



GOVERNMENT OF PUERTO RICO

OFFICE OF THE OMBUDSMAN FOR THE ELDERLY PEOPLE
COMMONWEALTH OF PUERTO RICO

State Long-Term Care Ombudsman Program

Annual Report 2021

(October 2020 - September 2021)

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I. INTRODUCTION

The Office of the Ombudsman for the Elderly People, was created by Act No. 76, approved by the Honorable Governor Alejandro García Padilla, on July 24, 2013. This Office administers the funds of Federal Public Act 89-73, known as ***Older Americans Act***. The statutes of this Act impose on the 50 states, the District of Columbia, Guam, and Puerto Rico the responsibilities of creating and maintaining a Long-Term Care Ombudsman Program (LTC Ombudsman). The roles and prerogatives of this Program are indicated in Title VII of such Federal Act.

In addition to what is established in the Federal Act, the Office is responsible for protecting the rights of people over 60 years in Puerto Rico, as established in Act No. 121 of 1919, known as the *Bill of Rights of Elderly People*. Likewise, for protecting the implementation of other acts related to this population group.

II. RESPONSIBILITIES OF THE LTC OMBUDSMAN PROGRAM

The duties of the Ombudsman Program, as established by the Older Americans Act are the following:

(A) identify, investigate and resolve complaints that:

- (i) are made by, in favor of, residents and,
- (ii) are related to the action, inaction, or decisions that can adversely affect the health, safety, welfare, or rights of the residents (including welfare and rights of the resident regarding the designation and activities of guardians or administrative representatives) of:
 - (I) Providers or representatives of long-term care service;
 - (II) public agencies, or
 - (III) health or social services agencies

(B) provide services that help residents in aspects related to health, safety, welfare, and rights;

(C) inform residents regarding the means to obtain the services offered by providers or agencies or services, as described in sub paragraph A and B of the mentioned act,

(D) make sure residents have regular and on time access to the services provided by the Office and that the residents and claimants promptly receive answers to their complaints from Program representatives;

(E) represent the resident's interests before government agencies and coordinate the administrative, legal, or any other help that protects the health, safety, welfare, and rights of the residents;

- (F) provide administrative and technical assistance to the designated entities at the local level in order to strengthen their participation in the Program;
- (G)
 - (i) analyze, comment, and monitor the development of federal, state, and local laws, regulations, policies, and government actions that affect the health, safety, welfare, and rights of the residents;
 - (ii) recommend any change in laws, regulations or actions when determined appropriate and,
 - (iii) facilitate comments of related community or groups regarding laws, regulations, policies, and actions;
- (H)
 - (i) provide for training of Program representatives; and
 - (ii) promote the development of citizen organizations that contribute with the Program;
 - (iii) provide technical assistance for developing resident and family councils to protect the welfare and rights of the residents; and
- (I) Carry out any other action or activity that is considered adequate and pertinent.

III. PROGRAM ORGANIZATION

During the fiscal year 2020-2021, the Program implemented through eight local programs operated by two (2) Area Agencies on Aging (AAE, in Spanish), located in San Juan (Region I) and Ponce (Region II). Region I had one (1) Coordinator II and five (5) Coordinators I. Region II had one (1) Coordinator II and two (2) Coordinators I. The Coordinators II performed the Program's administrative duties, offered technical help to Coordinators I, reinforced the process of visits, planning of work, and inter-agency coordination with regulating agencies, among other tasks. In addition, the Program had at the Central Level, one (1) Coordinator III, and two (2) LTC Compliance Officers and the director of the LTC Ombudsman Program.

IV. LONG TERM CARE FACILITIES

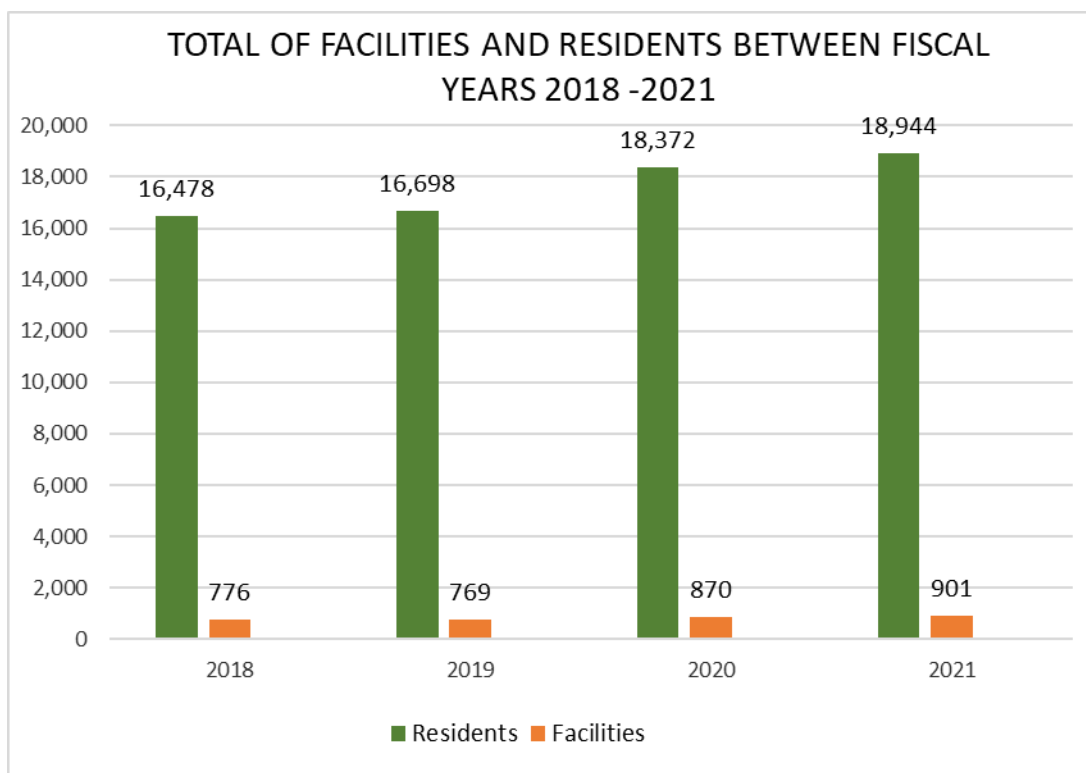
According to the Community Survey conducted by the Federal Census Bureau, for the year 2019, the elderly age population in Puerto Rico was eight hundred sixty-seven thousand ten (867,010) people, representing 26.12% of the island's population. For 2020, the elderly population was nine hundred six thousand three-hundred seventeen (906,317) representing 28.4%. 58.8% of the 60 years and older population live in a family home and 41.2% live in households classified as non-family. In this fiscal year 2020-2021, the total of residents in Long Term Care Facilities, was of eighteen thousand nine hundred forty-four (18,944) residents, 2.18%, in relation to the total population of elderly people.

