



**STATE OF MINNESOTA  
OFFICE OF OMBUDSPERSON FOR FAMILIES**

**BIENNIAL REPORT 2010 - 2011  
TO THE GOVERNOR**

***Submitted by Bauz L. Nengchu, Ombudsperson for Asian-Pacific Families  
pursuant to Minnesota Statute 257.0766, Subd. 2***

**1450 Energy Park Drive, Suite 106, Saint Paul, MN 55108-5227**

**Toll free: 1-888-234-4939**

**Phone: 651-643-2514**

**E-mail: [bauz.nengchu@state.mn.us](mailto:bauz.nengchu@state.mn.us)**

## **ACKNOWLEDGMENTS**

The ombudsperson for Asian-Pacific Families wishes to thank the entire Asian-Pacific Advisory Board for their commitment and continuing support of the Office of Ombudsperson for Families. A special thanks to Brittany Nichols, Jin Hwang, and Madina Nguyen from Minnesota Justice Foundation for their volunteer work with the office, and to Amy Doeun from Hmong Times.

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## INTRODUCTION

Pursuant to Minnesota Statute 257.0766, Subdivision 2, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year. This report has been prepared as a biennial report combining years 2010 and 2011 to provide **(1)** data on Asian/Pacific Islander children in out-of-home care from 2006 through 2011, **(2)** a summary of the ombudsperson's activities, and **(3)** to raise awareness of the child welfare disparities affecting Asian/Pacific Islander children and their families.

### 1. MISSION STATEMENT

The mission statement of the Office of Ombudsperson for Families is to ensure that children and families are protected by laws in all child placement proceedings conducted by public and private agencies and organizations.

### 2. WHAT IS AN OMBUDSPERSON?

An ombudsperson is an independent governmental official responsible for reviewing government and government-regulated agencies in an effort to ensure that their practices are fair, reasonable, and appropriate. To do this, the ombudsperson:

- Receives complaints;
- Reviews, investigates, and if appropriate
- Makes recommendations to remedy the complaints.

(Minnesota State Ombudsman Services)

### 3. OFFICE OF OMBUDSPERSON FOR FAMILIES

The Office of Ombudsperson for Families, an independent state agency, was created in 1991 under Minnesota Statute 257.0755 in response to requests from families that have been negatively affected by the intervention of social service agencies.

The main goal of the office is to ensure that all laws governing the protection of children and their families are implemented in a culturally competent manner and that decision-making processes are in compliance with the laws that protect children of color in the State of Minnesota.

### 4. COMMUNITY-SPECIFIC BOARD

Each community-specific board consists of five members. Currently, there are four members of the Asian-Pacific Advisory Board to advise and assist the ombudsperson in selecting matters for attention in its community, and in developing policies, plans, and programs to carry out the ombudsperson's functions and powers.

The four Asian-Pacific Advisory Board members are:

- |   |  |
|---|--|
| (1). Linda Davis, Chairperson<br>MA Education<br>Educator Special Education | (2). LuNhia V Yang, Attorney at Law<br>St. Paul Public Defenders<br>Office |
| (3). Yi Li You<br>Executive Director<br>Chinese Social Center of Minnesota  | (4). Eric Hung<br>Clinical Pharmacist<br>Hennepin County Medical Center    |

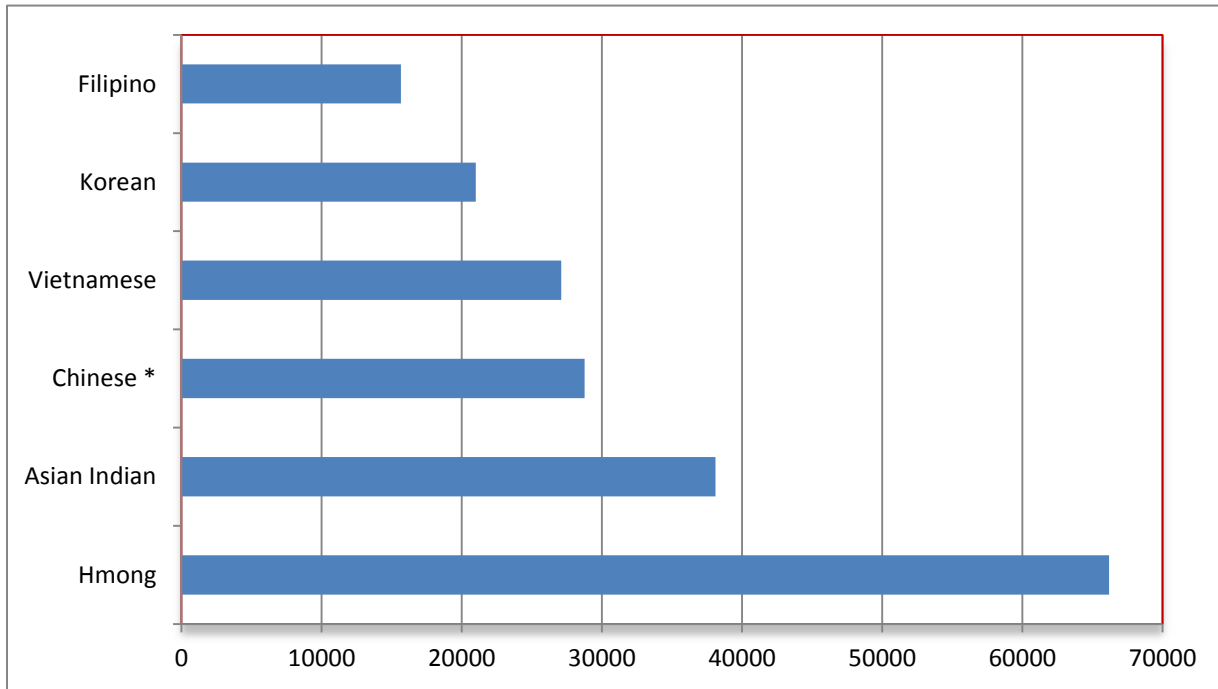
To fulfill their obligation, they held joint meetings with the other three community-specific boards, at least four times per year, besides conducting their own quarterly meetings with the ombudsperson. For further information on the community-specific Board in regard to its memberships, meetings, and duties, refer to Minnesota Statute 257.0768.

## **5. WHO ARE ASIAN/PACIFIC ISLANDER MINNESOTANS?**

There are over 42 different Asian/Pacific Islander ethnic groups in Minnesota. The Asian population makes up 4.7% of the total population. Minnesota has the largest ratio of Southeast (SE) Asians among all states. SE Asians include Bhutanese, Burmese, Cambodian, Hmong, Laotian, Thai, and Vietnamese. The South Asian population nearly doubled in the past decade. South Asians include Asian Indians, Bangladeshi, Nepalese, Pakistanis, and Sri Lankans. The Native Hawaiian and Pacific Islander populations make up 0.1% of Minnesota's total population. (<http://mn.gov/capm/pdf/2010demographicreport.pdf>)

