents and

Falls (17), Access to Health-Related Services (35), Incontinence Care (25), Assistive Devices/Equipment (43), Rehabilitation Services (31), Physical Restraints (5), Chemical Restraints (8), and Infection Control (5).

The **Activities, Community Integration, and Social Services** category saw a total of 62 complaints about Activities provided in the facility (9), Transportation (19), Conflict Resolution among Residents (12), and Social Services (22). During FFY23, the Program also received 98 complaints in the **Dietary** category: food services issues (57), dining and hydration concerns (21), and problems with therapeutic/special diets (20).

## Facility Environment, Administration

The 90 complaints submitted about **Facility Environment** include concerns regarding room/water temperature and ventilation (13), the building structure itself (14), supplies, storage, and furnishings (17), accessibility including the building and grounds (3), and housekeeping, laundry, and pest abatement (43). Examples of these types of complaints can range from bathroom sinks not working properly, residents not receiving their clothes back from the laundry to a lack of available incontinence supplies or bedbugs in the facility.

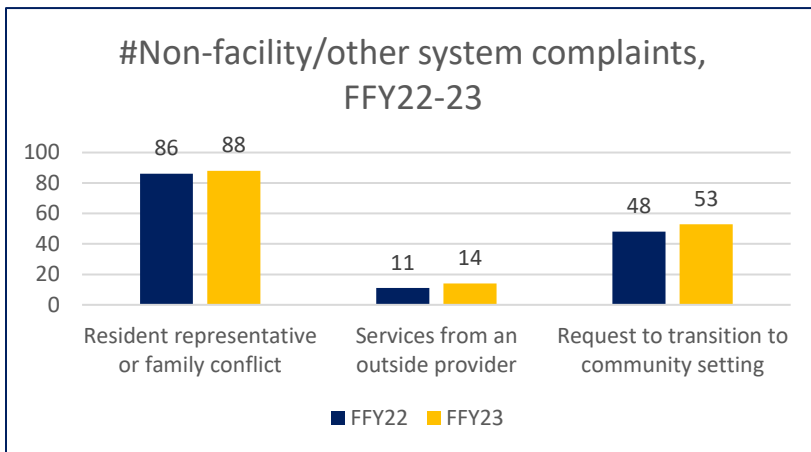
**Administration** complaints (61) typically pertain to issues with the facility's policies, procedures, and practices. During the past year, complaints include those regarding facility administration oversight (10), fiscal management (7), and staffing (44). Complaint examples in this category might include the lack of access to one's money, a facility failing to communicate well with families during transitions, or the facility not having enough staff available to care for all residents appropriately and according to their care plans.

## Non-Facility Complaints

This category is made up of complaints involving decisions, policies, actions or inactions by non-facility programs and agencies, including private and public benefits. This year, the Program received 199 overall Non-Facility complaints, including those regarding the Regulatory system (1), Medicaid (24), Managed Care (3), Medicare (11), Veterans Affairs (2), and private insurance (4).

The category “System: Others (non-facility)” is for those complaints made about the long-term care system occurring outside the facility. During FFY23, these types of complaints made up a little over 8% of all complaints received. Fourteen complaints were received regarding services from an outside provider, while 53 complaints were made about residents’ requests to transition to a community setting. However, the majority of complaints received in this category was regarding conflict among resident representatives and family members (88).

Family conflict complaints generally occur when a resident representative or family member interferes with the resident’s decision-making and preferences related to health, welfare, safety, or rights but the interference does



not rise to the level of abuse, gross neglect, or exploitation. Complaints regarding resident decision making such as guardianship, conservatorship, durable power of attorney/power of attorney, wills, and similar complaints are also considered family conflict complaints.

Family dynamics often play into these complaints and can greatly impact outcomes. It is understandable. Navigating the long-term care system can be overwhelming to residents’ families, particularly those who are new to long-term care while undergoing the stress of caring for a parent or other family member.