The fiscal year was closed impacting nine hundred one (901) Long Term Care Facilities. This total includes: seventy-six (76) Nursing Homes licensed by the Substance Abuse and Mental Health Services Administration (ASSMCA, in Spanish) under the Department of Health, eight hundred fifteen (815) institutions and foster homes licensed by the Department of the Family, as established in Act No. 94 of June 22, 1977, as amended, and ten (10) Health Houses and Skill Nursing Facilities which have a State Certification from the Department of Health, through Act No. 101 and/or a Medicare Certification.

During fiscal year 2021, forty-three (43) facilities were closed. The main causes of these closings were, due to changes in the Administration of the facility, voluntary closings, non-compliance with state laws and regulations, interventions of the Department of the Family and the LTC Ombudsman Program. In addition, a total of eighty-four (84) new facilities were detected.

For the year 2018, a reduction in the facilities as well as in the residents was evidenced, responding to the demographic tendencies, (mortality, morbidity, and migration), population getting older, and the need and demand for long term care service in Puerto Rico and after Hurricane María (See Graphic I). However, when comparing the year 2018 with the year 2021 an increase in facilities and residents is observed, confirmed by the inventory of homes from the licensing agencies.

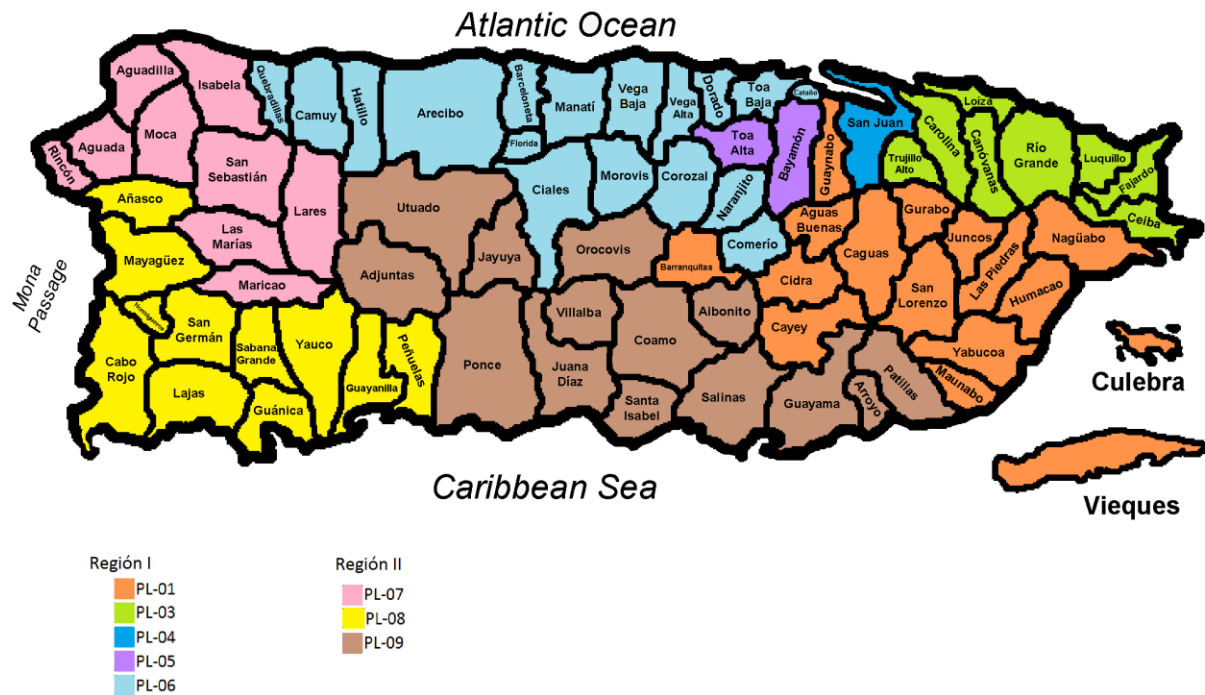
GRAPHIC I



V. GEOGRAPHIC LOCATION OF LOCAL PROGRAMS:

The geographic location of the eight (8) Local Programs of the Long-Term Care Ombudsman Program in Puerto Rico is illustrated below:

MAP I



VI. LOCAL PROGRAMS BY REGION:

MAP II



Region I – San Juan

Region I has five (5) Local Programs to cover forty-four (44) municipalities, each one with its different geographical particularities. This Region covers the largest number of facilities and therefore impacts the largest number of residents.

