



OLDER AMERICANS ACT

Title VII | Long-Term Care Ombudsman Program

2020 PROGRAM
RESULTS

Acknowledgment

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Title VII

Program Highlights and Accomplishments

The Long-Term Care Ombudsman Program (LTCOP) is designed to protect and promote the health, safety, welfare, and rights of long-term care residents in all 50 states, as well as the District of Columbia, Puerto Rico, and Guam. Long-term care facilities include nursing homes, board and care and assisted living facilities, and other residential care communities. To achieve their mission, state and local long-term care ombudsman (LTCO) programs, with the help of paid staff and thousands of volunteers, engage in a range of activities at the individual, system, and community level.

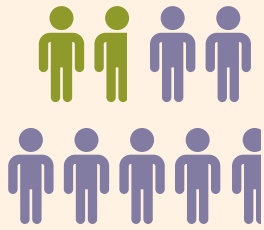
At the individual level, Ombudsmen assist residents by resolving complaints about their care, and help ensure that their rights are protected. In addition to investigating and resolving problems, Ombudsmen play a sentinel role through the facility and resident visits they routinely conduct. Serving as the “eyes and ears” of the program, Ombudsman representatives help address residents’ concerns before they rise to the level of complaints requiring intervention by preventing actions or inactions that unfavorably impact residents’ care, rights, and quality of life. At the systems level, Ombudsmen advocate at the local, state, and federal levels for improvements in the long-term care system that benefit residents. These activities are not limited to legislative advocacy, but include coalition-building, speaking to the media, and other strategies that broadly advance residents’ rights and well-being. To help build capacity

for both individual and systems advocacy, the program also carries out education and outreach activities. These activities include providing information and consultation to facilities, residents and their families, collaborating with other agencies, supporting family and resident councils, developing citizen organizations, and empowering residents as well as their families and caregivers to be effective advocates.¹

Data reported by state ombudsman programs in 2020 demonstrate these efforts:

PAID STAFF

1,700



VOLUNTEER STAFF

6,621

CONDUCTED ALMOST

200,000

VISITS IN 39,894
LONG-TERM CARE
FACILITIES



INVESTIGATED

153,324

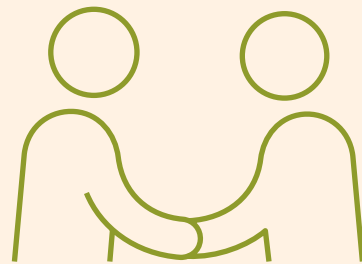
COMPLAINTS



PROVIDED MORE THAN

640,000

INSTANCES OF INFORMATION
AND ASSISTANCE TO INDIVIDUALS
AND FACILITY STAFF



List of Exhibits

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Abbreviations and Acronyms

AAA	Area agency on aging	HHS	U.S. Department of Health and Human Services
ACL	Administration for Community Living	LTCO	Long-term care ombudsman
COVID-19	Coronavirus disease 2019	LTCOP	Long-Term Care Ombudsman Program
FY	Fiscal year	OAA	Older Americans Act

Impact of COVID-19 Pandemic on Title VII LTCOP Services

Funding Use

Ombudsman programs are required to expend coronavirus disease 2019 (COVID-19) funds on allowable activities as defined by the Elder Justice Act, Coronavirus Aid, Relief, and Economic Security (CARES) Act, and American Rescue Plan Act in accordance with state and local policy. This funding is intended to support the capacity of ombudsman programs as well as enhance, improve, and expand the ability to investigate allegations of abuse, neglect, and exploitation in the context of COVID-19 (called COVID for short). For example, funds could be used to

- enhance ombudsman program complaint investigations during the COVID public health emergency to address complaints related to abuse, neglect, and poor care;
- resume in-person visitation at such time as visitation is permitted, such as when the COVID vaccine is accessible to residents, facility staff, and individuals working for the LTCO program;
- conduct education and outreach on abuse and neglect identification and prevention during the COVID public health emergency to residents, their families, and facility staff;
- enable travel for representatives of the LTCO office to ensure all residents have access to an LTCO representative;
- continue purchase of needed personal protective equipment;
- continue purchase of technology as needed;
- enable participation in state-level “strike teams” to address complaints related to care and neglect; and
- provide information and assistance on transitions from long-term care facilities to community-based, home care settings, consistent with section 712(a)(3) of the Older Americans Act (OAA).²



Title VII LTCOP Services

In-person visits with residents are a core part of ombudsman program outreach and advocacy. However, during the COVID-19 pandemic, visits have been dramatically curtailed, significantly restricting LTCO programs in pursuing their mission. The bullets below provide an overview of how the pandemic impacted Title VII LTCOP service needs and service provision.^{3,4,5}

- **Suspended and modified facility visits.** On March 13, 2020, the Centers for Medicare & Medicaid Services issued guidance restricting everyone but essential personnel from entering nursing homes. As a result, the state ombudsman and ombudsman staff and volunteers serving as designated representatives of the office of the LTCO generally stopped visiting facilities in person during that time. When in-person visits slowly resumed, they would take place through windows, outdoors, or in a designated safe space until it was determined that in-room visits would resume. Since states and facilities had different protocols and policies for visits, ombudsmen had to spend extensive time to determine the requirements for visits and the most recent COVID-19 testing results to know if a visit could take place safely.
- **Contacted facilities and residents remotely.** While restrictions were in place, ombudsmen contacted facilities, families, and residents by phone, email, or video calls. Since restrictions were eased, ombudsmen have made contact with residents through a combination of phone contacts, virtual visits, and in-person visits.
- **Experienced reduced number of complaints.** Ombudsman programs have seen drops in the number of cases and number of complaints during the pandemic, which can be attributed to the lack of direct contact with residents by families and ombudsmen.
- **Continued to investigate complaints.** Ombudsman programs have continued to investigate complaints they receive and to provide information and assistance to residents, family members, the public, and long-term care staff, despite access to in-person visits having been restricted. Ombudsman programs have proactively reached out to residents and family members as well as facility staff by phone, email, and/or video calls to check in.
- **Experienced an increase in information and assistance.** Much of the ombudsman work this past year consisted of listening to stories of the impact of the COVID-19 pandemic and restrictions on facilities, staff, and residents. In addition, ombudsmen spent more time providing education on COVID-19 regulations and guidance. Consultations were conducted in person, by phone, or by email.
- **Conducted virtual meetings.** Ombudsman programs reported hosting virtual meetings (e.g., Facebook live, Zoom meeting) for family members of individuals living in long-term care facilities and the public to share information and respond to questions about COVID-19 and long-term care issues. Resident and family councils sometimes have used telecommunication platforms to hold their meetings rather than meeting in person.

