Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

STATE OMBUDSMAN DATA: NURSING HOME COMPLAINTS

INSPECTOR GENERAL

JULY 2003
OEI-09-02-00160

OFFICE OF INSPECTOR GENERAL

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EXECUTIVE SUMMARY

OBJECTIVE

To describe nursing home complaints based on an analysis of the National Ombudsman Reporting System (NORS) data from 1996 through 2000.

BACKGROUND

To protect the interests of nursing home residents, Congress established the State Long Term Care Ombudsman Program in the *Older Americans Act Amendments of 1978*. The ombudsman program is administered by the Administration on Aging (AoA) within the Department of Health and Human Services.

Long term care ombudsmen attempt to resolve problems of individual nursing home residents and to bring about changes to improve nursing home care at the local, State, and national levels. They help nursing home residents and their families understand and exercise rights that are guaranteed by Federal and State laws.

The *Older Americans Act* requires States to collect ombudsman complaint data and for the State ombudsman to report aggregate data to AoA. In fiscal year 1995, AoA implemented an ombudsman complaint reporting system called the National Ombudsman Reporting System (NORS). NORS data consist of 128 complaint categories divided into 5 major groups. NORS does not identify individual nursing homes.

We gathered data and information for calendar years 1996 through 2000 from NORS statistical reports, the annual ombudsman narrative comments submitted with NORS data, and interviews with State and local ombudsmen from nine selected States.

FINDINGS

We analyzed national NORS data from 1996 through 2000, as well as information regarding State-specific data obtained from 46 ombudsmen in 9 states. States are required to collect complaint data from ombudsmen and to report it to AoA. Nationally, the number of nursing home complaints increased, but the types of complaints have not changed significantly. However, the data are not comprehensive. NORS data should not be used to compare States with respect to the volume and types of complaints, because

local ombudsmen do not report all nursing home complaints in NORS, and they do not always use the same categories to classify complaints.

Nationally, from 1996 to 2000, the number of complaints increased, but the types of complaints did not change significantly

The total number of nursing home complaints grew from approximately 145,000 in 1996 to approximately 186,000 in 2000; however, the types of complaints have not changed significantly. The highest frequency of nursing home complaints involves resident care, and these complaints grew 37 percent from 1996 to 2000. The number of abuse cases peaked in 1998 and has declined about 3 percent since then.

Among the sampled States, local ombudsmen do not report complaints uniformly

Provisions in the *Older Americans Act*, as well as variations in State laws and policies, affect the number of abuse complaints that ombudsmen report. Local ombudsmen do not report all nursing home complaints into NORS. Furthermore, ombudsmen do not always use the same NORS categories to classify complaints, and they sometimes report a single complaint in several different categories.

RECOMMENDATION

We believe the consistency of NORS data could be improved if AoA shares the results of this report with State ombudsmen and continues to clarify and refine the NORS process.

Agency Response

AoA agreed that a lack of uniformity exists in the States' reporting under NORS. AoA also agreed to distribute our final report to State ombudsmen and highlight the complaint trends. In addition, AoA plans to conduct regional and State training on the use of complaint codes.

AoA indicated that the use of the word "report," as applied to the *Older Americans Act*, caused confusion in our finding that "local ombudsmen do not report complaints uniformly." Therefore, we have changed our finding to state that "an ombudsman may not be able to *file* a formal complaint," rather than stating "an ombudsman may not be able to *report* a complaint." The full text of AoA's comments appears in Appendix B.

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INTRODUCTION

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BACKGROUND

The Long Term Care Ombudsman Program

To protect the interests of nursing home residents, Congress established the State Long Term Care Ombudsman Program in the *Older Americans Act Amendments of 1978*. The ombudsman program is administered by the Administration on Aging (AoA) within the Department of Health and Human Services.

Long term care ombudsmen attempt to resolve problems of individual nursing home residents and to bring about changes to improve nursing home care at the local, State, and national levels. They help nursing home residents and their families understand and exercise rights that are guaranteed by Federal and State laws.