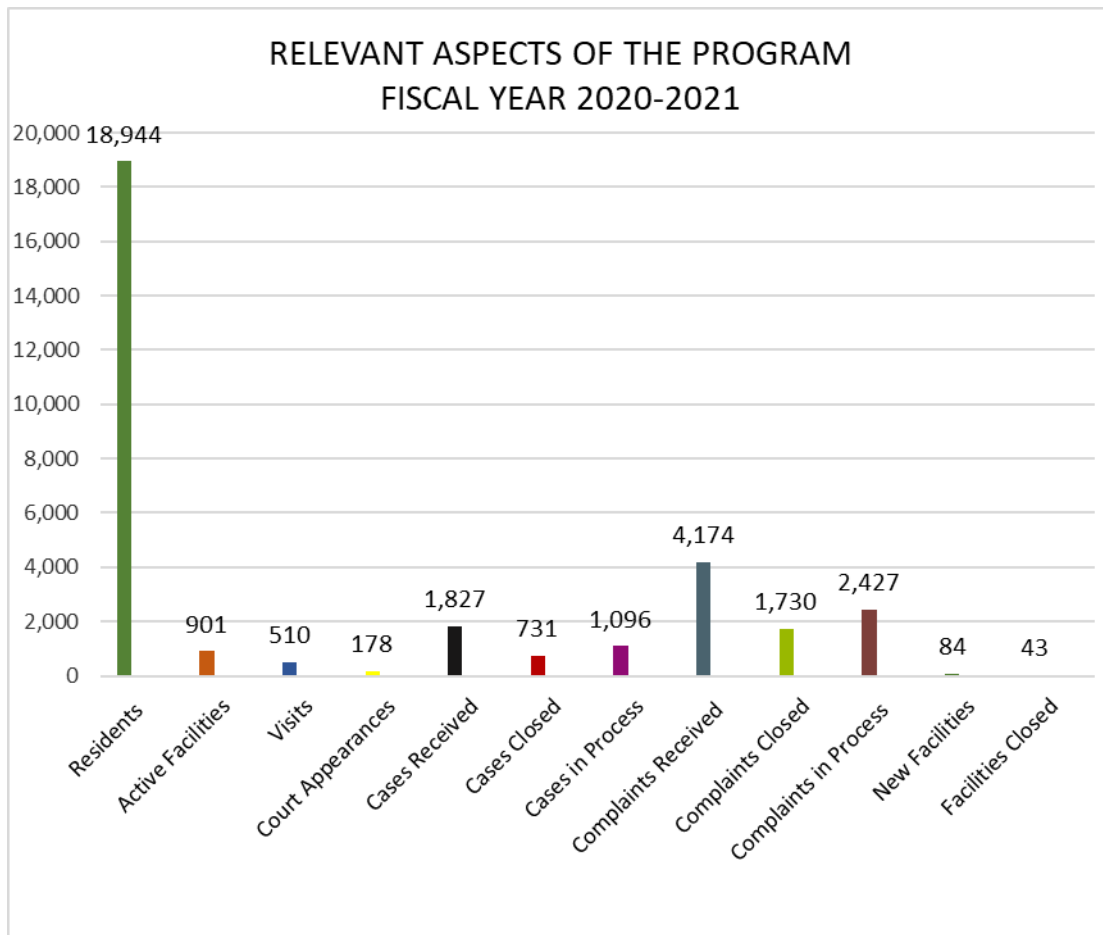
Region II – Ponce

In Region II the remaining thirty-four (34) municipalities are covered, distributed in three (3) Local Programs.

Relevant Aspect of the LTC Ombudsman Program

Below, the relevant aspects of the Long-Term Care Ombudsman Program, during fiscal year 2020-2021 are highlighted:

GRAPHIC II



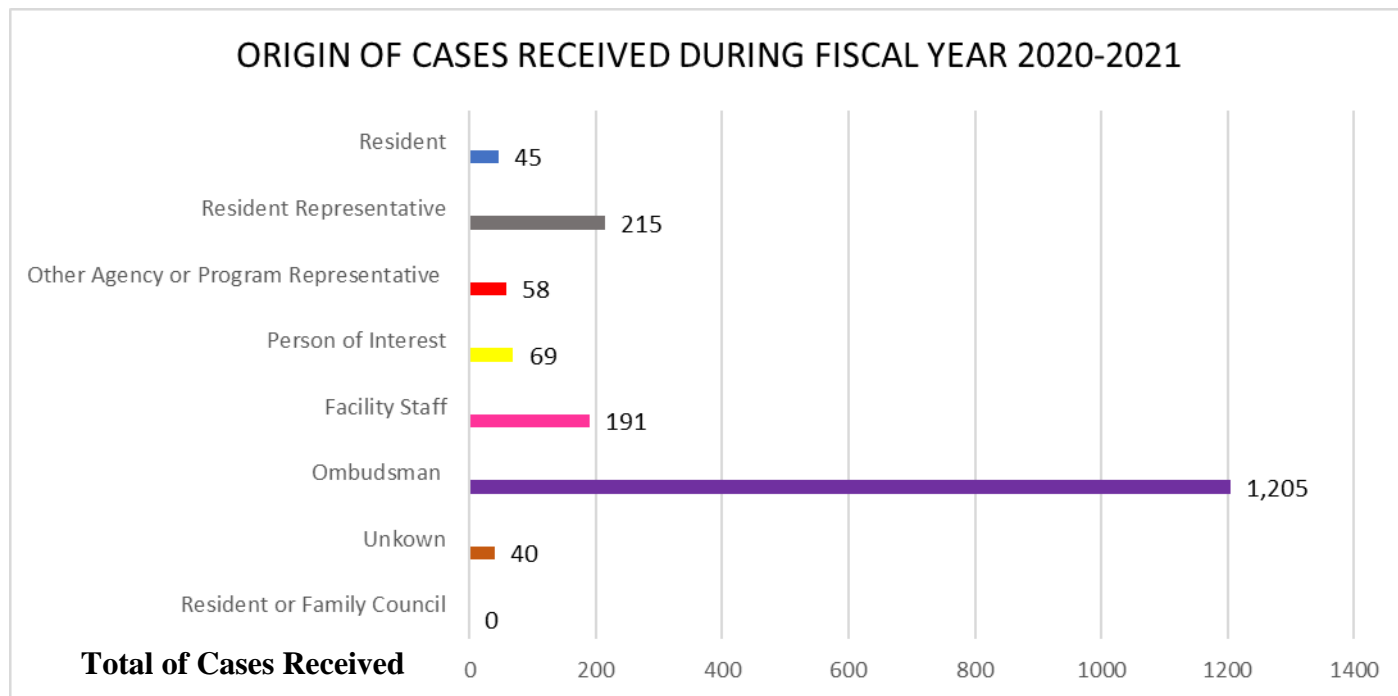
- During fiscal year 2021, a total of 901 long term care active facilities were identified, in 510 visits.
- A total of 18,944 residents were impacted.
- A total of 4,174 complaints were received, of which 1,730 complaints were closed.
- 84 new facilities were detected, and 43 facilities were closed.
- 178 Court cases appearances were made.