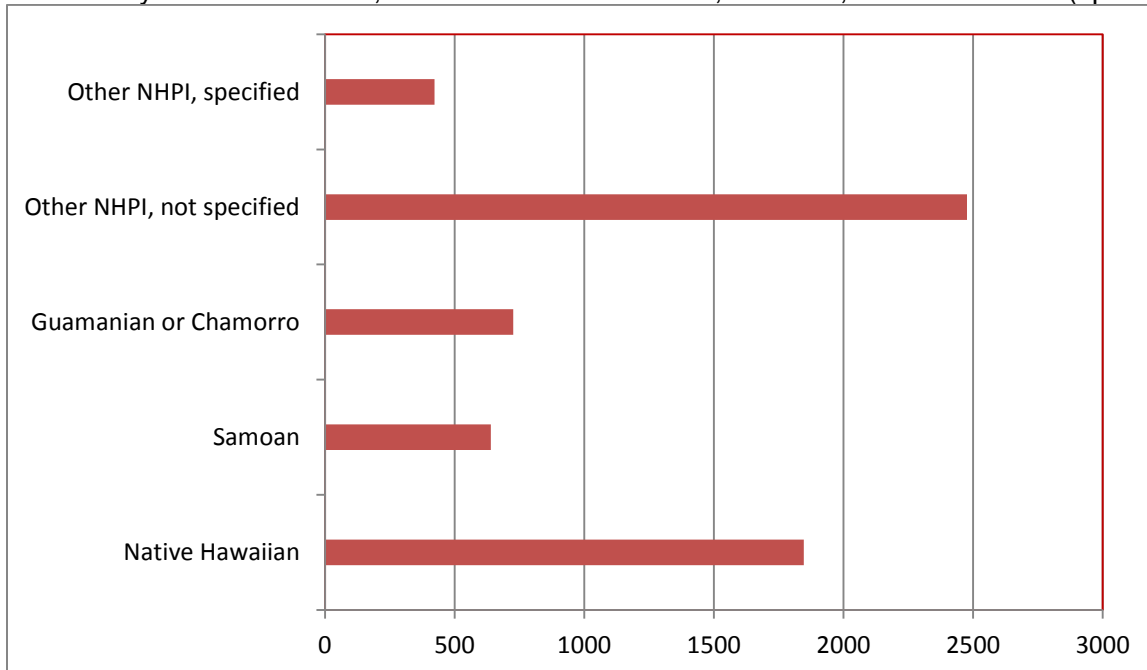
Asian/Pacific Islander Minnesotans are from Afghanistan, Australia, Bangladesh, Bhutan, Brunei, Burma (Myanmar), Cambodia, China, Cook Islands, Federated States of Micronesia, Federated States of Midway Islands, Fiji, French Polynesia, Guam, Hawaii, Hong Kong, India, Indonesia, Iran, Japan, Kazakhstan, Kiribati, Kyrgyzstan, Laos (Hmong and Lao), Macau, Malaysia, Maldives, Marshall Islands, Mongolia, Nauru, Nepal, New Caledonia, New Zealand, North Korea, Northern Mariana Islands, Pakistan, Palau, Papua New Guinea, Philippines, Pitcairn Islands, Samoa, Singapore, Solomon Islands, South Korea, Sri Lanka, Tahiti, Taiwan, Tajikistan, Thailand, Tibet, Tonga, Turkmenistan, Tuvalu, Uzbekistan, Vanuatu, and Vietnam. (Source: Council on Asian-Pacific Minnesotans, <http://www.capm.state.mn.us>)

Chart 1 below shows the six largest Asian ethnic groups in Minnesota in 2010. The largest SE Asian group is Hmong (Laos) followed by Asian Indian, Chinese (excluding Taiwanese), Vietnamese, Korean, and Filipino respectively.



\*Chinese (excluding Taiwanese)

Chart 2 below shows the five largest Native Hawaiian and Pacific Islander populations (NHPI) by ethnic groups in Minnesota in 2010. NHPI (not specified) is the largest group followed by Native Hawaiian, Guamanian or Chamorro, Samoan, and other NHPI (specified).



Source: Council on Asian Pacific Minnesotans: (<http://mn.gov/capm/pdf/2010demographicreport.pdf>)

## 6. DATA ON ASIAN/PACIFIC ISLANDER CHILDREN BY MALTREATMENT TYPE, 2009 - 2011

Table 1 below indicates that the most common maltreatment type for Asian/Pacific Islander children is neglect (non-medical) followed by physical abuse, sexual abuse, and medical neglect from 2009 through 2011.

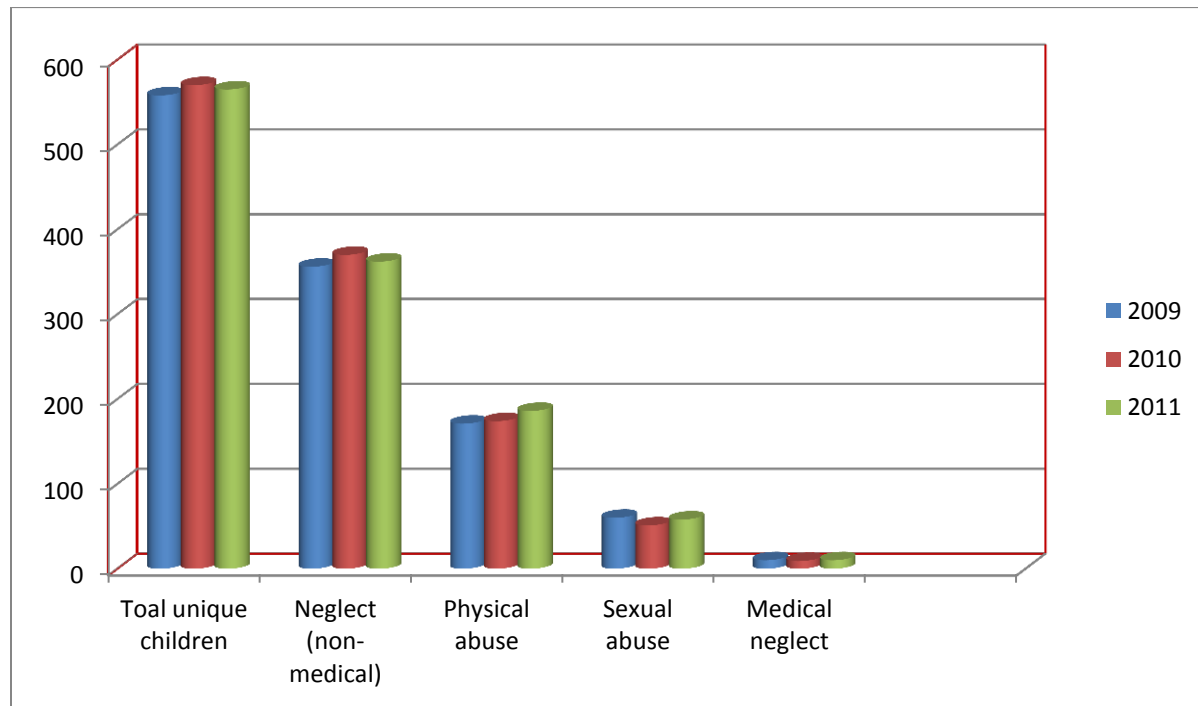
Data on Asian/Pacific Islander Children on Child Subjects of Reports and Maltreatment Type			
	2009	2010	2011
Child population estimate	66,476	68,104	70,834
Total unique children*	558	570	565
Neglect (non-medical) <sup>1</sup>	356	370	362
Physical abuse	171	174	186
Sexual abuse	60	51	58
Medical neglect	10	9	10

Total unique children\*: Unless otherwise specified, a child was counted as a “subject of a report” each time s/he was included in a maltreatment assessment or investigation in 2009, 2010, and 2011. However, if the counts were specified as “unique,” a child was counted once in the specified category no matter how many times s/he was assessed during the year.

