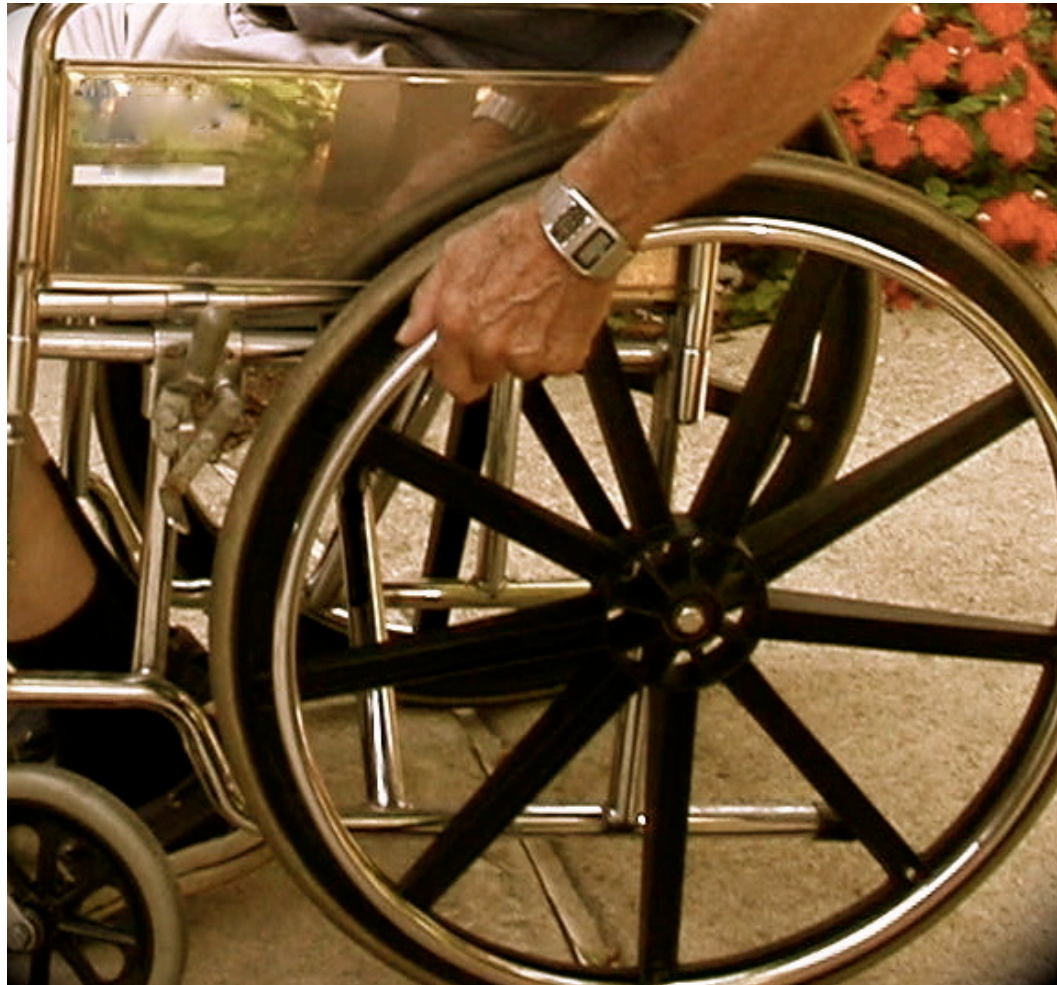


V O I C E S F O R Q U A L I T Y C A R E

Report on

THE MARYLAND LONG-TERM CARE OMBUDSMAN PROGRAM ANALYSIS

December, 2007



**Who are we?** Voices for Quality Care is a state wide, all volunteer, 501 (c) (3) organization with the sole purpose of ensuring quality long-term care for those requiring such services. We are users of long-term care services, their families and their friends, family councils, advocates, and concerned citizens working together to improve the quality of long-term care in Maryland.

**Why this paper?** It is the Ombudsmen, both State and Local, who are responsible for providing the daily on-the-spot and ongoing advocacy and support for those most vulnerable of our Maryland citizens. The ombudsmen are the difference between a life worth living and one of helplessness and hopelessness. Since Voices for Quality Care has acquired sufficient funds to hire a telephone answering service, we have unintentionally become the only people dealing with long-term care issues on a 24/7 basis. We offer support and assistance to all who come to us. We do not duplicate services. We refer! Unfortunately, Voices volunteers have met numerous obstacles and challenges over the years in our efforts to refer callers to the Ombudsman Program. Thus, our concerns have mounted to the point that we feel it necessary to explain our findings in this paper and to pursue with vigor the significant improvement of this critical program.