2020 National Ombudsman Reporting System Data Highlights*

As part of Title VII Chapter 2 (LTCOP), each state is required to establish and operate a statewide office of the state LTCO, headed by a full-time state LTCO. These ombudsman programs currently operate in all 50 states, the District of Columbia, Puerto Rico, and Guam. The state LTCO manages all aspects of the statewide program. Ombudsman staff and volunteers serving as designated representatives of the office of the LTCO at the local level assist in performing the activities and fulfilling the responsibilities of the program, including advocating on behalf of residents in long-term care settings.

Funds are awarded to states based on a formula that takes into account the state's population age 60 or older compared to all states. States may implement LTCOP activities directly or through contracts or agreements with public or nonprofit private agencies or organizations, such as other state agencies, area agencies on aging (AAAs), county governments, institutions of higher education, Indian tribes, or nonprofit service providers or volunteer organizations.⁶

* Program Performance Report reporting year 2020: October 1, 2019 - September 30, 2020.

Program Structure, Staffing, and Scope

Number of Ombudsman Entities

Reporting data in FY 2020 were

- 52 state LTCO offices (all 50 states, the District of Columbia, and Puerto Rico)[†] and
- 438 local ombudsman entities.

The majority (n=31) of state LTCO offices were located within state units on aging which served as the contracting entity for the state. Thirteen of the 52 state LTCO offices were located inside state government, either within another agency (n=10) or as stand-alone agencies (n=3). Eight state LTCO offices were located outside state government as part of a nonprofit agency (n=5) or representing its own stand-alone nonprofit agency (n=3).

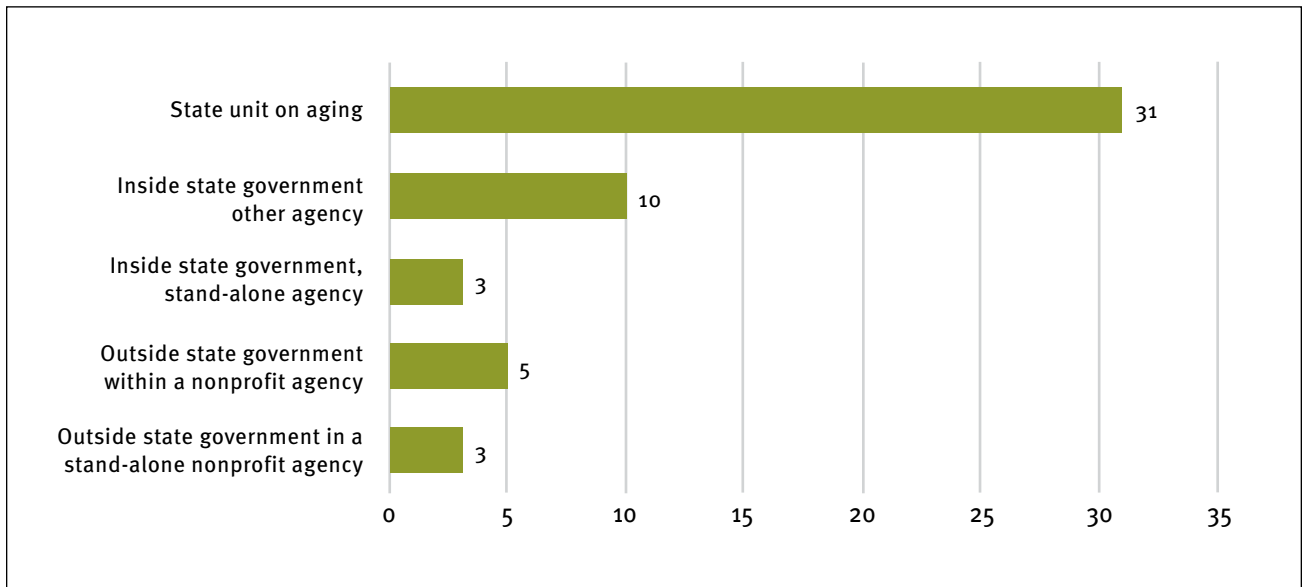
[†] Guam has an ombudsman but does not report data. Guam has only one nursing home and an unknown number of assisted living facilities.

52 | State LTCO offices

438 | Local ombudsmen entities

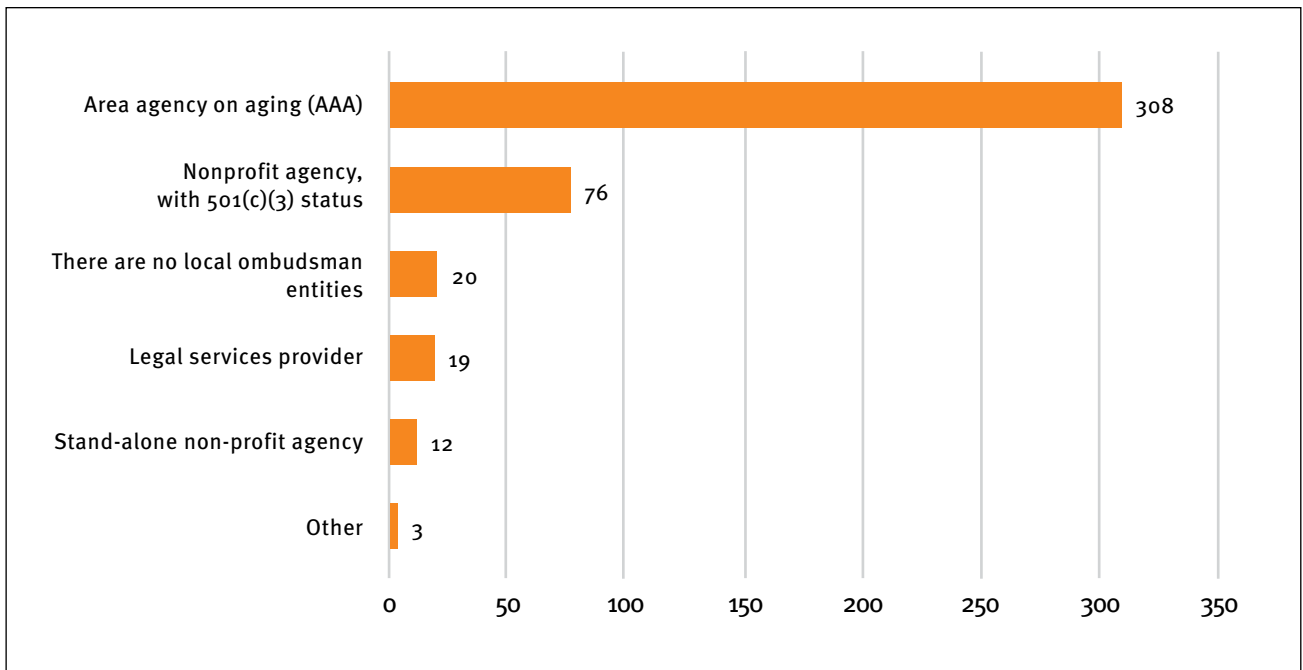


Exhibit 1. Location of State LTCO Office



The majority (n=308) of local ombudsman entities were located within AAAs, with the local ombudsman representatives of the office being employed by the AAA. In 20 instances there were no local ombudsman entities.