### Nursing Homes vs. Licensed Assisted Living Facilities

Nearly three-quarters (1,320 or 71%) of the 1,861 total complaints the Program received this past year were regarding **nursing homes**. The remaining 29% (541) were about **licensed assisted living facilities**.

### State Office

State Office staff is comprised of the State LTC Ombudsman (Director), the Deputy Director (who provides trainings and technical assistance to local LTC Ombudsmen), and an Administrative Assistant. During the last year, State Office staff and three Ombudsman temporary contractors: 1) a LTC Ombudsman who provides coverage in [Area 16](#) part-time and also remotely assists the State Office with providing Information and Assistance to callers, and electronically archiving survey and complaint letters, 2) a Social Media coordinator whose contract ended 9/30/23, and 3) a LTC Ombudsman Assisted Living Specialist:

- provided over 947 (down from 1,175 last year) instances of Information & Assistance to individuals and facility staff via telephone or email to residents, families, and facilities;
- managed project expenditures using covid-related funding for temporary staffing, marketing/branding items, and consultants;
- shepherded projects through the State’s contracts/procurement process in a system not designed to accommodate quick acquisitions;

- continued to hold bi-weekly Teams meetings with LTC Ombudsmen as a site for announcements and any new available guidance, and an opportunity for the Ombudsmen to talk with each other and get advice from their colleagues on difficult cases;
- worked with staff from AAAs and/or their subcontractors to interview and hire four (one of whom resigned during training) candidates to complete initial certification training with the Deputy Director, so they could begin working in the field as local LTC ombudsmen;
- attended the Consumer Voice conference in Baltimore, MD in November 2022 and the State LTC Ombudsman Conference in May 2023 (Nashville, TN);
- selected by the National Ombudsman Resource Center (NORC) along with four other states' programs to participate in a systems advocacy technical assistance project, working with Splaine Consulting to practical ways to identify and present data to decision makers, residents, and the general public;
- held annual three-day in-person meeting in Indianapolis for local Ombudsmen representatives, featuring trainings on PeerPlace documentation; transfer/discharges and appeals, a mock appeal hearing, introduction of FSSA's General Counsel and the legal counsel available to the Ombudsman Program, Ombudsmen in other State departments, updates by Indiana AARP's Legislative Director and their team and by the LTC Division of the Indiana Department of Health (IDOH), and a Volunteer Ombudsman Program update;
- worked with FSSA Communications staff to update the LTCOP Program map and website to add a page of FAQs and description of Residents' Rights;
- continued Program involvement in FSSA/IDOH discussions regarding Indiana's Long-Term Services and Supports Reform, Critical Incident Reporting and Mortality Review Committee for Indiana's new managed care program, regular meetings on nursing home closures/resident relocations with the Long-Term Care Division of IDOH, ongoing participation in the Division of Aging and FSSA's Data and Analytics team to identify cross-agency outcomes and corresponding indicator metrics, to understand if the investments we are making with Covid-related funds are in fact improving the health and wellbeing of communities served. The SLTCO was also invited to serve on Indiana's TBI Grant Advisory Board sponsored by the IU School of Medicine;
- met with staffers of the U.S. Senate Special Committee on Aging regarding survey agency staffing and its impact on Hoosier LTC residents; and
- provided Indiana's State Ombudsman input in a letter to U.S. Senate Committee on Aging regarding its recently released report "Uninspected and Neglected: Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk."

### Calls to the State Office

Calls and online complaints made to the State Office originate from residents, facility staff, family members and friends of residents, outside agencies, local community members, and sometimes, the media. Requests for assistance address a variety of concerns ranging from residents' care issues (such as care being provided, activities, or social services problems), to concerns over their rights such as residents being presented with an unanticipated notification that they are being discharged from their home soon.

According to VeraSmart phone records used to track incoming calls, the State Office received over 6,000 incoming calls, faxes, and emails (about 500 per month, or an average of 111 a week) during FFY23 from callers requesting information and assistance, and faxes and emails with monthly discharge reports and Notices of Transfer/Discharge. Facilities are required to send these reports to the State Ombudsman. The Office also receives copies of all survey reports from IDOH, of which there is a backlog of over 10,000 reports to be archived.

