

Lifting Up Voices: An Elder Abuse Update  
National Resource Centers

**ACL's Office of Elder Justice  
and Adult Protective Service**

Tennessee: Special Topics Webinar on Elder  
Abuse

JULY 18, 2019



INTRODUCTIONS

## Our Vision for Elder Justice

A comprehensive, multidisciplinary approach that effectively supports older adults and adults with disabilities so they can make their own choices and exercise their right live where they choose, with the people they choose, and fully participate in their communities without threat of abuse, neglect, or financial exploitation

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## ACL's Elder Justice Portfolio



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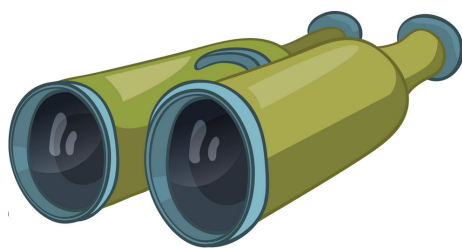
## ACL'S FIVE PILLARS

ASA Lance Robertson's vision for ACL focuses on five pillars, key areas of focus that are critically important across both aging and disability:

1. Supporting families and caregivers
2. Protecting rights and preventing abuse
3. Connecting people to resources
4. Expanded employment opportunities
5. Strengthening the aging and disability networks



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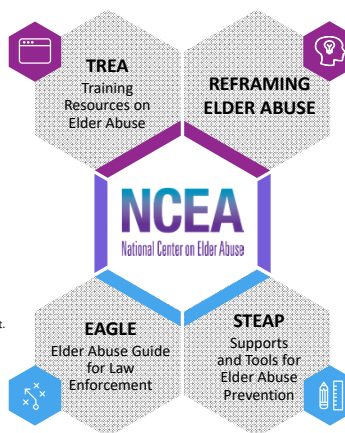
LET'S SEE WHAT'S RESOURCES ARE AVAILABLE...

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# National Center on Elder Abuse

and related projects

-  Increases the number of professionals, caregivers and community members who receive high quality training on elder abuse.
-  Designed to support officers in identifying, intervening, and resolving cases of elder abuse.
-  Materials designed to engage and educate your community about the role everyone can play in preventing elder abuse.
-  Actionable communications strategy to put elder abuse on the public agenda and boost support for systemic solutions to prevent and address it.



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National Center on Elder Abuse

# NCEA National Partnerships

Resource materials on special topic areas for many target audiences:

- [Adult Protective Services](#)
- [Cultural Issues](#)
- [Law and Legislation](#)
- [Lesbian, Gay, Bisexual, and Transgender](#)
- [Multidisciplinary Approaches](#)
- [Long-Term Care Abuse](#)
- [Persons with Disabilities](#)
- [Public Awareness](#)
- [Public Policy](#)
- [Research Briefs](#)
- [Risk Factors](#)
- [Statistics, Incidence, and Prevalence](#)



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# WEAAD: Around the World

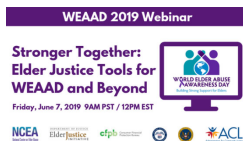
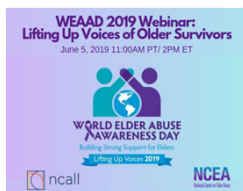


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## World Elder Abuse Awareness Day

June 15<sup>th</sup>



**f** **FACEBOOK REACH**  
the number of people who had any content from NCEA's page or about NCEA's page enter their screen.  
**100.8k** Post Engagements: 8,259 (post clicks, reactions, shares, and comments)

**TWEET IMPRESSIONS**  
the number of times a tweet from NCEA is displayed (not a unique count).  
**106.2k** Tweet Engagements: 909 (link clicks, likes, retweets, replies)

**in** **LINKEDIN IMPRESSIONS**  
the number of people who had any content from NCEA's page or about NCEA's page enter their screen.  
**3,165** Page Views: 99 Unique Visitors: 35

[Virtual Art Gallery](#)

[Archived Webinars](#)

[Social Media](#)

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## Reframing Elder Abuse Project

Many aging organizations struggle to communicate about elder abuse.



