

STATE OF MINNESOTA
OFFICE OF OMBUDSPERSON FOR FAMILIES

BIENNIAL REPORT 2002-2003
TO THE GOVERNOR

***SUBMITTED BY BAUZ L. NENGCHU, OMBUDSPERSON FOR ASIAN-PACIFIC FAMILIES,
PURSUANT TO MINNESOTA STATUTE 257.0766, SUBD. 2***

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A special thanks to the entire Asian-Pacific Advisory Board for their commitment and continuing support of the Office of Ombudsperson for Families.

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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 2002 and 2003 to provide (1) data on Asian and Pacific Islander children in out-of-home care, (2) a summary review of closed child protection files, (3) a case study of a family assisted by the ombudsperson, (4) a summary of the ombudsperson's activities, and (5) to make recommendations for child protection agencies serving Asian and Pacific Islander 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, who had been negatively impacted 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. OMBUDSPERSON FOR FAMILIES

Minnesota Statute 257.0755 Subd.2 states that the Ombudsperson shall be selected by the applicable community-specific board established in section 257.0768. The Ombudsperson serves in the unclassified service at the pleasure of the community-specific board and may be removed only for just cause. The 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.

5. COMMUNITY-SPECIFIC BOARD

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

The five Asian-Pacific Advisory Board Members are:

- | | |
|--|--|
| (1). Linda Davis, Chairperson
MA Education
Educator Special Education | (2). Daniel Lew, Assistant Public
Defender, Ramsey County Public
Defender's Office |
| (3). Gail Chang Bohr
Executive Director Children's Law
Center of Minnesota | (4). Pakou Ly, Policy Analyst
Minnesota Department of
Human Services |
| (5). Thanh Son (Lisa) Nguyen, Ph.D., DABPS
Senior Consultant (Service Effectiveness, Cultural Competency)
Amherst H. Wilder Foundation | |

To fulfill their obligation, they also held joint meetings with the other three community-specific boards, at least four times per year. The Board Members advise the ombudspersons on overall policies, plans, protocols, and programs for the office, besides conducting their own quarterly meetings with the Ombudsperson.

The Ombudsperson is grateful to have them as her advisors, and for their commitment and continuing support of the office to help improve standards of competence, efficiency, justice, and protection of rights for all Asian-Pacific Families and their children in the State of Minnesota. For further information on the community-specific Board in regard to its memberships, meetings, and duties, please refer to the Statute (Minnesota Statute 257.0768).

6. JOB DESCRIPTION

On July 14, 2000, the Asian-Pacific Advisory Board revised the job description of the Ombudsperson to reflect changes in the position.

The four principal responsibilities of the revised job description for the Ombudsperson are the following:

- a). To monitor, as to ensure that State, county, and private social service agencies are in compliance with all child welfare laws impacting Asian-Pacific and children and families;
- b). To receive, investigate, and resolve complaints from any source concerning an action or an agency, facility or program;
- c). To heighten awareness and sensitivity of service providers, public policymakers, social service agencies, and local courts to diverse belief systems and family relationships as they impact the services provided to children and families; and,
- d). To prepare a comprehensive annual report in a timely manner to the Governor of the State of Minnesota, based upon empirical data, observations, and conclusion of the random sample assessing the "Challenges for Social Services Agencies in Serving Asian-Pacific American Families in the Next Millennium," including a summary of the activities of the Ombudsperson for the preceding year.

- 1. Simultaneously, five goals and objectives were identified as follows:
- 2. Identify those children and families who are under the jurisdiction of the Ombudsperson's oversight.
- 3. Select random population of children and families who are under the jurisdiction of the Ombudsperson.
- 4. Identify trends in child protection cases for Asian-Pacific children and families.
- 5. Identify the challenges for the third millennium that Asian-Pacific children and their families will face in the area of child protection and social services.
- 6. Present a quality report that makes quality recommendations to the Governor of the State of Minnesota identifying:

- a) The challenges for social service agencies in serving Asian-Pacific families and children,
- b) The services needed and service gaps,
- c) The strengths and current benefits of the child protection system,
- d) The weaknesses and shortcomings of the current child protection system; and,
- e) A comprehensive policy recommendations for the next millennium.

7. DATA ON ASIAN AND PACIFIC ISLANDER CHILDREN IN MINNESOTA

Table 1. Minnesota Population Profiles: Asian and Pacific Islander children age 17 and under.