Exhibit 2. Location of Local Ombudsman Entities

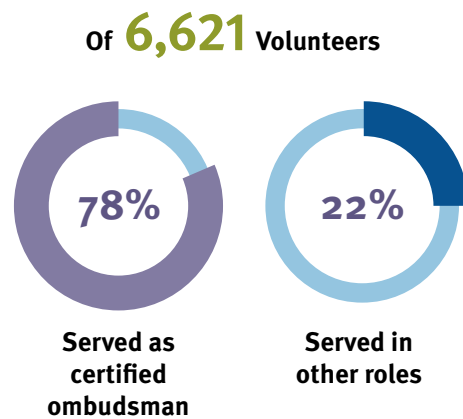


Number of Staff and Volunteers

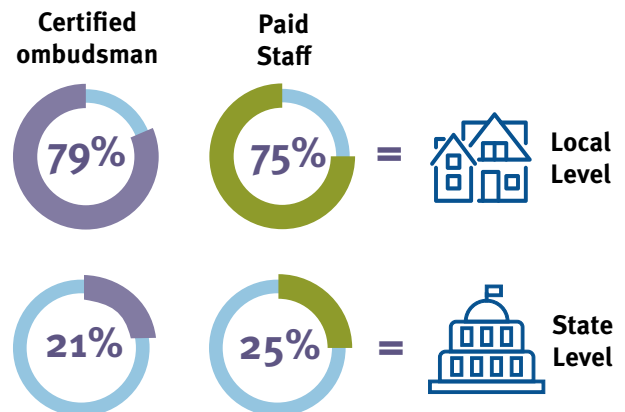
In FY 2020, the majority of LTCO program staff were volunteers (n=6,621), with 78% of volunteers (n=5,152) serving as certified ombudsman and 22% of volunteers (n=1,469) serving in other roles.* The majority of certified volunteer

ombudsmen (79%, n= 4,075) and the majority of paid staff (75%, n= 1,283) worked at the local level. The other certified volunteer ombudsmen (21%, n= 1,077) and paid staff (25%, n= 417) worked at the state level.

* Volunteers who serve on a program advisory or governing board, assist with fund raising, provide other in-kind services such as accounting or strategic planning, etc.



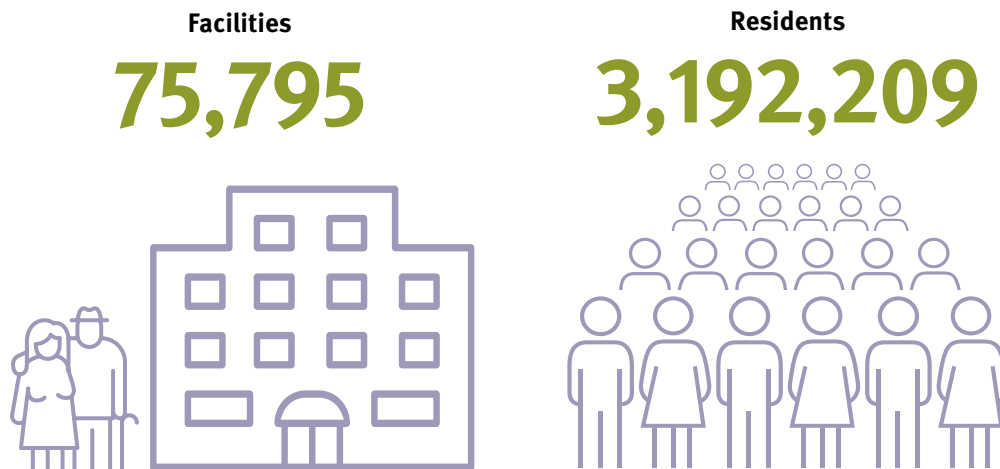
Majority of certified ombudsman and paid staff worked at the local level



Number of Facilities and Capacity

In FY 2020, LTCO programs and their representatives served more than 75,000 nursing homes and assisted living and similar residential care facilities, promot-

ing and protecting the rights of more than 3 million residents.



Case Summary

Number of Complaints

153,324

In FY 2020, there were a total of 153,324 complaints which required LTCOP investigation and resolution on behalf of one or more residents of a long-term care facility. Of the 153,324 complaints, the majority (n=108,648; 71%) originated in nursing facilities.

Complaint Verification Status

71%

Almost three quarters of all complaints (n=109,555; 71%) were verified, meaning that ombudsmen confirmed that most or all facts alleged by the complainant were likely to be true. In nursing facilities, 72% of complaints (n=78,358) were verified; in residential care facilities, 69% of complaints (n=28,763) were verified; and in other settings, 77% of complaints (n=2,434) were verified.