### Short-term Goal:

1. Understand
2. Devise and disseminate

### Long-term goal:

To build a society that makes informed choices on policies and practices that address elder abuse based on valid and reliable information

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### Reframing Elder Abuse Resources

- [Talking Elder Abuse Toolkit](#)
  - [Swamp of Elder Abuse](#) and [Swamp Glossary](#)
  - [Quick Start Guide to Talking Elder Abuse](#)
- [Video Lecture Series](#)
  - (Coupon code: **WEAAD2020**)

### Elder Abuse Awareness


- Strengthening the Structure of Justice to Prevent Elder Abuse PSA Videos [Short](#) and [Long](#)
- [Red Flags of Abuse](#)
- [Facts About Elder Abuse](#)
- [12 Things Everyone Can Do to Prevent Elder Abuse](#)

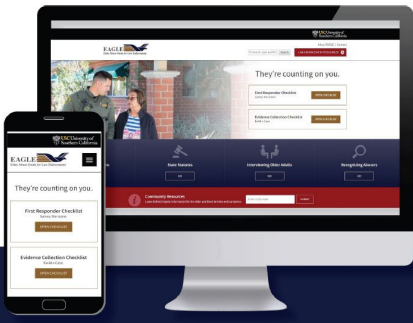
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# EAGLE

## The *EAGLE* has landed!





**Elder Abuse Guide for Law Enforcement**


Designed to support Law Enforcement officers in quickly identifying, intervening, and resolving elder abuse situations

- ✓ Tools to assist in documenting a case for prosecution
- ✓ ZIP code-based community resources locator
- ✓ State-by-state penal codes relating to elder abuse

**Contact Us**

✉ eaglehelp@usc.edu

🌐 eagle.trea.usc.edu



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## Customizable & ready-to-use outreach tools

### nceausc.tk/STEAP

#### Fact sheets and brochure

**Preventing Elder Abuse in Our Community**

Elder Abuse is preventable – and everyone has a role to play.

Here are 5 steps EVERYONE can do to prevent elder abuse:

- 1 Educate** older people and caregivers to understand their challenges and provide support
- 2 Educate** the public about the signs of abuse and how to get help
- 3 Report** suspected abuse or neglect as soon as possible
- 4 Build** a community that fosters social connections and supports
- 5 Reach out** to professional services to support where available

This brochure was created in conjunction with [Area to Insert Agency Name]

[Area to Insert Contact Information]

**Building Community Supports to Prevent Elder Abuse**

[Area to Insert Agency Name]

[Area to Insert Contact Information]

#### Presentation template & evaluation form

##### Reporting Abuse

Report suspected abuse in the comments to the local Adult Protective Services agency and print the evaluation form to bring back to your local office for the Law Enforcement Case Investigation Program. To assist in document completion, click on the "Report suspected abuse" button, which is available.

##### Signs of Elder Abuse

**Emotional & Behavioral Signs**

- Unusual changes in behavior or sleep
- Fear or anxiety
- Isolation from friends or family
- Withdrawal from normal activities
- Suspense

**Financial Signs**

- Unusual changes in bank account or money management
- Unusual or sudden changes in a will or other financial documents
- Fraudulent signatures on financial documents
- Unpaid bills

### STEAP Initiative Outreach Calendar 2019

Generate awareness and foster action to end elder abuse!

Here are the opportunities throughout the year to bring your community together and build awareness on elder abuse. Below is an advised calendar with community events related to elder abuse, neglect, and reportable prevention and programming.

**Tip:** Sync this STEAP Initiative Outreach Calendar to your calendar!

Month	Key Dates
<b>January</b>	<ul style="list-style-type: none"> <li>RECOGNITION DAYS</li> <li>Wednesday, January 9: Law Enforcement Appreciation Day (LEAD)</li> </ul>
<b>February</b>	<ul style="list-style-type: none"> <li>MONTHLY OBSERVANCES</li> <li>RECOGNITION DAYS</li> <li>Monday, February 19: World Day of Social Justice</li> </ul>
<b>March</b>	<ul style="list-style-type: none"> <li>MONTHLY OBSERVANCES</li> <li>RECOGNITION DAYS</li> <li>Black History Month</li> <li>Women's History Month</li> <li>RECOGNITION DAYS</li> <li>Friday, March 8: International Women's Day</li> </ul>
<b>April</b>	<ul style="list-style-type: none"> <li>MONTHLY OBSERVANCES</li> <li>RECOGNITION DAYS</li> <li>Community Service Month</li> <li>Friday, April 12: National Day of Prayer</li> <li>Social Security Month</li> </ul>
<b>Weekly Observances</b>	<ul style="list-style-type: none"> <li>Monday, April 1: National Day of National Public Health Week</li> <li>Friday, April 7 - Saturday, April 13: National Crime Victims' Rights Week</li> <li>Friday, April 13 - Saturday, April 13: National Teacher's Week</li> <li>RECOGNITION DAYS</li> <li>Sunday, April 14: National Annual Assessment Day of Action</li> <li>Sunday, April 14: World Health Day</li> </ul>