Number of Asian and Pacific Islander children by Age and Gender				
Age	Male	Female	All	Percent of Total Asian Population
Under 5 years	6,930	6,986	13,916	9.80
5 to 9 years	7,548	7,225	14,773	10.41
10 to 14 years	7,990	7,914	15,904	11.20
15 to 17 years	4,473	4,765	9,238	6.51
Total Population of persons 17 years and younger	26,941	26,890	53,831	37.92

Source: 2000 Census: State of Minnesota

Table 2. Minnesota Population Profiles: Native Hawaiian and other Pacific Islander Children age 17 and under.

Native Hawaiian and other Pacific Islander Children by Age and Gender				
Age	Male	Female	All	Percent of Total
Under 5 years	63	71	134	6.77
5 to 9 years	97	88	185	9.35
10 to 14 years	89	76	165	8.34
15 to 17 years	48	34	82	4.14
Total Population of persons 17 years and younger	297	269	566	28.6

Source: 2000 Census: State of Minnesota

Table 3. Data on Asian and Pacific Islander Children in Out-of-Home Care in 2000-2002

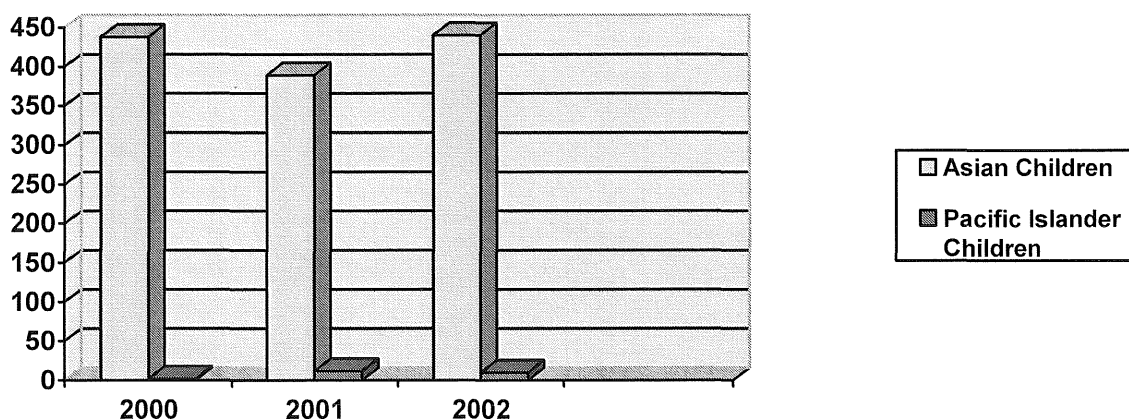
Number of Children in Out-of-Home Care in 2000-2002

Table 3

	2000		2001		2002	
	Number of children in out-of-home care	Percentage of children in out-of-home care	Number of children in out-of-home care	Percentage of children in out-of-home care	Number of children in out-of-home care	Percentage of children in out-of-home care
Asian	438	2.4	389	2.2	440	2.6
Pacific Islander	2	0.0	12	0.1	10	0.1
Total	440	2.4	401	2.3	450	2.7
Percentage of children in total population	4.2		4.2		4.2	

Source: Department of Human Services

Asian and Pacific Islander Children in Out-of-Home Care in 2000-2002 in Chart:



Remarks: In 2001, the number of Asian and Pacific Islander children in out-of-home care was down 8.9 percent from 2000, however, the number increased to 12.2 percent in 2002 over the 2001 numbers.

Table 4. Maltreatment Data and Maltreatment Type: Traditional Response 2000**Traditional Response 2000****Table 4**

Race	Physical abuse	Physical abuse	Sexual abuse	Sexual abuse	Neglect	Neglect	Mental injury	Mental injury
	Alleged	Determined	Alleged	Determined	Alleged	Determined	Alleged	Determined
Asian	258	124	38	27	514	306	2	2
Pacific Islander	3	3	1	0	5	3	0	0
Total	261	127	39	27	519	309	2	2

Source: Department of Human Services

Note: In a traditional assessment, a county child protection worker interviews persons involved with the [alleged maltreatment] report, including family members. If there is a preponderance of evidence that a child has been a victim of maltreatment and the harm was caused by an act, or failure to act, by a person responsible for the child's care, the county child protection worker makes a determination that maltreatment has occurred. (Source: DHS Minnesota's Child Welfare Report for 2000, Child Maltreatment Reports, p. 5)

Table 5. Maltreatment Data and Maltreatment Type: Traditional Response 2001**Traditional Response 2001****Table 5**

Race	Physical abuse	Physical abuse	Sexual abuse	Sexual abuse	Neglect	Neglect	Mental injury	Mental injury
	Alleged	Determined	Alleged	Determined	Alleged	Determined	Alleged	Determined
Asian	205	77	49	9	365	194	0	0
Pacific Islander	1	0	3	2	3	3	0	0
Total	206	77	52	11	368	197	0	0