VII. SUMMARY

During the year 2020-2021 five hundred ten (510) visits were made to facilities, after the “Lock-Down” process due to the COVID-19 Global Pandemic. However, nine-hundred one (901) active facilities were impacted through inventory updating of homes with regulatory agencies, telephone calls, visits, educational activities, coordinations, and the use of virtual platforms. Also, one hundred seventy-eight (178) Court appearances were made. In addition, among the eight (8) Local Programs we were able to follow-up on a total of eight thousand seven hundred seventy-six (8,776) complaints and a total of one thousand seven hundred thirty (1,730) complaints were resolved.

During fiscal year 2020-2021 the total amount of cases received was one thousand eight hundred twenty-seven (1,827). It should be noted, that one thousand two hundred five (1,205) of the cases was reported by the Ombudsman Program personnel, during the visits made to the LTC Facilities, this being 66% of total cases. Such visits generated new cases, exceeding any other origin of a reported situation. Graphic III below shows the distribution of the origin of cases received during the fiscal year:

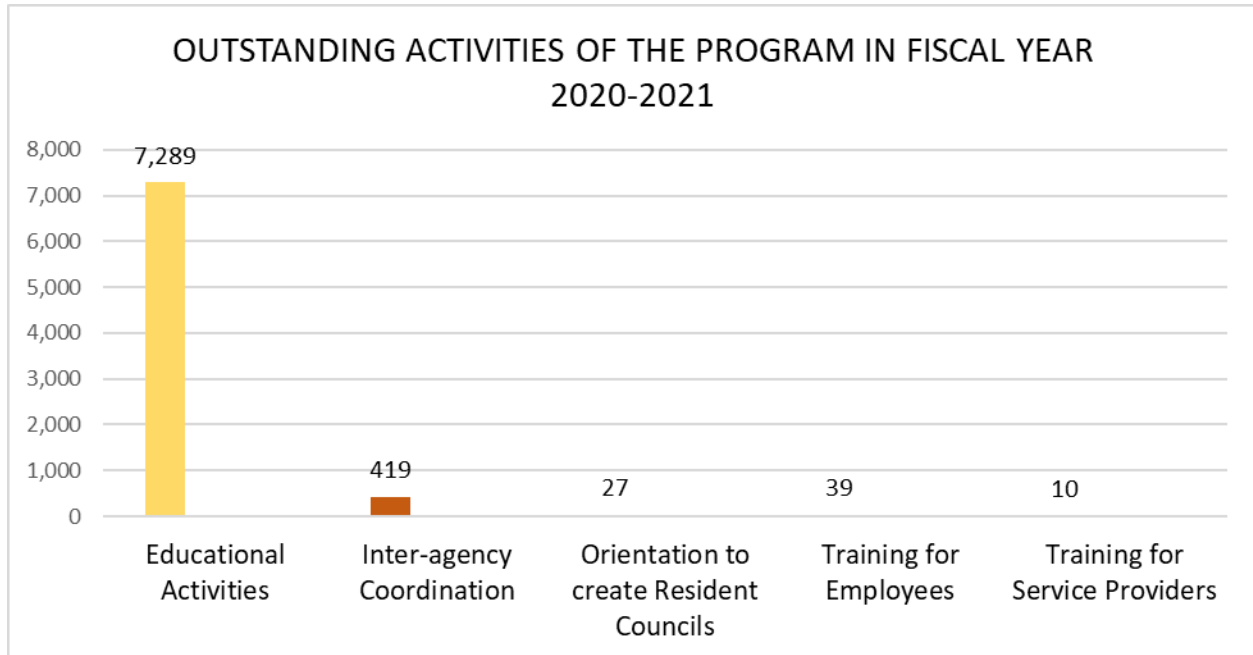
GRAPHIC III



VIII- OUTSTANDING ACTIVITIES IN THE PROGRAM:

The Sate Long-Term Care Ombudsman Program carries out investigations of cases and complaints, resolves complaints, visits Long-Term Care Facilities, and makes court appearances. In addition, other activities are carried out that complement the management and scope of the Program. Graphic IV below shows the outstanding activities carried out by said Program, during fiscal year 2020-2021.