### Outreach calendar for year-round elder abuse prevention programming

**Customizable & ready-to-use outreach tools**  
**ncausc.tk/STEAP**

**Add your own logo, contact information, and local elder abuse reporting numbers.**

**ncausc.tk/STEAP**

Building Community Supports to **Prevent Elder Abuse**



[Agency Name]

[Contact Information]

Report suspected abuse or neglect in the community setting:

[Insert Local APS Contact Info]

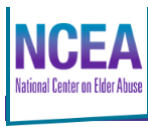
Report suspected abuse or neglect in long-term care facilities:

[Insert LTCOP Contact Info]


Abuse reports may also be made to the local law enforcement agency:

[Insert Local LE Contact Info]


## Connect with the NCEA



**National Center on Elder Abuse**  
**1-855-500-3537 (ELDR)**  
[ncea-info@aoa.hhs.gov](mailto:ncea-info@aoa.hhs.gov)  
<https://ncea.acl.gov/>




**USC Center on Elder Mistreatment website:**  
<http://eldermistreatment.usc.edu/>



**Training Resources on Elder Abuse (TREA):**  
[www.trea.usc.edu](http://www.trea.usc.edu)

**Elder Abuse Guide for Law Enforcement (EAGLE):**  
<http://eagle.trea.usc.edu/>

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# National Center on Law & Elder Rights

Sarah Galvan, Justice in Aging

July 18, 2019

## NCLER's Role in Legal and Aging Services

- National focus on elder justice and elder rights
- Unifies legal services resources into one, easy to find center
- Trains the new cohort of legal services attorney and front-line aging and disability networks to understand legal issues impacting older adults
- Addresses need for technical assistance on systemic legal challenges, capacity building, and improvements to the legal services delivery system

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## NCLER Organizations

- Justice in Aging:
  - Administers NCLER under a contract from the Administration on Community Living
- NCLER Experts:
  - Justice in Aging
  - ABA Commission on Law and Aging
  - National Consumer Law Center


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RIGHTS**

## NCLER Offers

Trainings

Case Consultation

Technical Assistance on Legal Services Capacity Building


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## National Legal Training Curriculum

**Training Topics:**

- Health/LTSS
- Economic Security
- Consumer Protection
- Housing
- Advance Care Planning
- Elder Abuse
- Supported Decision Making
- Guardianship




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## Case Consultations

- NCLER provides free case consultation assistance for attorneys and professionals seeking more information to help older adults.

**Case Consultation Form**

*Please provide a brief general description of the issue and do not provide any personally identifying information. The form is limited to 200 characters and (\*) are required fields.*

First Name:

Last Name:

Email: \*

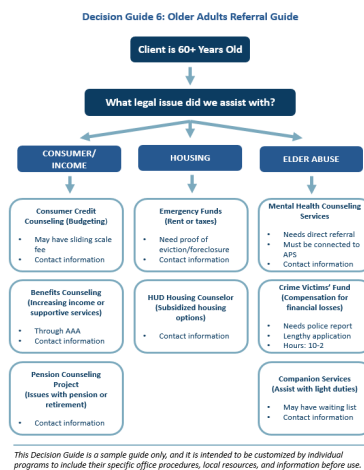
Description: \*

## Legal Services Capacity Building

- Technical assistance to states and programs working to improve legal services development.
  - Outreach
  - Intake Systems
  - Partnerships
  - Reaching Rural/Isolated Older Adults
- Resource support designed to enhance the quality, cost effectiveness, and accessibility of legal assistance and elder rights programs

## What's new with NCLER?

- More resources:
  - Enhanced Elder Justice resources
  - New Practice and Decision Guides
- Bringing together legal services network:
  - Senior Helpline Training Curriculum
- Integrating training and assistance on substance and systems



## Role of Civil Legal Aid

## Legal Needs of Older Adults

**56%** Had at least one legal problem in a year period

**10%** Had 6+ legal problems in a year period

Legal Services Corporation. 2017. *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans.*

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## Value of Legal Services for the Client

Legal services is critical to help older adults age at home and in the community:

- “[It is] clear that **access to justice** helps individuals and families secure basic necessities, **like health care, housing**, employment and education while also enhancing stability and increasing public safety.”

