

Supporting Statement for the State Annual Long Term Care Ombudsman Report for FFY 2025-2027

1. Circumstances Making the Collection of Information Necessary

The State Annual Long-Term Care Ombudsman Report is necessary for compliance with the Administration for Community Living/Administration on Aging (ACL/AoA) reporting requirements in the Older Americans Act (OAA); and 45 CFR 1324.21(b) (1) and (b)(2)(v)1 to:

- Measure the services and strategies that are provided to assist residents in the protection of their health, safety, welfare or rights,
- Advocate at the state and federal levels for changes needed to improve the quality of life and care in long-term care facilities, and
- Effectively manage the Long-Term Care Ombudsman Program at the state and federal level.

The National Ombudsman Reporting System (NORS) was developed in response to these needs and directives and was approved by the Office of Management and Budget for use in FFY 1995-96. It has been extended for use since that time with slight modifications. The most recent modification was approved for FFY 2021-2023 to make minor modifications of complaint types. Section 712(c) of the OAA requires the state agency to establish a statewide uniform reporting system to collect and analyze data relating to resident complaints and conditions in long- term care facilities and submit the data to the state licensing/certifying agency, other state and federal entities that the Ombudsman determines to be appropriate, the Assistant Secretary for Aging, and the National Long-Term Care Ombudsman Resource Center. Section 712(h)(1) requires the state agency to require the Office of the State Long-Term Care Ombudsman to prepare an annual report describing the activities carried out by the Ombudsman office in the year for which the report is prepared. The report is to contain:

- The data and an analysis of the data collected under Section 712(c).
- Evaluation of the problems experienced by, and the complaints made by or on behalf of, residents.
- Recommendations for improving the quality of the care and lives of the residents; and protecting the health, safety, welfare, and rights of the residents.
- Analysis of the success of the program, including success in providing services to residents of board and care facilities and other similar adult care facilities.
- Identification of barriers that prevent the optimal operation of the program; and
- Policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove barriers.

Section 712(h)(2) also requires the Ombudsman to analyze and comment on the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services and to the health, safety, welfare, and rights of residents in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate.

Section 712(h)(3)(A) requires the state agency to ensure that the Office of the Ombudsman provides such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding the problems and concerns of older individuals residing in long-term care facilities, and recommendations related to the problems and concerns.

Section 712(h)(B) requires the state agency to require the Office of the Ombudsman to make the annual report available to the public, and submit it to the Assistant Secretary for Aging, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities. Under the Older Americans Act – Ombudsman Reporting Requirements for ACL Title II of the OAA requires the Assistant Secretary for Aging to compile an annual national Ombudsman report. The report must:

- Summarize and analyze the data collected by the states under Section 712(c) and (h) for the most recently concluded fiscal year.
- Identify significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights).
- Discuss current issues concerning the Long-Term Care Ombudsman programs of the states; and
- Make recommendations regarding legislation and administrative actions to resolve such problems.

The Assistant Secretary is required to submit the report to the congressional committees of jurisdiction for the OAA and to the Administrator of the Centers for Medicare & Medicaid Services, the Office of the Inspector General of the Department of Health and Human Services, the Office of Civil Rights of the Department of Health and Human Services, the Secretary of the Department of Veterans Affairs, and agencies which house the state Ombudsman office as well as consultation with State and Local Ombudsman programs and State Agencies on Aging. From the beginning of the NORS development and redesign, ACL has worked with state and local Ombudsman programs to develop and improve the reporting system. ACL staff and the National Ombudsman Resource Center continue to provide training and technical assistance on the NORS definitions, codes, and effective uses of data.

2. Purpose and Use of Information Collection

The information will be provided to the legislative and executive branch officials cited in the OAA, state directors on aging, state Ombudsmen, national organizations involved in residential long-term care issues, and private citizens who request it. Data sets will be posted on the Aging Integrated Database (AGID) and the National Ombudsman Resource Center's website. Information from the national reports issued to date has been used:

- To advocate within the Department on specific issues affecting persons living in long-term care facility settings, for monitoring purposes and to identify areas where technical assistance and program direction to the states are indicated, and to prepare planning and reporting documents, including budgets.
- Determine program objectives and outcome measures and to assist the state and local programs to use their data to develop their own objectives, targets and outcomes.
- Determine problems that residents in their state and other states are experiencing and to plan systems advocacy activities, training, technical assistance and public education programs to address these problems; and
- By other agencies, researchers and the public in all manner of inquiry related to residential long-term services and supports.