Exhibit 3. Complaints by Type of Facility

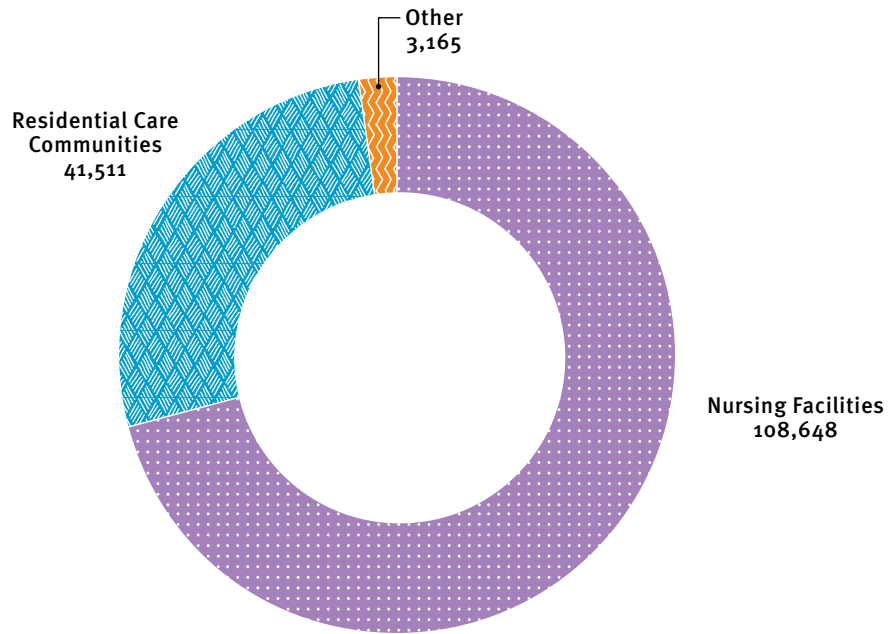
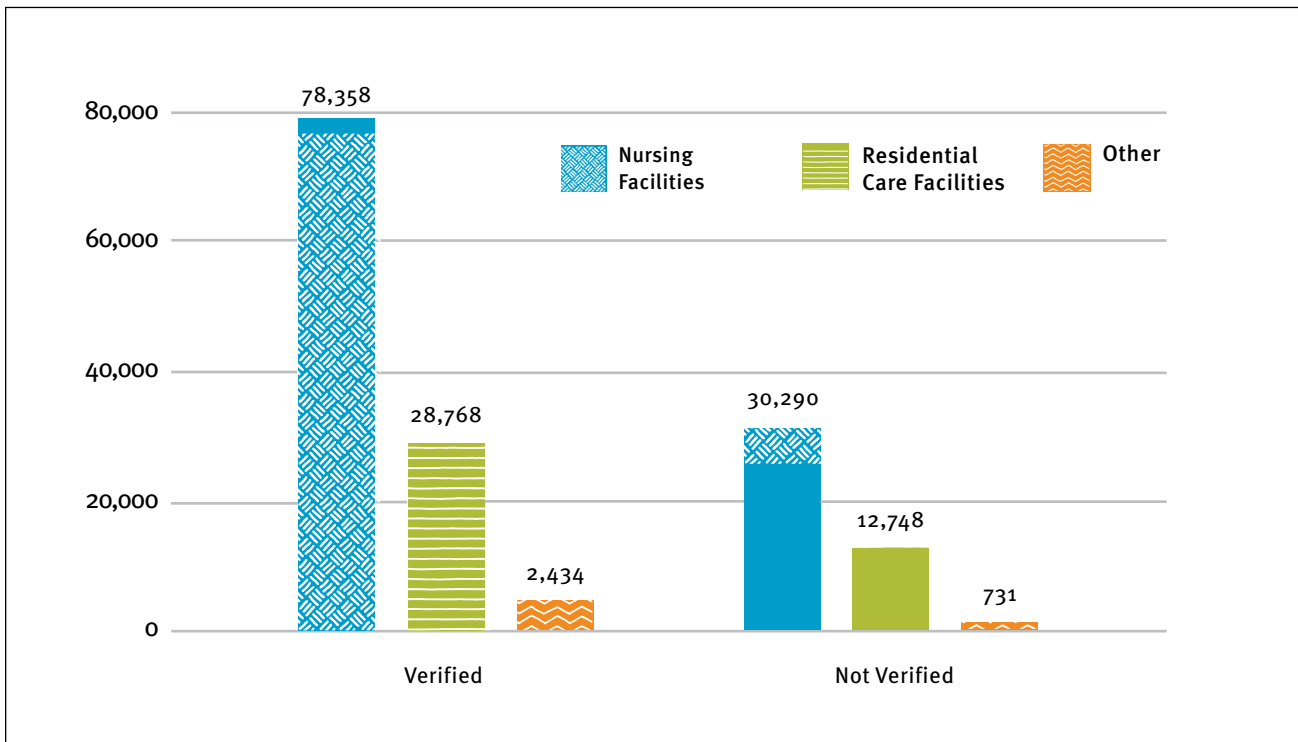


Exhibit 4. Complaints by Verification Status for Each Type of Facility



Complaint Dispositions

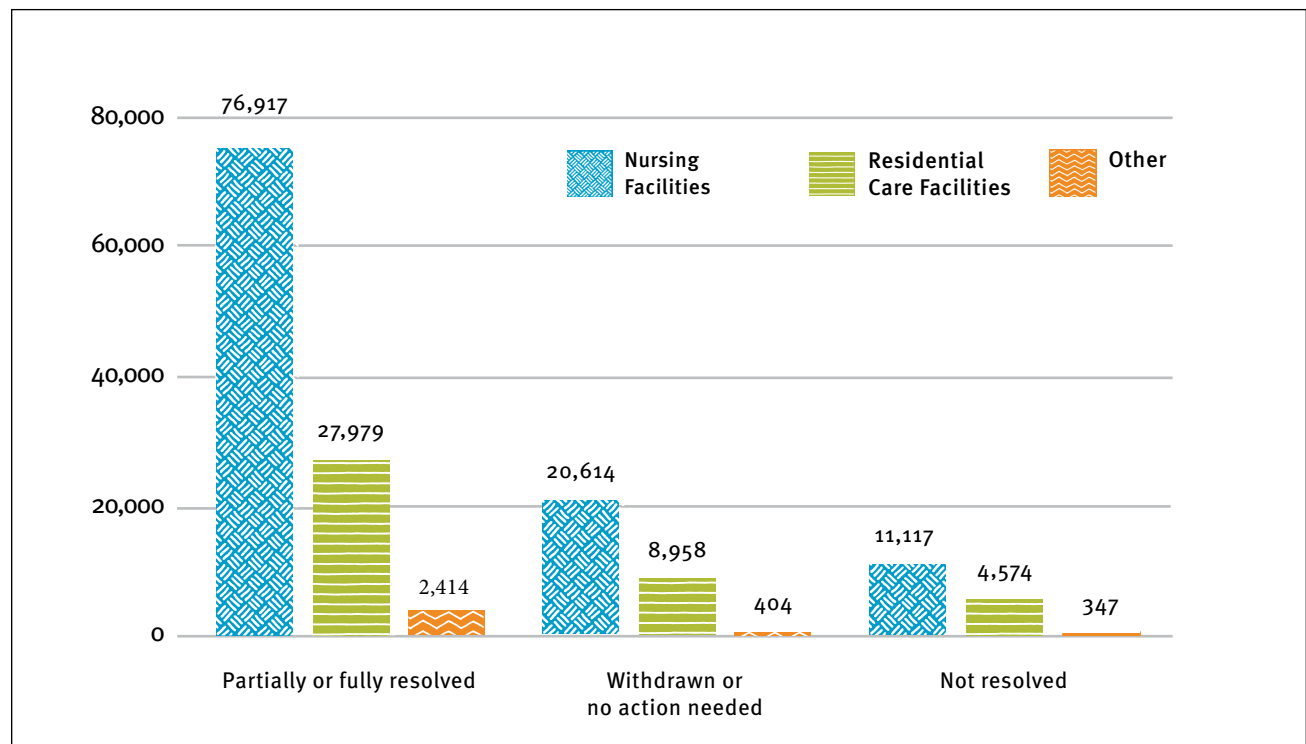
70%

More than two thirds of all complaints (n=107,310; 70%) were either partially or fully resolved.[§] For another 20% (n=29,976), no action was needed or the complaint was withdrawn. In about 10% of cases (n=16,038), the complaints were not resolved.[¶] In nursing facilities, 71% of complaints (n=76,917) were partially or fully resolved; in residential care facilities, 67% of complaints (n=27,979) were partially or fully resolved; and in other settings, 77% of complaints (n=2,414) were partially or fully resolved.