2016 White House Legal Aid Interagency Roundtable Report

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## Legal Services Advance Access to Justice & Safety Net Programs

- When legal services are available they can be life saving
- Too many older adults do not receive the legal help they need
  - Do not realize their problem has a legal solution
  - Unaware that they may be eligible for help

## Civil Legal Aid & Elder Abuse

- Particularly when the perpetrator is a family member or friend, older adults may be reluctant to seek criminal penalties
  - Even if litigation remedies are not a desired or viable option for a client, there may be opportunities for ensuring safety and access to programs and supports to assist in the recovery process and protection of remaining assets.

## Legal Remedies & Actions

- Safety
  - Protective orders
  - Guardianship Termination
  - Revocation of POA
  - Ejectment/Eviction
- Recovery of Funds
  - Undue Influence
  - Breach of Fiduciary Duty
  - Conversion
  - Fraud
  - Request for an Accounting

## Non-Litigation Tools

- Protecting Funds
  - Changing bank account information
  - Changing Rep Payees/VA Benefit Fiduciaries
- Supportive Services
- Shelter Networks
- Crime Victim Compensation
- Restorative Justice



## Associated Legal Issues

- Additional legal issues emerge during and after financial exploitation:
  - Medicaid
  - Consumer
  - Income Maintenance
  - Benefits
  - Housing

## New & Upcoming Elder Justice Resources

## Resource: Elder Justice Toolkit

- The Elder Justice Toolkit is a practice-oriented resource that provides practical information on pursuing civil legal remedies, practice tips, and sample pleadings for attorneys seeking protection and redress for their clients who have experienced elder abuse.
  - Multiple states' perspectives are considered in the drafting and used as examples, but the Toolkit is designed for national use
  - Available electronically through the NCLER website

## Toolkit Contents

### Screening & Intake

Client-Centered Advocacy (goal planning, interviewing, cultural competency)

Navigating Ethical Issues & Complex Situations (capacity, mandatory reporting, third parties)

### Responses & Remedies

- *Case Study Examples & Action Plans*
- *Protective Orders & Family Offense Petitions*
- *Shelter Options & Essential Supportive Services*
- *Credit Card Charges & Unauthorized Accounts*
- *Drafting & Revoking Advanced Planning Documents*
- *Eviction & Ejection of the Perpetrator*
- *State Elder Abuse Statutes & Causes of Action*
- *Gathering Information*
- *Property Transfers*
- *Recovering Funds: Non-Litigation Strategies, Fiduciary Relationships, Hired Caretakers, Injunctions*
- *Preserving Client Privacy*

### Guardianship & Elder Abuse

Utilizing Partnerships & Federal Agency Interventions

Addressing Associated Legal Issues (consumer, housing, Medicaid, benefits)

Criminal Prosecution & Restitution

Legal Remedies for Victims of Scams

Litigation Skills

## Other Toolkit Resources

- Financial Exploitation of Older Adults: A Guide for Civil Legal Aid Attorneys
  - Customizable, state-specific attorney practice guide
  - Several states are completed or near completed: CT, PA, VT, VA, MA, CA, LA, FL, IA
  - Request template and technical assistance: [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov)
- [Elder Justice Compendium](#)
  - Curated national resource collection with commentary

## Financial Exploitation of Older Adults: A Guide for Civil Legal Aid Attorneys

- One of NCLER's elder justice resources is a template that can be customized to add state-specific information
  - Many legal remedies and options are state-specific
- Quick resource for attorneys to locate legal strategies and statutes for protection & redress

## Customizing the Guide

- Available in Word format for simple editing
- Highlighted portions indicate where state information should be added & where to locate it

You need a legal remedy to...	Consider	Why?	Statutes & Practice Tips
Require the perpetrator to account for the funds and property of your client	Action for an Accounting  Action to Freeze Assets	If the perpetrator was in a fiduciary relationship with your client, they may be subject to prove that they properly handled the funds and property of your client by supplying records and information.	If a separate action for an accounting is available in your state, insert citation for and any necessary elements.  If online forms are available through your state's court website, <a href="#">LawHelp</a> , <a href="#">LawHelp Interactive</a> , or other sources, they should be linked here.
Recover damages from the perpetrator, and the perpetrator was acting as your client's agent	Breach of Fiduciary Duty (Tort)	If your client's funds or property were mishandled by their agent (through a POA or other agent relationship), you might have a claim for breach of fiduciary duty. Generally, an agent is required to act in the best interests of the principal. If this breach occurred, your client may be able to recover traditional tort damages.	Insert citation for breach of fiduciary duty in your state, and any necessary elements.  If online forms are available through your state's court website, <a href="#">LawHelp</a> , <a href="#">LawHelp Interactive</a> , or other sources, they should be linked here.