The *Older Americans Act* requires States to collect ombudsman complaint data and for the State ombudsman to report the aggregate data to AoA. In fiscal year 1995, AoA implemented an ombudsman complaint reporting system called the National Ombudsman Reporting System (NORS). The States developed training and certification programs for ombudsmen, which included training on reporting NORS data. NORS data consist of 128 complaint categories divided into 5 major groups. NORS does not identify individual nursing homes.

METHODOLOGY

We gathered data and information for calendar years 1996 through 2000 from NORS statistical reports, the annual ombudsman narrative comments submitted with NORS data, and interviews with State and local ombudsmen from nine selected States. We analyzed national and State-specific NORS data as well as information obtained from 46 ombudsmen in 9 States.

We used a sample of nine States for more in-depth data analysis. The sample States were California, Connecticut, Alabama, Maryland, Missouri, South Carolina, Texas, South Dakota, and New York. These States provide a cross section of ombudsman programs from large urban areas to small rural communities, as well as diverse geographic locations. They also account for approximately 30 percent of the nursing home beds within the United States.

In each of the sampled States, we analyzed NORS statistical data, tracked the trends within the State, and compared State and national data during the 5-year period. We did not validate NORS data. We conducted telephone interviews with the State ombudsman and at least four local ombudsmen from urban and rural areas within each State. We asked the ombudsmen about complaint trends, major issues, and concerns they had identified in the complaint trends during the past 5 years. We compared these responses with the national data and the NORS annual report narratives for each sampled State.

The inspection was conducted in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

FINDINGS

We analyzed national NORS data from 1996 through 2000 as well as information regarding State-specific data obtained from 46 ombudsmen in 9 States. States are required to collect complaint data from ombudsmen and to report it to AoA. Nationally, the number of nursing home complaints increased, but the types of complaints have not changed significantly. However, the data are not comprehensive. NORS complaint data should not be used to compare States with respect to the volume and types of complaints, because local ombudsmen do not report all nursing home complaints in NORS, and they do not always use the same categories to classify complaints.

Nationally, from 1996 to 2000, the number of complaints increased, but the types of complaints did not change significantly

NORS data include the number and nature of nursing home complaints, both nationally and within States. (See Appendix A for related graphs and tables.)

Nationally, the total number of nursing home complaints grew from approximately 145,000 in 1996 to approximately 186,000 in 2000 (Figure 1). During the same period, the number of complaints per 1,000 beds rose from 78.4 to 102.1 (Figure 2). This represented a 28 percent increase in the number of complaints and a 30 percent increase in the number of complaints per thousand beds.

The types of complaints reported into NORS since 1996 have not changed significantly. Nationally, each of the top 12 complaint categories remained in the top 12 between 1996 and 2000 (Figure 3). In 2000, these top 12 categories accounted for more than one-third of the total number of complaints. The distribution of complaints per 1,000 beds shows a similar consistency.

The highest frequency of nursing home complaints involves resident care. By 1999, complaints concerning resident care (e.g., accidents, not responding to call lights, patient symptoms unattended) had surpassed those concerning resident rights (e.g., abuse, access to information, issues about transfer and discharge). From 1996 through 2000, resident care complaints grew 37 percent compared to a 21 percent growth for complaints

involving resident rights (Figure 4). As of 2000, 6 of the top 10 specific complaint categories pertained to resident care:

1. failure to respond to call lights or requests for assistance
2. accidents and improper handling of residents
3. lack of adequate care plans and resident assessments
4. inadequate administration of medications
5. unattended resident symptoms
6. poor personal hygiene

NORS data identify changes in the number of specific types of complaints. Nationally, one of the most prominent changes (for categories with at least 1,000 complaints in the year 2000) is that complaints concerning staff turnover increased by approximately 208 percent between 1996 and 2000 (see Figure 5).

Abuse cases reported to NORS peaked in 1998 and have declined about 3 percent since then. The total for all reported abuse cases rose from 13,469 in 1996 to 15,501 in 1998, and declined to 15,010 in 2000 (see Figure 6). During that period, among seven types of abuse categories, physical abuse was the most common type reported (see Figure 7).