Source: Department of Human Services

Table 6. Maltreatment Data and Maltreatment Type: Traditional Response 2002

Traditional Response 2002

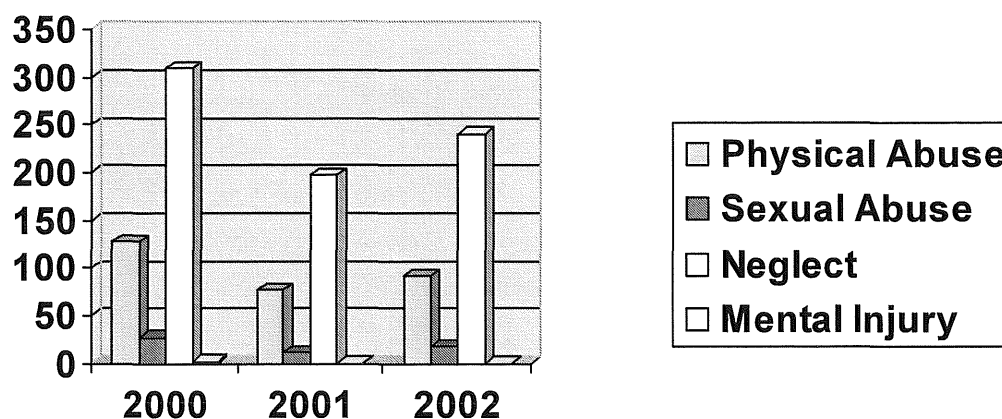
Table 6

Race	Physical abuse		Sexual abuse		Neglect		Mental injury	
	Alleged	Determined	Alleged	Determined	Alleged	Determined	Alleged	Determined
Asian	233	91	39	17	408	234	1	0
Pacific Islander	3	1	1	1	9	7	0	0
Total	236	92	40	18	417	241	1	0

Source: Department of Human Services

Maltreatment Data and Maltreatment Type in Chart: Traditional Response 2000-

2002



**Determined
Maltreatment Data and
Maltreatment Type**

Table 7. Maltreatment Data and Maltreatment Type: Alternative Response 2002

Alternative Response 2002					
Table 7					
Race	Physical abuse	Sexual abuse	Neglect	Mental injury	TOTAL
Asian	68	0	120	1	189
Pacific Islander	7	0	4	0	11
Total	75	0	124	1	200

Source: Department of Human Services

In 1999, the Minnesota State Legislature passed a statute allowing county child protection agencies to implement an Alternative Response to child maltreatment reports. The alternative response program is a voluntary program on the part of both the family and the county.

Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation using the traditional investigative model under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment. (Minnesota Statute 626.5551 Alternative response programs for child protection assessments or investigations, Subd. 2 Use of alternative response or investigation {a}.)

Table 8. Minnesota Statewide Asian and Pacific Islander Children Report Categories of Reasons for Entry of Children in Out-of-Home 2000-2002

Categories of Reasons for Entry of Children in Out-of-Home Care					
Table 8					
Year	Parent Reasons	Child Reasons	Child Disability	Two or more Reasons	TOTAL Number of children in out-of-home placement
2000	157	239	8	50	440
2001	133	234	7	44	401
2002	199	208	8	45	450

Source: Department of Human Services

Note: Kids are counted multiple times.

8. A SUMMARY REVIEW OF CLOSED CHILD PROTECTION FILES ON ASIAN AND PACIFIC ISLANDER FAMILIES

The following table tracks Asian and Pacific Islander populations in fifteen Minnesota counties. The largest population lives in Hennepin County and the second largest population lives in Ramsey County. The smallest population lives in Mower County.

Asian and Pacific Islander Population by County
Table 1

County	Asian	Pacific Islander	Total
Anoka	5,038	64	5,102
Blue Earth	1,000	35	1,035
Carver	1,096	10	1,106
Dakota	10,285	165	10,450
Hennepin	53,555	531	54,086
Mower	568	6	574
Nobles	830	15	845
Olmsted	5,305	41	5,346
Ramsey	44,836	323	45,159
Rice	826	24	850
St. Louis	1,333	54	1,387
Scott	1,946	27	1,973
Stearns	2,104	45	2,149
Washington	4,297	66	4,363
Winona	935	12	947

Source: Census 2000

In March of 2003, the Ombudsperson sent letters to Rice, Winona, Otter Tail, Olmsted, Nobles, Nicollet, Lyon, Kandiyohi, Blue Earth, and Benton Counties requesting the most recently closed child protection files concerning Asian and Pacific Islander families in accordance with Minnesota Statutes 257.0762. The office received seven child protection files from seven counties – at least one from each county. All the files had been closed within the last three years. Given the small number of cases, no generalizations can be made about services for Asian and Pacific Islander families and their children in these counties. The Ombudsperson intends to request files annually so that trends, if apparent, would appear over time. Data from this first request are as follows:

Children's ages:

- Five children were between 0-3 years old;
- One child was between 3-6 years old;
- One child was between 6-9 years old; and,

- Three children were between 12-15 years old.