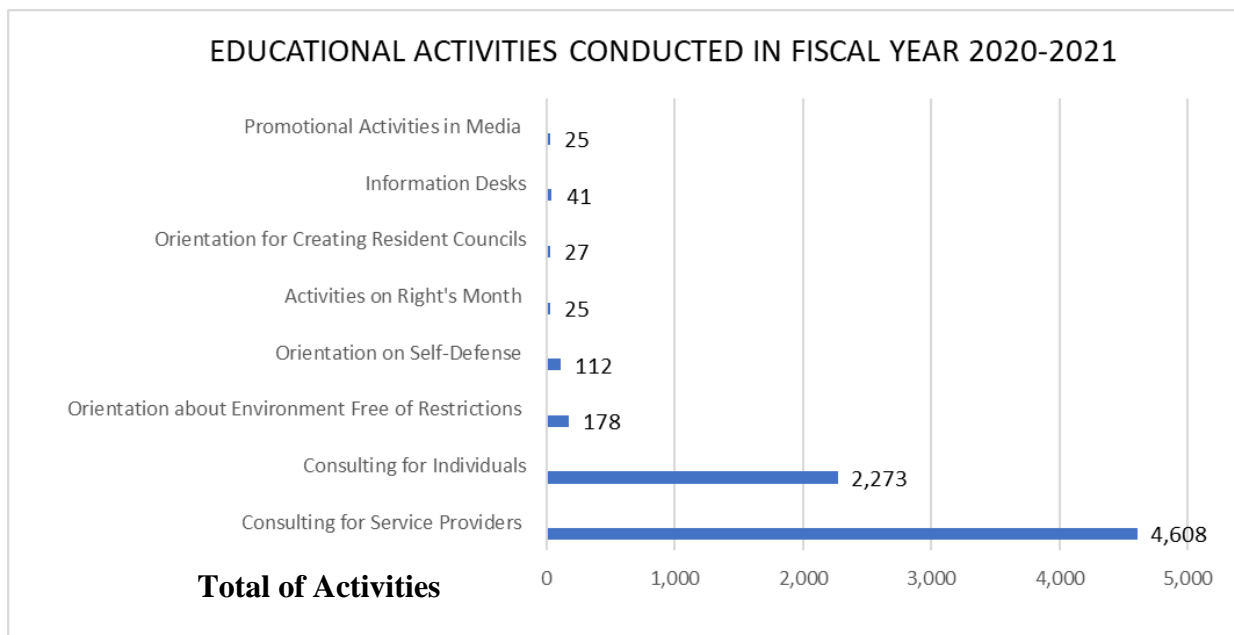
GRAPHIC IV



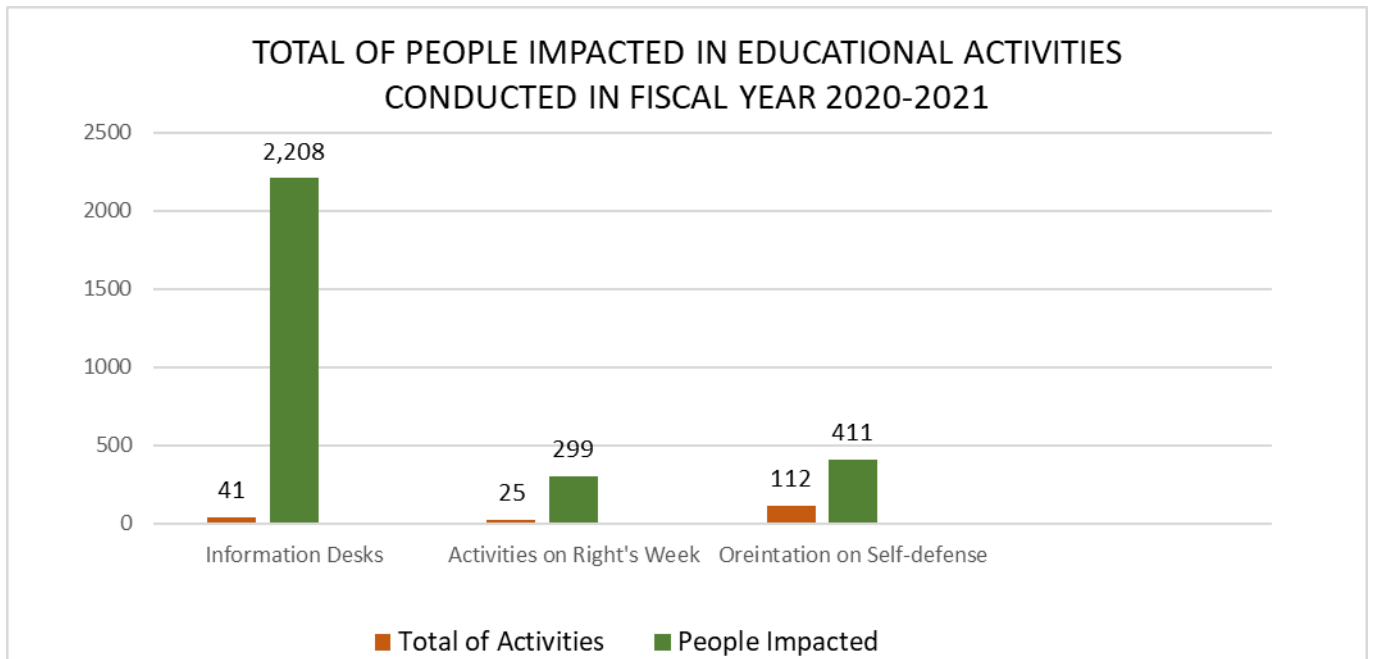
EDUCATIONAL ACTIVITIES:

In the Educational and Promotional Activities, a total of 7,291 activities were carried out. The educational and promotional activities are itemized below (See Graphics V and VI):

GRAPHIC V



GRAPHIC VI



TRAININGS:

During fiscal year 2020-2021, thirty-nine (39) trainings were offered to Long Term Care Ombudsman Program personnel to strengthen capabilities of coordinators. Likewise, ten (10) trainings were offered to Service Providers according to the needs identified during that period. The topics of the trainings offered to Service Providers, during the fiscal year are itemized below (See Table 1):