3. Use of Improved Information Technology and Burden Reduction

Improved Technology: The NORS Reporting tool, part of the ACL "Older Americans Act Performance System," (OAAPS) employs modern methodologies for data submission, which are efficient, effective, and improve data quality. These methodologies reduce the burden on the states and ACL in collecting this essential data.

States have upload templates, which allows a streamlined ability to upload data and prevent data entry errors. The OAAPS has set business rules and restrictions, such as amount, order, boundaries and relationship which enables state IT staff and vendors to prepare the data for submission with assurance that the basic file structure is correct.

The Case and Complaint components (Tables 1 & 2) are non-identifiable data that describes complaint investigation services provided by the State Ombudsman program during the reporting period (federal fiscal year). Once the Case Component file is ready, the state uploads the file through the OAAPS secured website. A dditional validation is automatically conducted by the system and the state receives electronic validation and summary data reports. The state can review the results, determine if corrections are needed, and upload a corrected file until satisfied. When ready, the state submits the file to ACL for final validation that includes human review. The online validation lessens the number of resubmissions and the burden on the state and ACL. ACL continues to work on enhancements to ease data review and analysis as states gain experience using the system. The State Program Component sections (Table 3) includes such things as, narratives, funds expended data, program activities, number of facilities and beds, etc. This data can be manually entered or provided through an upload file. The NORS reporting tool instantly

validates the data to identify errors and allow states to correct the errors before submitting them to ACL. The reporting tool displays helpful instructions for each data element as it is entered. This helps to improve the consistency and accuracy of the answers. It provides immediate feedback before the file is submitted to ACL, lessening the number of resubmissions.

States can begin entering the data, save it, and return to complete the data multiple times. When satisfied with the data and having passed all validation checks, the state submits it to ACL. For archival purposes, a state may download their data in Excel format. The final report is securely saved and only accessible through the OAAPS website by the submitting state and ACL. The data from the previous reporting period is accessible to the same online form for the next reporting period, making them easily updatable (when appropriate, such as with organizational conflicts of interest) from the prior year, thereby reducing the level of effort in subsequent years.

All information in the Ombudsman report is unique to the Ombudsman Program. Although the number of nursing facilities certified by Medicare and Medicaid is available from the Centers for Medicare & Medicaid Services, states may also have licensed only nursing homes. Therefore, NORS requires Ombudsman programs to report a count of all nursing homes and beds licensed or certified in their state. While sporadic studies have provided estimates on the number of residential care community facilities and beds, the annual ACL Ombudsman report provides the only consistent national data on the number of nursing homes and beds classified as residential care communities.

4. Efforts to Identify Duplication and Use of Similar Information

ACL/AoA collects data from states' adult protective services (APS) agencies. The National Adult Maltreatment Reporting System (NAMRS OMB 0985-0054) addresses the requirements of the Elder Justice Act of 2009, which amended Title XX of the Social Security Act (42.U.S.C. 13976 et seq.) and requires that the Secretary of the U.S. Department of Health and Human Services "collects and disseminates data annually relating to the abuse, exploitation, and neglect of elders" (Sec. 2041 (a)(1)(B) and "conducts research related to the provision of adult protective services" (Sec. 2041 (a)(1)(D). NAMRS differs in several ways from NORS. NAMRS collects data on investigations by APS agencies into allegations of abuse, neglect, or exploitation of older persons and adults with disabilities, regardless of residence type. The state programs that respond and collect NAMRS data are different from state Ombudsman programs.

NORS collects complaint data concerning the health, safety, welfare and rights of residents in long-term care facilities, which includes complaints related to abuse, neglect and exploitation, but is not limited to those types of issues. NORS also collects other information relevant to the Ombudsman program, such as providing facility visits, instances of information and assistance, participation in surveys, etc. The definitions in NAMRS have been closely aligned with definitions in NORS, wherever applicable. No duplication of effort will result from the revised NORS data collection.

5. Impact on Small Businesses or Other Small Entities

No small businesses or other small entities will be involved in this collection.

6. Consequences of Collecting the Information Less Frequent Collection

If collection were less frequent than annual, neither the states nor ACL would be able to meet reporting requirements in the OAA. Both advocacy and program management functions dependent on the information in the NORS would suffer from lack of current data.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

This IC does not collect demographic data from grantees receiving programs and services funded by HHS. This includes guidance specific to the collection of sexual orientation and gender identity (SOGI) items that align with Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, Executive Order 14075 on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, and Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity and Sexual Orientation and the updated Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (effective March 28, 2024).

