

STATE OF MINNESOTA OFFICE OF OMBUDSPERSON FOR FAMILIES

PRESENTATION TO THE LEGISLATURE

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- I. OMBUDSMAN ROLE
- II. HISTORY
- III. MISSION
- IV. OFFICE OF OMBUDSPERSON FOR FAMILIES
- V. COMPLAINT TRENDS

OMBUDSMAN ROLE

The word “Ombudsman” or ‘Ombudsperson” has Scandinavian origins, derived from the old Swedish “umbud”, meaning proxy or power to act for another. The “Ombudsman” is an official intermediary between the citizen and government to counteract delay, injustice, and impersonality of bureaucracy. As the complexity of government administration has grown and become more regulated, the ombudsman concept plays an important role in the promotion of accountability and transparent government. An Ombudsperson has the power to review/investigate unreasonable, unfair, oppressive, or unnecessarily discriminatory acts by government officials, even if they are in accordance with the law. An Ombudsperson can be particularly effective when system change is needed. The Ombudsperson can impact changes in legislation, changes in department policies and, due to their accessibility to the public, impact public awareness.

One of the key ethical principles for an Ombudsperson is neutrality. The American Bar Association’s Standard for Ombudsman Offices states: “The Ombudsman must conduct inquiries and investigate in an impartial manner, free from initial bias and conflicts of interests. Impartiality does not preclude the Ombudsman from developing an interest in securing changes that are deemed necessary as a result of the process. The Ombudsman may become an advocate for change where the process demonstrates a need for it.” The Ombudsperson, as a designated neutral, remains unaligned and impartial. The Ombudsperson does not serve as an advocate for any party, but instead is an advocate for fair processes.

HISTORY

During the 1990 Minnesota legislative session, in response to some concerns for the growing number of children entering out-of-home care and their length of stay, legislators introduced a bill that had two intents: 1) stem the growth in the number of out-of-home placements, and 2) reduce the length of time these children resided in foster care and residential treatment.

Since the inception, the Indian Affairs Council, the Chicano-Latino People Affairs Council, the Council on Asian-Pacific Minnesotans, and the Council on Black Minnesotans had been fielding complaints and seeking resolution to problems directly related to the issue of out-of-home placement of children of color. This new legislation did not seem to address the types of complaints heard by the different councils. After a series of meetings with the legislation's sponsor, they were able to improve the legislation.

Meeting participants acknowledged the need for an extensive and methodical review of the issues surrounding children of color in out-of-home placement. A task force was formed. The task force had 40 people, including the councils of color, and they met for a year and a half. The task force identified a variety of needs including the need for an advocate for families of color who faced child protection complaints and/or removal of a child from the home. As the recommendations evolved, the task force agreed on the most effective advocate model for these problems.

The task force drafted legislation to create the Office of Ombudsperson for Families. Task force members met with legislators and explained the legislation. The 1991 Minnesota Legislature passed the initial enabling legislation and the 1992 Minnesota Legislature passed follow-up legislation. Funding limitations prevented the Ombudspersons from having their offices together, so each Ombudsperson had offices with their respective Councils. The Office of Ombudsperson for Families co-located in 1994, and have been at their present location ever since.

An essential and unique element to the creation of the Office of Ombudsperson for Families was the community-specific board. Each board is responsible for appointing the Ombudsperson for its community, while also serving as a community advisory council for its Ombudsperson.

MISSION

Our mission is to ensure that children and families are protected by law in all child placement proceedings conducted by public and private agencies and organizations.

OFFICE OF OMBUDSPERSON FOR FAMILIES

A. Authority

The Office of Ombudsperson for Families is authorized by Minnesota Statute § 257.0755 to operate independently, but in collaboration with the councils of color. The 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. We investigate complaints and if an injustice has been found, we can recommend corrective action. However, the office does not have the authority to enforce the recommendations.

B. Policy Making and Public Policy Development

Additional duties of the office include working with local and state courts, policy makers and service providers to promote integrated systems to ensure child safety, family reunification, stability, security and permanency. This office reaffirms the state's commitment of making and keeping the family whole and assisting in the well-being of Minnesota's children.