TRAININGS OFFERED TO SERVICE PROVIDERS IN LONG TERM CARE FACILITIES

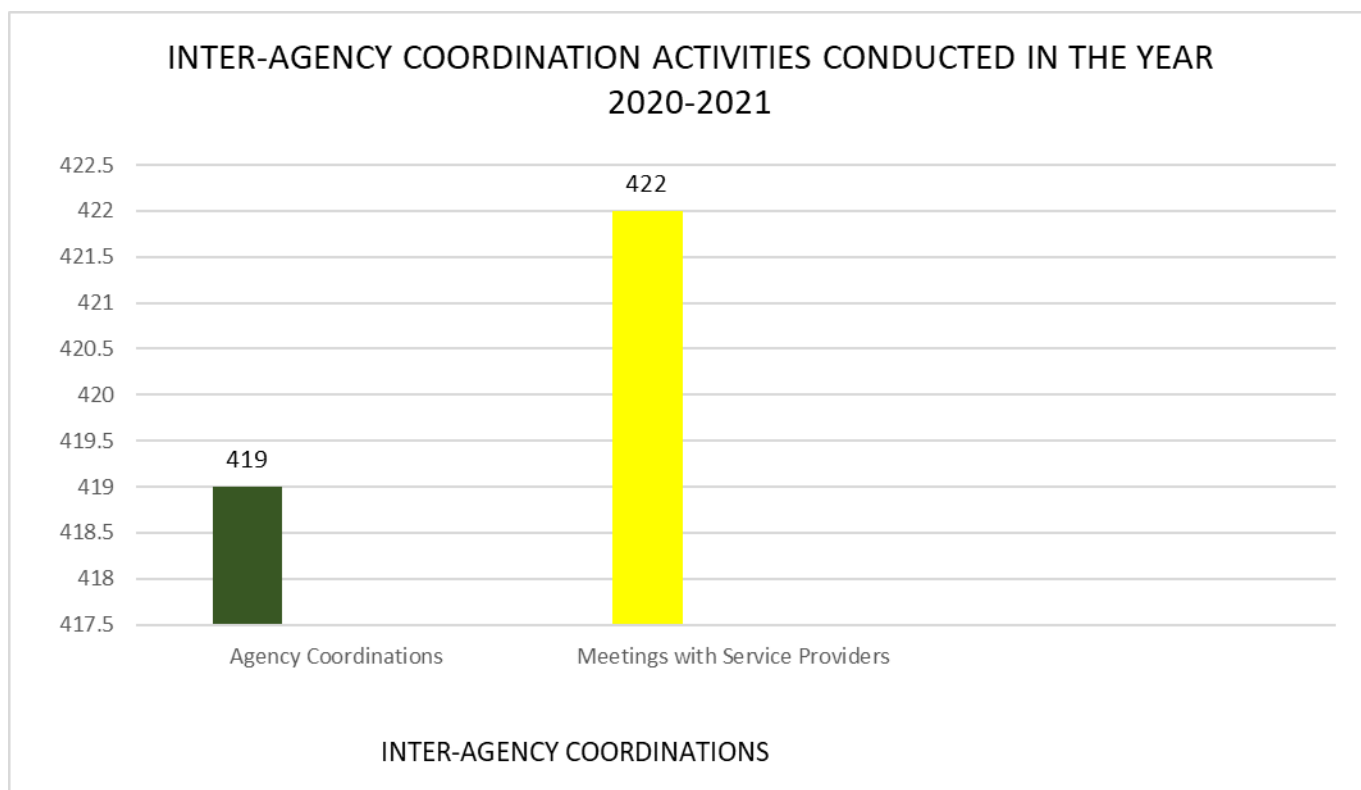
TABLE -1

Topic of Training	Sessions	Attendance
Emotional Intelligence	2	30
Workshop Psychology of Recreation for the Elderly	1	65
Wellness Workshop	2	8
Assertive Communication	1	60
Wellness Workshop	2	8
Workshop: Emotional Intelligence	2	8
TOTAL	10	179

COORDINATIONS:

For the year 2020-2021, several activities of inter-agency coordination took place, for a total of eight hundred forty-one (841) activities. Among these the following stand out: four hundred nineteen (419) coordinations with agencies and four hundred twenty-two (422) meetings with service providers. The inter-agency coordination activities that were carried out are itemized below (See Graphic VII).

GRAPHIC VII



LEGISLATION:

Analysis, comments and nine (9) recommendations were offered for Legislative projects in the following areas:

1. House of Representative Resolution 40: To order the Department of Recreation and the Municipal Governments of Puerto Rico, to jointly create, coordinate and promote programs to establish and use bio-healthy parks in Puerto Rico, through joint coordination among municipalities, state or federal agencies, or organizations and entities that provide direct services or care to the elderly; and for other purposes.

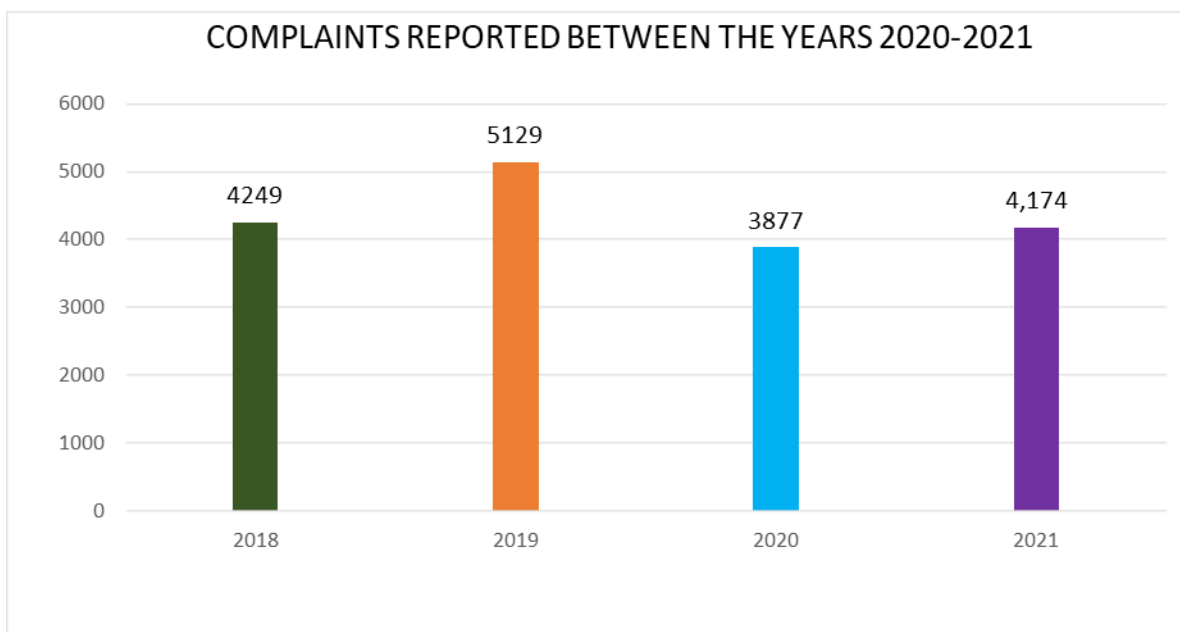
2. House of Representatives Project 724: to add a new Article 8, and renumber articles 8 to 20, as articles 9 to 21, respectively, in Act No. 94 of June 22, 1977, as amended, known as the “Elderly Facilities Act”, to establish the rights and obligations of family members of elderly persons who receive services in any institution, daycare center, center for multiple activities, foster home and daycare home as defined by this Act.
3. Senate Resolution 140: to order the Senate’s Commission for Women Affairs to conduct research and analysis on the stigma, discrimination and invisibility of women over sixty in Puerto Rico and how the intersection of ageism and sexism affect their well-being, rights and opportunities in the emotional, social, family, legal, financial and health fields, as well as the services available from government agencies and non-profit and private entities; and for other purposes.
4. House of Representative Project 873: to amend articles 4 and 6 of Act 121-2019, as amended, known as “Bill of Rights and the Government's Public Policy in favor of the Elderly”, for the purpose of expanding the rights of the elderly placed in residential facilities operating in Puerto Rico, and adding additional responsibilities to their family members, in accordance with the rights granted herein; amend article 7 and 10 of Act No. 94 of June 22, 1977, as amended, known as the “Elderly Facilities Act”, for the purpose of aligning its provisions with those contained in this Law; to make technical corrections; and for other related purposes.
5. House of Representatives Resolution 186: to order the Department of the Family of the Commonwealth of Puerto Rico to create a census and a registry of the elderly, disabled, bed ridden or with pressing health conditions in collaboration with the 78 municipalities for in case of emergency, flooding or force majeure they can be assisted more promptly due to their state of urgent need.
6. House of Representatives Project 890: to amend articles 1, 2, 3 and 4 of Act 212-2000, as amended, known as “Loan and Guarantee Act for the Establishment of Day Care Centers for Children and the Elderly, Multi-Activity Centers for the Elderly and Long-Term Care Facilities, as well as and to Establish the Revolving Fund for Self-Management in Special Communities and for Economically Disadvantaged Women”, with the purpose of refocusing its dispositions, and to create in the Puerto Rico Economic Development Bank a Credit and Investment Guarantee Program through which lines of guarantee or credit shall be provided for granting loans, incentives, or any other financial assistance for the development of the above-mentioned day care centers for children and the elderly, multi-activity centers for the elderly and long-term care institutions; and for other related purposes.
7. Senate Project 451: to add a new section (b), a new section (s) and eliminate the current section (s) of Article 14 of Act 146-2012, as amended, known as the “Penal Code of Puerto Rico, 2012”, for the purpose of adding the term “Older Adult” with its definition and renumber the subsequent sections respectively in said Article; to amend Section Three of Chapter III of the Second Book and Articles 126, 127, 127-A, 127-B, 127-C and 127-D to incorporate the term “Older Adult” in substitution of “elderly person”; and for other related purposes.