Over the 12-month period ending 9/30/23, the LTCOP's administrative assistant referred 424 voice mails and processed/archived 6,051 emails/faxes from facilities and IDOH into PeerPlace, the LTCOP's cloud-based documentation system.

### Who Calls with Complaints?

Of the 923 cases that were closed during FFY23, complaints primarily came from residents themselves (425), followed by residents' legal representatives, family members, or friends (349). Facility staff (90) also called the Program, as well as other agencies (20), concerned persons (7), resident or family councils (3), and LTC ombudsmen (25). The origin of the remaining complainants (4) is unknown. Complaints can be made anonymously.

### Systems Advocacy

One of the many responsibilities assigned to the State Ombudsman is to promote systems change – efforts to change policies, rules, or laws that determine how services are provided – to address the quality of life for residents of long-term care facilities. During the past year, the State Ombudsman participated in a meeting with the Central and Midwest Regions of the U.S. Office of Inspector General (OIG) and local Medicaid Fraud Control Unit (MFCU) to discuss publicly available data from CMS and trends, and further meetings together as we determine how states can continue to work together on nursing home engagement.

The SLTCO spoke with staff members for U.S. Senators Bob Casey and Mike Braun, who have been pushing for information on how staffing shortages at state survey agencies are affecting their ability to ensure the health and safety of residents at long-term care facilities. After the meeting, we wrote a letter encouraging Senators Casey and Braun to continue the work they are doing across the country toward ensuring residents' health and safety, and also provided examples of Hoosier residents' long-term care experiences.

The SLTCO was interviewed by South Bend, Indiana WNDU reporter Monica Murphy, along with Karla Fales, the President & CEO of Real Services, Inc., the local Area Agency on Aging in South Bend, in April 2023.

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## LTCOP State Office Handles Over 6,000 Incoming Calls, Faxes, and Emails a Year

Phone calls that require a referral to the local ombudsman or even another agency, may take only five minutes.

But calls providing information and assistance – listening, educating, and planning action to resolve concerns – to residents or family members can often last thirty minutes or longer. Follow-up calls can also add to the time spent on one complaint or incident of information and assistance.

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On 5/18/23, the Majority Staff of the U.S. Senate Special Committee on Aging released its report, *Uninspected and Neglected: Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk*, which included specific examples from the state of Indiana. We responded with a second letter to U.S. Senators Casey and Braun, members of the U.S. Senate Special Committee on Aging, that included support for their recommendations that Congress and States should invest in robust nursing home oversight, that Congress, states, and institutions of higher education should collaborate to expand opportunities to enter into and remain in the healthcare workforce, and finally, that Congress should increase funding for the LTC Ombudsman Program.

On 9/1/23, CMS released a proposed rule that would include minimum staffing standards for long-term care facilities, with comments on the proposal due by 11/6/23. Indiana's SLTCO submitted comments with several recommendations. Nursing home residents, their families, and advocates have advocated for a minimum staffing standard for decades, so we applaud CMS for the proposed standards as a starting point. However, we believe the current proposed staffing standard did not go far enough in requirements to have sufficient nursing staff in the building, who work to assure residents' safety, and attain or maintain their highest practicable physical, mental, and psychosocial well-being. Recommendations included strongly supporting a final rule that 1) requires the presence of an RN in facilities 24 hours a day, seven days a week, ensuring that the RNS provide actual direct care and are not working in an administrative capacity. We also believe the final rule should require that care be provided by a licensed nurse for at least 1.4 hours per resident day, with at least 0.75 of that provided by an RN. Care provided by a CNA (Certified Nursing Assistant) should be 2.8 hours per resident day, among others.

Near the end of the year (9/29/23), we were notified that an article written by a group of State LTC Ombudsmen (Oklahoma, Virginia, Maryland, and Indiana) was published in the October issue of the American Bar Association's (ABA) Section of Dispute Resolution's: *Long-Term Care Ombudsman Program: Advocacy Services for Long-Term Care Residents*.