[§] Verification and resolution were both affected by the pandemic.

[¶] Resolution is based on the satisfaction of the resident, and some problems just cannot be resolved. For example, a resident might complain about insufficient staff, which may be resolved by the ombudsman working with the facility on a staff assignment plan (resolved). However, other times it may be about not having enough people to hire (not resolved).

Exhibit 5. Complaints by Disposition for Each Type of Setting

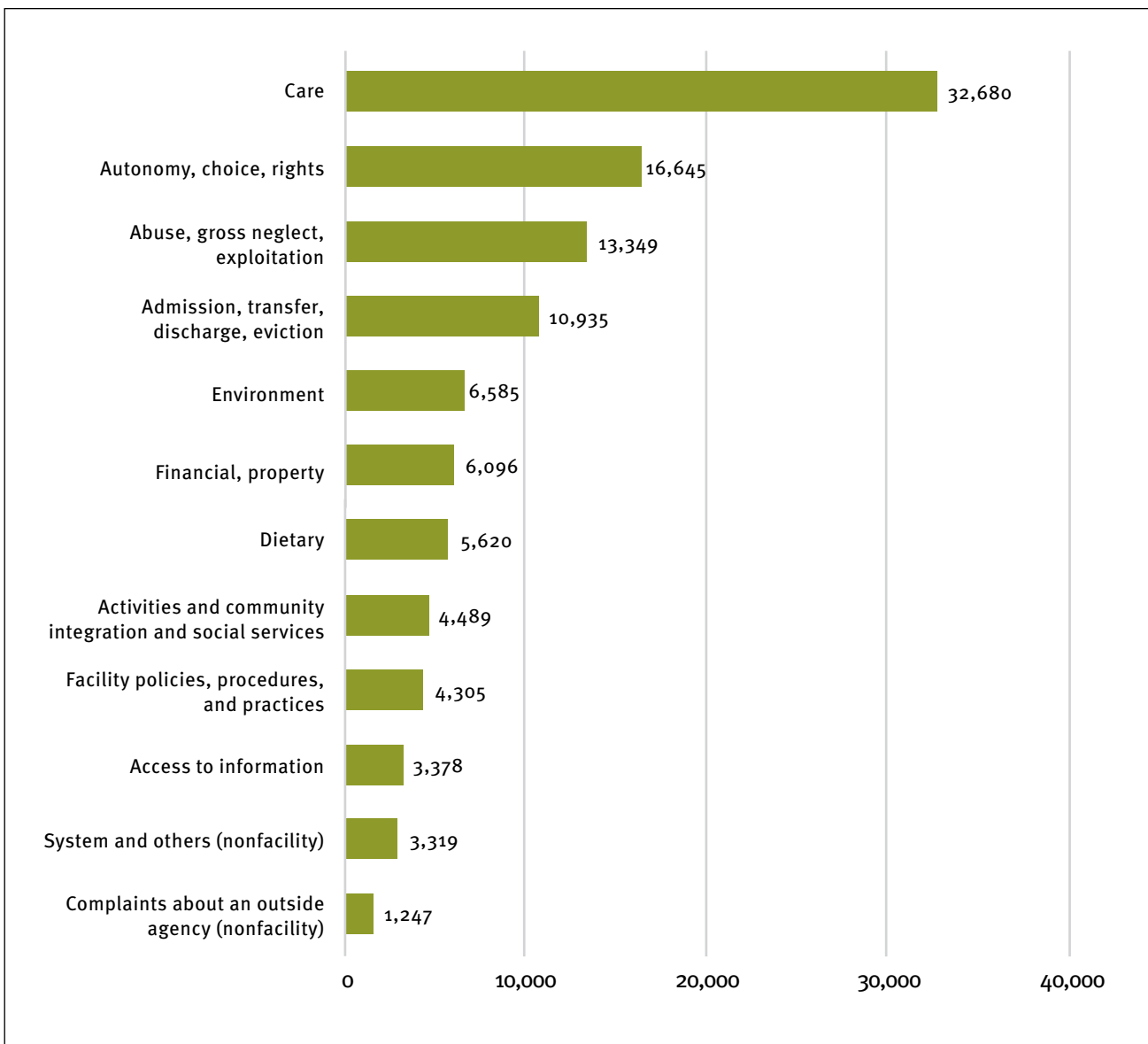


Complaints Categories

The largest number of complaints in **nursing facilities** (n=32,680; 30%) was related to care issues, including facility staff failure to provide care or providing poor quality care. The second most complaints (n=16,645; 15%) were related to facility staff failure to honor and promote a resident’s autonomy, choice, and rights. There were also many complaints in nursing facilities

(n=13,349; 12%) related to abuse, gross neglect, and exploitation—which involves the willful mistreatment of residents by facility staff, resident representative/family/friend, other residents, or an outside individual—as well as many complaints against nursing facilities (n=10,935; 10%) involving admission, transfer, discharge, and/or eviction.

