

**TESTIMONY OF THE HONORABLE MAULIAN DANA
AMBASSADOR OF THE PENOBSCOT NATION**

Chairwoman McCollum, Ranking Member Joyce and members of the Subcommittee, I want to thank you on behalf of the Penobscot Nation for continuing to hold these public witness hearings. Every tribal nation is unique with different challenges, and we each have a separate government-to-government relationship with the federal government. It is important for you to hear from as many of us as possible about how these federal programs are being implemented and whether the goals of the program are being met. Thank you to Ms. Chellie Pingree for always taking the time to learn our issues and advocate for all of the tribal nations located within Maine's borders. Your efforts are greatly appreciated. This year, the Subcommittee has asked witnesses to focus on one issue area. My testimony will focus on what continues to be our most critical public safety and justice issue: combatting the continued epidemic of opioid, methamphetamines and other drug abuse within the Penobscot community. But, I also want to make sure that the Subcommittee understand how important our natural resources are to our community, which is a sustenance community that relies on hunting and fishing. The programs at the Environmental Protection Agency are critical to our natural resources, and I hope the Subcommittee will continue to protect that funding.

Before I get into the details of our drug epidemic, I want to first provide you a brief background on the Penobscot Nation. We are an indigenous nation comprising approximately 2,400 citizens and over 123,000 acres in land holdings. Nearly 91,000 acres of our lands are held in trust by the United States; the rest we own in fee simple title. We are unique from many other indigenous nations in that a significant portion of our land consists of about 200 islands located within approximately 80 miles of the Penobscot River. Our main housing community and seat of government is located on the largest island called "Indian Island."

We are a treaty nation, but a victim of federal and state-approved settlement acts that have created a jurisdictional legal maze that has wreaked havoc on our ability to prevent and, now, sufficiently combat the drug epidemic we face. I use the word "victim" because although the Penobscot Nation agreed in the late 1970s to settle claims for the wrongful taking of our lands, we did not consent to the final versions of the state and federal laws that ultimately settled those land claims and many other claims that we did not expect to be included in any settlement. More, the settlement acts included provisions that have now been interpreted as providing the State of Maine with jurisdiction over our lands and indications that subsequently-enacted federal laws do not apply to us unless Maine tribes are expressly mentioned in them. This jurisdictional maze has led to our community being targeted by drug dealers who think that there is less of a chance that they will be caught and prosecuted because our tribal courts do not have jurisdiction over them. We participate in the New England Drug Task Force and information from that Task Force indicates that drug dealers from other states view Indian reservations as havens for avoiding State and federal law enforcement.

This background is relevant because the current Penobscot drug epidemic is a part of a larger statewide opioid epidemic in Maine. And, not surprisingly, the State has focused its resources on addressing its drug epidemic, with little to no resources being directed to the Penobscot Nation. In the first six months of 2018, there were more than 180 overdose deaths in Maine. Nearly one person a day in Maine died of drug overdose in 2018, which is a significant number for a state with 1.3 million citizens. The top killer was the powerful synthetic opioid fentanyl. The number of EMS NARCAN administrations has quadrupled every year since 2014. One in four deaths in

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Maine now involve heroin or morphine. Maine is now the 6th worst state for rise in overdose deaths.

This statewide epidemic has been trickling down to the Penobscot Nation. Eighty-seven percent of all Penobscot Nation child welfare cases within the last three years involved parental opioid abuse. Nationally, Native Americans are dying from opioid overdoses at almost double the rate of other ethnic groups.

We are a non-gaming tribe with few financial resources, which requires us to rely heavily on federal resources to combat this drug crisis. Our Healing to Wellness Court has been our most successful tool to combat this epidemic. This court program involves collaboration between ten tribal departments that work together to develop a holistic treatment and wellness plan for each participant. Individuals are referred to the program through our criminal or juvenile justice system or through our child custody or abuse proceedings. Thus, are law enforcement personnel play a critical initial role in our efforts to combat our drug problem. Our tribal court performs the administrative components of this court program and our tribal health clinic performs the medical aspects. We are the only tribal nation in Maine that has a healing to wellness court with a medically-assisted treatment component. Our health clinic provides primary care services on-site and access to specialty care services via the Indian Health Service Purchased and Referred Care program. In order to facilitate access for the medical and mental health components of substance abuse treatment, we have developed strong partnerships with local healthcare networks. Our Medical Director, for example, also serves as Adjunct Faculty at the Northern Light Eastern Maine Medical Center. This relationship with the local non-Indian medical center streamlines our ability to access the services available there.

Thirty-nine individuals have successfully graduated from our Healing to Wellness Court program, and only two graduates have reoffended in the years following their program completion, and both of those individuals re-entered the program. One has since graduated again and is employed full-time as a mechanic. The other is working through the program again. So, the program works once we are able to get individuals admitted into the program. The program's success is now receiving recognition from the Maine State Courts. In some cases, the state courts are now requiring Penobscot citizens to apply for, and be admitted to, our Healing to Wellness Court as a condition of probation for offenses committed off of our reservation. Similarly, the federal U.S. Attorney's Office for Maine has requested that our Healing to Wellness Court accept a citizen from another Maine tribe, who committed a federal offense, into our program as a condition of that person's probation. The Chief Justice of the Maine Supreme Court is planning to visit our court later in March, and the State Legislature is looking to model a State drug court program on our Healing to Wellness Court program.