## Recommendations

Temporary staff are very useful, but additional permanent staff at the state level are necessary to help administer the statewide program. The LTCOP's Deputy Director not only handles most incoming phone calls, but also monitors the local ombudsmen's documentation/data entry and provides technical assistance to the ombudsmen. She also trains (virtually and in-person) newly hired ombudsmen (nine instructor-led trainings this past year) and fills in for vacant ombudsman positions when those have occurred throughout the state.

To continue growing this essential advocacy service that strives to meet the needs of Indiana's long-term care residents, we recommend the State Ombudsman seek additional funding that would support the following FTEs in state employee positions in the LTCOP State Office as degreed Certified LTC Ombudsmen:

- A staff Ombudsman (Program Director-level) to work as the Program's Volunteer Program Manager (the previous Volunteer Manager left the Program 10/2/23);

- The contract will end 9/30/25 for the temporary contractor functioning as our Ombudsman Assisted Living Specialist. The framework for supporting AL residents and Resident Councils they are now developing will suffer if we cannot keep them in the same position when their contract is up; and
- One staff ombudsman (Program Director-level) to function as a statewide hearings and appeals specialist who will serve as a resource to all LTC Ombudsmen in Indiana, as they continue to manage increasingly complex transfer/discharge hearings.

With nearly 70,000 long-term care residents in Indiana, several areas within the state could use additional LTC Ombudsmen. Supplemental funding would allow the Program to hire new candidates to be trained as LTC Ombudsmen, particularly in those areas with a higher number of LTC facilities. According to a 1995 Institute of Medicine<sup>3</sup> recommendation that is still in use today, a standard staffing ratio is one paid (as opposed to a volunteer) Ombudsman staff person per 2,000 long-term care facility beds. Indiana is far from that recommended standard.

The additional funding the Program has received over the last three years has been beneficial to the Program as we invest in its infrastructure and work to develop and support a team of strong resident advocates throughout the state. The money has enabled us to begin demonstrating the valuable service Indiana's LTCOP is capable of providing its long-term care residents when adequate resources are available to it. However, this additional funding is also temporary, making the securing of other consistent funding sources – in addition to the federal and state funding the Program already receives – necessary to make that a reality.

Indiana's State Ombudsman plans to use the next Program year to tell the residents' stories through our program data so we can educate legislators and others in Indiana communities, and advocate for additional state funding for the Program. Medicaid Administrative Claiming is also an area we'll be exploring for additional funding.

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<sup>3</sup> Institute of Medicine. 1995. Real People Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act. Washington, DC: The National Academies Press. <https://doi.org/10.17226/9059>.

## Appendix A - Long Term Care Ombudsman Program (LTCOP) Overview

The primary purpose of the LTCOP is to promote and protect rights guaranteed to long-term care residents under federal and state laws (CFR 45, §1321 and §1324, and IC 12-10-13). Under the federal Older Americans Act, every state is required to have an Ombudsman program that addresses complaints and advocates for improvements in the long-term care system.

Indiana's LTC Ombudsmen advocate for residents of licensed long-term care facilities such as nursing homes, licensed assisted living facilities, and other licensed residential care facilities. They are trained to assist residents with complaints and resolve problems. Ombudsmen can also provide information about how to find a facility and what to do to improve the quality of care.

Ombudsmen are resident-directed, meaning that they act only upon permission of the resident. All Ombudsman program services are free and confidential. Other Ombudsmen responsibilities include:

- Educating residents, their family and facility staff about residents' rights, good care practices, and similar long-term services and supports;
- Ensuring residents have regular and timely access to ombudsman services;
- Providing technical support for the development of resident and family councils;
- Advocating for changes to improve residents' quality of life and care;
- Providing information to the public regarding long-term care facilities and services, residents' rights, and legislative and policy issues;
- Representing resident interests before governmental agencies; and
- Seeking legal, administrative, and other remedies to protect residents.