Sources: Department of Human Services: <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408D-ENG> (2011)  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408C-ENG> (2010)  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408B-ENG> (2009)

<sup>1</sup> For more information on “Neglect (non-medical),” please refer to Minnesota Statute **260C.007 DEFINITIONS. Subd. 6. Child in need of protection or services** at <https://www.revisor.mn.gov/statutes/?id=260C.007>

**Chart 3. Data on Asian/Pacific Islander Children on Child Subjects of Reports and Maltreatment Type**



Sources: Department of Human Services:  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408D-ENG> (2011)  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408C-ENG> (2010)  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408B-ENG> (2009)



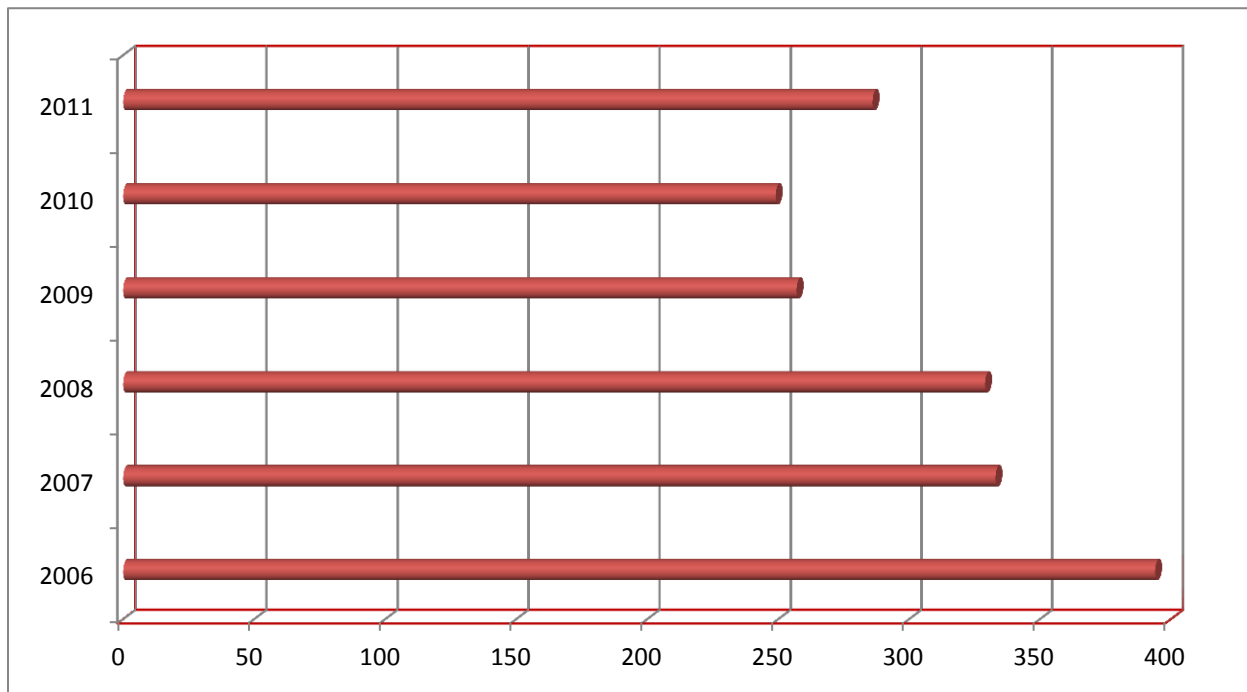
## 7. ASIAN/PACIFIC ISLANDER CHILDREN IN OUT-OF-HOME CARE, 2006 – 2011

Table 2 and Chart 4 below show the numbers of Minnesota Asian/Pacific Islander children placed in out-of-home care from 2006 through 2011.

Year	2006	2007	2008	2009	2010	2011
Total	394	333	329	257	249	286

Source: Department of Human Services: 2011 Children in Out-of-Home Care  
<https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-5408D-ENG>

Chart 4



Source: Department of Human Services: 2011 Children in Out-of-Home Care  
<https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-5408D-ENG>

**Remark:** In 2011, the number of Asian/Pacific Islander children in out-of-home care increased to 14 percent over 2010 numbers.

## 8. ASIAN/PACIFIC ISLANDER CHILDREN IN OUT-OF-HOME CARE IN 7 METRO COUNTIES, 2009 - 2011

Table 3 below provides counts of Asian/Pacific Islander children in out-of-home care in 7 Metro Counties including Nobles and Olmsted Counties from 2009 through 2011.

From 2009 through 2011, Ramsey County has the highest number of Asian/Pacific Islander children in out-of-home care followed by Hennepin County. In 2011, the number of Asian/Pacific Islander children in out-of-home care in Ramsey County increased to 22 percent over 2010 numbers. In 2011, the number of Asian/Pacific Islander children in out-of-home care in Hennepin County increased to 63 percent over 2010 numbers.

**Table 3**

County	2009	2010	2011
Anoka	*	12	*
Carver	*	*	*
Dakota	14	10	*
Hennepin	52	47	77
Nobles	*	10	*
Ramsey	137	126	154
Scott	10	*	*
Washington	*	*	*
Olmsted	*	7	11
<b>TOTAL</b>	<b>257</b>	<b>249</b>	<b>286</b>

2011: \*The number of children is less than seven in that cell, and is not shown to prevent identification of individuals: Totals include the omitted data and the four children whose race data was not entered

2010: \*The number of children is less than seven in that cell, and is not shown to prevent identification of individuals: Totals include the omitted data and the six children whose race data was not entered.

2009: \*The number of children is less than seven in that cell, and is not shown to prevent identification of individuals: Totals include the omitted data and the 31 children whose race data was not entered.

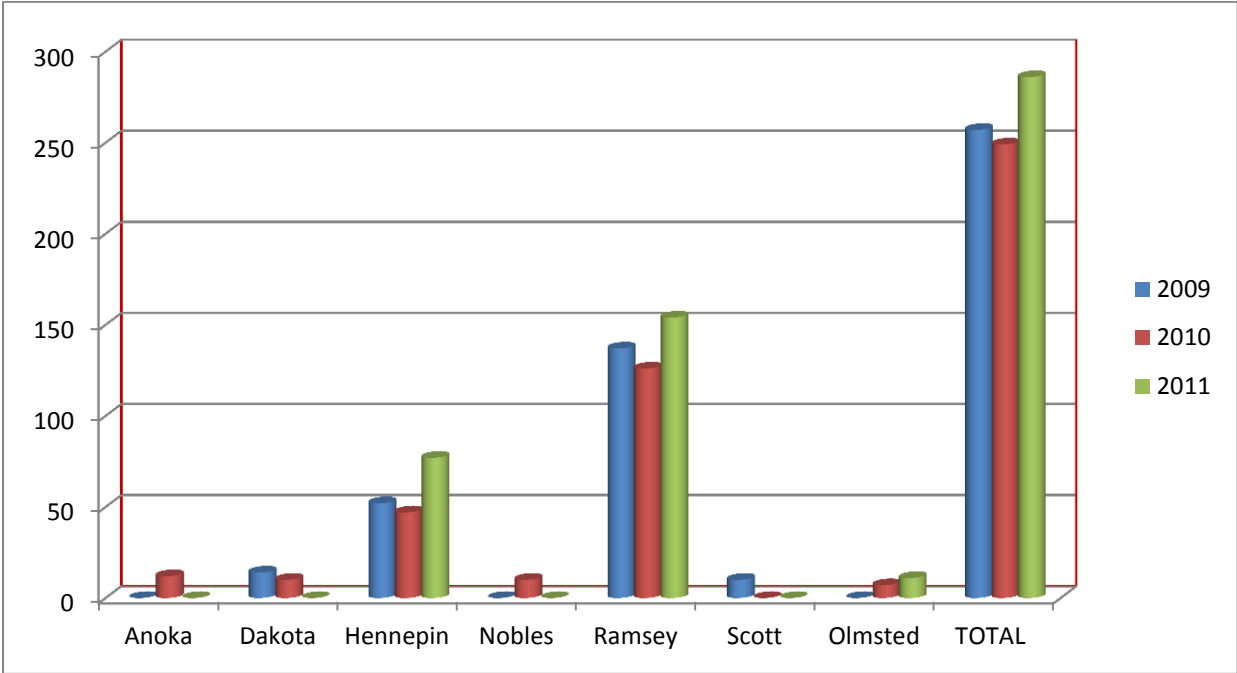
Sources: Department of Human Services:

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408D-ENG> (2011)

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408C-ENG> (2010)

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408B-ENG> (2009)

**Chart 5. Asian/Pacific Islander Children in Out-of-Home Care in 7 Metro Counties including Nobles and Olmsted Counties, 2009 - 2011**



Sources: Department of Human Services: <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408D-ENG> (2011)  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408C-ENG> (2010)  
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-5408B-ENG> (2009)

## **9. SUMMARY OF OMBUDSPERSON'S ACTIVITIES, 2010 - 2011**

From 2010 through 2011, an estimate of the ombudsperson's work time in percentage is as follows: investigating complaints/court observations (35%); office liaison's activities (50%); initiatives/meetings (10%); and community outreach (5%).