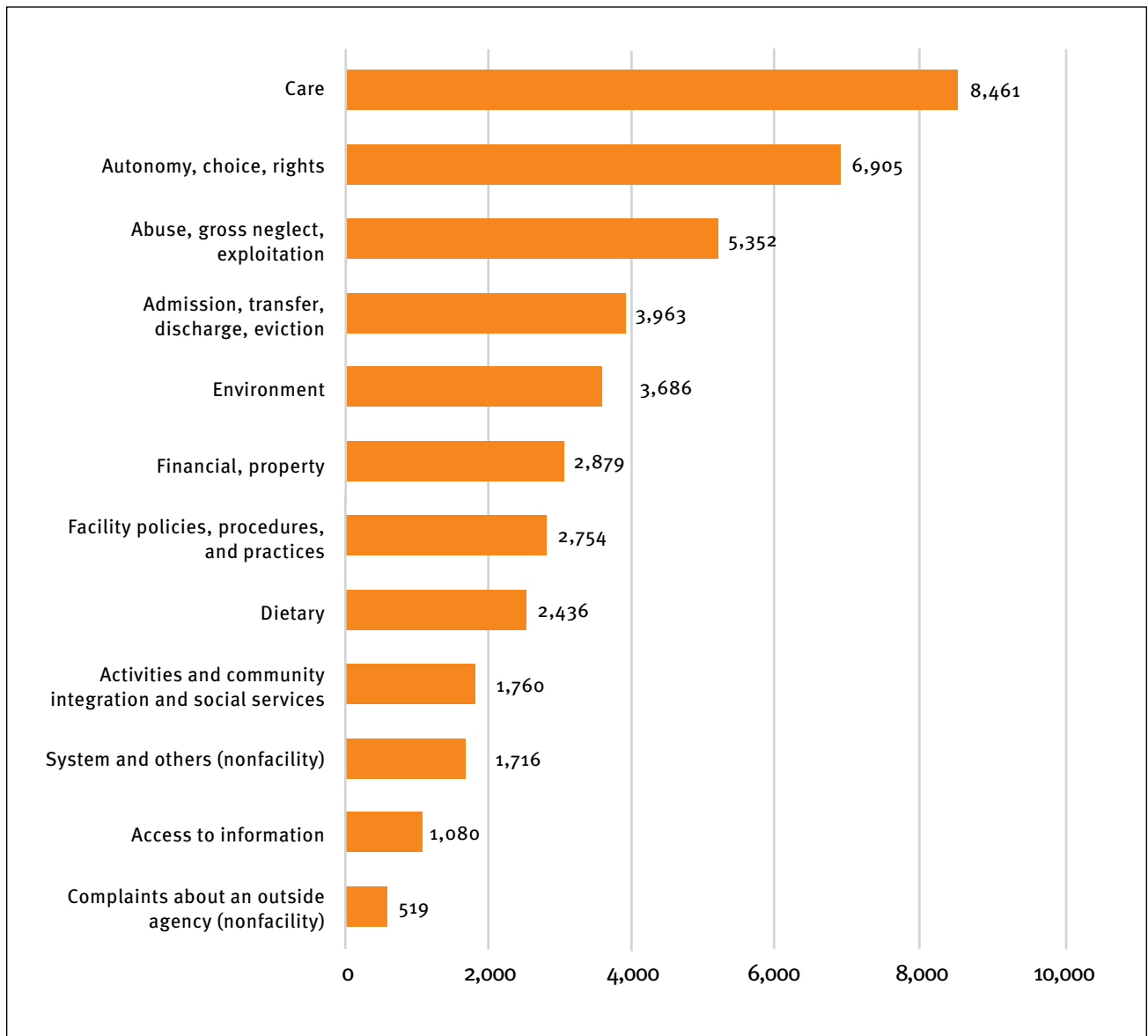
Exhibit 6. Complaints by Complaint Category, Nursing Facilities



20%

Complaints in **residential care communities** followed a pattern similar to those in nursing facilities, with the largest number of complaints related to care issues (n=8,461; 20%), followed by complaints related to autonomy, choice, and rights (n=6,905; 17%) and abuse, gross neglect, and exploitation (n=5,352; 13%).

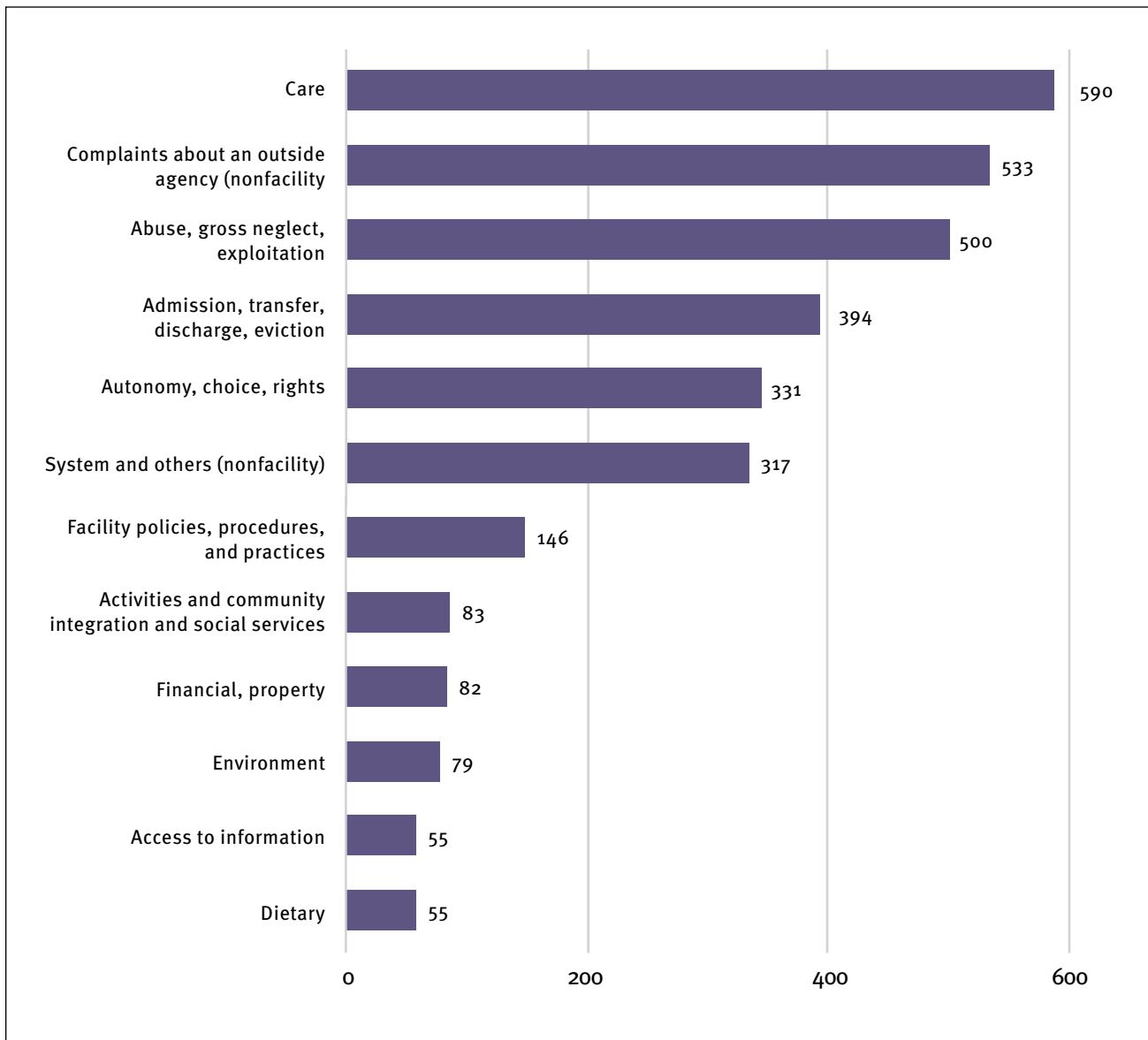
Exhibit 7. Complaints by Complaint Category, Residential Care Communities



19%

In **other settings**, too, the largest number of complaints (n=590; 19%) was related to care issues. The second largest number (n=533; 17%) was complaints about an outside agency, followed by complaints related to abuse, gross neglect, and exploitation (n=500; 16%).