Our biggest problem is that we only have the resources to serve a portion of those persons in need. This is incredibly frustrating given that the costs of this program (\$7,500 per individual per year) are substantially less than the cost of incarcerating people (\$38,000 per individual per year at the Penobscot County jail); and the long-term impacts of trauma within the family and community are significantly reduced. But, there is no federal funding that we are aware of specifically targeted towards these types of programs. We do our best to cobble together our various federal funding so that we can develop a comprehensive, coordinated and balanced

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strategy for combatting the drug epidemic we are facing. Our Healing to Wellness Court relies on funding from the Bureau of Indian Affairs' (BIA) Public Justice and Safety programs, including law enforcement and tribal courts, and from the BIA's Human Services programs, including funding for Indian Child Welfare and Social Services. Additionally, we rely on funding from the Indian Health Service (IHS) to perform the medical treatment component of our program. This funding is our core foundational funding. We then apply for discretionary grants from the Department of Justice and the Substance Abuse and Mental Health Services Administration (SAMHSA) to supplement our core funding that we receive from BIA and IHS. We were recently awarded funding from SAMHSA that we are very appreciative of. However, while this funding allows us to provide treatment to the individual program participants, the funding cannot be used for core court personnel who devote significant time to the administration of the Healing to Wellness Court.

Healing to Wellness Courts work and significant strides can be made to combat the drug problems we are facing if the following can happen:

- Either funding is specifically set aside for these types of programs, or increases are made to the relevant BIA and IHS programs that help fund the services provided by Healing to Wellness Courts. We always recommend that the Subcommittee include language in its report for the appropriations bill that directs the Interior Department and IHS to develop a task force focused on increasing the number of Healing to Wellness Courts in Indian Country.
- Core funding for tribal courts needs to be increased. We cannot operate a Healing to Wellness Court without judges, essential personnel and an adequate administrative process. Tribes located in States where criminal jurisdiction is shared with the State receive little federal funding for our courts. This needs to change as tribal courts are key to the health of communities regardless of the concurrent jurisdiction that State and Federal governments may exercise over our lands.
- Continued increases in funding for the Purchased and Referred Care program at the IHS is critical for us to access specialty care, and there needs to be an increase in funding for the IHS Alcohol/Substance Abuse line item.

In addition to funding the key components of Healing to Wellness Courts, there are four other items that can dramatically help in the battle against drug abuse in Indian Country. First, there needs to be an increase in funding for BIA drug investigators. We have been trying to participate in the Maine Drug Enforcement Agency, but in order to do so, we need to a drug agent to the Agency. After advocating for an increase in funding for several years, the BIA has decided to hire a drug investigator that will focus on the Maine tribes. However, the hiring process has taken almost a year and the position is still vacant. We need to get this position filled. Second, we see a serious gap in recovery services for those who graduate from our Healing to Wellness Court program. We think the number of re-offenders can be reduced if we can get funding from BIA or IHS for "recovery coaches," or essentially for counselors who can continue to monitor the success of those individuals who graduate from our court program. Third, our tribal health programs need to get away from prescribing opioids to manage the long-term pain that many of our citizens suffer from while they await medical treatment. At Penobscot Nation, our health care providers now rely heavily on alternative treatments for pain management from off-site

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providers, such as physical therapy, to reduce reliance on chronic opioid use. However, these services are significantly more expensive than previous pharmaceutical treatments, creating a further draw on already strained resources that we receive from IHS. We ask that the Subcommittee keep this in mind when you are determining the funding levels for IHS. Lastly, as the Penobscot Nation battles the ongoing drug epidemic in our community, we are faced with the problem of how to address the significant level of trauma leveled on families, particularly on children. We are shocked that there does not seem to be any federal programs focused specifically on addressing the impacts of trauma on youth effected by the drug epidemic. Drug abuse is breaking up families in our community, and while we have focused on trying to treat the individuals who are using or dealing the drugs, the children of those individuals are falling through the cracks. There needs to be some federal funding available to help these youth and stabilize families. We know that the Interior Department developed a pilot program, the Tiwahe Initiative, which focused on juvenile recidivism, child welfare and family stability, but the current status of this program is unknown to us. The impacts of drug abuse are real on our youth and families and will only increase and create more problems if we do not start addressing them now. So, we ask the Subcommittee to consider this issue.

The drug epidemic is reaching crisis levels within our community. Our employees (both Indian and non-Indian), citizens and leadership are doing a great job in coming together to try and combat the issue, but we really need some additional resources. We hope this Subcommittee can help identify some additional funding to help combat these problems.

Although my testimony today focused on our public safety crisis of drug abuse, I want to conclude by reminding the Subcommittee that we, and many other tribal nations, continue to exercise our sustenance lifestyles of hunting and fishing, and rely on our lands, water and natural resources to survive. Thus, funding for programs that protect our lands, water and natural resources are vital to the long-term health of our communities. This includes funding at BIA for game wardens and our Natural Resources Department, and funding for programs at the Environmental Protection Agency that help tribal nations monitor and protect their lands, animals and waters. We currently have two full-time game wardens to cover over 120,000 acres of land. We need at least one more. The Penobscot Nation relies on funding from the following EPA programs: the Brownfields Program, which allows us to monitor and clean up slightly contaminated properties for repurposing; a Performance Partnership Grant, which is where we get most of our funding to monitor, sample and analyze water quality and to reduce and prevent non-point source pollution; the Air Quality Program, which we use to monitor mercury contamination, which is a problem in our waters and impacts the fish; and the EPA's Wetland Program, which we use to develop our own wetland program. Any cuts to these programs would have a critical impact on us and our ability to manage our lands, water and natural resources that we rely on.

Thank you again for allowing me to testify today and for considering our issues and concerns.