### **Activities in 2010**

#### **Calls/Complaints Received**

In 2010, the office received 30 complaints. Five of these complaints were open child protection cases and she investigated two of them. The nature of complaints received were: family court custody; no contacts from the Guardian Ad Litem; lack of health care coverage; mistreatment by a police officer; parent was not allowed to visit child; parent and child conflict; barriers to financial assistance; foster care licensing concern; post termination of parental rights; child protection worker not returning phone calls; and inquiries for information. The ombudsperson observed four cases of children in need of protection or services in hearings that involved the following types of child maltreatment: abandonment and drug abuse; sexual abuse; medical neglect; and drug abuse.

#### **Office Liaison's Activities**

At the beginning of July 2010, the ombudsperson was the office liaison for Fiscal Year 2011-2012. Her duties were to supervise and provide support to the Office and Administrative Specialist (OAS), who is responsible for office management practices and administrative duties and to ensure that office operations are carried out efficiently and effectively. The ombudsperson worked with other state agencies such as Department of Administration Financial Management and Reporting (FMR), Human Resources, Minnesota Management & Budget, Small Agency Resources Team (SmART), the Office of Enterprise Technology, etc. On 11/15/10, she met with staff from FMR to go over the completed worksheet of Statewide Integrated Financial Tools (SWIFT) Security Rolemapping. The SWIFT project would allow the state to move toward a paperless business process regarding all of the administrative functions across state agencies, including financial, procurement, reporting and the current SEMA4 (human resources/payroll) system.

#### **Recommendations for GAL**

On 01/13/10, a small group of key stakeholders met at the State Office Building to provide suggestions and recommendations on issues pertaining to Guardian Ad Litem (GAL). The ombudsperson shared her perspectives based on court observations and cases she reviewed as follows: records showed that one GAL failed twice to submit progress review reports to the Juvenile Court hearings because she was not able to get an interpreter to help her communicate with the family and bridge the language barriers. Other important issues pertaining to GAL include: lack of training in cultural sensitivity; need more recruitment of GALs from the Asian/Pacific Islander communities to advocate on behalf of the Asian/Pacific Islander children involved in court proceedings; GAL being assigned to large caseload; and lack of effective collaboration between GAL and the child protection worker.

#### **Recommendation for court video**

On 2/05/10, the ombudsperson reviewed the court video, "*In the Best Interest of Your Child*" that was posted on Minnesota Judicial Branch website. According to the website, the video, "*In*

*the Best Interests of Your Child*" is an orientation to juvenile court and child protection proceedings. The purpose of the video is to:

- Identify the people who will be involved in the child protection case and who will be in the courtroom (e.g., judge, court reporter, court attendant, county attorney, social worker, guardian ad litem, attorneys, etc.);
- Explain the parent's legal rights and responsibilities;
- Describe the juvenile court process, including the types of hearings (e.g., Emergency Protective Care, Admit/Deny, Disposition, Review, Permanency) that the parent may be required to attend and what happens at a typical hearing;
- Explain how the juvenile court process may affect the parent and the child and what will happen after court; and
- Emphasize that the child's best interests are at stake and timely resolution of the problems causing risk of harm to the child is important to the healthy development of the child.

The website provides that in addition to this English version of the video, the Children Justice Initiative (CJI) is in the process of translating the video into Spanish, Hmong, Lao, and Somali, and those versions will be distributed and posted as soon as they are completed in 2013.

(<http://www.mncourts.gov/?page=3894>)

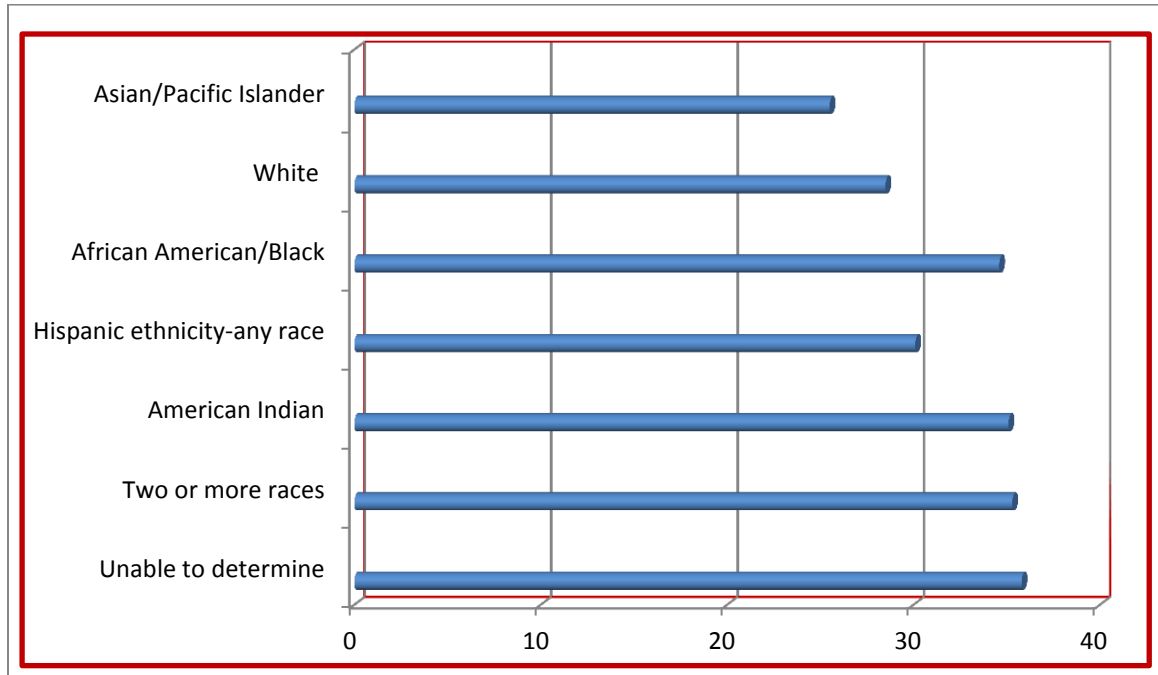
On 2/09/10, the ombudsperson contacted CJI staff and advised that she reviewed the court video, "*In the Best Interest of Your Child*" and was pleased that the CJI is in the process of translating the video into different languages. She recommended that the video includes a section of the interpreter's role to help inform parents with limited English proficiency about the role of the court interpreter. On 2/11/10, CJI staff replied that the video does not include an interpreter in the courtroom scenes. She would be checking to see if they might be able to make the translated versions slightly different from the English version by stating in the opening narration and in online text that the parent may ask the court for an interpreter, if one has not already been provided. CJI staff stated that the current process is for the social worker to notify the court that an interpreter is needed so that by the time the parent arrives in court for the first hearing, an interpreter is already available.