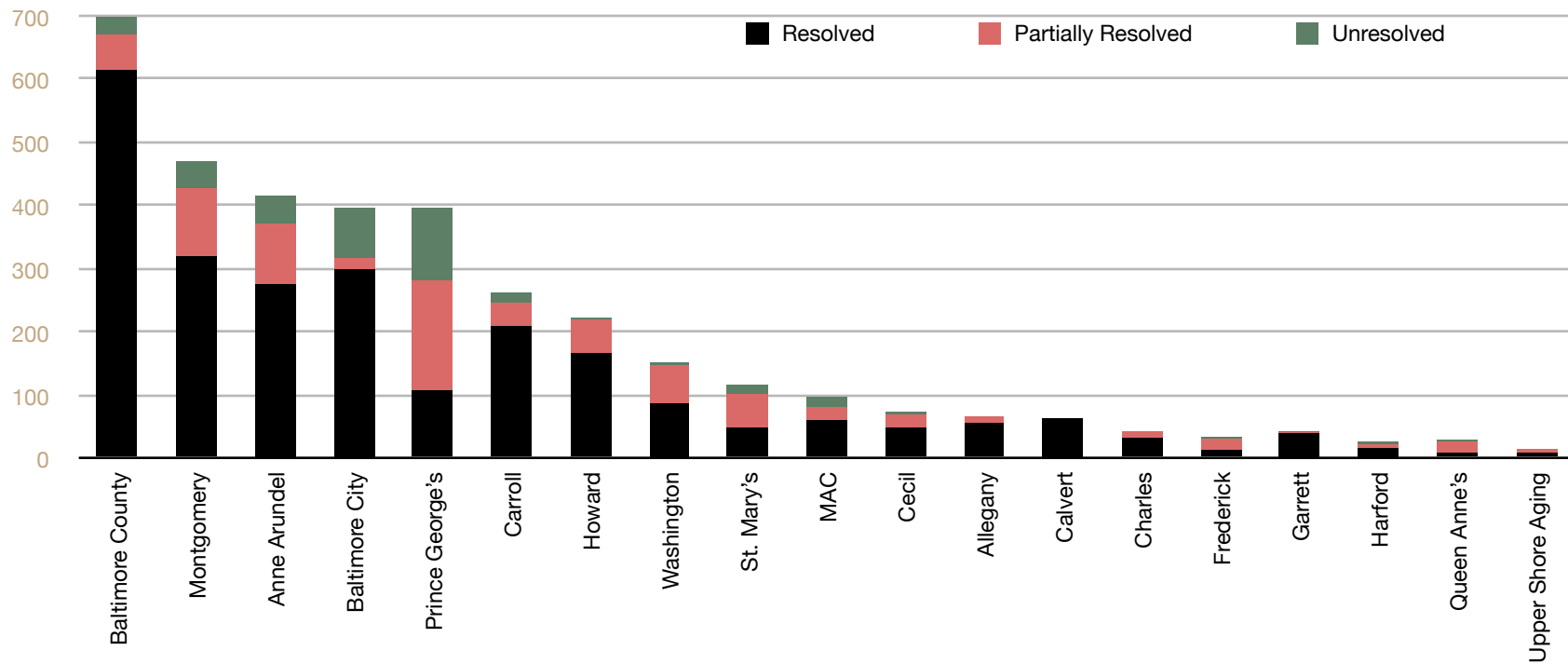
**What do we want?** Under these circumstances, it is extremely important to us that the Maryland Long-Term Care Ombudsman Program operate efficiently and effectively in all parts of the state. In order for that to happen we need to create

- 👤 A local ombudsman program that functions equally well and with the same objectives, procedures, and policies in all parts of the state
- 👤 A staff of local ombudsmen that has been fully and equally trained as to their duties and their responsibilities and with the equipment and investigative resources necessary to carry out those duties and responsibilities
- 👤 An Ombudsman Program that operates independently without governmental interference and with the complete statutory autonomy required in the federal regulations
- 👤 Given the urgency of this need we have no doubt but that it should be and can be accomplished within 18-24 months with no additional expenditure of funds within the current fiscal year

# Complaints Handled by Maryland Ombudsmen -- 2006 -- By number of complaints <sup>(f)</sup>

	Blt Co	Mont	A Arndl	Blt City	Prince G	Crrll	Hwrd	Wash	St. Mary	MAC <sup>4</sup>	Cecil	Allgny	Clvet	Grrtt	Chrls	Queen A	Frdck	Hrfrd	USA <sup>5</sup>
<b>Resolved<sup>1</sup></b>	609	316	271	293	104	206	163	83	44	56	42	53	60	37	27	4	7	10	5
<b>Partially Resolved<sup>2</sup></b>	59	111	97	21	176	39	57	62	54	22	23	13	1	4	11	19	18	9	6
<b>Unresolved<sup>3</sup></b>	26	45	43	80	114	16	5	5	17	15	2	0	0	1	1	5	2	5	1
<b>Total</b>	694	472	411	394	394	261	225	150	115	93	67	66	61	42	39	28	27	24	12