Children's gender: Six females and four males

Issues / Types of Maltreatment may include:

- Alleged neglect; lack of supervision; caretaker inability to cope;
- Child behavior; legal problems—truancy, runaway, burglary conviction; alcohol/drug abuse concerns;
- Alleged physical abuse;
- Parent alcohol abuse and drug use;
- Alleged sexual abuse (2 cases); and,
- Parent alcohol abuse; child neglect/child endangerment by driving while intoxicated.

Living arrangement:

- Residential treatment/institution;
- In-home (4 cases); and,
- Pre-adoptive and foster home.

Language and cultural barriers:

- One county provided interpreter at every appointment during in home services;
- One county met with language/cultural specialist for interpretation and assistance with cultural information; and,
- One county allowed a minor to interpret for the family at one meeting.

Services provided to families:

- Counseling/developing a behavioral contract for child;
- Counseling (2 cases);
- Parenting skills (2 cases); and,
- Treatment program; parenting skills; life management education.

Time from intake to case closing:

- Closed within six months—1 case;
- Closed within one year—3 cases;
- Closed within three years— 1 case; and,
- Two cases are inactive—1 referred to treatment program.

Status of the case may include:

- Case closed—counseling sessions completed successfully;
- Petition child in needs of protective services dismissed—probation completed and child moved out-of-state;
- Case closed—child had no contact with alleged offender and family agreed not to allow future contact between child and alleged offender;
- Adoption finalized;
- Case closed—no more services;
- Case closed—inactive (Maltreatment not determined. Met with family to develop a behavioral contract for child.); and,
- Case closed—inactive (Maltreatment determined but child protective services are not needed. Offender recommended to attending chemical dependency and mental health programs.)

9. A CASE STUDY OF A FAMILY ASSISTED BY THE OMBUDSPERSON

This case study follows a family from investigation to findings/recommendation to the agency's responses.

In May of 2002, a family's grandfather contacted the Ombudsperson office with a complaint about his grandchildren being wrongfully removed from their parents who are low functioning. He requested the Ombudsperson to investigate the county's decision-making processes. His six grandchildren, ages from 2 to 10 years-old, were all placed in out-of-home care. He stated that one of the children cried a great deal and did not want to be separated from her siblings. The county's allegation in this case was that both parents were low functioning, unable to supervise their children, and used knife or physical punishment to discipline the children.

Following two hearings on the case in May and June of 2002, the Ombudsperson subpoenaed the child protection records to review the file in July, 2002. In October of 2002, the Ombudsperson prepared recommendations and a report about her findings in this particular case. She forwarded the report and recommendations to the county and requested that the county reconsider its decision to terminate parental rights. The key points in her findings, recommendations, and the agency's response are as follows:

Findings:

1. Language Barriers:

(a) The county's determination letter that maltreatment occurred, including informing the client's rights to asking the county to reconsider its determination, was not in the language of the client. The client was unable to read, write, or speak English-in addition to being low functioning.

(b) The case notes of the child protection worker indicated, during face to face meetings with the family, that two relatives assisted each other to translate for the family; and, that at another time a family member, not an official interpreter, was used as the interpreter.

2. Perceived inconsistency in the scoring of the structured decision-making risk assessment tools:

In regard to the "Parenting Skills" question, the family received a score of 3 for 'moderate difficulties in parenting skills,' in March of 2002 but received a score of 5 for 'destructive parenting patterns' just two months later in June, 2002.

3. Documentation:

Case notes failed to state the underlying reasons that led to the decision-making of the child protection worker.

4. Placement in foster care setting:

Case notes of the child protection worker indicated that the one-year-old girl "cried a lot and was better today, but still had a hard time with strangers," and "that the foster parent purposely did not make eye contact with the child because she would then cry." Other case notes provided that there was a report by the 5 ½ year-old that she was still hungry because she did not like the foster parent's food.