## Using the Guide

- Training attorneys in your state
- Conference materials
- Resource for attorneys new to this work, pro bono attorneys, helplines & hotlines
- Great opportunity for collaboration

## Visit Our Website: [ncler.acl.gov](http://ncler.acl.gov)



**NATIONAL CENTER ON LAW & ELDER RIGHTS**

Search for resources  
**Read practice tips**  
Sign up for the email list  
**Request a case consultation**  
Learn about upcoming trainings

[ncler.acl.gov](http://ncler.acl.gov)

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## THE OMBUDSMAN PROGRAM AND ELDER JUSTICE

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### What is NORC?

- **Funded by the Administration on Aging/Administration for Community Living grant**
- **Operated by the National Consumer Voice for Quality Long-Term Care (Consumer Voice) in cooperation with the National Association of States United for Aging and Disabilities (NASUAD)**
- **Provides support, technical assistance, and training for state long-term care ombudsman programs and their program representatives:**
  - Information, consultation, and referral for Ombudsman programs
  - Training and resources for state ombudsman programs and program representatives
  - Promotes awareness of the role of the Ombudsman program
  - Works to improve ombudsman skills, knowledge, and effectiveness in both program management and advocacy

## What is the Long-Term Care Ombudsman Program?

- Ombudsman programs are resident-directed advocates.
- Ombudsman programs advocate for the quality of care and quality of life of residents in long-term care (nursing homes, board and care/assisted living, other similar adult care facilities).
- Ombudsman program provisions in the Older Americans Act (OAA) include:
  - Investigate and resolve complaints;
  - Provide information to residents, families, staff (e.g. residents' rights);
  - Provide technical support and assistance to resident and family councils;
  - Advocate for changes to improve residents' quality of life and care;
  - Represent resident interests before governmental agencies;
  - Seek legal, administrative, and other remedies to protect residents; and
  - Ensure residents have regular and timely access to the LTCOP.

## Who Does the LTCOP Serve?

- **Individuals, regardless of age, living in long-term care facilities (e.g., nursing homes, assisted living/board and care, similar adult care facilities).**
  - In accordance with federal law, facilities must provide the LTCOP with access to residents.
  - In a small number of states, LTCOPs also visit individuals that receive long-term care services in their own home.
- **As resident advocates, the Ombudsman program:**
  - Needs resident consent prior to taking any action on a complaint or sharing resident information.\*
  - Seeks to resolve complaints to the residents' satisfaction.
  - Represents residents' interests, both individually and systemically.
  - Empowers residents and promotes self-advocacy.

*\*If the resident cannot provide consent, the LTCOP will work with the resident's legal representative or follow their state procedure if the resident doesn't have a legal representative.*

<b>Long-Term Care Ombudsman Program Responsibilities</b>	
<b>Do not conduct licensing and regulatory inspections or investigations</b>	<ul style="list-style-type: none"> <li>• LTCOPs are knowledgeable of federal and state regulations and will refer to relevant regulations as they advocate for the highest quality of care and life for residents.</li> <li>• If necessary, with resident consent, a LTCOP representative will file a complaint with licensing and regulatory.</li> </ul>
<b>Are not Adult Protective Services (APS) investigators</b>	<ul style="list-style-type: none"> <li>• LTCOPs provide information regarding preventing and reporting abuse, neglect, and exploitation.</li> <li>• LTCOPs do not have the same standard of evidence requirement as APS and are not the “official finder of fact.” LTCOPs attempt to resolve complaints to the residents’ satisfaction (including those regarding abuse), not gather evidence to substantiate that abuse occurred.</li> <li>• If necessary, with resident consent or permission of the State LTCO if the resident can’t consent and does not have a legal representative, the LTCOP representative will file a complaint about alleged abuse.</li> <li>• APS is not required to provide systems advocacy, but the LTCOP is required to do so by the OAA.</li> </ul>
<b>Do not provide</b>	<ul style="list-style-type: none"> <li>• LTCOPs share information about quality care practices and ways to</li> </ul>