Among the sampled States, local ombudsmen do not report complaints uniformly

Provisions in the *Older Americans Act*, as well as variations in State laws and policies affect the number of abuse complaints recorded into NORS. For example, under the *Older Americans Act*, an ombudsman may not be able to file a formal complaint without the consent of the resident or legal representative of the resident.[1] As a result, ombudsmen may not enter abuse complaints in NORS data unless they actually open a case file and investigate it. Also, some States may have more abuse complaints reported into NORS because State law requires that all abuse complaints are reported to ombudsmen. Conversely, other States may have fewer abuse complaints reported into NORS, because their policy requires that all abuse complaints are reported to the licensing agency rather than to the ombudsmen. As a result, almost half (21 of 46) of the ombudsmen surveyed believe that complaints may be significantly under reported in NORS.

Ombudsman do not always use the same NORS categories to classify complaints.

Thirty-nine of the 46 surveyed ombudsmen told us that they do not consistently follow the NORS categories in reporting complaints. AoA provides definitions of complaint

[1] 42 U.S.C. §3058g(d)

categories and instructions to ombudsmen for reporting NORS data. However, it is sometimes difficult for ombudsmen to categorize complaints when several definitions apply. Despite AoA's instructions, ombudsmen sometimes report a single complaint in several different categories.[2] One State ombudsman and four local ombudsmen from another State told us that if a single complaint applied to multiple NORS categories, they would report the complaint in each category rather than choosing one.

NORS data exhibited some inconsistencies. For example, one State had difficulty reporting data in 2000 because of Y2K problems. In 1997, NORS data, which were posted on the AoA website, included two tables that contained conflicting numbers of reported complaints.

According to one in three (15 of 46) ombudsmen interviewed, the number of ombudsmen, in relation to the number of nursing homes in a given state, may affect the number of complaints recorded in NORS. For example, a State with fewer ombudsmen has less resources to respond, investigate, and report nursing home complaints than a State which has more ombudsmen.

[2] See www.aoa.dhhs.gov/notices/2002/complaint-codes.pdf to view the instructions for completing the State long term care ombudsman program reporting form.

RECOMMENDATION

We believe the consistency of NORS data could be improved if AoA shares the results of this report with State ombudsmen and continues to clarify and refine the NORS process.

Agency Response

AoA agreed that a lack of uniformity exists in the States' reporting under the NORS. AoA also agreed to distribute our final report to State ombudsmen and highlight the complaint trends. In addition, AoA plans to conduct regional and State training on the use of complaint codes.

AoA indicated that the use of the word "report," as applied to the *Older Americans Act*, caused confusion in our finding that "local ombudsmen do not report complaints uniformly." Therefore, we have changed our finding to state that "an ombudsman may not be able to *file* a formal complaint," rather than stating "an ombudsman may not be able to *report* a complaint." The full text of AoA's comments appears in Appendix B.