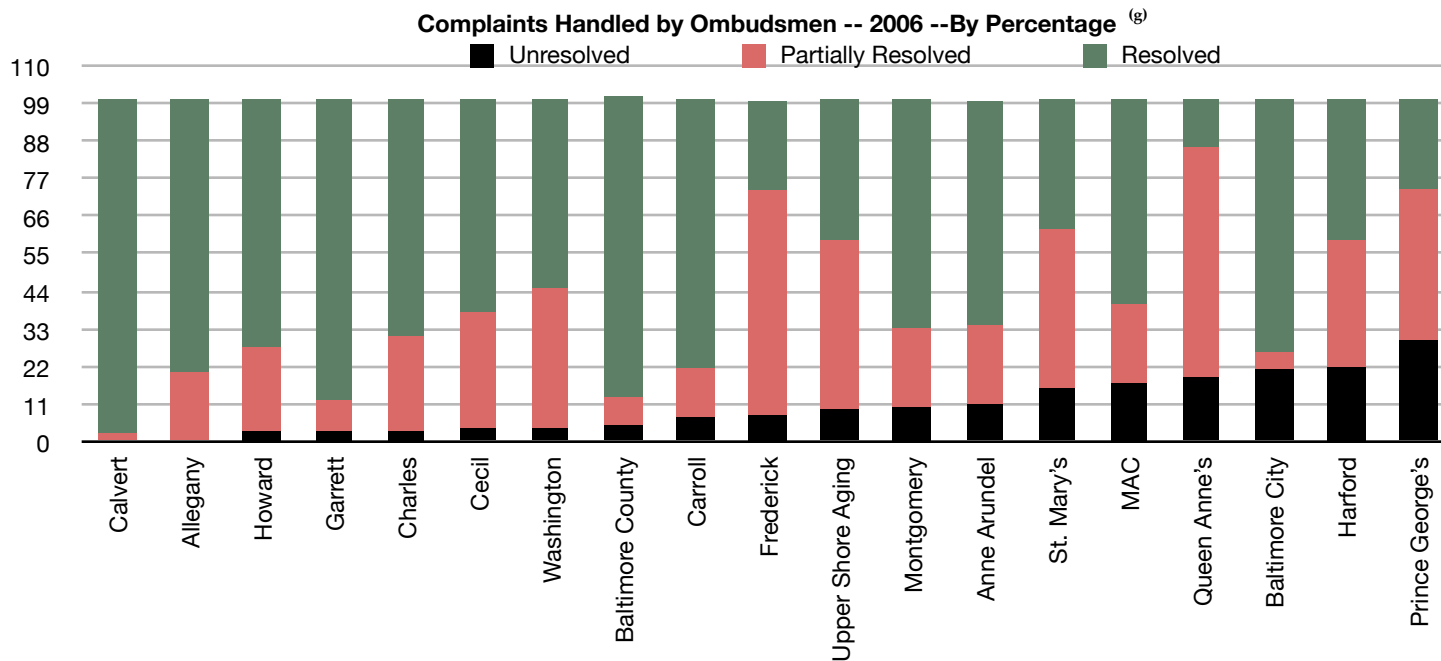
Complaints Handled by Ombudsmen -- 2006 --By Reported Number of Complaints <sup>(g)</sup>



1 Resolved to the satisfaction of the resident or complainant  
 2 Partially resolved to the satisfaction of the resident or complainant  
 3 Not resolved to the satisfaction of the resident or complainant  
 4 MAC includes Dorchester, Somerset, Wicomico, & Worcester Counties  
 5 Upper Shore Aging includes Caroline, Kent, & Talbot Counties

# Complaints Handled by Maryland Ombudsmen -- 2006 -- By Percentage <sup>(j)</sup>

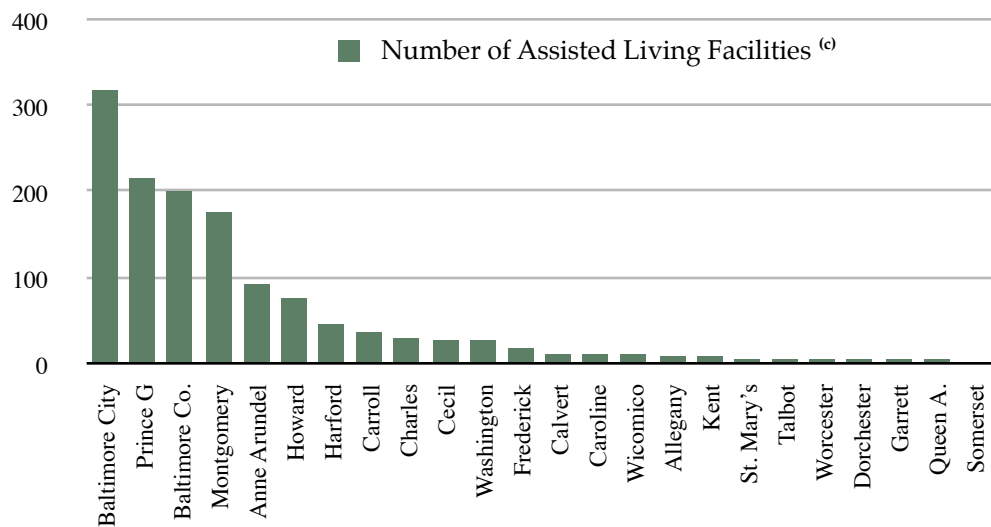
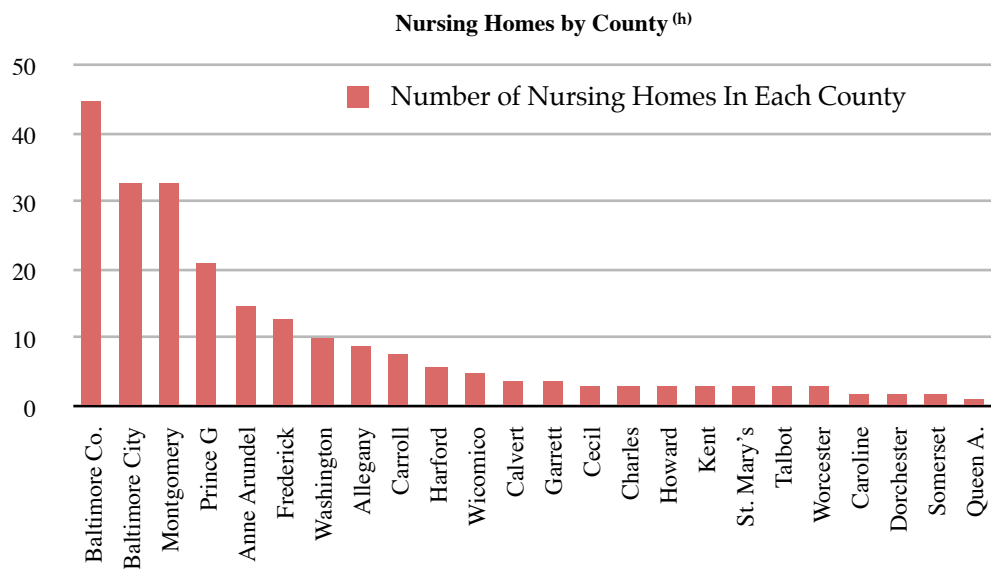
	Calvert	Garrett	Bltmr Co.	Allegany	Carroll	Baltmr City	Howard	Charles	Montgmy	A.Arundel	Cecil	MAC <sup>4</sup>	Wash	Harford	USA <sup>5</sup>	St. Mary's	Prince G	Frederick	Queen A
<b>Resolved<sup>1</sup></b>	98.4%	88.1%	87.8%	80.3%	78.9%	74.4%	72.4%	69.2%	66.9%	65.9%	62.7%	60.2%	55.3%	41.7%	41.7%	38.3%	26.4%	25.9%	14.3%
<b>Partially Resolved<sup>2</sup></b>	1.6%	9.5%	8.5%	19.7%	14.9%	5.3%	25.3%	28.2%	23.5%	23.6%	23.6%	23.7%	41.3%	37.5%	50.0%	47.0%	44.7%	66.7%	67.9%
<b>Unresolved<sup>3</sup></b>	0.0%	2.4%	3.7%	0.0%	6.1%	20.3%	2.2%	2.6%	9.5%	10.5%	3.0%	16.1%	3.3%	20.8%	8.3%	14.7%	28.9%	7.4%	17.9%