5. Bilingual and Cultural Competency:

(a) While the parents were waiting to meet with the child protection worker, as requested by the child protection worker, the police arrived and arrested the parents on Child Endangerment/Neglect charges. All six children were removed and placed in shelter.

(b) The case was brought to the Permanency Planning Team to address the permanency issues. Unfortunately, this team has no representation from the family's community which could have provided information and suggestions prior to the Permanency Planning Team's recommendations.

Ombudsperson's Recommendations:

1. The county should comply with Title VI of the Civil Rights Act of 1964 and to follow through with the Limited English proficiency (LEP) plan to ensure meaningful access to program information and services for person with limited English proficiency.
2. The scoring of the structured decision-making (SDM) risk assessment should be consistent and free of bias. Child protection workers should take into account the family's background, capacity (comprehension, educational attainment, language proficiency) when using the structured decision-making risk assessment tools.
3. Child protection workers' case notes need to be well documented including the underlying reasons for decisions that adversely affect families.
4. Asian-Pacific children should be placed with foster families that reflect the ethnic and racial diversity of the children. (Minnesota Statute 260 C.215 Welfare of Children, subd.1)
5. Effective decision-making for families at risk requires cultural competency in every level when dealing with Asian and Pacific Islander families. This can be accomplished by:
 - (a) Assigning Southeast Asian child protection workers to respond appropriately to the unique needs of the Southeast Asian families that are being served.
 - (b) Asking for input from Southeast Asian social workers (who are knowledgeable in the cultural practices, values, and beliefs of the family) prior to making permanency decisions.
6. The Ombudsperson does not support the termination of parental rights and recommend to the child protection agency to transfer legal and physical custody of the children to a suitable relative in accordance with the cultural practice of the family.

Agency's response:

1. a). "It is very clear that Determination letters should be sent with information in the language of the client so that they are immediately aware that the letter is important and that they should seek assistance in reading the information. We regret that did not occur in this case. We have reminded our supervisory staff that they should be monitoring this with the child protection staff. The templates available to us on the Social Services Information System (SSIS) do not come up in [languages] other than English. Currently it costs about \$500 to have an individualized letter translated. We have made a proposal to our IT program here that we think would provide us with the tools we need electronically to assure that letters in the correct language can be individualized for families or that letters sent can include a statement in the language of the parent/caregiver stating the importance of the information and the need to have it translated. We will continue to pursue this improvement."

b). "We have directed supervisors and staff that they must use professional interpreters when working with families where English is not the first language. We also are requiring that they document whom they used for this service in their case notes.

We will be asking the Minnesota Department of Human Services to include an improvement in the SSIS application that would allow for a drop down box in the client demographic section that denotes the language spoken by the parent/caregiver and that interpreter services are being used. This improvement may not be immediate but will assist supervisors in better monitoring this. In the interim supervisors have been reminded to monitor this with child protection staff.

While we do have access to interpreter services under contract with us, there may be other ways we could increase this resource and would like to further discuss this with you."

2. "We regularly train and retrain our staff on the Structured Decision Making tools. In any given case there may be differences in ratings due to the point in time of the assessment given what information is known at that time. As a case moves forward there may be clarifying or new information that would result in a change in a lower or higher rating on different factors in the assessment. However, we do also monitor work to be sure that given the same information, different workers should reach the same conclusions. ...The factors you note should be considered whenever they are present in a family."

3. "We are dependent on the Statewide Information system (SSIS) for recording case notes. Whenever new applications or improvements in the system are introduced there are sometimes problems that need to be corrected. ...The notes you saw reflect the brevity of the notes our staff make. Having this printed with the other information would make the notes more meaningful but currently only the note itself is printed and each note is printed on a separate page. We are working with SSIS on improvements to address this issue. Because of workload issues, we expect that staff notes may be brief but do require that the above information is included."

4. "As you are aware we are not able to place children in foster home based solely on race. We have made concerted efforts to recruit and license foster homes in the communities from which our children come. While we have 17 licensed Southeast Asian foster homes, a home may not necessarily be available at the time a child comes into care. Or, we may not have a home that can take a large sibling group and our preference is to try to keep siblings together. As we discussed in our meeting on October (2002), we would be interested in talking further with you about how we might recruit additional homes."

5.

(a) "...Even with this representation of Southeast Asian Staff, we are not always able to assign Southeast Asian cases only to these workers. This is due to timing of case openings, workloads and the need to be sure that all of our staff develop the cultural competency to work with the variety of families we serve at any given time. Our staff participates in the statewide child protection training which includes cultural competency. Our Southeast Asian staff is available and frequently consults with other staff and we offer a variety of training related to the many cultures from which our families come. Our staff also participate in the statewide child protection training which includes cultural competency. ...