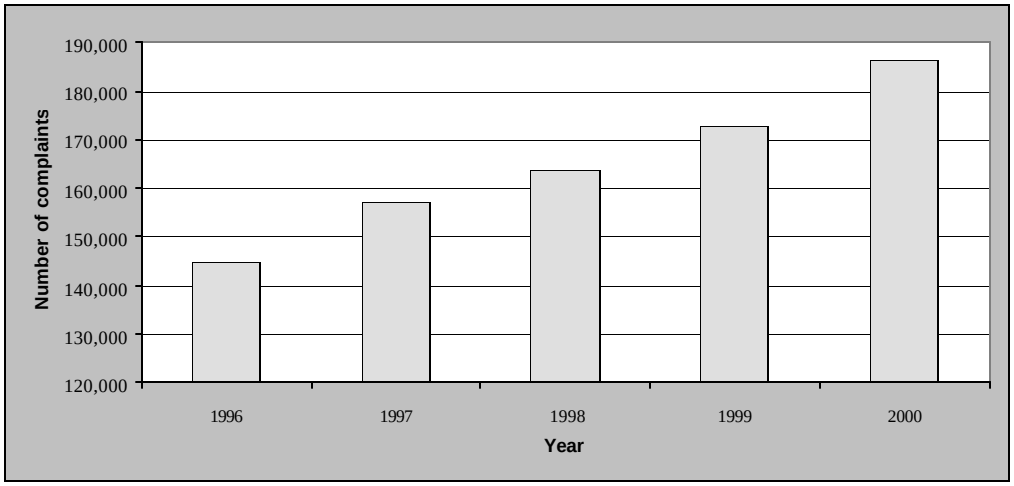
APPENDIX A

Ombudsman Complaints: 1996-2000

Growth in Complaints

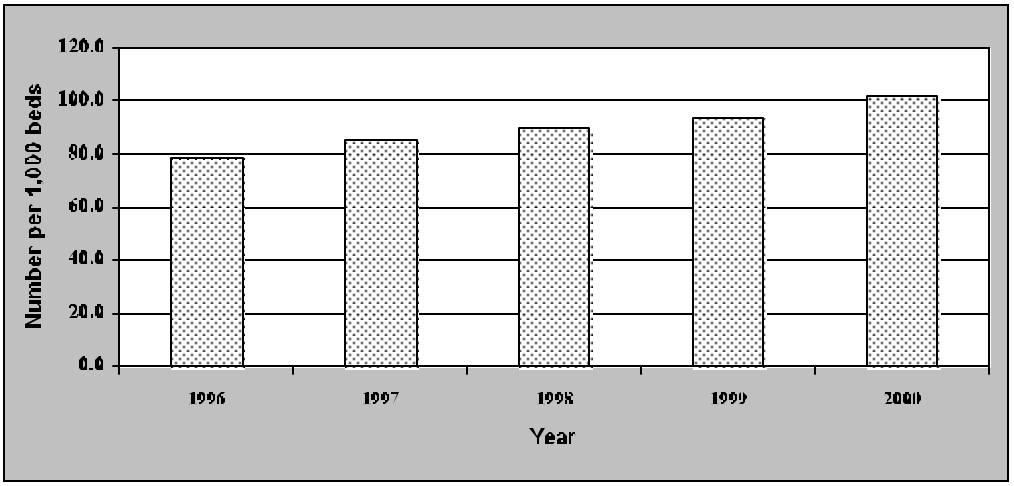
Nationally, the total number of complaints grew from approximately 145,000 in 1996 to approximately 186,000 in 2000.

Figure 1: **Total Reported Complaints, 1996-2000**



During the same period, the number of complaints per 1,000 beds rose from 78.4 to 102.1.

Figure 2: Complaints per 1,000 Nursing Home Beds, 1996-2000



The Most Common Types of NORS Complaints

Nationally, each of the top 12 complaint categories has remained in the top 12 between 1996 and 2000.