8. Comments in Response to the Federal Register Notice/Outside Consultation

A notice was published in the *Federal Register* on August 6, 2024 (89 FR 63956).

Please see public comments received during the 60-day FRN and ACLs response to comments listed below. A 30-day notice published in the *Federal Register* on October 31, 2024 (89 FR 86807).

ACL received comments from individuals and groups to include the National Association of State Ombudsman Programs (NASOP); the National Association of Local Long-Term Care Ombudsmen (NALLTCO), the California Long-Term Care Ombudsman Association (CLTCOA), National Ombudsman Resource Center (NORC), and a gerontologist/researcher.

Commenters who addressed the utility of the data and burden estimates supported the continuation of the NORS collection. The association of local ombudsmen recommended that ACL conduct a future study of the documentation burden on local long-term care ombudsmen.

The association of State Long-Term Care Ombudsmen recommended that changes in data elements be undertaken with ample time to adjust state systems and receive training before implementation, with a request for ACL grant funding for implementation costs. Both recommendations were deferred for future consideration if funding is available.

Recommendations specific to adding or removing data elements, ACL opts to hold those suggestions for future revision after further consideration and analysis of impact of the changes; including the impact on State Ombudsman programs that would need to change their data collection systems. Comments that ACL accepted were changes to instructions and examples and reporting tips for clarity.

Most of the comments were requests to modify instructional examples and reporting tips. Some of the recommendations indicated misunderstandings that can be resolved with technical assistance, the below nine comments/recommendations were accepted.

Comment 1: One respondent requested clarification on how to code complaint disposition when a resident dies before an outcome of the complaint has been obtained.

Response 1: Reporting tips were changed to instruct the Ombudsman to report such instances as withdrawn when there is not a resident representative to determine resolution.

Comment 2: One respondent requested revision to complaint type F01 – Accidents and falls to update language from describing a resident who self-propels to a resident who uses a wheelchair independently.

Response 2: The example was updated accordingly.

Comment 3, 4: Two respondents recommended changing how volunteer representatives are counted to include all volunteers who were representatives during the reporting year. Current instructions are to count volunteers as staff are counted – the number on September 30th.

Response 3,4: The description was updated to ensure that all volunteer representatives are counted.

Comment 5: One respondent requested that ACL allow newsletters and other forms of media to be counted as community education.

Response 5: As use of social media and other electronic means of imparting information has increased, community education activities are under-reported within current instructions. A revision to the instructions was made to accommodate the request.

Comment 6, 7: Two respondents recommended a change to the description of complaint type I03 – Supplies, storage, and furnishings to include facility failure to properly store hazardous chemicals and other hazards.

Response 6, 7: I03 is a complaint type about shortage of supplies. Instead, the examples and reporting tips for I01- Environment were revised to accommodate the comments.

Comment 8: One respondent suggested modifying the description of program activity elements S64 and S65 – Resident council participation to include instances of training to resident groups that might not be formal resident councils.

Response 8: The modification was made to accommodate the suggestion. A corresponding change was made to S66 and S67 – Family council participation.

Comment 9: One respondent requested that ACL remove the requirement to report expenditures in NORS or, in the alternative, specify that expenditures be reported as obligated.

Response 9: As ACL has worked to reconcile multiple means of financial reporting, confusion has been evident. The NORS requirement will not be removed because NORS is the source of publicly reported information about Ombudsman program resources. However, the examples and reporting tips were modified to instruct states to report using consistent accounting methods.

ACL received the following comments and did not accept them for inclusion in NORS.

Comment: One respondent recommended including “fear” of retaliation in the complaint type where retaliation is reported and adding a complaint code for theft of medications.

Response: Because such problems can be captured within existing complaint codes, it is not necessary to add to the collection.

Comment: One respondent suggested adding to the definition of complainant to capture referrals from legislators.

Response: ACL will provide technical assistance about reporting entities that make referrals, different from complainants.

Comment: Two respondents suggested removing the verification data element because Ombudsman programs work to resolve all problems expressed by residents.

Response: Verification is key to the purpose of investigation and ACL will provide technical assistance if needed to supplement training provided by the National Ombudsman Resource Center (NORC).

Comment: One respondent suggested changing language from “perpetrator” to “aggressor” when a complaint involves a resident living with dementia.

Response: In the example described in the comment, the use of the abuse complaint type could be incorrect; ACL and NORC will provide technical assistance on how to code complaints to reflect resident experience rather than changing a term that is commonly used in abuse investigations by other entities.