(b) The Permanency Consultation Team is an interdisciplinary team and each member of the team is expected to be culturally sensitive with all of the families who come before it. Because many cases involving Southeast Asian-Pacific families have workers who are Southeast Asian, cultural norms and issues are noted in the discussions. Due to Federal and State requirements related to permanency for children, we must schedule the Team reviews in a timely way and we are not always able to have a staff person present who represents the culture of the families being reviewed. However, because cultural sensitivity and competency is expected, the Team chairs exert oversight of this."

6. "As we discussed in our meeting in early October [2002], we wish to work with the family to arrive at an appropriate permanency for the children. Their safety is of paramount concern and we do not feel that reunification assures that. We do feel the children should be together and should be with family or kin, either through a transfer of physical and legal custody or through a termination of parental rights and adoption by relatives or kin. We have offered Family Group Conferencing again to the family and will continue to work with them to identify which family member they want to be the permanent resource for the children."

Outcome of the case: In February of 2003, the legal and physical custody of all six children were transferred to family members.

10. COURT MONITORING

In September 2002, the Ombudsperson requested that a county juvenile court notify her of all child protection hearings pertaining to Asian and Pacific Islander families beginning September 2002 through December 2002 and continuing through June 2003.

There were a total of four Southeast Asian cases involving 16 children in out-of-home placement. The Ombudsperson was actively involved in the four cases by participating in juvenile court hearings, investigating/reviewing pertinent child protection records and interviewing the families. In 2003, one case was successfully closed with the four children reunified with the parent; in one case, the nine children's permanent legal and physical custody transferred to an older sibling; one case involving two children was dismissed from court; and in the last case, the three children were returned to parent on a trial home placement basis.

From February 2003 to August 2003, the Ombudsperson had nine juvenile court observations in Ramsey County and eight juvenile court observations in Hennepin County.

Findings: In one case, the interpreter appeared to be unable to translate what was said to the client. The situation was brought to the attention of the court official. In another case, there were delays in providing interpreters and assigning a public defender. At the first court date on February 4, 2003, there was no interpreter present and no public defender assigned. At the next court date on February 20, 2003, an interpreter was present but still no public defender. At the next court date on March 18, 2003, an interpreter was present and a public defender was present.

11. SUMMARY OF OMBUDSPERSON'S ACTIVITIES YEAR 2002-2003

From 2002 to 2003, an estimate of the Ombudsperson's work time in percentage is as follows: Office administrative functions: 10 percent; Investigating complaints and court observation/monitoring of Asian and Pacific Islander hearings: 60 percent; Community outreach/resource fair: 5 percent; Phone calls: 10 percent; Task force/meetings/networking: 15 percent.

Number of families assisted in Ramsey, Mower, and Hennepin Counties from January 2002 to February 2003:

- Investigation complaints/court observations: 11 cases involving 8 families with 31 children in one county; 2 families with 6 children in other county; and one family with 3 children. Total number of children in child protection was: 40. Two of the 11 cases involving 10 children in out-of-home care were dismissed as the result of the Ombudsperson's assistance.
- Outreach/resource fair: 156 families in Ramsey and Hennepin Counties
- Phone calls (including out-of-metro areas) received: Approximately 120

Number of families assisted in Ramsey and Hennepin Counties from March 2003 to December 2003:

- Cases/complaints: 6 cases involving 30 children—15 in out-of-home care; 9 in relative placement; 4 in long term foster care; 2 in trial home placement. Three cases were dismissed from court; one case, six children's permanent legal and physical custody transferred to relatives; and another case, three children were returned to parent on a trial home basis.
- Court monitoring/observation: 17 hearings in two counties (Ramsey and Hennepin Counties Juvenile Courts.)
- Phone calls (including out-of-metro areas) received: Approximately 80.

The following Table 1 highlights some of the Ombudsperson's involvement and participation with community-based organizations and state government agencies in a variety of ways (e.g. meeting/networking, task force, advisory committee), as needed, to influence the child welfare issues impacting Asian-Pacific and Islander children and their families.