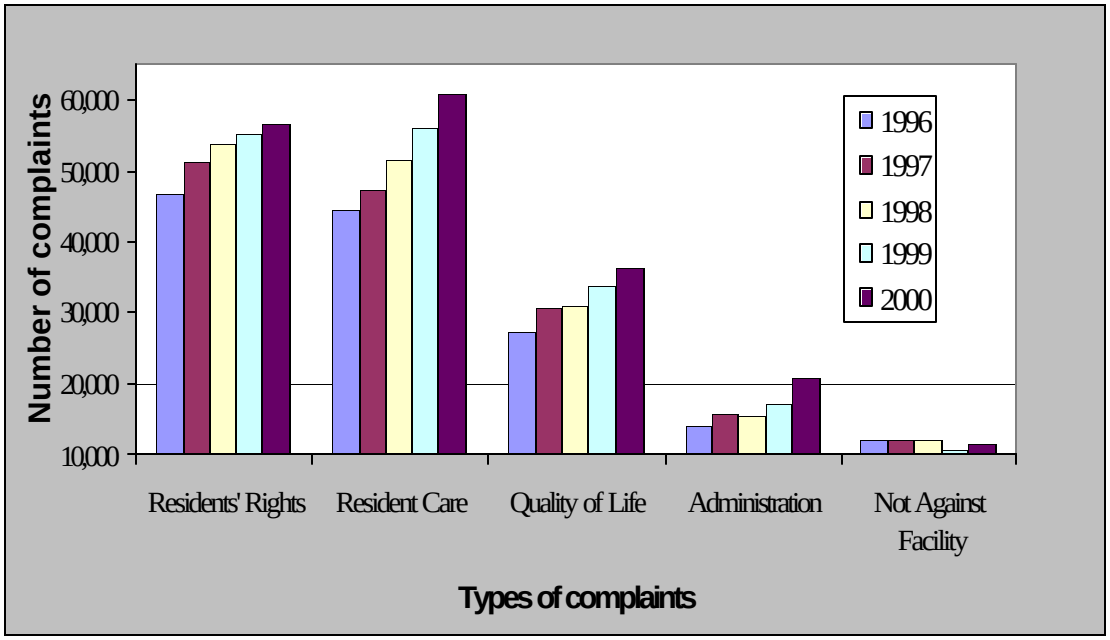
Figure 3: Top Ombudsman Complaint Categories, 1996-2000

Code	Top Complaints	1996 Total	1996 Rank	2000 Total	2000 Rank	Percent Growth 1996-2000
F40	Accidents	6,661	**1**	7,675	**2**	15.2%
F41	Request for Assistance	5,441	**2**	8,676	**1**	59.5%
F45	Personal Hygiene	5,301	**3**	7,279	**5**	37.3%
D26	Dignity, Respect-Staff Attitudes	4,882	**4**	7,351	**4**	50.1%
F42	Care Plan	4,453	**5**	7,550	**3**	69.5%
M97	Staff Shortage	4,332	**6**	6,625	**6**	53.0%
A1	Physical Abuse	4,321	**7**	4,350	**11**	0.7%
J71	Menu Quality	4,295	**8**	5,540	**8**	29.0%
C19	Discharge, Eviction	4,110	**9**	5,762	**7**	40.2%
E38	Personal Property	3,598	**10**	4,227	**12**	17.5%
F44	Meds Administration	3,123	**11**	4,914	**9**	57.3%
F48	Symptoms Unattended	3,198	**12**	4,617	**10**	44.4%

Resident Care Complaints

The highest frequency of nursing home complaints involve resident care. By 1999, complaints concerning resident care (e.g., accidents, not responding to call lights, patient symptoms unattended) surpassed those concerning resident rights (e.g., abuse, access to information, issues about transfer and discharge).

Figure 4: Ombudsman Complaints by Major Category, 1996-2000



Specific Types of NORS Complaints

Between 1996 and 2000, of the categories with at least 1,000 complaints in 2000, complaints concerning staff turnover have the highest national growth, with an increase of approximately 208 percent.