### **Minnesota Child Welfare Disparities Report**

The ombudsperson wanted to highlight some of the critical disparities issues affecting Asian/Pacific Islander children and their families based on the Minnesota Child Welfare Disparities Report on February 2010 by the Minnesota Department of Human Services of Children and Family Services as follows:

- ❖ **Asian/Pacific Islander children have the lowest rate (25.5%) of placement in relative foster family homes compared to all children in family foster care settings.**  
(See chart 6 below)

**Chart 6. Percent of Minnesota Children in Foster Family Placement Settings who are in a Relative Foster Home, 2008**



Source: Minnesota Child Welfare Disparities Overview April 2010, MN DHS (<https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-6056-ENG>)

- ❖ **The most common reason for Asian/Pacific Islander children to be assigned to a Family Investigation is malicious punishment, neglect or endangerment.** Table 4 and Chart 7 below show reasons for family investigation assignment in percentage within race in 2008 per Minnesota Child Welfare Disparities Report – February 2010.

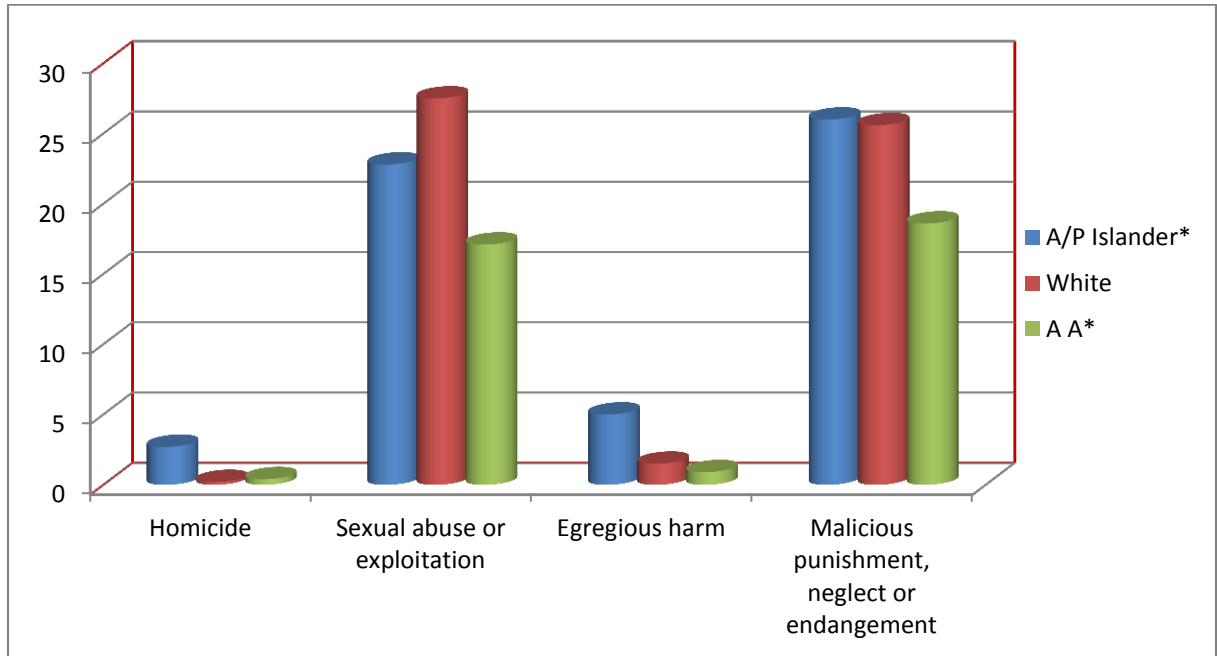
**Table 4. Mandatory Family Investigation on Reasons for Family Investigation Assignment, Percent Distribution within Race, 2008**

Reasons for Family Investigation	Asian/Pacific Islander	White	African American /Black	Hispanic ethnicity-any race	American Indian	Two or more races	Unable to determine
Homicide	2.7	0.2	0.4	0.4	0.1	0.0	0.0
Sexual abuse or exploitation	22.8	27.5	17.1	23.6	14.1	18.5	20.2
Egregious harm	5.0	1.5	0.9	2.6	2.0	0.9	2.7
Malicious punishment, neglect or endangerment	26.0	25.6	18.6	25.1	25.8	15.2	34.4

Source: Minnesota Child Welfare Disparities Report – February 2010

**Remarks:** Asian/Pacific Islander children have the highest rates of homicide (2.7%), and egregious harm (5%) compared to children in other races.

**Chart 7. Mandatory Family Investigation on Reasons for Family Investigation Assignment, Percent Distribution within Asian/Pacific Islander, White, and African American/Black, 2008**



A/P Islander\*: Asian/Pacific Islander

A A\*: African American/Black

Source: Minnesota Child Welfare Disparities Report – February 2010

**Remarks:** Asian/Pacific Islander children are second highest in rates of sexual abuse or exploitation (22%) and have the highest rates of malicious punishment, neglect or endangerment (26%) compared to White and African American/Black children.

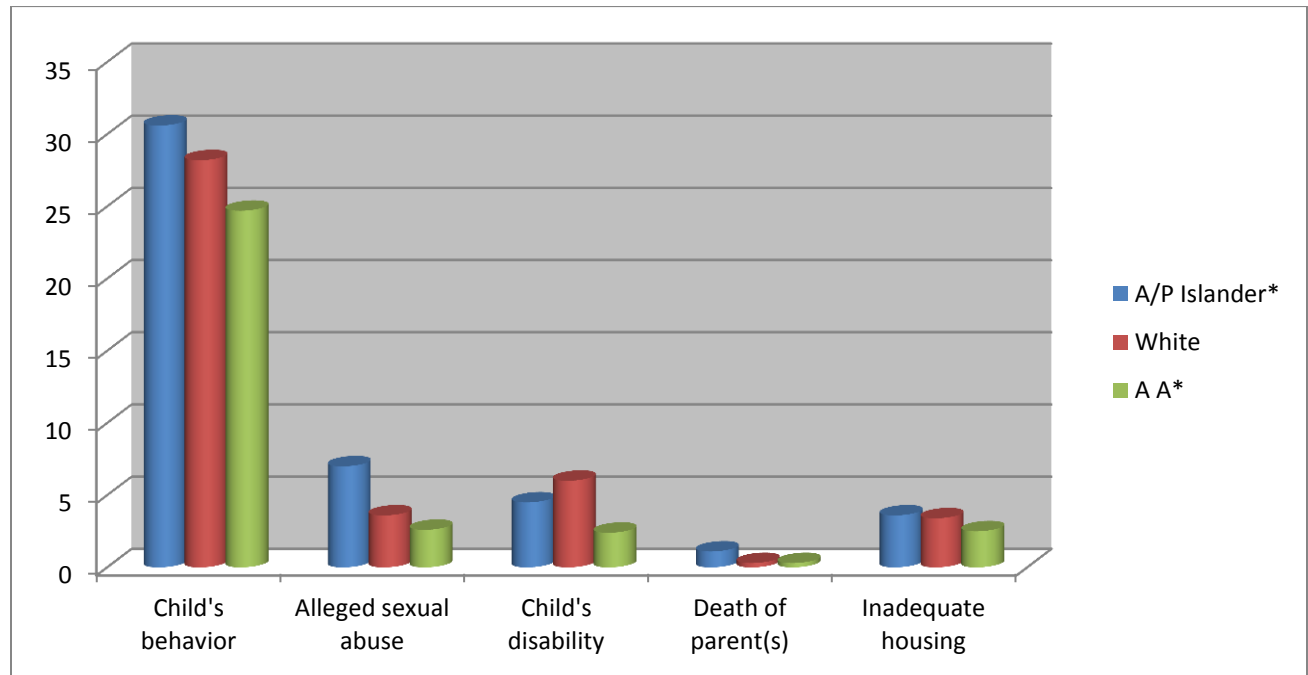
- ❖ **The most common reason for Asian/Pacific Islander children to be placed in out-of-home care is related to child’s behavior problem.** Table 5 and Chart 8 below show reasons for removal in percentage within race and across reasons in 2008 per Minnesota Child Welfare Disparities Report – February 2010.