<sup>1</sup> Resolved to the satisfaction of the resident or complainant  
<sup>2</sup> Partially resolved to the satisfaction of the resident or complainant  
<sup>3</sup> Not resolved to the satisfaction of the resident or complainant  
<sup>4</sup> MAC includes Dorchester, Somerset, Wicomico, & Worcester Counties  
<sup>5</sup> Upper Shore Aging includes Caroline, Kent, & Talbot Counties

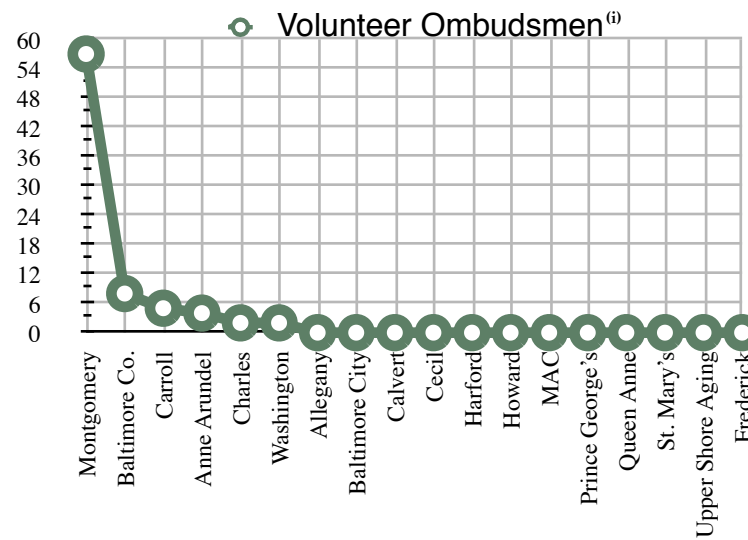
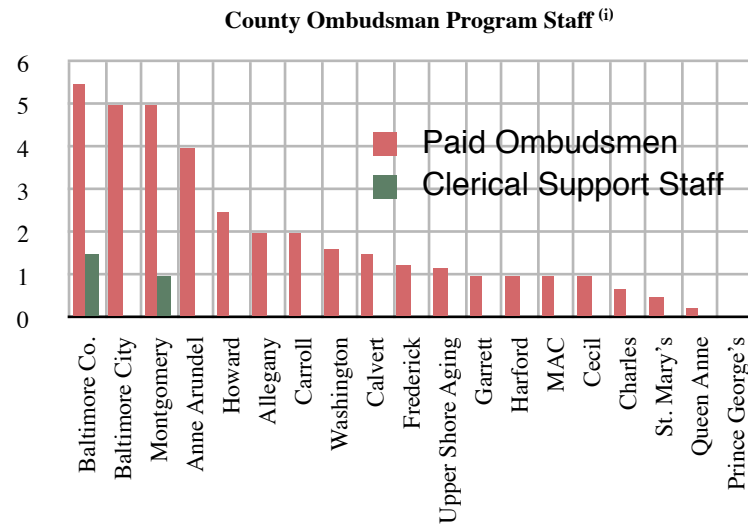
# Comparison of Facilities Served by Local Long-Term Care Ombudsmen by County

	Nursing Homes	Assisted Living Facilities
Baltimore Co.	45	200
Baltimore City	33	319
Montgomery	33	179
Prince G	21	218
Anne Arundel	15	92
Frederick	13	20
Washington	10	27
Allegany	9	8
Carroll	8	36
Harford	6	46
Wicomico	5	11
Calvert	4	11
Garrett	4	6
Cecil	3	27
Charles	3	30
Howard	3	78
Kent	3	10
St. Mary's	3	7
Talbot	3	7
Worcester	3	7
Caroline	2	11
Dorchester	2	7
Somerset	2	1
Queen A.	1	5



