

**NEW HAMPSHIRE CITIZENS COMMISSION ON THE STATE COURTS
STEERING COMMITTEE MEETING MINUTES – August 9, 2005**

Attendees: Will Abbott (Co-Chair), Kathy Eneguess (Co-Chair), Byron O. Champlin, John D. Crosier, Nina Gardner, Eric B. Herr, Ed Kelly, Claudia D. Nixon, Michael Ostrowski, Dr. James W. Squires,

Other Attendees: Richard Knox (National Web Group), Ann McArdle (Project Manager), Matt Rivera (National Web Group), Andy Smith (UNH Survey Center), Cathy Yeager (recorder)

McArdle: We have a couple of important guests on the agenda. We have Andy with an update on the survey and we have Matt Rivero and Rich Knox...to talk about the web page. We had a meeting last week on the web page which moved us along pretty well. [addressing Matt Rivero]: Do you mind if Andy goes first?

Rivero: No! Not at all!

Smith: What I've got for you today is partial data; it is about three-quarters of the survey data. Because it is partial, I would appreciate your not letting it get out. The final data will be different, and I do not want to see it getting out; the differences between these data and the final data will be one, two, or three percentage points. Some people may get hung up over one, two or three percentage points and wonder why some data is different than the other. That's just a caveat going into it.

As of Sunday, there were 573 completed interviews. Last night's data is not included. They will be finished this week. They were conducted with randomly selected respondents within randomly selected households. The survey is taking about 17 minutes to do. It is going well. This time of the year, we stretched out the field period to be certain we catch people now on vacation and not available. We will try to get them in later on. We are not in a real hurry to complete the survey other than our own timeline...the timeline for getting the data and getting it back to the Commission. I do not think there is anything going on that will cause peoples' attitudes about the courts to change over the course of the month, so I do not think we need to worry about that.

I am just going to go through the results of the questions today in the same order they are on the survey. I did not try to group these schematically, but I think you will see a number of the same themes coming up as we go through.

The first series were questions asked about cases that were handled by the courts. They were: "...like you to think about your courts and your communities...courts handle different types of cases. As you know, there were several criminal cases in the courts. The courts also handle other kinds of cases. I would like you to write how well the court does on a scale of one to five." One is lowest and five is the highest. This is a five-point scale on how well the courts handle cases. Over all, people in the state are generally just not familiar with how well the courts handle any cases. Of those people who are familiar, they give pretty high ratings. So, I think this is an important thing to go through; most people do not know a lot about what the court is doing, but their assumption is that it is good. If we are thinking of this as a public relations battle, we've got a white slate with general good will behind it to work with. There are not a lot of strong negatives here.

I first want to show you the "don't knows." The red bar here is New Hampshire; the blue bar is the nationwide numbers to compare. "How well do community courts handle cases...violent crime cases?" In New Hampshire, 36% say they do not know; 33% say they do not know how well we handle non-violent crimes; 48% don't know how well we handle civil cases. So, you can see the difference between New Hampshire and the

national numbers is quite large. Actually...surprisingly large, and I am thinking about why this would be the case throughout. I will show you some numbers later that show one of the biggest differences is that, (compared with nationwide), people in New Hampshire have very little personal experience with the courts. They have not been to court themselves; no one in their household has been to court. So, they do not have a lot of that personal experience with how things work. Also, I think...as we were talking here earlier...there are some issues with the population of New Hampshire being high education, high income, low poverty rates, low crime rates; essentially, we have a lot of the characteristics that are correlated negatively with people having to go to court. So, we are in a situation here where most people do not have a lot of personal experience.

And, here are the ratings. This is the percentage of people who rated a four or five on that five-point scale. So they gave it one of the two highest scores. You can see that the numbers for New Hampshire are slightly lower than the national numbers. What you've got to remember is there is a high percentage of 'don't knows.' There are not much more responses left. These actually are quite high scores if you factor out the 'don't knows' and just look at the people who gave an answer. People in New Hampshire rate how well the courts handle different cases much higher than people in other states nationwide...significantly higher.

Crosier: ...the folks that know...the child care disparity...is that what the child cases are?

Smith: Child support cases?

Crosier: Yes. Is that what the child cases are?

Smith: Yes. The child support question is one that was not asked in the nationwide survey. That was one we added based on discussion. Mr. Clements wanted to pull that apart from some of the other issues dealing with child support...that was child support cases and juvenile delinquency cases.

Crosier: Are the proposed changes you know of...the changes in the Family Court...apt to improve some of the disparities?

Gardner: ...in the family relations category?