**Table 5.** Reasons for Removal, Percent Distribution within Race and Across Reasons, 2008

Reasons for Removal	Asian/Pacific Islander	White	African American/Black	Hispanic ethnicity-any race	American Indian	Two or more races	Unable to determine
Child’s behavior problem	30.6	28.2	24.7	19.8	13.5	17.5	21.4
Alleged sexual abuse	7.0	3.6	2.6	5.0	3.5	2.8	3.8
Child’s disability	4.5	6.0	2.4	2.7	1.5	2.6	1.9
Death of parent(s)	1.1	0.3	0.3	0.7	0.2	0.8	0.0
Inadequate housing	3.6	3.4	2.5	2.7	3.1	2.9	3.4

Source: Minnesota Child Welfare Disparities Report – February 2010

**Chart 8.** Reasons for Removal, Percent Distribution within Race and Across Reasons, 2008



A/P Islander\*: Asian/Pacific Islander

A A\*: African American/Black

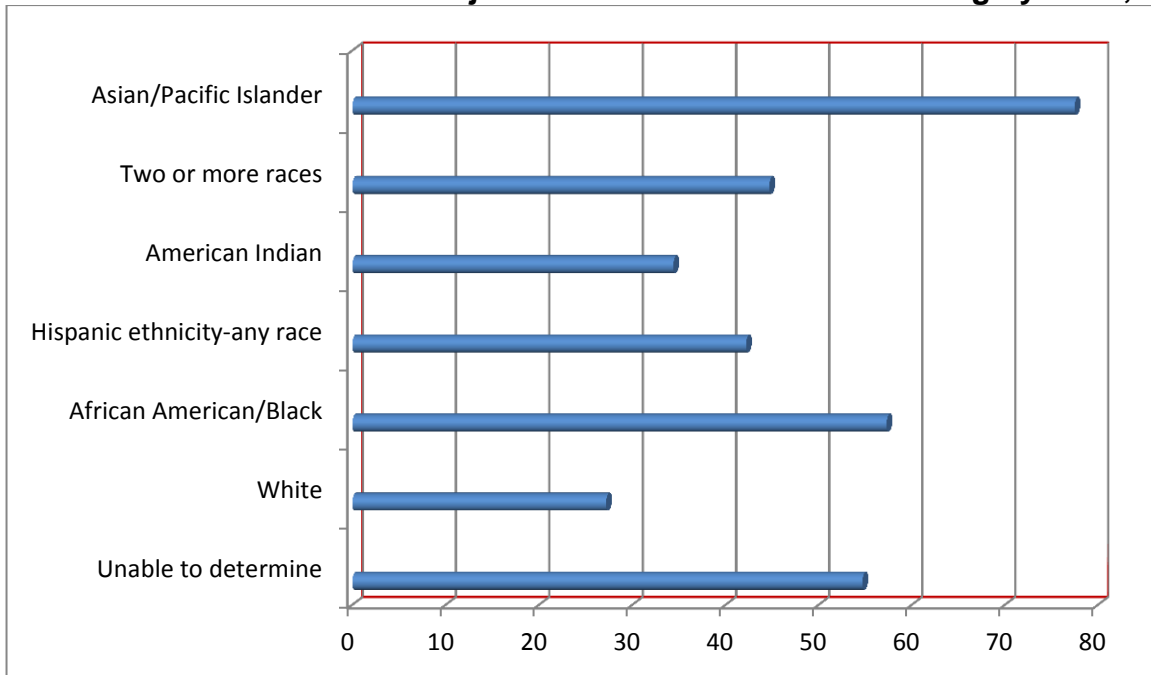
Source: <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-6056-ENG>

**Remarks:** Asian/Pacific Islander children have the highest rates of child’s behavior problem (30.6%), alleged sexual abuse (7.0%), death of parent(s) (1.1%), inadequate housing (3.6%), and are second highest in rate of child’s disability (4.5%) compared to children in other races.



- ❖ **Asian/Pacific Islander children have the highest rate for parental objection to mental health screening compared to children in other races.** See Chart 9 below:

**Chart 9. Percent of Parental Objection to Mental Health Screening by Race, 2008**



Source: Minnesota Child Welfare Disparities Report – February 2010

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-6056-ENG>

According to the chart above, Asian/Pacific Islander parents show the highest objection to mental health screening at 77.5 percent. To shed some light as to why Asian/Pacific Islander children have the highest rate compared to children in other races, the ombudsperson contacted Minnesota Department of Human Services who referred her to talk to a faculty member at the School of Social Work of the University of Minnesota. The faculty member shared with the ombudsperson the following perspectives:

- ❖ **Lack of trust towards authority:** Most Southeast (SE) Asian populations in Minnesota were refugees who had suffered greatly from their own governments before coming to Minnesota. They will try their best to hide their family from authority, particularly authority who has the power to remove the children from the family. They just want to be left alone in their communities.
- ❖ **Low mental health literacy:** Most SE Asian populations in Minnesota were refugees who have low literacy and very low mental health literacy. The eastern medical tradition has its own understanding and interpretation of mental health symptoms. There is also big stigma on mental health among SE Asian communities.
- ❖ **Lack of culturally appropriate screening instrument:** The whole concept of "question and answer style" of screening is very western and use of standardized instrument is a completely new concept for them while screening instrument may be translated or even

validated among different culture groups, but we know very little about "testing" behaviors across cultures.

**Community Outreach:** The ombudsperson provided outreach to inform the community about the services that the office provides to Lao Cultural Center in Minneapolis, Hmong Academy School in St. Paul, Association of Advancement of Hmong Women of Minnesota, United Cambodian Association of Minnesota, Hmong American Partnership in St. Paul, Karen Organization of Minnesota, Jackson Elementary School, Southeast Asian Ministry, and PACER Center.

### **Activities in 2011**

In 2011, the ombudsperson observed a total of 29 hearings. For a period of three months, there were 11 Asian cases involving 30 children in out-of-home care in one county alone. Some of the issues that she observed at the court hearings were:

- **No appointment of public defender.** The biological father of the children was concerned that there was no public defender to represent him when he showed up for court. At the previous hearing that the ombudsperson attended, he requested the court to appoint a public defender for him to be a party of the case. The ombudsperson assisted him in talking to the court clerk, who then informed the presiding judge of his request. As a result, everyone was called back into the courtroom and the judge ordered a public defender to be appointed to represent him at the following court date.
- **Communication problem.** Parent was frustrated and informed the presiding judge that her child protection worker failed to inform her about today's delinquency hearing in conjunction with the child in need of protection or services (CHIPS) hearing.
- **Incompetent interpreter.** An interpreter inaccurately interpreted legal terminology such as "reasonable efforts."
- **Transferred legal and physical custody of the children to a relative.** One child in need of protection or services case that involved three young siblings was dismissed from court when the judge made the decision to transfer their legal and physical custody to the maternal aunt.

### **Calls/Complaints Received**

In 2011, the ombudsperson received a total of 52 calls/complaints and investigated six cases. The following are examples of the complaints she investigated:

- **Complaint # 1:** The family came into the child protection system due to an allegation of physical punishment towards the child by the care taker. The case was later dismissed by the court as the alleged perpetrator was cooperative with the child protection worker and as she complied with the requirements on her case plan to address the concerns that brought her into the child protection system. For this case, the ombudsperson

assisted the family in bridging cultural and language barriers and educated them about child maltreatment.