# Comparison of Staff in Local Long-Term Care Ombudsmen Programs by County

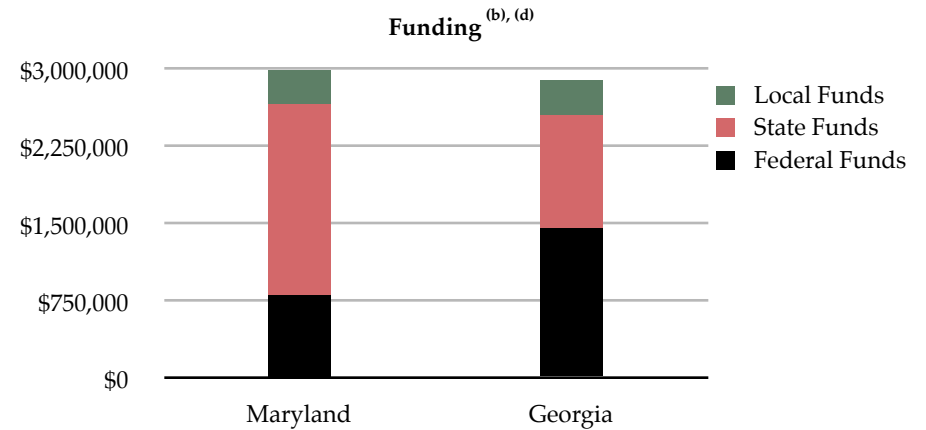
Counties	Paid Ombudsmen <sup>(i)</sup>	Clerical <sup>(i)</sup>
Allegany	2	0
Anne Arundel	4	0
Baltimore City	5	0
Baltimore Co.	5.5	1.5
Calvert	1.5	0
Carroll	2	0
Cecil	1	0
Charles	0.7	0
Frederick	1.25	0
Garrett	1	0
Harford	1	0
Howard	2.5	?
MAC	1	?
Montgomery	5	1
Prince George's	?	?
Queen Anne	0.25	0
St. Mary's	0.5	0
Upper Shore Aging	1.2	0
Washington	1.6	0



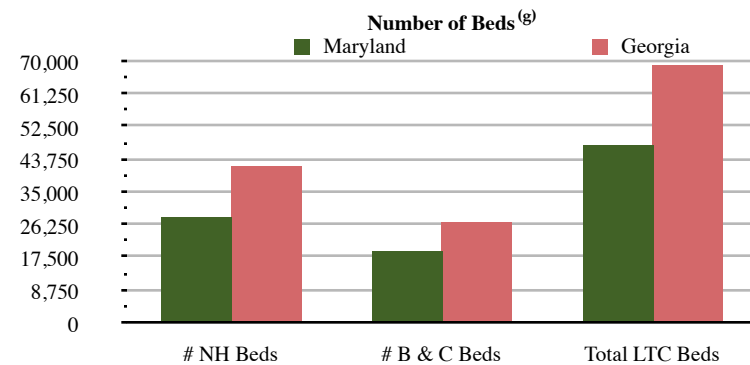
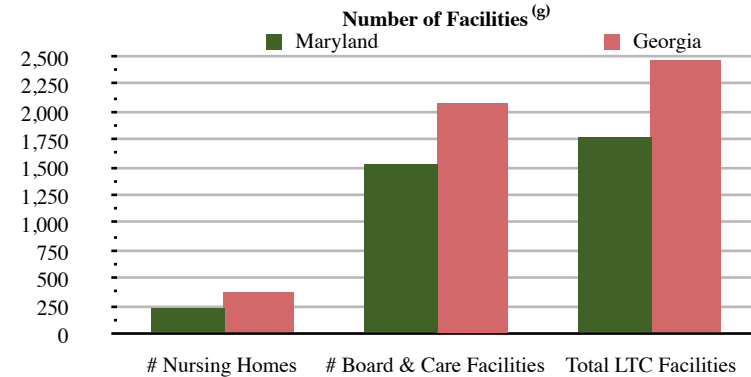
Counties	Volunteer Ombudsmen <sup>(i)</sup>
Allegany	0
Anne Arundel	4
Baltimore City	0
Baltimore Co.	8
Calvert	0
Carroll	5
Cecil	0
Charles	2
Frederick	0
Garrett	0
Harford	0
Howard	?
MAC	?
Montgomery	57
Prince George's	?
Queen Anne	0
St. Mary's	0
Upper Shore Aging	0
Washington	2

# Comparison of Long-Term Care Ombudsman Programs in Maryland & Georgia

FUNDING	Maryland <sup>(d)</sup>	Georgia <sup>(b)</sup>
Federal Funds	\$784,602	\$1,428,575
State funds	\$1,850,018	\$1,117,811
Local Funds	\$346,145	\$339,135
<b>Total Funds</b>	<b>\$2,980,765</b>	<b>\$2,885,521</b>



STAFF & VOLUNTEERS	Maryland <sup>(g)</sup>	Georgia <sup>(g)</sup>
State: Paid Program Staff (FTE's)	1.00	4.00
State: Full Time Staff (Number)	1	4
State: Paid Clerical Staff (FTE's)	0.10	1
State: Certified Volunteer Ombudsmen	0	0
State: Other Volunteers	0	1
Local: Paid Program Staff (FTE's)	41.50	46.25
Local: Full Time Staff (Number)	23	40
Local: Paid Clerical Staff	2.6	1.75
Local: Certified Volunteer Ombudsmen	0	7
Local: Other Volunteers	108	108