Comment: Three respondents recommended modification to the psychological abuse complaint code to include social media posts and posting of photographs.

Response: The current reporting tips include oral, written, or gestured language and are sufficient to include social media posts. Photos are also included in the reporting tips.

Comment: Three respondents recommended adding language to complaint types in the category of autonomy, choice, and rights to address emergence of artificial intelligence to monitor residents.

Response: This issue requires further review and will be considered for future revisions.

Comment: One respondent suggested adding a reporting tip to complaint type F10- Rehabilitation services to instruct ombudsmen how to report contractures as gross neglect.

Response: Further review is needed, and this suggestion will be considered for future revisions.

Comment: One respondent recommended that instruction be added to select staffing as a secondary complaint and to broaden the definition of staffing.

Response: The use of secondary complaint codes when a resident or complainant has not expressed staffing as a complaint would be a significant change in practice with potential unintended consequences. This requires further review and may be considered in future revisions. The existing definition of J03 – Staffing is sufficiently inclusive of staffing vacancies.

Comment: Two respondents recommended adding language to the definition and examples for complaint type L01 – Resident representative or family conflict to include other visitors with different types of relationships.

Response: The complaint type as currently defined is specific to the nature of the relationships of family members and individuals that residents choose to be their representative; adding others could dilute the meaning of the data element.

Comment: Two respondents requested the addition of a new complaint type for reporting resident-

to-resident altercations that are not willful abuse.

Response: ACL is not adding or removing data elements with this renewal but will consider this recommendation in the future after analysis of impact and alternatives within the existing collection.

Comment: Three respondents recommended adding a new category of complaints and individual complaint types about discrimination.

Response: ACL is not adding or removing elements but will seek additional input and consider this change in the future after analysis of impact.

Comment: Two respondents suggested adding a new complaint category to allow for short-term collection of data for a special purpose.

Response: ACL is not adding or removing elements with this renewal but will consider the recommendation after analysis of impact and alternatives.

Comment: One respondent asserted that complaint/case terminology in data elements S01-S06 is confusing.

Response: The data elements are text fields and provide flexibility for the State Ombudsman to describe complaints as they determine best. Technical assistance will be provided.

Comment: One respondent requested clarification about reporting hours donated by volunteers when the volunteer receives travel reimbursement.

Response: The Older Americans Act allows for reimbursement and travel is included in the current examples and reporting tips.

Comment: One respondent requested clarification about removal or remediation of conflicts of interest.

Response: How conflicts of interest are addressed is a matter of rule implementation and technical assistance will be provided as part of broader regulatory guidance.

Comment: One respondent suggested the addition of a code for a specific type of expenditure.

Response: ACL is not adding or removing data elements with this revision of NORS but will consider this change in the future.

Comment: One respondent suggested clarification of local funds expended.

Response: The instruction is written as intended and technical assistance will be provided.

Comment: Four respondents recommended changes to routine access visitation reporting.

Response: Routine access visits as defined are an important measure of resident access to their advocate separate from visits to handle complaints, as well as a measure of the impact of program funding. ACL will explore this request further and consider a change in the future; data elements are not being changed in this revision.

Comment: Three respondents commented that instructions are vague about how to report the number of facilities and that closures have an impact on how routine access visits are measured on a quarterly basis.

Response: Information is not collected by ACL quarter by quarter and there is not an expectation that 100% of facilities will receive routine access visits.

Comment: One respondent requested a new data element for reporting facility closures.

Response: At this time ACL is not adding or removing elements but will consider this change in the future after analysis of impact and alternatives.

Comment: Two respondents requested new Ombudsman program staffing data elements – statewide turnover rates, years of experience of Ombudsman representatives, and the staff-to-bed ratio of staff.

Response: At this time ACL is not adding or removing elements but will consider this change in the future after analysis of potential methods of collection.

9. Explanation of any Payment/Gift to Respondents

Not applicable.

10. Assurance of Confidentiality Provided to Respondents

There are no assurances of confidentiality. Data will be kept private to the extent allowed by law. Individuals are not identified in the report and, since no individual is identified in the data collection process, no assurance of confidentiality is required. Ombudsman data collection programs are designed to fully keep the data of residents and complainants private under the requirements of the Ombudsman federal rule at 1324.11(e)(3) and the Ombudsman provisions of the OAA.

11. Justification for Sensitive Questions

This information collection does not ask sensitive questions.