Table 1

Task Force/Advisory Committees	Community Meeting/Networking	Training/Conferences
10/2002 Statewide Advisory Committee on "Reduce the Use: Long Term Foster Care"	8/27/02 Community Resource Fair at Highland Park Junior High.	7/29/03 Conference on Faith Based Community Initiatives, Minneapolis Convention Center
2003 Committee on "Reporting of Maltreatment To Minors Act":	8/12/03 Council on Asian-Pacific Minnesotans	7/21/03 to 7/22/03 BRYCS* Roundtable in Washington, D.C.
9/10/02 Juvenile Justice Task Force	3/7/03 Urban Coalition/Immigration and Refugees Policy Coalition	6/30/03 Conference on Children's Summit: Starting Strong
Training/Conferences	2/7/03 Wilder Social Adjustment Program: Hmong Women Support Group	6/25/03 Conference on Our Children: Our future at Earle Brown Heritage Center
10/18/02 Forum in recognition of the 10 th year of the Center for Advanced Studies in Child Welfare	9/24/03 Asian Women United of Minnesota	6/2/03 "Interpreter Workshop" at the International Institute of Minnesota
6/15/02 Minnesota State Court System Training	8/6/02 Association for the Advancement of Hmong Women in Minnesota	9/21/02 Youth Symposium on Legal rights for Asian Americans at William Mitchell college
5/13 to 5/14/02 AAPCHO conference on Body and Soul: Mental Health for Asian Americans, Challenges, and Perspective	4/29/02 Mount Airy Center and McDonough Center (Distribution of office brochures) 4/30/02 Rossevelt Homes (Distribution of office brochures)	2002 DHS training to review child protection cases
2/6 to 2/8/02 The 12 th Annual of TEAM conference at River Centre	10/08/03 United Cambodian Association of Minnesota	10/24/02 Forum on "Speaking out for Children: A matter of Justice"

* Bridging Refugee Youth and Children's Services

Statewide Advisory Committee on "Reduce the Use: Long Term Foster Care":

Participated in Statewide Advisory Committee on "Reduce the Use: Long Term Foster Care," in October, 2002 at the Minnesota Department of Human Services to help identify key areas to focus on for improving the work with long term foster care youth and their families.

Committee on "Reporting of Maltreatment To Minors Act": Participated in September of 2003 with the committee to advise the Department of Human Services on integrating alternative and traditional responses to reports of child maltreatment under a single statutory authority to help assure that the resulting statute reflects good practice and represents community and county interests.

Bridging Refugee Youth and Children's Services Roundtable (BRYCS) on "Foster Care at a Cultural Crossroads: Refugee Children in the Public Foster Care System": Made a successful presentation in July 2003 at the BRYCS Roundtable "Foster Care at a Cultural Crossroads: Refugee Children in the Public Foster Care System," in Washington, D.C. about the background of the Ombudsperson's office, its function, and the role of the Ombudsperson for Asian-Pacific Families.

2003 Minnesota Children's Summit: Starting Strong

Participated in the May 2003 Minnesota Children's Summit convened by the University of Minnesota-one of its first three annual summits that will focus on "Starting Strong" to promote good outcomes for children from birth to age 18.

Symposium on the "Legal Rights of Asian Pacific Youth in Minnesota, September 21, 2002":

In early 2002, the Ombudsperson was invited to participate in the planning of the Symposium on the Legal Rights of Asian Pacific Youth in Minnesota by Children's Law Center of Minnesota to ensure that Asian Pacific youth are aware of their rights and that their specific legal needs are met.

Office Coordinator: From July 2001 to June 2003, the Ombudsperson served a two year-term as the office liaison for administrative duties. She performed a variety of duties related to office work, ensured that bills/invoices (rental office, telephones, office supply, copier machine, car rental, etc.) were paid and managed the office's budget.

Community Service: This office provides internship opportunities to volunteer law students with a special interest in monitoring/observing court activities, doing intake/investigation on child protection matters, reviewing child protection cases, or conducting projects of their interest related to issues that may have an impact on Asian Pacific Islander children and families. From 2002 to 2003, the Ombudsperson was fortunate to have more than five volunteer law students from the Minnesota Justice Foundation (MJF). The office wishes to thank the MJF for their efforts to recruit the volunteers and also wishes to thank all the law students who contributed their time, effort, and commitment to the work of the office.

Guardian Ad Litem: The following Table 2 highlights a Guardian Ad Litem (GAL) project undertaken in 2002 by a volunteer law student who expressed an interest to find out why there is a shortage of Guardians Ad Litem who are Asian-Pacific and what can be done to ensure that individuals from communities of color are recruited, trained, and used in court proceedings to advocate on behalf of children of color pursuant with Minnesota Statue 257.0762 of (3).

The law student spoke with GAL program coordinators from three counties: Hennepin, Dakota, and Anoka. She reported that the common message is that counties are in transition in terms of how they operate the program. The reason for this is that the Minnesota Supreme Court promulgated the Rules of GAL Procedure, which became effective on January 1, 1999. The Rules apply to cases originating in both family and juvenile court. The Rules provided standards governing GAL qualifications, recruitment, screening, training, selection, appointment, supervision, evaluation, responsibilities, and removal.