HOME & BED COUNT <sup>(g)</sup>	Number of Nursing Homes	Number of Nursing Home Beds	Number of Board & Care Facilities (&similar)	Number of Board & Care Facilities Beds	Total LTC Facilities	Total LTC Beds
Maryland	236	28,794	1,545	18,988	1,781	47,782
Georgia	385	42,022	2,086	26,992	2,471	69,014

# Voices for Quality Care Concerns

## Availability of long-term care ombudsman services vary widely depending upon geographical location

Long-term care ombudsman services are strikingly different from one county to the next. Ombudsman advocacy efforts available to a user of long term care services depend primarily upon which county he or she is living in. A variation in county staffing is also noticeable with several full time ombudsmen assisted by volunteers in one area as compared to local programs where a single ombudsman is responsible for multiple counties without the luxury of volunteer ombudsmen in others. Such a disparity in staffing makes it impossible for the Ombudsman Program to practice regular monitoring of local facilities. Montgomery County, for instance, has a staff of 5 paid ombudsmen with 1 clerical staff person and 57 volunteer ombudsmen. However, across the county line in Prince George's County with 12 fewer nursing homes but 39 more board & care facilities, we see 2.5 ombudsmen, and the possibility 0.5 clerical staff and possibly 6 volunteers.<sup>1</sup>

In some counties, the services provided by the local ombudsmen consist almost exclusively of responses to direct complaints and little else in the way of intervention. In other counties ombudsmen make visible and consistent efforts to visit residents in nursing homes and assisted living facilities on a regular basis. The primary purpose of such visits is to establish trust, open communications, and gather information on satisfaction with care and quality of life. More disturbing to us is the knowledge that some counties are still operating to some extent as "impartial mediators between the resident and the facility" rather than as advocates for the resident as is required by federal regulation.

## There does not appear to be sufficient oversight of local programs on the state level

By federal mandate, there is one State Ombudsman in every state and that official is responsible for the program throughout the state. This responsibility generally includes all aspects of the program, from the operation and conduct of local ombudsmen to the management of the funding. This concept does not seem prominent in Maryland. Such a state of affairs equates to a lack of a checks and balances system. This leaves us with no State level oversight for the local programs, i.e. with nowhere to go when problems or concerns arise that cannot or will not be addressed at the local level.

### US CODE COLLECTION OMBUDSMAN PROGRAM

<http://www4.law.cornell.edu/uscode>

TITLE 42 > CHAPTER 35 > SUBCHAPTER XI > Part A > subpart ii > Sec. 3058f.

#### (5)(A) Designation

**In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.**

#### (D)(i) In general

*The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.*

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<sup>1</sup> Although we've made numerous requests at both the state and county levels, we have not been able to obtain official staffing numbers for this program. Therefore, the figures in this paper for Prince George's County are estimated based upon the observations of Voices volunteers, Prince George's County nursing home and assisted living facilities residents, and their families.



Voices for Quality Care volunteers have attempted to bring concerns to the State Ombudsman’s Office and the Maryland Department of Aging for several years now and have solicited remedies for a list of specific concerns. Our efforts have not produced any noticeable changes in the conditions causing those concerns nor has there been any cooperation or feedback as to measures which may be or might have been taken in this regard. The response from the State Ombudsman Program and from the Maryland Department of Aging continues to be a simple denial as to the existence of any problems or operational inadequacies which could benefit from discussion, investigation, adjustment, or improvement with the assistance of our organization.

### **Maryland is one of only 9 states that do not have Certified Volunteer Ombudsmen Programs**

With the budget constraints of past years and with little prospect of a total reversal of that trend in the near future, one would think that any and all volunteer efforts would be sincerely encouraged by the State. As noted in the charts and graphs in this paper, some counties are without the privilege of volunteer ombudsmen. And, none of these volunteers fall into the category of Certified Volunteer Ombudsmen. In 2004 Voices for Quality Care volunteers met with the State Ombudsmen and the Secretary and staff of the Maryland Department of Aging to discuss these same concerns that we are bringing to your attention today. At the 2004 meeting, the concept of adding one full-time person to the State Ombudsman’s Office whose duties would consist totally of recruiting, training, and organizing volunteer ombudsmen statewide was discussed and Voices members (we thought) emerged from that meeting on a positive note. As of this date, we are without the implementation of a program by which to recruit, train, or maintain Certified Volunteer Ombudsmen. In addition to Puerto Rico and the District of Columbia, of the 50 states, there are only 9 states that do not have Certified Volunteer Ombudsmen working at either the state or local levels. Those states are Iowa, Idaho, Illinois, **Maryland**, Minnesota, Nevada, South Dakota, West Virginia, and Wyoming. In the case of Minnesota, although the state does not have any Certified Volunteer Ombudsmen listed for 2006, they do have the ElderCare Rights Alliance which is a comprehensive advocacy organization funded in part by the general public, in part by the state, and in part by private funding.

**“With over 30 years of experience, as a non-profit organization, serving elders and people with disabilities receiving long-term care, we continue to advocate for quality and assist people in securing needed care. We promote nursing home Residents' Rights. We provide guidance to family and friend caregivers seeking knowledge about rights, responsibilities, and resources within the long-term care system.”**

**ElderCare Rights Alliance  
(Minnesota)**

### **Federal regulations require the Ombudsman Program to be involved in the legislative process at all levels**

An important, federally mandated aspect of an ombudsman’s job is to advocate with local, state, and federal legislators for legislation that will improve, or at least not degrade, the quality of life and care for residents in long term care. The State Ombudsman is also charged with analyzing, commenting on, and monitoring the development and implementation of Federal, state, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State. One of the duties required of the local ombudsman is to represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents.

