

**Chairman Corn Testimony to The Alyce Spotted Bear & Walter Soboleff Commission on
Native Children**

Friday, June 24, 2022
via virtual conference

1. Introduction

(in Menominee), Posoh Mip, All my Relatives, My name is (Menominee Name) English or government name, Ron Corn Sr. Chairman of the Menominee Nation of Wisconsin.

I want to first acknowledge and thank the Commissioners of the Alyce Spotted Bear & Walter Soboleff Commission on Native Children and want to say Maec Waewaenen (Great Thanks) for the important work of watching over our native children.

I would also like to join my fellow tribes from the Midwest Region in saying Welcome to our homelands.

The topic of discussion is Children. Nothing is more important to our tribe than our children. They are our future and key to our continued existence.

2. Challenges

For the children of Menominee, our challenges began with the federal government's attempt to assimilate native people. Our children, like many other Indian tribe's, were forcibly removed from their families to attend boarding schools.

This disconnection from the family and loss of language and culture is what is profoundly responsible for the challenges that we see, still to this day.

Our Children, like many other native children, experience high rates of "poverty, child abuse, domestic violence, crime and substance abuse" as your press release for this gathering also affirms.

For Menominee, the injustice continued on June 17, 1954 when the tribe became subject to 25 U.S.C. 891-902, also known as the Menominee Termination Act. Our lands had now become the 72nd County for the State of Wisconsin.

It wasn't until 19 years later, on December 22, 1973, that the Menominee Restoration Act was passed restoring our tribe to protected federal status. During this time our families experienced further loss of identity, support systems, and resources.

Wisconsin is one of the mandatory PL-280 states. However, due to Termination before Public Law 280 was passed and Restoration after, we fought to ensure that Public Law 280 was not forced on us. On March 1, 1976, the State of Wisconsin retroceded jurisdiction to the Menominee Indian Tribe of Wisconsin, making our Tribe the only non-PL 280 Tribe in a mandatory state.

While the Menominee Restoration Committee was taking on the enormous task at hand, we adopted by reference certain Wisconsin child welfare and juvenile justice statutes as tribal law as a "placeholder" under which the tribe could enact its own juvenile code. During this time period, on reservation investigations, intake, and ongoing services were contracted through agreements with the State and later Menominee and Shawano Counties. However, the cases were filed under Tribal Law and in our Tribal Court.¹

One of the main goals of restoration was to get back to taking care of our families, in accordance with our own laws and traditions. We know the connection to our lands; our forests and waters IS healing that would help restore the lost identity and help combat the trauma. Culture and connection to who we are IS prevention, perhaps it is the greatest kind of prevention,

One of the biggest challenges we have is working in a Mandatory 280 system as the only non-280 Tribe. The State of Wisconsin is a County-State hybrid system for providing child welfare, child protection services, and juvenile justice that simply does not fit us.

¹ On September 13, 1978: Ordinance 79-14, Interim Law and Order Code adopted 25 CFR Part 11 which made applicable to the Menominee Reservation Court of Indian Offenses the following:

"Until such time as the Menominee Tribe enacts its own juvenile code, the provisions of the Wisconsin State laws relating to juveniles, Wisconsin Statutes 48.12-48.47, 48.78, 48.81-48.97, and Chapter 54, are hereby incorporated by reference and made applicable to juvenile cases arising on the Menominee Reservation".

This act further Provided, that "rendering of juvenile services to the Menominee Tribe shall be in accordance with the agreement entered into on March 15, 1978, between the Wisconsin Department of Health and Social Services and the Menominee Restoration Committee."

3. Successes

The welfare of our children began to change for the better on November 8, 1978 when the Indian Child Welfare Act (ICWA) was signed into federal Law. It was further improved upon with the passage of WICWA on December 7, 2009, the State of Wisconsin's companion adoption of the federal law. However, to this day, the laws, notice requirements, and participation are not always followed or are under constant attack. When we attempt to assert our jurisdiction or have a stance that is different, the relationship can quickly turn adversarial and at times obstructionist.

The Tribe, under its sovereign and governmental powers, took a new approach of exercising exclusive authority of our children, taking the lead role in looking after the best interests of our children and families on reservation. Previous to this, the older Tribal Social Services Department could only provide voluntary services and off-reservation ICWA representation.

On July 21, 2018, the Tribe adopted Ordinance 18-11, Chapter 278-Children's Code taking full authority for its own children's best interests. This began the process of transferring cases and workloads to the newly formed Department of Family Services. One of the many reasons the Tribe adopted its Children's Code was to provide a trauma informed and trauma responsive approach focusing on the individual needs of our children and families. A big focus on our code is the wrap around service model, Netāēnawemākanak ("all my relatives/family") placing the child and family at the center of services, with their needs driving all of the work from the support team. We also added to our definitions of abuse and neglect to make them fit our community because we were seeing too many screened out cases by the County.