- **Complaint # 2:** Five young siblings were abandoned by their mother due to marital problems. Following the review of the child protection records and a meeting with the parents and their family members, the ombudsperson determined that there was no basis to the complaint and closed the case. For this case, the ombudsperson provided support and information to the parents and their family members on the child protection laws.
- **Complaint # 3:** Child protection social service agency was involved in the case because the infant was tested positive for amphetamine and methamphetamine at delivery. There were a total of six siblings placed together in out-of-home care. Due to language barriers and cultural differences, the ombudsperson helped the mother, her parents, and her extended family members to have a better understanding of the child protection laws and encouraged them to continue providing support to the mother and her children. The ombudsperson also explained to the mother her legal rights to have a competent court interpreter to communicate with court personnel. She also helped connect the mother to culturally appropriate specific resources.
- **Complaint # 4:** The ombudsperson assisted a relative foster care parent who called with a complaint that she had not received foster care payments for more than two months since five siblings who are related to her were placed under her care. The ombudsperson set up a meeting with the supervisor and the assigned child protection worker to get the matter resolved. At the meeting, the supervisor explained that the delay of foster care payment was due to a mix-up of paper work and that the problem was being corrected. The supervisor confirmed that the relative foster parent should expect to receive payments soon. At the end of the meeting, the ombudsperson made the following recommendations when working with Asian families whose English proficiency are limited:
  - Provide a phone number for Asian parents and foster parents to call to gain access to the interpreter help line due to language barriers;
  - For the child protection worker to return phone calls in a timely manner;
  - For the child protection worker to inform the foster parents and parents who to contact if s/he plans to be away from work for a long period of time such as taking vacation; and
  - For the supervisor to monitor that the child protection worker is held accountable to ensure that foster care payment is being processed accurately, effectively, and in a timely manner.

### **Office Liaison's Activities**

In 2011, the Ombudsperson continues to provide supervision to Office Administrative Specialist (OAS) staff to ensure that the office operations are carried out efficiently and effectively. She reviewed OAS staff performance evaluation in May 2011; assisted OAS staff to provide recommendations on Continuity of Operations Plan (COOP) Metrics, on FY12 blanket purchase orders, and on certify/close year end purchase orders for FY 2011. She continued to provide support to OAS staff on a weekly basis in June and on a daily basis in August with limited exceptions.

In addition, the ombudsperson worked with MN Dept. of Administration on the office's lease renewal to replace the existing lease commencing 11/2011 and ending 10/2016 for a five year term and worked with MN Management and Budget to request a waiver for the Indirect Cost Billing in the amount of \$17,052.00 for FY 2012. She also worked with Risk Management Division to renew Workers Comp for FY2012. She reviewed and approved "Subordination, Non-Disturbance and Attornment Agreement" document as related to the Wellington refinance. She signed the "Master Subscriber Agreement for Minnesota Court Data Services" form with the State of MN Office of State Court Administration to request child in need for protection or services (CHIPS) court calendars for all Minnesota's 87 counties for the purpose of fulfilling the statutory duties of the office under Minnesota Statute 257.0762.

### **Board Recruitment**

In 2011, the ombudsperson submitted notices of the office's board vacancy to the Minnesota Secretary of State to be published on its website. She also made diligent efforts to recruit board members from the Asian community and coordinated with the Board Chair of the Council on Asian-Pacific Minnesotans, who appoints the board members for the ombudsperson's office.

### **Meetings/Initiatives**

In August 2011, the ombudsperson was invited to attend the Asian women support group meeting to hear concerns about emerging domestic violence and the increased number of Asian children placed in out-of-home care due to child maltreatment. The following concerns were identified: (1) an increased divorce rate of broken families in its community for the last ten years; (2) divorced or abandoned Asian women with young children facing many challenges such as cultural and language barriers to access the mainstream system, experienced high level of stress, homelessness, living in poverty, lack of crucial family and community support systems, extreme financial hardship, and lack of medical assistance coverage; (3) high risk of sexual abuse or exploitation, gambling problems, drug and alcohol abuse; and (4) high risk of homicide or suicidal ideation.

On August 31, the Ombudsperson conducted an informal meeting at the office with a small group of key stakeholders to ask for their feedback regarding some of the pressing issues they observed in working with Asian families and their children in its community. The group discussed and came up with the following recommendations to address issues affecting Asian families and their children:

- Academic attainment for younger women,
- Marital counseling for Asian couples,
- Conduct support group for Asian women/men and children; and
- More culturally and linguistic appropriate services and resources to meet their needs.

### **Community Outreach**

The ombudsperson presented to a group of elderly Asians at the First Lutheran Church in St. Paul to let them know about the services the office provides; participated at the Education forum on Asian Pacific Minnesotan students; and attended the community forum on the hidden educational achievement gap for Asian Pacific Minnesotans students. She was interviewed by Amy Doeun, staff writer for Hmong Times “The Newspaper of the Hmong Community” who published an article on October 19<sup>th</sup> about “Ombudsperson for Asian Families dealing with laws governing child protection and placement.” The ombudsperson attended the “meet and greet” with Commissioner Kevin Lindsey, MN Department of Human Rights at Rondo Community Library in St. Paul for networking. Likewise, she attended meetings between the office and the Executive Directors of the four Councils.

### **Challenges/Recommendations in serving Asian-Pacific Islander Families:**

In 2011, the child population estimate for Asian/Pacific Islander is 70,834. About 286 of these children are placed in out-of-home care. It appears that most cases of child maltreatment in the Asian community are unreported due to a number of factors: lack of trust towards authority, lack of a good understanding of the laws that protect children, cultural factors, language barriers, lack of effective or appropriate training programs and support for bilingual workers, lack of mandated reporters’ training for bilingual workers, etc. To shed light, this would require further study including more improved data on the different Asian/Pacific Islander ethnic groups’ issues.

The ombudsperson recommends the following to address the child welfare disparities that affect Asian/Pacific Islander families and their children involved in the child welfare system according to the Minnesota Child Welfare Disparities Report on February 2010: (1) include Asian/Pacific Islander representatives in the decision-making processes; (2) engage Asian/Pacific Islander communities, leaders, organizations, and stakeholders as partners to reduce the child welfare disparities and disproportionality; (3) hold child placement social service agencies accountable to the highest standards of practice; (4) more culturally and linguistic appropriate services and resources to meet the needs of Asian/Pacific Islander families and their children; and (5) effective or appropriate training programs and support for bilingual workers.

## 11. STATUTE

### OMBUDSPERSON FOR FAMILIES

#### 257.0755 OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATONS; FUNCTION.

Subdivision 1. **Creation.** One ombudsperson shall operate independently from but in collaboration with each of the following groups: the Indian Affairs Council, the Council on Affairs of Chicano/Latino people, the Council on Black Minnesotans, and the Council on Asian-Pacific Minnesotans.

Subd. 2. **Selection; qualifications.** The ombudsperson for each community shall be selected by the applicable community-specific board established in section 257.0768. Each ombudsperson serves in the unclassified service at the pleasure of the community-specific board and may be removed only for just cause. Each ombudsperson must be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office.

Subd. 3. **Appropriation.** Money appropriated for each ombudsperson from the general fund or the special fund authorized by section 256.01, subdivision 2, clause (15), is under the control of each ombudsperson for which it is appropriated.

#### 257.076 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 257.0755 to 257.0768, the following terms shall have the meanings given them in this section.

Subd. 2. **Agency.** "Agency" means the divisions, officials, or employees of the state departments of human services and health and local district courts or a designated county social service agency as defined in section 256G.02, subdivision 7, engaged in providing child protection and placement services for children. "Agency" also means any individual, service, or program providing child protection or placement services in coordination with or under contract to any other entity specified in this subdivision.