8. House of Representatives Project 325: to create a State Registry of Services for Older Adults that will allow citizens to know the resources available to them; provide for the availability of information and notification to the community; empower the Office of the Ombudsman for the Elderly to adopt the necessary regulations to establish who will be registered therein, their duties and obligations; assign the responsibility of creating, maintaining and updating the catalog to the Puerto Rico Innovation and Technology Service (“PRITS”); provide for the transfer of information between the Office of the Ombudsman for the Elderly and PRITS; and for other purposes.

IX COMPLAINTS:

During the year 2020, a total of three thousand, eight hundred seventy-seven (3,877) complaints were received and for the year 2021 a total of four thousand one hundred seventy-four (4,174) complaints were received. A graphic showing the complaints reported between fiscal years 2018 to 2021 is shown below (See Graphic VIII):

GRAPHIC VIII



According to the breakdown of the totals in the categories of complaints reported in the year 2020-2021, the main category of complaints with more prevalence is **Quality of Life**, with two thousand two (2,202) complaints. Within that category, the following stand out: Policy of Facility, procedures and practices with a total of one thousand four hundred ninety-five (1,495) complaints, Environment with seven hundred and five (705) complaints, and Complaints about an external Agency with a total of twelve (12) complaints. The second main category is **Resident Care**, with a total of one thousand three hundred eighteen (1,318) reported complaints, among which the following stand out, Complaints about Care, with a total of seven hundred twenty-three (723) complaints, Activities, Integration to Community and Social

Services complaints with a total of two hundred ninety-one (291) complaints, and the complaints about Nutrition with a total of three hundred and four (304) complaints. The third main category is **Resident's Rights**, with a total of five hundred fifty-nine (559) reported complaints among which are Abuse, Gross Negligence and Financial Exploitation for a total of one hundred seventy-four (174) complaints, Access to Information with one hundred forty-six (146) complaints, Admission, transfers, discharge and eviction with twenty-one (21) complaints and Autonomy, preference option, rights with one hundred ninety-five (195) complaints and Financial and properties with twenty-three (23) complaints. In fourth place, is the category of **Management** with ninety-five (95) complaints. A comparison of the main categories of complaints and the types of complaints reported for the year 2020-2021 is presented below (See Table 3):

TABLE – 3

TOTAL OF COMPLAINT CATEGORIES REPORTED IN THE YEAR 2020 - 2021

CATEGORIES	QUANTITY
Residents' rights	559
Resident care	1,318
Quality of life	2,202
Management	95
TOTAL	4,174

CATEGORIES AND TYPES OF COMPLAINTS REPORTED IN THE YEAR 2020-2021

CATEGORY RESIDENTS' RIGHTS	NUMBER
Abuse, Gross Negligence, Exploitation	174
A01: Physical abuse	18
A02: Sexual abuse	1
A03: Verbal/psychological abuse	15
A04: Financial Exploitation	74
A05: Gross Negligence	66
Access to information	146
B01: Access to information and records	135
B02: Communication and language barriers	4
B03: Intentional interference	7
Admission, Transfer, Discharge, Eviction	21
C01: Admission	9
C02: Appeal process	0
C03: Discharge by eviction	11
C04: Situations with room	1
Autonomy, Preference option and Rights	195
D01: Choice in health care	11
D02: Living in a restrictive time	4
D03: Dignity and Respect	7
D04: Privacy	106
D05: Response to complaints	4
D06: Retaliation	1
D07: Visitors	10
D08: Resident or family council	0
D09: Other rights and preferences	52
Financial, Properties	23
E01: Billing and charges	2
E02: Personal property	23
TOTAL (Types of Complaints in the Residents' Rights Category)	559

CATEGORIES AND TYPES OF COMPLAINTS REPORTED IN THE YEAR 2020-2021

CATEGORY RESIDENT CARE	NUMBER
Care	723
F01: Accidents and falls	27
F02: Failure to respond when asking for help	0
F03: Care plan	26
F04: Medications	361
F05: Personal hygiene	28
F06: Access to health services	29
F07: Unattended symptoms	79
F08: Incontinence care	0
F09: Assisting devices or equipment	64
F10: Rehabilitation services	5
F11: Physical restriction	102
F12: Chemical restriction	2
Activities, Integration to Community and Social Services	291
G01: Activities	220
G02: Transportation	0
G03: Conflict resolution	1
G04: Social Services	70
Nutrition	304
H01: Meal services	265
H02: Meals and Hydration	13
H03: Therapeutic or special diets	26
TOTAL (Types of Complaints in the Resident Care Category)	1,318