The code became fully implemented on June 1, 2020, allowing only the Tribal Family Services Department to provide intake, investigations, and ongoing casework for all cases filed in the Menominee Tribal Court.

Amendments to the code continue to be brought forward to help improve upon and further strengthen department's commitment and exemplary service to our families and children.

The programs and interventions that assisted us with getting to where we are at have been the 2006 Bridges Out of Poverty training, 2008 Historical

Trauma Training, 2010 Community Engagement Workshops, and 2013 Fostering Futures and Trauma Informed Care initiatives.

The success of our Children's Code was especially supported by the Casey Foundation Family Programs. They provided guidance, connection with other Tribes, like Navajo, White Earth, Tulalip, and Eastern Cherokee, and connections to professionals in child protection and Indian child welfare, tribally grounded approaches.

4. Needs

Despite the successes listed above, our system of care still has many unmet needs. The passage of the Tribe's Children's Code, while transformative, set up parallel or duplicative service points with the County of Menominee. The county which has co-terminus boundaries with the reservation still provides services to the same clients however, for several reasons, lacks the proper jurisdiction to fully resolve cases in our tribal court.

Efforts to resolve differences became a major challenge. The Tribe reached out to the State of Wisconsin's Department of Children and Families, Department of Health and Human Services as well as to elected leaders in the State Assembly & Senate.

As of our June 1, 2020 Tribal Children's Code enactment, the Tribe has had no access to federal IV-E out of home care maintenance reimbursement for its IV-E eligible children and families and as reimbursement for prevention services is expanding the out of pocket expenses means less money available on expanding culturally appropriate prevention services.

In 1983 Wisconsin Act 161 was passed by the State Legislature. It created a mechanism for County Social or Human Services Departments to make payments for costs of out-of-home placements of Indian Children when the placement is ordered by a Tribal Court and the county and the Tribe have entered into a written agreement regarding how payments will be made. Prior to the Tribe's Children Code, the Menominee Tribe was the only Tribe to pay counties under this agreement because we were contracting with the County to provide the intake, investigation, and ongoing services through this agreement. These cases were still filed under tribal law, by the Tribal Prosecutor in Tribal Court.

When the Tribe reached out and provided a new draft 161 Agreement reflecting the change of primary service work and change in Tribal law and other intergovernmental agreements with county governments to help clarify roles and service disruptions, the Tribe received little or no response. This is currently the only mechanism the Tribe has for immediate access to IV-E out-of-home care reimbursement. With no agreement, it is an ongoing struggle to receive timely reports and full information of referrals. There are repeated attempts by County workers to bring in these cases to state circuit courts despite being continually dismissed for lack of jurisdiction and Tribal workers assigned and cases filed. This takes the focus and resources away from providing our direct services and further traumatizes our families.

The State of Wisconsin has a pass through agreement for Administrative costs that we participate in, but currently there is no option or consideration of a pass-through agreement for maintenance. One of the reasons provided for this is that the Tribe needs full access to the State's Child welfare computer database but that is currently unavailable or cost-prohibitive. Tribes only have read only access and can make notes. The response to recent inquiries by the Tribe into the possibility of working on a pass-through agreement for maintenance with the State was being notified that Tribes have the ability to apply for direct IV-E reimbursement.

We are working on becoming a direct IV-E agency, but three to five years is too long to wait to any potential for IV-E reimbursement for out of home care placement costs and eligible prevention services under FFPSA. Especially when almost all of our children and families are IV-E eligible.

The Tribe is also in need of more federal funding and non-competitive grants, to pay for critical direct services to help restore our families back to a healthy state and supplemental services to build Tribal system and service capacities. The trust responsibility to fully care for our children remains unmet.

We need funding for more culture and language restoration as a means of healing from decades of historical trauma. This request wholly aligns with the intent of the Family First Prevention Services Act. Culture and tradition as prevention and effective treatment should not be ignored, especially when combined with other supportive treatments and services. Support for waiving the evaluation requirement in evidence based clearing houses and increase funding to support determining practice thresholds for small

populations like American Indians and Alaska Natives is needed so that Tribes, their traditions, and unique ability to help their people are not shut out from reimbursement or funding.

5. Conclusion

Ongoing efforts such as these gatherings and testimonies help us to continue to improve the quality of life for not only the child but the Menominee family as a whole.

Our Tribe is proud to announce the recent signing of an MOU with the Casey Foundation Family Programs to continue and support our future work in child welfare. We aim to do this through an ongoing and collaborative relationship that puts the child at center and we as a community around them in a protective circle like our ancestral families once did.

We want to thank the Commissioners of the Alyce Spotted Bear & Walter Soboleff Commission for this opportunity to testify today. Our children thank you from their hearts.

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I am available for any questions that you may have.