## 1324.19 Duties of the representatives-reporting abuse

- **Disclosure:**
  - The final rule prohibits programs from disclosing information regarding suspected abuse, neglect or exploitation of a resident without informed consent (if resident able and/or has resident representative).
    - Regardless of state mandatory reporting laws (b)(3)(iii)
- **Ombudsman or representative:**
  - must assist resident with referral and/or disclose information if goals of resident or resident representative are for regulatory, protective services, or law enforcement action. (b)(3)(i)
  - may assist with referral, provide referral information, and/or disclose information to other entities to assist with resident goals. (b)(3)(ii)



### **1324.19 Duties of the representatives - reporting abuse when resident can't communicate**

- Ombudsman/representative may refer and disclose resident-identifying information to appropriate agencies, IF:
  - Resident unable to communicate informed consent (and no resident representative);
  - Reasonable cause to believe that an action, inaction or decision may adversely affect the health, safety, welfare, or rights of the resident;
  - No evidence that resident would not want referral ;
  - Reasonable cause to believe that it is in the best interest of the resident to refer, AND
  - Representative of the Office obtains Ombudsman approval (or follows Office policies and procedures) . (b)(6)

### **1324.19 Duties of the representatives- when LTCO witnesses abuse, gross neglect, or exploitation**

- Shall seek resident consent and follow direction.
- If “unbefriended” resident, shall:
  - Open a case with Ombudsman/representative as the complainant,
  - Follow complaint resolution procedures, AND
  - Refer and disclose information to facility management and/or appropriate agency if:
    - No evidence that resident would not want referral
    - Reasonable cause to believe that disclosure would be in best interest of resident, AND
    - Representative obtains Ombudsman approval (or follows program policies).

## 2017 Abuse Complaints

National Ombudsman Reporting System (NORS)

### Nursing Facilities

144,003 total complaints

- **11,778** complaints of willful mistreatment of residents by facility staff or other residents (Category A)
  - 8% of total complaints
- **1,404** complaints of financial exploitation (FE) or neglect by family member or other
  - More complaints of FE by family than staff
- **625** complaints of abuse/neglect/abandonment by family member/friend/other

### Board and Care/Assisted Living

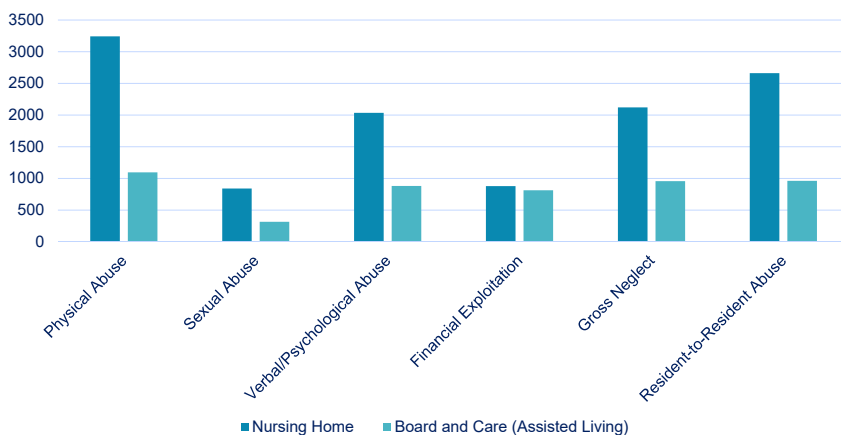
53,984 total complaints

- **5,022** complaints of willful mistreatment of residents by facility staff or other residents (Category A)
  - 9% of total complaints
- **752** complaints of financial exploitation or neglect by family member or other
  - More complaints of FE by facility staff than family/other
- **228** complaints of abuse/neglect/abandonment by family member/friend/other

## 2017 Abuse Complaints

National Ombudsman Reporting System (NORS) – Category A

Complaints of Willful Mistreatment of Residents by Facility Staff or Residents



## Administration for Community Living (ACL)

### *Frequently Asked Questions (FAQs)*

**Question:** Does the Rule *prohibit* an Ombudsman or representatives of the Office from being mandated reporters under state abuse reporting laws?