Exhibit 8. Complaints by Complaint Category, Other Settings



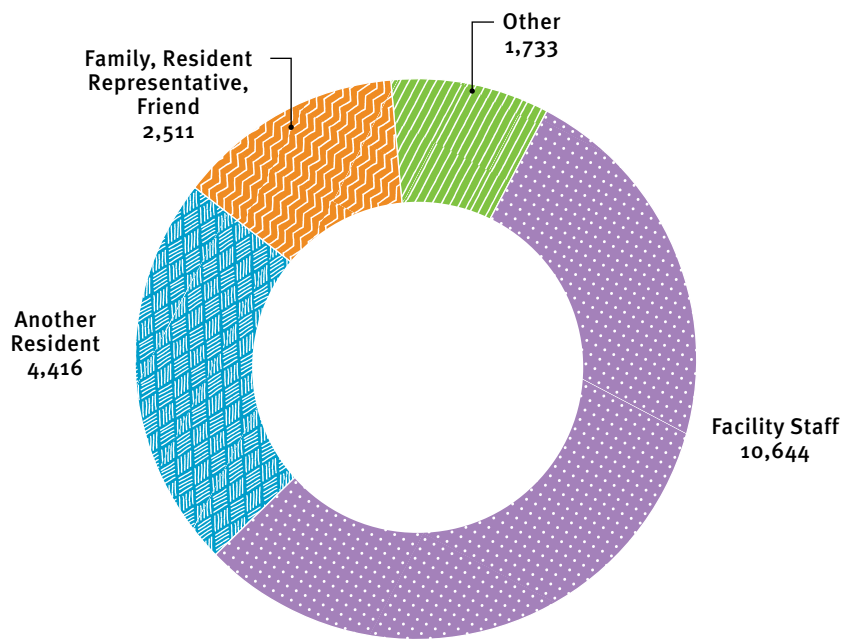
Perpetrator Type**

55%

For complaints related to abuse (physical, sexual, psychological), more than half of the complaints (n=10,644; 55%) involved a facility staff member, and almost a quarter of the complaints (n=4,416; 23%) involved another resident.

** Perpetrator type is reported for complaints related to abuse only. An ombudsman may select more than one type of perpetrator for a single abuse complaint. Thus, there are more perpetrators (n=19,303) than abuse complaints (19,201).

Exhibit 9. Perpetrator Type for Abuse Complaints



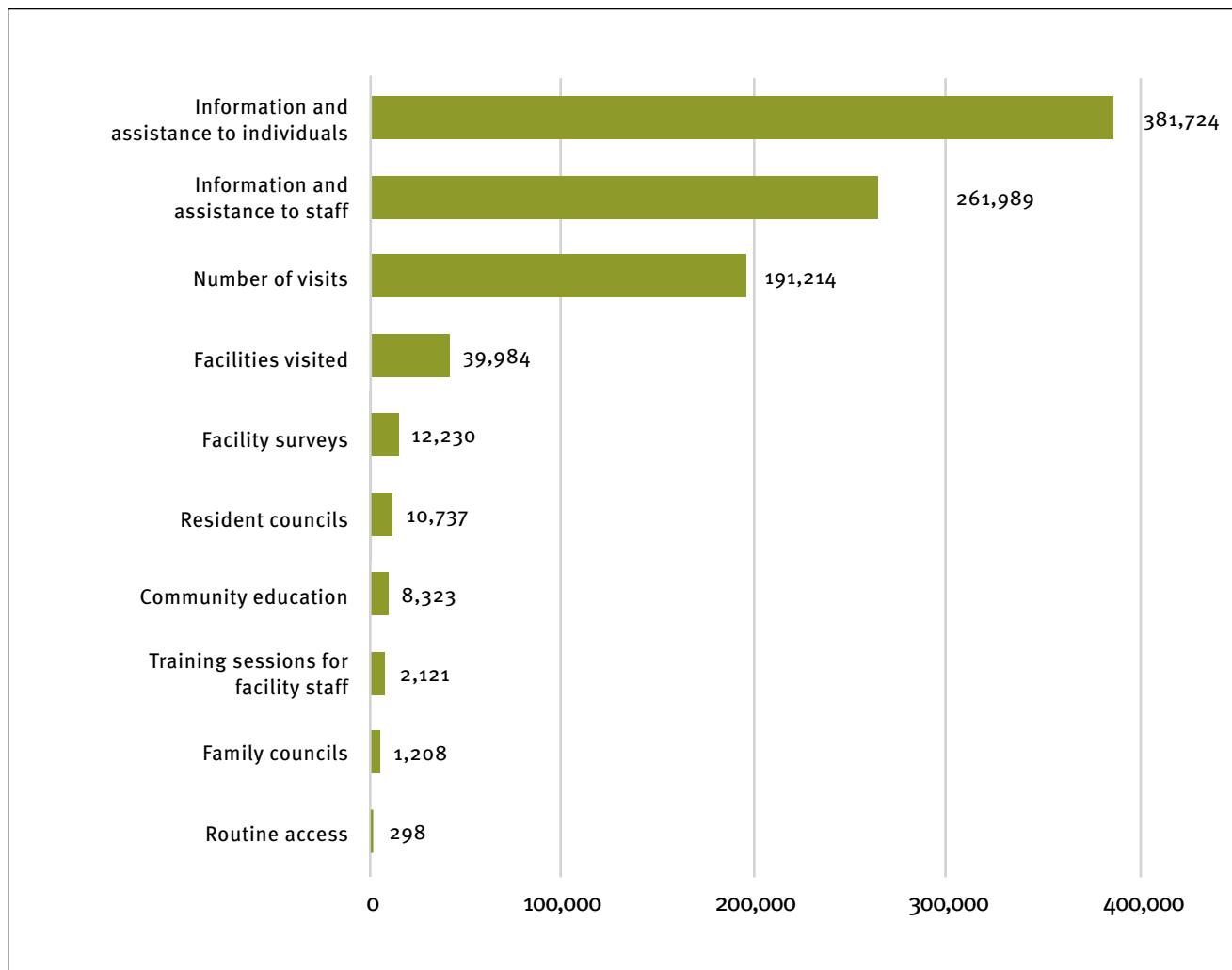
Program Activities

In addition to investigating complaints, LTCO programs engage in a range of activities to improve quality of life and care for residents of long-term care facilities. In FY 2020, the largest number of activities completed by LTCO programs focused on information and assistance to individuals (n=381,174 instances) or resident staff (n=261,989 instances). These activities may include providing information about issues that impact

residents (e.g., resident rights, care issues, services) and/or providing assistance to access services without opening a case and working to resolve a complaint. LTCO programs also completed almost 200,000 visits to 39,984 long-term care facilities, no matter the purpose of visit (complaint or noncomplaint related).^{††}

^{††} These activities were also highly influenced by the pandemic.