CATEGORIES AND TYPES OF COMPLAINTS REPORTED IN THE YEAR 2020-2021

CATEGORY QUALITY OF LIFE	NUMBER
Environment	705
I01: Environment	51
I02: Building structure	447
I03: Supplies, storage, and furniture	12
I04: Accessibility	16
I05: Laundry, cleaning services, pest removal	179
Facility policy, procedures and practices	1,485
J01: Administrative supervision	949
J02: Fiscal management	5
J03: Staff	531
Complaints about external agency	12
K01: Regulating system	9
K02: Medicaid	1
K03: Care management	1
K04: Medicare	0
K05: Veterans	1
K06: Private insurance	0
TOTAL (Types of Complaints in the Quality of Life Category)	2,202

CATEGORIES AND TYPES OF COMPLAINTS REPORTED IN THE YEAR 2020-2021

CATEGORY MANAGEMENT	NUMBER
System/Others	
L01: Conflict with the resident's representative or family member	63
L02: Services of a provider	28
L03: Request for transition to a community setting	4
TOTAL (Types of Complaints in the Management Category)	95

X. DIFFICULTIES

1. Resignation of the LTC Ombudsman director in May 2021.
2. There were three vacant positions during 2021 in Local programs: 01, 04 y 07.
3. The Coordinator of Local 05 Program is on a sick leave for a year since May 25, 2021.
4. Difficulties with the uniform applicability of the Regulations for Licensing and Supervising Facilities for the Care of Elderly People from the Department of the Family, by regions.
5. The COVID-19 Global Pandemic impacted the number of face-to-face visits to long-term care homes, and the investigation process of cases, Court appearances, extra-curriculum activities, among others.
6. The Program does not have a database as required by the Final Regulations (2016), which makes it difficult to perform the OAPPS Annual Report. This is done manually.

XI. ACHIEVEMENTS

1. Twenty-seven (27) orientation meetings were conducted to start new Resident Councils in Long Term Care Facilities.
2. One (1) LTC Compliance Officer at the Central Level was maintained and another Compliance Officer was recruited.
3. All LTC personnel was trained and qualified for handling Court cases via videoconferences.
4. Seven hundred thirty-one (731) cases and one thousand seven hundred thirty (1,730) complaints were resolved.
5. Five hundred and ten (510) visits were made to Long-Term Care Facilities.
6. Four hundred nineteen (419) inter-agency coordinations were conducted.
7. Twenty-five (25) activities were carried out during the Residents' Rights Month.
8. A collaborative agreement with the Universidad Carlos Albizu Campos was kept to offer free psychological services for the older adult population, family, and residents of Long-Term Care Facilities.
9. Twenty-one (21) meetings with the Office of Administration of Courts (OAT, in Spanish) were conducted to improve accessibility of services for residents of LTC.
10. Eighty-three (83) legal counseling were offered for the benefit and protection of residents of Long-Term Care Homes.
11. One (1) portable acrylic shield and one (1) bottle of alcohol was provided to one hundred seventy-eight (178) Long-Term Care Facilities. These were protection tools, before the resumption of visits for residents to strengthen their family ties and feel accompanied in their daily lives in a safe way.

12. Three (3) meetings were conducted, and three (3) proposals were presented about the system's database and WEB application for the State Long-Term Care Ombudsman Program.
13. We continued to be part of the Elderly Justice Task Force assisting and coordinating protection services for residents of long-term care homes.
14. We continued participating as representative of the Committee for Primary Prevention of Sexual Violation (COPPAS, in Spanish) and the Rape Crisis Center (CAVV, in Spanish) of the Department of Health.
15. Two (2) radio interventions took place in Radio Victoria station during the month of August 2021 impacting fifty thousand (50,000) radio listeners. The topics discussed were the search of a Long-Term Care Center and Act 121, 2019 "Bill of Rights of Older Adults".
16. During the COVID-19 Pandemic, four vacant positions were recruited: director of the Ombudsman Program, Coordinator II of Region I, Coordinator of Local Program 01 - Juncos and Coordinator of Local Program 04 - San Juan.
17. Seven (7) people were certified in the State Long-Term Care Ombudsman Program.
18. One hundred twelve (112) orientations for self-defense were offered in Long-Term Care Facilities, impacting four hundred eleven (411) people.
19. Forty-one (41) information tables/fairs were organized, impacting two thousand two hundred and eight (2,208) people.
20. Thirty-nine (39) virtual and face-to-face trainings were conducted for the staff of the LTC Ombudsman Program.
21. Ten (10) trainings were offered to Long Term Care Service Providers through Microsoft Teams virtual platform, impacting a total of one hundred seventy-nine (179) providers.
22. One hundred seventy-eight (178) Court appearances were made and four hundred twenty-two (422) meetings with Providers were conducted.
23. Eight hundred seventy (870) Nursing Home Service Providers were impacted through information material sent virtually related to COVID-19, personal protection measures, COVID-19 case management protocols, among other topics.
24. Two (2) quarterly meetings were conducted with the Department of the Family, Licensing division.

XII. EXPECTATIONS

1. Maintain a plan for closing previous years' administrative complaints.
2. Increase legal counseling for residents, LTC Ombudsman Personnel, and legal representations in the courts.
3. Identify new strategies for creating Resident Councils.
4. Increase the total of Long-Term Care Facilities oriented about Restriction Free Environment and Residents Councils through visits.

5. Establish agreements and quarterly meetings with regulating Agencies to guarantee compliance with the established laws and Regulations.
6. Continue training for facilities' Service Providers about topics related to Long-Term Care and the more prevalent complaints.
7. Reinforce educational campaigns in the media about residents' rights in long term care facilities, using educational capsules through the different virtual platforms, Radio Stations, and Television, about how to choose a long-term care facility.
8. Increase impact of information tables and orientations about Self-defense.
9. Increase coordinations in meetings with family of residents that are in Long-Term Care facilities to obtain knowledge of Older Adults rights and this way see that these resident's right are followed.
10. Continue collaborating with the inter-agency work teams between our Office, The Department of Health, the Department of the Family, Substance Abuse and Mental Health Services Administration (ASSMCA, in Spanish), the Patient Ombudsman, the Fire Department of PR, the Federal Prosecutor's Office (Elderly Justice Task Force), and the Office of the Inspector General to help improve the quality of the services and safety of residents.
11. Identify new strategies for the recruitment of Volunteers.
12. Maintain the collaborative agreement with the Puerto Rico Office of Court Administration and continue to participate in the Specialized Court Assistance Project.
13. Database system of the Program is expected to be in place by 2021.