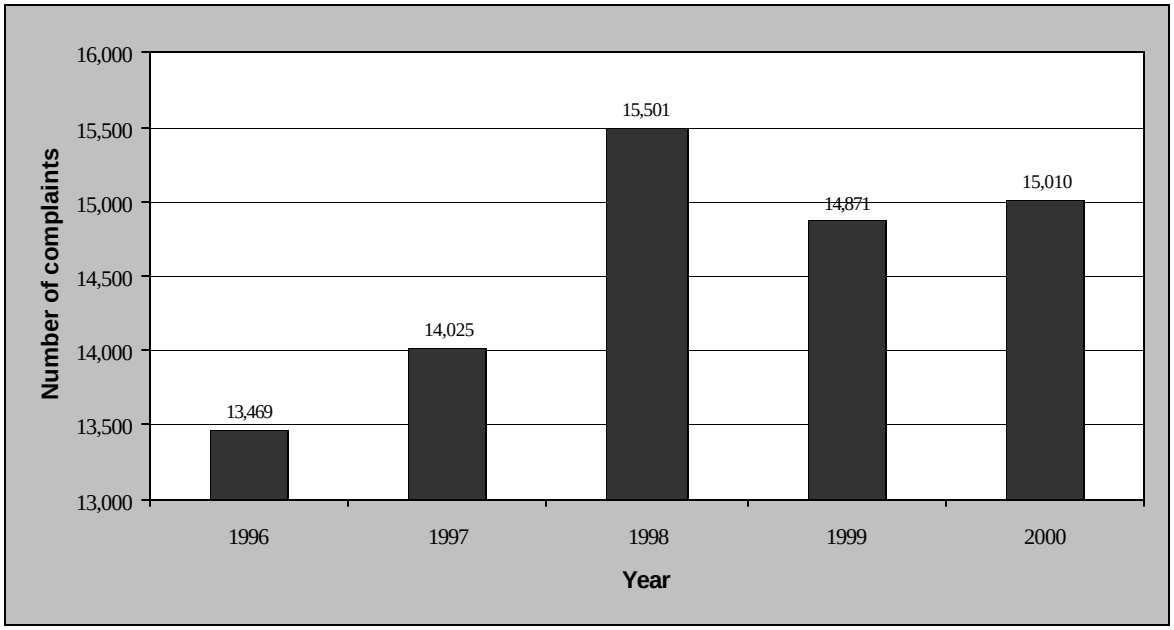
Figure 5: Complaint Categories with the Largest Growth, 1996-2000

Code	Complaint	1996 Total	2000 Total	Percent Growth 1996-2000
M99	Staff Turn-Over	330	1,015	207.6%
J70	Dehydration	1,122	2,219	97.8%
K81	Infection Control	562	1,074	91.1%
M101	Supervision	1,825	3,326	82.2%
D27	Exercise Choice and/or Civil Rights	2,211	3,803	72.0%
K78	Cleanliness, Pests	2,242	3,832	70.9%
F42	Care Plan/Assessment	4,453	7,550	69.5%
F41	Call Lights, Requests for	5,441	8,676	59.5%
F44	Medications - Administration	3,123	4,914	57.3%
M100	Staff Unresponsive, Unavailable	2,376	3,700	55.7%

Reported NORS Abuse Cases

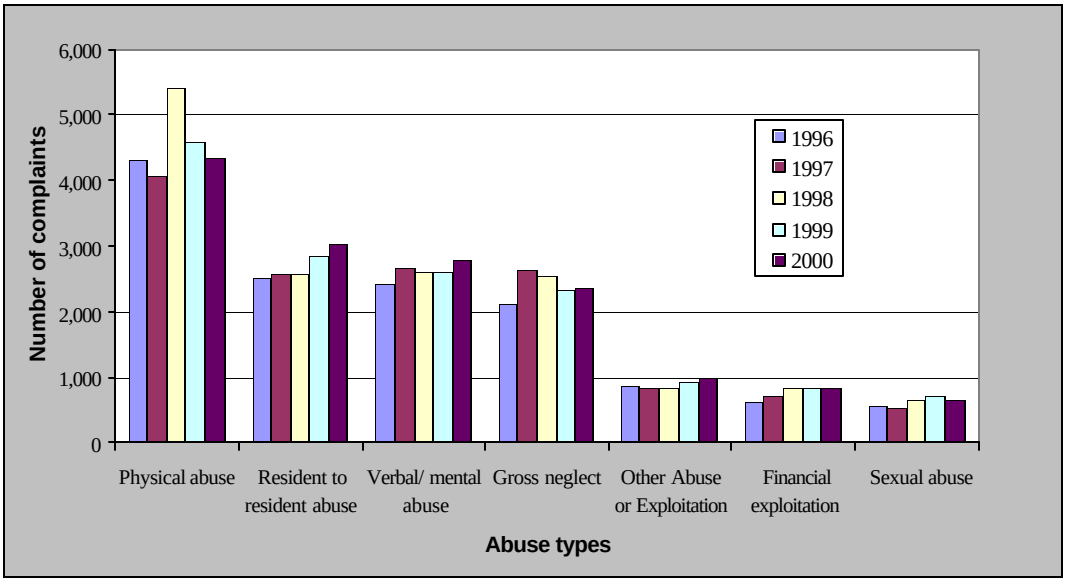
The total for all reported abuse cases rose from 13,469 in 1996 to 15,501 in 1998, then declined to 15,010 in 2000.