### Indiana's LTCOP Structure

In accordance with the [CFR 45, Title 45, Part 1324.13](#), Indiana's State Long Term Care Ombudsman (State Ombudsman), as head of the Office (the "State Office"), has responsibility for the leadership and management of the State Office in coordination with the Division of Aging, within the Family and Social Services Administration (FSSA). To comply with this federal law, Indiana's State Ombudsman *certifies* representatives of the State Office, or "local" Ombudsmen, to carry out the responsibilities on behalf of the State Office throughout the state. Certification for the local Ombudsmen occurs only after completion of an initial 36-hour training period consisting of both independent and classroom (virtual) study, as well as completing structured facility tours and shadowing experienced Ombudsmen.

Indiana's Program has a decentralized organizational structure, meaning the State Ombudsman and State Office staff are state employees, while local Ombudsmen are employed by local host agencies throughout the state. The State Ombudsman/Deputy Director (both also certified ombudsmen) have programmatic oversight while the host agency has personnel oversight of the Ombudsmen.

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*"...If it weren't for the Ombudsman's intervention and the ombudsman program, I truly might have missed out on any opportunity to tell my grandma how much I love her and to keep showing her honor."*

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- Family member

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As of 9/30/23, Indiana’s LTCOP had 22 local certified ombudsmen, located within the state’s planning and service areas that correspond to the map of Area Agencies on Aging (AAAs) below.

## Long-Term Care Ombudsman Area Contact Map



While the previous year was a time of significant staff turnover for the LTCOP throughout the state, FFY23 has also seen numerous changes within the Ombudsman team. During the past year, the State Ombudsman decertified two ombudsmen.

One local ombudsman moved from Area 8 to providing statewide coverage as the LTCOP Volunteer Program Coordinator. One candidate was hired as a replacement for Area 8 but resigned after several weeks. In August of 2023, three new local ombudsmen joined the team in Areas 7, 8, and 13 to fill open positions. The part-time local ombudsman for Area 9 retired 9/30/23.

Four of Indiana’s AAAs (Areas 1, 2, 5, 12) acted as the host agency for five ombudsmen working out of the AAA offices to provide services in their areas (two work full-time; three are part-time). Two AAAs (Areas 7 and 13) began subcontracting its local ombudsman

program for the first time to Indiana Legal Services (ILS), a non-profit law firm that provides free civil legal assistance to eligible low-income Hoosiers.

Eight AAAs (Areas 4, 6, 7, 8, 9, 10, 11, 13, 14, 15, and a portion of 16) already subcontract with ILS. As of 9/30/23, ILS employed 12 Ombudsmen in its local offices located throughout the state (8 full-time; 3 work part-time). Area 3 in northeastern Indiana and a portion of Area 16 (Vanderburgh County) have four local ombudsmen between them (one works part-time), who manage their own standalone nonprofit organizations that subcontract with the AAAs in those two areas.

Indiana is fortunate in that many of its local Ombudsmen are experienced resident advocates and are so willing to share their knowledge with newly-certified Ombudsmen. Many of our Ombudsmen are degreed social workers; others have long-term care or paralegal backgrounds. Several have master’s degrees; two are attorneys and we now have two professional nurses on our team. Their combined experience and expertise are what affords this program the ability to protect Hoosier long-term care residents’ rights, ranging from reasonably simple matters such as meal preferences to complex issues such as care planning concerns or involuntary discharges.

The Office of the State Long-Term Care Ombudsman is a programmatically independent advocacy service located within Indiana’s Family and Social Services Administration. Points of view, opinions or positions of the Ombudsman do not necessarily represent the view, positions, or policy of the Indiana Family and Social Services Administration [45 CFR part 1324.11(e)(8)].

This annual report is compiled and distributed to meet federal and state law requirements.

Please direct any questions, comments, or discussion about the contents of the report or issues affecting the residents of long-term care facilities to the State Long-Term Care Ombudsman.

Prepared by:

**Lynn Clough, State Long-Term Care Ombudsman**

317-234-5544 or [lynn.clough@fssa.in.gov](mailto:lynn.clough@fssa.in.gov)