**Answer:** Yes. *Both the Older Americans Act and the Rule prohibit* reporting of resident-identifying information without the resident's consent. By logical extension, this precludes mandated reporting of suspected abuse which discloses such information. Through the strict disclosure limitations within the Act, Congress has indicated its intent for the Ombudsman program to be a safe, person-centered place for residents to bring their concerns. Residents can be assured that their information will not be disclosed without their consent, the consent of the resident representative, or court order. (OAA Section 712(d)(2)(B)). Despite numerous Congressional reauthorizations of the Act, Congress has never provided an exception for abuse reporting in the Act.

<https://acl.gov/programs/long-term-care-ombudsman/long-term-care-ombudsman-faq>

## Administration for Community Living (ACL)

### *Frequently Asked Questions (FAQs)*

**Question:** Does the Rule prohibit Ombudsman programs from investigating abuse complaints?

**Answer:** No. Both the Older Americans Act and the Rule require the Ombudsman program to "identify, investigate, and resolve complaints that ... relate to action, inaction or decisions that may adversely affect the health, safety, welfare, or rights of the residents." Abuse, neglect and exploitation of residents are among the complaints that fall within this purview. However, Ombudsman programs *are not the official entity to substantiate (or, finder of fact)* for abuse complaints on behalf of the state or other governmental entity. Ombudsman programs represent the interests of residents, rather than the interests of the state or other governmental entity. (See OAA Section 712(a)(3)(E), (a)(5)(B)(iv); 45 CFR 1324.13(a)(5), 1324.19(a)(4)).

<https://acl.gov/programs/long-term-care-ombudsman/long-term-care-ombudsman-faq>

# Resources

**LONG-TERM CARE OMBUDSMAN PROGRAM** **FACT SHEET**

## What You Must Know

**WHAT IS THE LONG-TERM CARE OMBUDSMAN PROGRAM (LTCOP)?**  
Under the Federal Older Americans Act (OAA) every state is required to have an Ombudsman Program that addresses complaints and advocates for improvements in the long-term care system. Each state has an Office of the State Long-Term Care Ombudsman (OSLC), headed by a full-time State Long-Term Care Ombudsman (ombudsman) who directs the program statewide. Across the nation, staff and thousands of volunteers are designated by State Ombudsmen as representatives to identify some residents.

**WHAT DOES THE OMBUDSMAN PROGRAM DO?**  
The Ombudsman program advocates for residents of nursing homes, board and care homes, assisted living facilities, and other similar adult care facilities. State Ombudsmen and their designated representatives work to resolve problems individual residents face and effect change at the local, state, and national levels to improve quality of care. In addition to identifying, investigating, and resolving complaints, **Ombudsman program responsibilities include:**

- Educating residents, their family and facility staff about residents' rights, good care practices, and senior long-term services and supports resources;
- 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 negative and policy issues;
- Representing resident interests before governmental agencies; and
- Seeking legal, administrative and other remedies to protect residents.

**Ombudsman programs do not:**

- Conduct licensing and regulatory inspections or investigations;
- Perform Adult Protective Services (APS) investigations; or
- Provide direct care for residents.

**RESIDENTS' RIGHTS**  
Ombudsman programs help residents, family members, and others understand residents' rights and support residents in exercising their rights guaranteed by law. Most nursing homes participate in Medicare and Medicaid, and therefore must meet federal requirements, including facility requirements and residents' rights. For more information about residents' rights visit <http://www.theombudsman.org/issues/residents-rights> and <http://www.theombudsman.org/issues/residents-rights>. Rights and care standards for assisted living board and care facilities are required, licensed or certified at the state level. For more information on assisted living visit <http://www.theombudsman.org/assisted-living> and <http://www.theombudsman.org/issues/residents-rights>. Regardless of the type of facility all residents have the right to be protected from abuse and mistreatment and facilities are required to ensure the safety of all residents and investigate reports of mistreatment.

\*Some states require family proxy services for residents lacking decision-making capacity and have their own contacts for their program.