Exhibit 10. Program Activities to Improve Quality of Life



Appendix A: Title VII National Ombudsman Reporting System Definitions⁷

Abuse: **Physical abuse:** The intentional use of physical force that results in acute or chronic illness, bodily injury, physical pain, functional impairment, distress, or death. **Sexual abuse:** Forced and/or unwanted sexual interaction (touching and nontouching acts) of any kind. **Psychological abuse:** The infliction of anguish, pain, or distress through verbal or nonverbal acts, including but not limited to verbal assaults, insults, threats, intimidation, humiliation, and harassment.

Abuse, Gross Neglect, Exploitation (Code A): Serious complaints of willful mistreatment of residents by facility staff, resident representatives/ family/friends, other residents, or outside individuals. Indicate who appears to be the cause of the abuse, neglect or exploitation: (1) facility staff; (2) another resident; (3) resident representative, family, friend; or (4) other.

Access to Information (Code B): Complaints against the facility regarding access to information made by or on behalf of the resident. Use for willful interference with ombudsman duties.

Activities, Community Integration and Social Services (Code G): Complaint involving activities, community integration, or social services.

Admission, Transfer, Discharge, Eviction (Code C): Complaints against the facility involving issues regarding admission, transfer, discharge, and/or eviction.

Area Agency on Aging (AAA): Public or private nonprofit agency designated by a state to address the needs and concerns of all older persons at the regional and local levels. The term AAA is a general one; names of local AAAs may vary. The AAAs coordinate and offer services that help older adults remain in their homes, if that is their preference, aided by services such as home-delivered meals, homemaker assistance, and whatever else it may take to make independent living a viable option.

Autonomy, Choice, Rights (Code D): Complaints involving facility staff failure to honor and promote a resident's right or preferences.

Care (Code F): Complaints involving facility staff failure to provide care, including poor quality care, planning, and delivery.

Certified Volunteer Ombudsmen: Volunteers designated as representatives of the LTCO office.

Community Education: Community education outreach sessions by ombudsman program—e.g., attendance at health fairs, community events, general presentations, etc.

Complaint: An expression of dissatisfaction or concern brought to, or initiated by, the ombudsman program which requires ombudsman program investigation and resolution on behalf of one or more residents of a long-term care facility.

Complaints About an Outside Agency (Nonfacility; Code K): Complaints involving decisions, policies, actions, or inactions by programs and agencies—including private and public benefits.

Complainant: An individual who requests ombudsman program complaint investigation services regarding one or more complaints made by, or on behalf of, residents.

Complaint Disposition: Final resolution or outcome of the complaint.

Complaint Verification: A confirmation that most or all facts alleged by the complainant are likely to be true.

Dietary (Code H): Complaints regarding food service, assistance.

Environment (Code I): Complaints involving the physical environment of the facility, including the resident's space.

Facilities Visited: Total number of facilities that received at least one visit by a representative of the LTCO office during the reporting year, regardless of the purpose of the visit.

Facility Capacity: Number of beds for which the facility is licensed, certified, or registered.

Facility Policies, Procedures, and Practices (Code J): Acts of commission or omission by facility leadership/owners, including administrators, resident managers, etc.

Facility Staff: Any employee or contractor of a long-term care facility who brings a complaint to the ombudsman program regarding one or more residents.

Facility Surveys: Participation in survey activity conducted by regulatory agencies, including participation in both standard surveys and complaint surveys. Survey participation includes, but is not limited to, providing presurvey information to surveyors, sharing complaint summary reports, and participating in exit conferences and informal dispute resolution.

Financial, Property (Code E): Complaints involving facility staff mismanagement of residents' funds and property or billing problems.

Gross Neglect: 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, which results in a serious risk of compromised health and/or safety relative to age, health status, and cultural norms.

Information and Assistance: Providing information about issues that impact residents (e.g., resident rights, care issues, services) and/or providing assistance to access services without opening a case and working to resolve a complaint. Information and assistance may be provided through various means, including but not limited to by telephone, by written correspondence such as email, or in person.

Nursing Facility: Any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a)), or any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)). May also include noncertified nursing homes licensed by the state.

Ombudsman Program: The program through which the functions and duties of the LTCO office are carried out, consisting of the ombudsman, the office headed by the ombudsman, and the representatives of the office.

Other Settings: Settings beyond those defined as long-term care facilities in the Older Americans Act (OAA).

Other Volunteers: Other types of volunteers who are not representatives of the office.

Perpetrator: Person who appears to have caused the abuse or neglect or exploitation.

Resident: An individual who resides in a long-term care facility.

Residential Care Community: A type of long-term care facility as described in the OAA that, regardless of setting, provides, at a minimum, room and board, around-the-clock on-site supervision, and help with personal care such as bathing and dressing or health-related services such as medication management. Facility types include, but are not limited to, assisted living; board and care homes; congregate care; enriched housing programs; homes for the aged; personal care homes; adult foster/ family homes; and shared housing establishments that are licensed, registered, listed, certified, or otherwise regulated by a state.

Resident or Family Council: Organized, self-governing, decision-making group of long-term care residents (resident council) or families (family council) who meet regularly to voice their needs and concerns and to have input into the activities, policies, and issues affecting the facility.

Resident Representative, Friend, Family: Resident representative, as defined in 45 CFR 1324.1, may be

- an individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;

- a person authorized by state or federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;
- a legal representative, as used in section 712 of the Act; or
- the court-appointed guardian or conservator of a resident.

Friend is a nonrelative with a personal relationship with the resident as identified by the resident or complainant. Family is spouse, sibling, other relative, or as identified by the resident or complainant.

Routine Access: Facilities visited, not in response to a complaint, in all four quarters by representatives of the LTCO office.

State Units on Aging: Designated state-level agencies that are responsible for the planning and policy development as well as the administration of OAA activities.

System: Others (Nonfacility; Code L): Other complaints, including resident representative or family member interfering with the resident’s decision-making and preferences related to health, welfare, safety, or rights, but not rising to the level of abuse, gross neglect or exploitation; problems with services provided to a resident from an individual or entity not associated with or arranged by the facility; and barriers to transition to community—inadequate assistance with accessing housing, services, and supports not related to facility action or inaction.

Training: Training sessions provided by representatives of the LTCO office to facility staff. Training may be in person or web-based and typically includes an agenda and learning outcome(s).

Visits: Facility visits, no matter the purpose of visit (complaint or noncomplaint related), by representatives of the LTCO office.

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