12. Estimates of Annualized Hour and Cost Burden

The hour burden is based on the number of cases managed by the nationwide Long-Term Care Ombudsman Program (LTCOP), consisting of the 50 states plus the District of Columbia and Puerto Rico, in the most recent year for which data is available.

Closed cases reported by the 52 state Ombudsman programs for FFY 2023 were 122,569. Estimates on completion are based on experiences from Ombudsman programs for the average time required to document a case. States estimate that they approximately 214.5 hours total checking and verifying data from the local programs and compiling their annual report. Improved technology allows for the uploading of data files to populate the case and complaint data which increases the consistency and reliability of data reducing burden associated with manually entering data. Ombudsmen Staff for a total of 198.5 hours + Social and Community Services Managers for a total of 16 hours equals 214.5 average burden hours per response.

Type of Respondent	Form Name	No. of Respondents	No. Responses per Respondent	Average Burden per Response	Total Burden Hours

				(in hours)	
State Ombudsman	NORS/OAAPS	52	1	214.5	11,153.9

Based on the Bureau of Labor Statistics (BLS) mean hourly wage for Other Community and Social Service Specialist for staff Ombudsmen (occupation code 21-1000) 198.5 hours at \$24.98 for a total of \$4,958.53. Social and Community Services Managers (occupation code 11-9151) for State LTC Ombudsmen with 16 total burden hours at \$37.03 for a total of \$592.48 equals total cost https://www.bls.gov/oes/2023/may/oes_nat.htm#21-0000

Estimated Annualized Respondent Burden Costs

Type of Respondent	Total Burden Hours	Hourly Wage Rate	Total Respondent Costs
Ombudsmen Staff (Community and Social Service Specialist)	198.50	\$24.98	\$4,958.53
State LTC Ombudsmen (Social and Community Services Managers)	16	\$37.03	\$592.48

13. Estimates of other Total Annual Cost Burden to Respondents or Recordkeepers/Capital Costs

There are no capital or other costs to respondents or record keepers.

14. Annualized Cost to Federal Government

The table below describes the annualized cost to the federal government. It is based on the General Schedule Locality Pay Table for the Washington-Baltimore-Arlington area, which is the location of the National Ombudsman Program Coordinator.

<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2023/general-schedule>

A GS 14-3 taking 15% or 48 hours of time to review and complete adding overhead and benefit totals \$135.3.

GS Grade/Step	Percent Time/hours	Estimated Cost
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GS 14-3 \$67.65	15%/48 hours	\$6,494.4
	Contract Cost	\$200,000
	Training cost	\$1,500
Total	Annualized Cost to Federal Government	\$207,994.4

15. Explanation for Program Changes or Adjustments

Minor non-substantive updates based on public comments (listed below) did not cause an increase or decrease in burden, there are no program changes or adjustments.

Most of the comments were requests to modify instructional examples and reporting tips. Some of the recommendations indicated misunderstandings that can be resolved with technical assistance.

1. Clarification on how to code complaint disposition when a resident dies before an outcome of the complaint has been obtained.
2. Revision to complaint type F01 – Accidents and falls to update language from describing a resident who self-propels to a resident who uses a wheelchair independently.
3. Changing how volunteer representatives are counted to include all volunteers who were representatives during the reporting year. Current instructions are to count volunteers as staff are counted – the number on September 30th.
4. Allow newsletters and other forms of media to be counted as community education.
5. Changed the description of complaint type I03 – Supplies, storage, and furnishings to include facility failure to properly store hazardous chemicals and other hazards.
6. Modifying the description of program activity elements S64 and S65 – Resident council participation to include instances of training to resident groups that might not be formal resident councils.
7. Removed the requirement to report expenditures in NORS or, in the alternative, specify that expenditures be reported as obligated.

16. Plans for Tabulation and Publication and Project Time Schedule

The highlights of the typical annual data collection schedule are as follows:

- September 30, 2025- federal fiscal year closes
- Early October 2025 – training schedule and reminder of NORS reporting due date sent to all states.
- October – December 2025 training sessions provided.
- January 31, 2026, final due date to submit report.
- February –May 2026 data analysis and approval of reports.
- June-August 2026- data analysis.
- August –September 2026 – post data.

ACL prepares reports, a fact sheet, and other information based on the data and posts the data on <https://agid.acl.gov/>. The Aging, Independence and Disability Program Data Portal (AGID) and on the National Ombudsman Resource Center (NORC) website.

Currently ACL does not initially post in languages other than English.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

The expiration date will be displayed on all of the data collection instructions and instruments.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.