Kirk School of Medicine at USC | NCEA | CONSUMER VOICE | The National Long-Term Care Ombudsman Resource Center

<https://tcombudsman.org/uploads/files/library/long-term-care-ombudsman-program-what-you-must-know.pdf>

**The National Long-Term Care Ombudsman Resource Center** **LTCOP REFERENCE GUIDE**

## RESPONDING TO ALLEGATIONS OF ABUSE: ROLE AND RESPONSIBILITIES OF THE LONG-TERM CARE OMBUDSMAN PROGRAM

**OVERVIEW**  
Provisions in the Older Americans Act (OAA) state that the Long-Term Care Ombudsman Program (LTCOP) shall identify, investigate and resolve complaints regarding "action, inaction, or decisions that may adversely affect the health, safety, welfare or rights of the resident" made by or on behalf of residents.<sup>1</sup> Complaints may include, but are not limited to, allegations of abuse, gross neglect and exploitation. Long-Term Care Ombudsman programs provide resident-centered advocacy and are directed to resident goals for complaint resolution. Due to strict federal requirements, resident and complainant information shared with or gathered by the LTCOP is confidential unless consent is obtained (as described below in the federal requirements). Therefore, the Ombudsman program role in investigating allegations of abuse is unique and differs from other roles such as adult protective services and state licensing and certification agencies.

In 2014, the Administration for Community Living (ACL) published the State Long-Term Care Ombudsman Program Final Rule which provides more specific guidance regarding investigating allegations of abuse, including how Ombudsman program representatives should respond if they observe abuse.<sup>2</sup>

The purpose of this guide is to discuss how Ombudsman program representatives can respond to allegations and observations of abuse, neglect and exploitation when the resident does not or cannot give consent to pursue the complaint. In the absence of resident consent, LTCOP representatives can take other actions to adhere to disclosure requirements and seek to ensure the resident receives quality care and a protective from harm. This guide reviews the federal requirements regarding complaint investigations and disclosure, highlights statements from the Administration on Aging, and provides advocacy strategies and additional resources.

**KEY POINTS**  
**What is abuse?**  
Since states have different definitions for abuse, neglect and exploitation, this guide will use the definitions provided in the National Ombudsman Reporting System (NORS) definitions of complaint codes and unless otherwise defined, we use the term "abuse" to include any willful act of "abuse, gross neglect and exploitation" throughout the resource.<sup>3</sup>

**Abuse/Exploitation on Aging Statements**  
In addition to the program requirements regarding disclosure and complaint investigation outlined in the Older Americans Act and the Rule, the Administration for Community Living (ACL) has issued guidance regarding to questions regarding the role of the Office of the State Ombudsman in investigating allegations of abuse.

**LTCOP Role in Investigating Allegations of Abuse, Gross Neglect, and Exploitation**  
The primary responsibility of the LTCOP is to investigate and resolve complaints on behalf of residents, but the LTCOP program is unique in that it is paid to resolve the complaint for the "benefaction" of the resident, not the complainant or the facility.

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## Get to Know the LTCOP

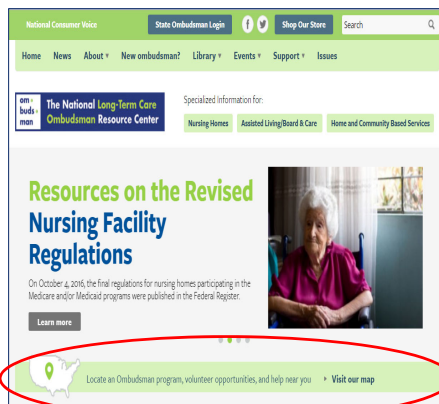
- Contact the LTCOP if you know a resident that may benefit from a visit with a LTCO.
- Contact the LTCOP if you, or someone you know, needs information about long-term care services and supports.
- Share information about the LTCOP with residents, family members, and your colleagues.
- Visit the NORC website for information to share with residents.

## Working with the LTCOP

- **Systems Advocacy and Community Education**
  - LTCOPs collaborate with other organizations for systems advocacy and/or community education on topics of shared interest.
- **Individual Advocacy**
  - Federal law grants LTCOP access to resident information (with resident permission) and LTCO are required to keep that information confidential.
  - Respect the residents' right to complain and their right to contact the LTCOP.
  - LTCOPs cannot share resident information without their consent. Some residents may choose to remain anonymous during the complaint process.

# How to Find a Long-Term Care Ombudsman Program

NORC website:  
[www.ltcombudsman.org](http://www.ltcombudsman.org)



Connect with us:

[www.ltcombudsman.org](http://www.ltcombudsman.org)

The National LTC Ombudsman Resource Center

LTCombudcenter



Get our app! Search for "LTC Ombudsman Resource Center" in the Apple Store or Google Play

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## Stay Connected with ACL

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<https://elderjustice.acl.gov/>



[www.acl.gov](http://www.acl.gov)

Thank You!