Figure 6: **Reported Abuse Complaints, 1996-2000**



During that period, among seven types of abuse categories, physical abuse was the most common type reported.

Figure 7: Types of Abuse Complaints, 1996-2000



APPENDIX B

Agency Comments

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Assistant Secretary
Administration on Aging

Washington D.C. 20201

APR 2 9 2003

TO: Janet Rehnquist
Inspector General

FROM: Assistant Secretary for Aging

SUBJECT: OIG Draft Report "State Ombudsman Data: Nursing Home Complaints"
OEI-09-02-00160

Thank you for the opportunity to comment on the above-referenced report, which identified and highlighted complaint trends in the National Ombudsman Reporting System (NORS) data and addressed the need to improve consistency and uniformity in the data.

The Administration on Aging (AoA) and many of the state directors on aging and state ombudsmen share your office's concern about areas of inconsistency and lack of uniformity in the states' reporting under the NORS. We have worked with the state ombudsmen over a period of years to improve the level of consistency and uniformity in the data and have developed an action plan to address specific areas which require more improvement, especially in the area of documenting complaints about abuse in long-term care facilities.

Per the report's recommendation, we will certainly distribute the final report to all state ombudsmen and highlight for them the complaint trends that were identified and the need for more uniformity in documenting complaints.

Earlier this year we issued an OMB-approved revised reporting system, which includes refined complaint categories and instructions on how to code complaints (to which reference was made in the report). Copies of these documents are attached.

As part of our plan, we will continue to work with the state ombudsmen – and with local ombudsmen when possible – to reduce inconsistencies among the states in documenting complaints. At a spring 2003 training conference, state ombudsmen held an in-depth discussion of reporting inconsistencies and identified specific areas where increased definition and on-going training are needed to improve the reliability of the data. In addition to the national ombudsman training, AoA plans to provide training on use of the complaint codes at regional and state conferences of local ombudsmen, as opportunities arise.

As we discussed with OEI staff, there is an error on page seven of the report. The report states, "Provisions in the *Older Americans Act*, as well as variations in state laws and policies, affect the number of abuse complaints recorded into NORS. For example, under the *Older*

Americas Act, an ombudsman may not be able to report a complaint without the consent of the resident or legal representative of the resident." The example refers to a different use of the word "report" than the meaning under discussion in the report. It is true that ombudsmen cannot refer ("report") an abuse case to another agency without the consent of the resident or her representative, but ombudsmen can and should document ("report") in the NORS system the abuse cases in which they are involved. If they open a case file and investigate the complaint, the case and complaint should be, and usually is, counted in the NORS system, even if it is referred to another agency for resolution. (Ombudsmen do not need the resident's or her representative's consent to document the case in the NORS system.) Conversely, if they refer ("report") an alleged abuse case to another agency for investigation and do not investigate the case themselves, they should not document it in the NORS system. This error can be corrected by simply dropping the sentence that begins with "For example." Or, the sentence could say that the NORS abuse data do not give a complete picture of the incidence of nursing home abuse because not all abuse allegations are investigated by the ombudsman program and documented in the NORS.

Thank you very much for this report, which clearly demonstrates how the ombudsman complaint data can be used to identify trends and issues in institutional long-term care and the importance of consistency among the states in collecting the data.

Josefina G. Carbonell

Attachments

ACKNOWLEDGMENTS

This report was prepared under the direction of Paul A. Gottlober, Regional Inspector General for Evaluation and Inspections, and Deborah W. Harvey, Assistant Regional Inspector General for Evaluation and Inspections, in San Francisco. Other principal Office of Evaluation and Inspections staff who contributed include:

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