With both the State Ombudsman and all of the local ombudsmen required to follow proposed legislation, one would think ombudsmen would at least be a noticeable presence in governmental circles. We do not recall a time when our State Ombudsman gave oral testimony on legislative issues directly affecting users of long-term care services or consulted with those who were urging legislators to vote either for or against passage. The only local ombudsmen we have seen in Annapolis were from Montgomery County and that was four years ago. Changes in that program have eliminated even that small ombudsman participation in the discussions, evaluations, and education that surrounds the legislative process. Many bills with considerable significance to users of long-term care services have been passed and defeated in the intervening years with little or no input from the Maryland Ombudsman Program on any level. There are legislative calls to action and reports on the results of legislation on the websites of other state ombudsman programs, however, there is no related information on Maryland's website.

### **The Long-Term Care Ombudsman Program Procedures Manual was written 17 years ago**

The latest version of the Maryland Ombudsman Procedures Manual is dated April, 1990. Laws have changed since that time, and new laws, such as the Family Council Law, have been added. The Maryland Office on Aging has become the Maryland Department of Aging and the Director has become the Secretary. The references to code given in this dated manual for the regulations governing this program are no longer valid. This lack of an updated Manual is a symptom of the lack of attention given to the program, which attests to the inconsistent program services.

The 1990 Manual index has a page number for "Policies;" that page contains only the word "policies" in the middle of the page. There is no further text relating to policies in the Manual. This would seem to indicate that there are no written policies which could be enforced -- unwritten policies are unenforceable policies! Policies that may exist but not be in writing are subject to unannounced and inadvertent change as policy makers' memory of the wording changes. Maryland has apparently not developed statewide written policies. The lack of such enforceable policies is contrary to the NASOP recommendation and contributes to the inconsistency of service availability among local jurisdictions. This lack of policies would also preclude the execution of another recommendation of NASOP, ". . . state long-term care ombudsman programs (ought) to view training as a basic management function linked to other management processes, program policies, and procedures." Without written policies, training cannot be linked to program policies.

**The National Association of State Ombudsman Programs (NASOP) made several recommendations for improvements of State Ombudsman Programs across the nation after its 2003 retreat. Among them was the following:**

**"5.2) In each state, the program shall be under the direction of one state long-term care ombudsman who is responsible for designating or certifying any local programs, supervising the work of program representatives, guiding program operations, training and designating or certifying ombudsman representatives, and participating in the hiring and firing of ombudsmen. Each state long-term care ombudsman program should be required to develop, implement, and enforce statewide policies for program operation."**

**Obtaining information on the structure and operation of the Ombudsman Program has been difficult**

In examining the Ombudsman Program, Voices is perplexed by the amount of information available in other states either on their websites or by simple request that is difficult, costly, or impossible to obtain in Maryland. In other states, lists of staff in local jurisdictions, copies of the current ombudsman manuals, and more are available free of charge on State Ombudsman's web sites or simply by request. In Maryland, it costs \$53.25 and four weeks of time to "buy" a copy of the Ombudsman Program Procedures Manual. Availability of information is considered part of a good ombudsman program by the National Association of State Ombudsman Programs. They recommend, "a national reporting system that will incorporate disaggregated data that can be useful for comparisons, further study and research that supports advocacy, accountability, consumer information, and training through comparisons, further study, and research."

**Maryland Long Term Care Ombudsman Program Procedures Manual, April, 1990, page 66:**  
**INFORMATION THAT CAN BE RELEASED TO THE PUBLIC OMBUDSMAN PROGRAM INFORMATION.**

**Information about the Ombudsman Program can always be shared. The Ombudsman can share information about the location, role, structure, purpose, duties and responsibilities of the Ombudsman Program.**

**(3) Functions -The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office -**

**(G)(ii) promote the development of citizen organizations**

**We have been given reason to question the training our Local Long-Term Ombudsmen are receiving**

First and foremost, there is no preliminary training for local ombudsmen that Voices is aware of within the State of Maryland. From our experience, ombudsmen are basically tossed into the job and as time permits, they are trained and mentored by other local ombudsmen and occasional state training sessions. Voices has found no statewide materials that would prepare a new local ombudsman for the responsibilities expected of advocates. We are also finding that not all local ombudsmen are well versed in those laws and regulation which govern the ombudsman program and the delivery of long-term care in Maryland. Despite the fact that ombudsmen are required to work with citizen organizations we are still finding ombudsmen who have never heard of Voices for Quality Care.

Since we do not have access to the ombudsman training sessions here in Maryland, we have no idea as to whether these topics are covered and to what extent or with what emphasis. We do, however, have access to ombudsman training programs in other states, thus we are puzzled by such firmly closed doors in the State of Maryland.

# Voices for Quality Care Recommendations

## For Immediate Action:

**Form a workgroup to discuss the current issues of concern with the intent of identifying remedies.**

This workgroup should be chaired by the Secretary of the Department of Aging. Regular meetings should be quickly established and held monthly with sub-committees working on the various issues meeting more frequently. All meetings should be open to the public. The workgroup should consist of a limited number of stakeholders, preferably not more than 15. Members of this committee should be chosen in equal numbers from advocates and governmental staff; however, advocates should maintain one extra position.