In addition to investigating citizen complaints and inquiries, the Ombudspersons are very active in policymaking. The Office recommends changes in policies, practices, and legislation to resolve complaints or prevent future complaints. We help develop policy to support and create culturally competent and bilingual social workers in communities of color throughout Minnesota. Also, ensure that Guardians ad litem from communities of color are recruited, trained, and used in court proceedings. Many times the Ombudsperson is the only person of color in policymaking meetings and committees. Their voice is greatly needed in many arenas where people of color have had little or no access in the past, even when the decisions have primarily affected the communities they serve.

When actions by the government or social service agency are not taken to correct the errors found by the Ombudsperson, the Ombudsperson may suggest policy changes to the Governor, the Legislature, and/or the Department of Human Services. Through our actions, recommendations, and work with the state and counties, courts, elected officials, other key stakeholders, and communities, Minnesota has experienced an improved rate of children who are reunified with their families, as well as an increased number of children placed with family members in pre-adoptive and adoptive homes.

We have been members of the Minnesota Children's Justice Act Task Force since it was established in 1993. The mission of the Task Force is to review and assess how the Minnesota child protection and criminal justice systems handle child maltreatment cases, and make recommendations for improvement. We are also very involved with the Children's Justice Initiative (CJI) in making recommendations on reducing racial disparities in the out-of-home placement of children of color; to identify areas in the child protection system that need improvement, and to develop action plans for making reforms in practices and procedures. Through our cross-system collaboration, we identify CJI best practices designed to improve outcomes for children of color and American Indian families. We also work to identify and address barriers to child safety, permanency, and well-being at the state and county levels. In addition, we serve as the liaison for our communities' respective stakeholder groups and communicate the CJI goals and values to those stakeholders.

To further illustrate the policymaking that we work on, additional examples of committees we have also served/serve on include:

Racial Disparities Initiatives (Ongoing from 2000)
African American Disparities Advisory Committee

Our Children, Our Future (OCOF)
Ramsey County Ending Racial Disparity Task Force
Minnesota Supreme Court Children’s Justice Initiative (CJI)
Tribal-State Agreement
Bilingual Services Providers Survey
DHS Children’s Justice Act (CJA) Task Force
Minnesota Child Welfare Training System (MNCWTS) Central Steering Committee
Ramsey County Citizen Advisory Panel
Hennepin County Child Protection Task Force
University of Minnesota, Gamble-Skogmo Advisory Panel
Minnesota Task Force on Financing the Future of Child Welfare
Structured Decision-Making Policy and Procedures of Minnesota Department of
Human Services
Maltreatment Guidelines Committee
AARP Minnesota-Pathway to Kinship Care
ICWA Committees

C. Indian Child Welfare Act and Minnesota Indian Family Preservation Act

On October 27, 1978, Congress passed the Indian Child Welfare Act (ICWA). This law mandates that the tribes be notified if an Indian child is in out-of-home placement and that the tribes are involved in decision-making for their children. Under ICWA, tribal courts must be given the option to take jurisdiction and the state must engage in “active efforts” to preserve Indian families, including the provision of culturally appropriate services for struggling families, and to actively reunify the child with his or her birth family and/or to place the child with extended family, another family within the same tribe, or with a Native family from another tribe.

In 1985, Minnesota’s State Legislature enacted the Minnesota Indian Family Preservation Act (MIFPA). MIFPA and its amendments strengthen and expand ICWA, while emphasizing the importance of maintaining tribal involvement and communication, requiring tribal notification for voluntary proceedings, and appropriating funding for provision of services to Indian children and families.

COMPLAINT TRENDS

The Office of Ombudsperson for Families receives a wide range of calls each year that include the following types of complaints:

- Unjust cause for child’s removal
- Relatives or family are not being considered for temporary or permanent placement
- The social worker or Guardian ad Litem do not speak the clients’ language, nor are interpreter services being provided in a timely manner
- Transportation is a barrier to visitation
- The case plan is completed but the social service agency will not return the children

- Unable to get into necessary health or chemical dependency treatment in a timely manner
- Inadequate housing
- Ineffective counsel, or no attorney provided
- Social worker/supervisor will not return calls
- Mistreatment of child in foster home
- Unable to obtain foster care licensing or employment because of past child protection involvement, criminal record or maltreatment finding
- Failure to provide linguistically and culturally appropriate mental health services
- Placement is not in the best interest of the child
- Child protection workers lack cultural sensitivity and are disrespectful
- Violations of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act