Subd. 3. **Communities of color.** "Communities of color" means the following: American Indian, Hispanic-Latino, Asian-Pacific, African, and African-American communities.

Subd. 4. **Compadrazgo.** "Compadrazgo" is a kinship institution within the Hispanic-Latino community used as a means of parenting and caring for children from birth to adulthood.

Subd. 5. **Family of color.** "Family of color" means any family with a child under the age of 18 who is identified by one or both parents or another trusted adult to be of American Indian, Hispanic-Latino, Asian-Pacific, African, or African-American descent.

Subd. 6. **Facility.** "Facility" means any entity required to be licensed under chapter 245A.

Subd. 7. **Trusted adult.** “Trusted adult” means an individual recognized by the child’s parent or legal guardian, the child’s community, or both, as speaking for the child’s best interest. The term includes compadrazgo and other individuals with a kinship or community relationship with the child.

#### **257.0761 ORGANIZATION OF OFFICE OF OMBUDSPERSON.**

Subdivision 1. **Staff; unclassified status; retirement.** The ombudsperson for each group specified in section 257.0755 may select, appoint, and compensate out of available funds the assistants and employees as deemed necessary to discharge responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsperson in the unclassified service. The ombudsperson and full-time staff shall be members of the Minnesota State Retirement Association.

Subd. 2. **Delegation to staff.** The ombudsperson may delegate to staff members any of the ombudsperson’s authority or duties except the duty of formally making recommendations to an administrative agency or reports to the Office of the Governor, or to the legislature.

#### **257.0762 DUTIES AND POWERS.**

Subdivision 1. **Duties.** (a) Each ombudsperson shall monitor agency compliance with all laws governing child protection and placement, as they impact on children of color. In particular, the ombudsperson shall monitor agency compliance with sections 260C.215; 260.751 to 260.835; and 260C.193, subdivision 3.

(b) The ombudsperson shall work with local state courts to ensure that:

- 1) court officials, public policymakers, and service providers are trained in cultural diversity. The ombudsperson shall document and monitor court activities in order to heighten awareness of diverse belief systems and family relationships;
- 2) experts from the appropriate community of color including tribal advocates are used as court advocates and are consulted in placement decisions that involve children of color;
- 3) guardians ad litem and other individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color; and
- 4) training programs for bilingual workers are provided.

Subd. 2. **Powers.** Each ombudsperson has the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color. In carrying out this authority and the duties in subdivision 1, each ombudsperson has the power to:

- 1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;
- 2) determine the scope and manner of investigations to be made;
- 3) investigate, upon a complaint or upon personal initiative, any action of any agency;

- 4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;
- 5) examine the records and documents of an agency;
- 6) enter and inspect, during normal business hours, premises within the control of an agency; and
- 7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

#### **257.0763 MATTERS APPROPRIATE FOR REVIEW.**

(a) In selecting matters for review, an ombudsperson should give particular attention to actions of an agency, facility, or program that:

- 1) may be contrary to law or rule;
- 2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency, facility, or program;
- 3) may result in abuse or neglect of a child;
- 4) may disregard the rights of a child or other individual served by an agency or facility; or
- 5) may be unclear or inadequately explained, when reasons should have been revealed.

(b) An ombudsperson shall, in selecting matters for review, inform other interested agencies in order to avoid duplicating other investigations or regulatory efforts, including activities undertaken by a tribal organization under the authority of sections 260.751 to 260.835.

#### **257.0764 COMPLAINTS.**

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section 626.556, subdivision 4a, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

#### **257.0765 RECOMMENDATIONS TO AGENCY.**

(a) If, after reviewing a complaint or conducting an investigation and considering the response of an agency, facility, or program and any other pertinent material, the ombudsperson determines



that the complaint has merit or the investigation reveals a problem, the ombudsperson may recommend that the agency, facility, or program:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy;
- (4) explain more fully the action in question; or
- (5) take other action as authorized under section 257.0762.

(b) At the ombudsperson's request, the agency, facility, or program shall, within a reasonable time, inform the ombudsperson about the action taken on the recommendation or the reasons for not complying with it.

### **257.0766 RECOMMENDATIONS AND PUBLIC REPORTS.**

Subdivision 1. **Specific reports.** An ombudsperson may send conclusions and suggestions concerning any matter reviewed to the governor and shall provide copies of all reports to the advisory board and to the groups specified in section 257.0768, subdivision 1. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency, facility, program, or any person, the ombudsperson shall inform the governor and the affected agency, facility, program, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency, facility, program, or any person, the ombudsperson shall include any statement or reasonable length made by that agency, facility, program, or person in defense or mitigation of the ombudsperson's conclusion or recommendation.

Subd. 2. **General reports.** In addition to whatever conclusions or recommendations the ombudsperson may make to the governor on an ad hoc basis, the ombudsperson shall at the end of each year report to the governor concerning the exercise of the ombudsperson's functions during the preceding year.

### **257.0767 CIVIL ACTIONS.**

The ombudsperson and designees are not civilly liable for any action taken under sections 257.0755 to 257.0768 if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

### **257.0768 COMMUNITY-SPECIFIC BOARDS.**

Subdivision 1. **Membership.** Four community-specific boards are created. Each board consists of five members. The chair of each of the following groups shall appoint the board for the community represented by the group: the Indian Affairs Council; the Council on Affairs of Chicano/Latino people; the Council on Black Minnesotans; and the Council on Asian-Pacific Minnesotans. In making appointments, the chair must consult with other members of the council.

Subd. 2. **Compensation; chair.** Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred.

Subd. 3. **Meetings.** Each board shall meet regularly at the request of the appointing chair or the ombudsperson.

Subd. 4. **Duties.** Each board shall appoint the ombudsperson for its community. Each board shall advise and assist the ombudsperson for its community in selecting matters for attention; developing policies, plans, and programs to carry out the ombudsperson's functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from non-agency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights.

Subd. 5. **Terms, compensation, removal, and expiration.** The membership terms, compensation, and removal of members of each board and the filling of membership vacancies are governed by section 15.0575.

Subd. 6. **Joint meetings.** The members of the four community-specific boards shall meet jointly at least four times each year to advise the ombudspersons on overall policies, plans, protocols, and programs for the office.

#### **257.0769 FUNDING FOR THE OMBUSPERSON PROGRAM.**

Subdivision 1. Appropriations. (a) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Indian Affairs Council for the purposes of sections 257.0755 to 257.0768.

(b) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Affairs of Chicano/Latino people for the purposes of sections 257.0755 to 257.0768.

(c) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council of Black Minnesotans for the purposes of sections 257.0755 to 257.0768.

(d) Money is appropriated from the special fund authorized by section 256.01, subdivision 2, clause (15), to the Council on Asian-Pacific Minnesotans for the purposes of sections 257.0755 to 257.0768.

Subd. 2. Title IV-E reimbursement. The commissioner shall obtain federal title IV-E financial participation for eligible activity by the ombudsperson for families under section 257.0755. The ombudsperson for families shall maintain and transmit to the Department of Human Services documentation that is necessary in order to obtain federal funds.

#### **257.175 DUTIES OF COMMISSIONER OF HUMAN SERVICES.**

It shall be the duty of the commissioner of human services to promote the enforcement of all laws for the protection of defective, dependent, neglected, and delinquent children, to cooperate to this end with juvenile courts and all reputable child-helping and child-placing agencies of a public or private character, and to take the initiative in all matters involving the interests of such children where adequate provision therefor has not already been made. The commissioner may appoint a chief executive officer and such assistants as shall be necessary to carry out the purposes of this section and section 257.33.