**The workgroup should complete the following tasks.**

- 🎯 Create a plan that will stabilize and equalize ombudsman services in all parts of the state,
- 🎯 Establish a clear chain of command within the program from state to local levels including volunteer and supervisory staff
- 🎯 Write standards for local ombudsman programs
- 🎯 Write enforcement and decertification procedures for local ombudsman programs
- 🎯 Review and enforce requirements for certification of long-term care ombudsmen, certified volunteer ombudsmen, and volunteer ombudsmen
- 🎯 Develop Certified Volunteer Ombudsman Program
- 🎯 Review training programs for ombudsmen, volunteer ombudsmen, certified volunteer ombudsmen, and local supervisors who do not fall into the prior three categories
- 🎯 Write a new manual for the Maryland Ombudsman Program that will be easily available at no cost
- 🎯 Find mechanisms to make information on the state and local ombudsman programs including staffing available to the public
- 🎯 Write the regulations, develop the investigative resources, and find a means to procure the equipment necessary to carry out the conclusions of the workgroup
- 🎯 Write the laws or regulations necessary to prevent governmental interference with the Maryland Ombudsman Program giving the program the complete statutory autonomy it needs to carry out its stated mission

The workgroup should not be constrained by the structure, procedures, or manner of operation of the current Ombudsman Program but should consider all options and become aware of all of the variations available in the different states in order to select the best alternatives for Maryland. They should also take into account reports issued by NASOP (National Association of State Ombudsman Programs), and NALLTCO (National Association of Local Long-Term Care Ombudsmen).

The workgroup should consider

- 👤 Adding staff to the State Ombudsman’s Office. (NOTE: Maryland is one of only 9 states that have a single person with little or no clerical help working at the State level.)
- 👤 Reorganizing the program offices into regional rather than county-based offices.

## For Long Term Improvement:

### **Form an Ombudsman Advisory Council**

The Council should be formed to assist in the enhancement of the Maryland Ombudsman Program. It should meet on a quarterly basis with full minutes publicly available within two weeks after each meeting.

Suggested responsibilities of the Advisory Council include assisting in enhancing the effectiveness of the Maryland Long-Term Care Ombudsman Program in the following manner

- 👤 Provide advice on the operation of the Long-Term Care Ombudsman Program
- 👤 Act as a sounding board for the Office of the State Ombudsman

The Advisory Council should consist of 12 - 15 members serving in a volunteer capacity. At all times, the majority of the Advisory Council should consist of residents or their representatives, persons with disabilities, families of users of long-term care services, elders, and citizen advocacy groups including staff or volunteer long-term care ombudsmen.

At a minimum, the membership should include:

- 👤 3 members from any of the following groups
  - ★ residents of long-term care facilities or their representatives,
  - ★ elders,
  - ★ persons with disabilities,
- 👤 1 representative from a citizen advocacy group for elders,
- 👤 1 representative from a citizen advocacy group for users of long-term care services,

- 1 representative from a citizen advocacy group for disabled persons
- 1 local long-term care ombudsman staff person
- 1 long-term care ombudsman volunteer
- 1 Area Agency on Aging director
- 1 representative of an agency which houses a long-term care ombudsman program; and
- 1 representative of the Maryland Department of Aging

Additional members may represent these or other interests or relevant organizations but may not have a conflict of interest with the Long-Term Care Ombudsman Program.

## Conclusion

The chart on page 3, "Complaints Handled by Maryland Ombudsmen -- 2006 -- By Percentage," indicates that the quality of ombudsman services, as measured by the percentage of complaints resolved, varies widely from locality to locality. The availability of ombudsman services in Maryland also varies widely depending upon one's geographical location within the state. State oversight of local programs within the Maryland Long-Term Care Ombudsman Program is limited. Maryland is among the only 9 states that do not have a Certified Volunteer Ombudsman Program. All other states including Washington DC and Puerto Rico, have certified volunteer ombudsmen working at either the state or local level. The Maryland Ombudsman Procedures Manual is so outdated that it has become an anachronism. It contains no written policies. Contrary to language in the program's own manual as well as to the recommendations of the National Association of State Ombudsman Programs, the Maryland Long-Term Care Ombudsman Program often chooses concealment rather than transparency in circumstances involving information about the program. There is evidence that the training program does not include information that ombudsmen need to properly advocate for residents. For these reasons, opportunities for improvement of the Maryland Long-Term Care Ombudsman Program abound, and should be taken advantage of immediately.

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(h) U.S. Department of Health & Human Services - Administration on Aging  
Elder Rights: LTC Ombudsman  
LTC Ombudsman National and State Data  
2006 National Ombudsman Reporting System Data Tables  
[http://www.aoa.gov/prof/aoaprogram/elder\\_rights/ltombudsman/national\\_and\\_state\\_data/2006nors/2006nors.asp](http://www.aoa.gov/prof/aoaprogram/elder_rights/ltombudsman/national_and_state_data/2006nors/2006nors.asp)

(i) U.S. Department of Health & Human Services-Medicare-Nursing Home Compare  
<http://www.medicare.gov/NHCompare/Include/DataSection/Questions/SearchCriteria.asp?version=default&browser=Safari%7C2%7CMacOSX&language=English&defaultstatus=0&pagelist=Home&CookiesEnabledStatus=True>

(j) Voices for Quality Care (LTC), Inc. Volunteers, Telephone calls to county ombuds-  
man programs, December 2007

(k) 2006 Annual NORS Reports for the 19 Local Ombudsman Programs

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