Table 2

Anoka County: Anoka County is part of the tenth judicial district. The district mainly relies on paid Guardians Ad Litem. Currently, there are 110 GAL on the district's payroll.

Dakota County: Historically, Dakota County has not recruited GAL.

- The reason for that is that the GAL program is organized and operates on a county-by-county basis.
- There are three attorneys, all Caucasian, that handle all family and juvenile court proceedings where there is a need for a GAL.

However, the Supreme Court has promulgated state-wide GAL rules and procedures.

- Consequently, Dakota County will be implementing new changes to their GAL program this summer. These changes are being worked on right now.

Hennepin County: Number of GAL in:

- Juvenile Court: Approximately 250 volunteers
- Family Court: No volunteers
Panel of 7 Guardians and a list of guardians that the court maintains.

In Hennepin County, the percentage of cases that make it to court involving Asian families is extremely small: less than 1% annually.

- The majority of cases involve Native Americans and East Africans
- Advertising in major newspapers
- In the past, the County did advertise in community newspapers but received minimal response.
- The best source for recruiting Guardians is by word-of-mouth. For example, current volunteers tell others what they know about the program and their experience as a volunteer.

Recruiting minority GAL is a top priority:

- Hennepin has new initiative to try to recruit more minority Guardians
- The focus of the initiative is on community outreach
 - One-to-one recruiting
 - Identifying groups within the community to help spread the word.

Lack of minority GAL may be because:

- Unfamiliarity with the American court system, and perhaps people of color have had negative experiences with the court system and may perceive the system as being unfair.
- Time and resources—people are busy working.

Training: Is cultural training part of the pre-service training curriculum?

- Guardians are trained to identify children's basic needs: safety, security, housing, clothing, food, etc.
- Guardians look at case studies and apply the principles derived from those cases to a wide variety of situations.
- Guardians are generally trained to be sensitive to different cultural and religious backgrounds. Generally, they are encouraged to widen their perspectives.

12. RECOMMENDATIONS FOR CHILD PROTECTION AGENCIES IN SERVING ASIAN AND PACIFIC ISLANDER FAMILIES

The recommendations of the Ombudsperson for child protection agencies in serving Asian and Pacific Islander families with limited English proficiency (LEP) based on her findings and observations in reviewing child protection files, receiving complaints, and in-court observations during her activities in 2002 and 2003 are as follows:

- Asian and Pacific Islander parents with LEP should be informed of their right to an interpreter so that they can communicate in a meaningful way.
- LEP parents should be informed that they have the right to an interpreter whom they can understand.

- Understand the role of the interpreter. For instance, the interpreter should translate “exactly” what has been said. It is not the role of the interpreter to advise, counsel or give personal opinions.
- LEP parents should be informed that they do have legal counsel available at the time a case plan is developed and appropriate interpreters should be used to involve the parents in the development of the case plan.
- When a child is removed from the home because of allegations of abuse or neglect, the LEP parent should receive a notice, in his or her language, that the parent may request that the child be placed with a relative instead of in a shelter or foster home.
- Determination letters that maltreatment occurred, including informing the client’s rights to asking the county to reconsider its determination, should be sent with information in the language of the LEP clients.
- Supervisors and staff must closely monitor Asian and Pacific Islander children in out-of-home care to ensure that their needs are met and that they are getting the appropriate services.
- Supervisors must periodically monitor the child protection workers to ensure that rules and regulations are being followed when working with LEP Asian and Pacific Islander families and children.
- Child protection workers must be reminded that children/minors cannot be used to interpret for family members.
- Supervisors and staff must use professional interpreters when working with LEP families.
- Identify in the “Race” category the ethnicity of the Asian and Pacific Islander client (Korean, Hmong, Lao, Vietnamese, Cambodian, Thai, Chinese, etc.). This is helpful in discerning the cultural background and the language of the client.
- Asking the Minnesota Department of Human Services to include an improvement in the Social Services Information System (SSIS) application that would allow for a drop down box in the client demographic section that denotes the language spoken by the parent/caregiver and that interpreter services are being used.
- Be in compliance with Title VI of the Civil Rights Act of 1964 and to follow through with the Limited English proficiency (LEP) plan to ensure meaningful access to program information and services for person with limited English proficiency.

13. 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 256F.07, subdivision 3a; 256F.08; 260C.215; 257.075; 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 nonagency 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.

(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.

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 executive officer and such assistants as shall be necessary to carry out the purposes of this section and section 257.33.