Kelly: There is a greater community connection...there are more sites so people have more local contact with the courts. I am not sure I see any comparison with any other...any real disparity there...

Gardner: I think there are some changes coming in House Bill 640 that will go into effect in October. I think we will begin to see some changes here that will provide greater satisfaction.

Abbott: Are these benchmarks that you feel comfortable with so that if we did another poll six months from now and 12 months from now, 18 months from now and you saw trends, would they be valid trends?

Smith: Yes. I think so. These numbers, from the sample we have, are just not going to budge much...not going to move very much. This survey right now of 573 is about 4.1%...4.2%...it is not going to move much. The one...the area I think could move...the biggest thing I am seeing right now is that people just don't know. With sort of a public relations effort...public awareness effort...don't knows could be pushed down. I don't think, if they get pushed down, they will go into the negative category. They will go into the positive category.

The next series of questions asks about rating New Hampshire courts with other local institutions. Courts rate about the same as they do nationally, but people in New Hampshire rate our schools and our police much higher than people do nationally. You can see the numbers here. Again, they responded 4 or 5 on that same five-point scale in the top two boxes; 25% of people nation wide and 27% of New Hampshire residents rated the courts 4 or 5. You can see, when it gets into police and schools, we rate them much higher. Again, the "don't knows" for the courts are significantly higher.

Squires: Can you say, if you look at schools that 52% think schools are a 1 or 2 or 3?

Smith: No. I can tell you what that number is on the schools...on schools 1, 2, or 3 is 36%; 7% said they did not know enough about schools to say. With courts...67% gave the courts 1, 2, or 3; 57% rated the courts 3...that neutral category which is "I'll put them there because I really do not know anything about it." There are ways you can look at that...in customer satisfaction, you want to take those people who are in the neutral category and treat them as if they are not satisfied or not aware because you want everybody to be on the positive side of the scale rather than in the middle or on the negative side of the scale. But, in this case, I think it is a lot of people who just do not know, and they are just plunking themselves right in the middle.

We had a series of questions about fairness and how well people...how fair the courts are...how fair outcomes are. The first one is, "How often do you receive fair outcomes? How often do people receive fair outcomes when they deal with the courts?" You can see the New Hampshire bar...it's the top bar...49% (about half the people who responded) say they always or usually receive fair outcomes when they deal with the courts. You can see the purple and red...that's only 6% who say they don't receive fair outcomes. You can compare that to national figures...nationally only 38% say that they usually or always have fair outcomes; 15% say they felt they seldom or never receive a fair outcome.

Squires: It that criminal or civil?

Smith: The general question on this was, "Now I'd like to ask you a few questions about courts in the community. How often do you think people receive fair outcomes when they deal with the courts? Would you say always, usually, sometimes, or never receive fair outcomes?" It is more of a general thing about courts in the community.

The next question is similar, "How often do you think the courts use fair procedures in handling cases?" So, again, you get very strong perceptions of fairness here; 60% think the procedures are always or usually fair. Only 8% indicate they are seldom or never fair. This compares very favorably with the national numbers; nationally it is only 46%. The perception, again, here is that things are fair. This is seen throughout the data here. People think the courts are fair, and they treat people properly. I can't give you any real bad news here!

Now, let's go to attitudes about the state courts. People are perceived to be treated well. There is a perception that they are expensive and slow. There is a lot of information on this chart. Again, the red bar is New Hampshire and the blue bar is national. There are several statements about the courts: "We are going to review a list of statements about the courts in your community. Please tell me how strongly you agree or disagree with each." So, on a 4-point scale from: Strongly Agree, Somewhat Agree, Somewhat Disagree, Strongly Disagree; there is a Don't Know category as well. I put them in order in which they received the highest agreement so you can get a sense of what people really like and what they are not so concerned with.

"Courts are concerned with people's rights." Here 78% either strongly agree or somewhat agree with that.

"They make decisions based on facts." Here 74% indicate they treat people with dignity; 73%...these are all higher than the national numbers..."They are sensitive to the need of average citizens." It is 66% versus 60%. "They listen to what people say." This is 55% to 53%.

In the next three questions, we ask New Hampshire folks questions they were not asked in the national numbers: "The right to victim representatives" is 63%. "Decisions are fair and consistent." That is 60%. "Mediation...mediation was decided fairly..." Let me read that one: "Mediation disputes by courts are handled and decided fairly."

Then, there are two negatives. "Cases are resolved in a timely manner." Here we are a little bit higher than the national numbers; only 38% think the cases are resolved in a timely manner. Worse, only 27% think it is affordable to bring a case to court. So, we are perceived as being less affordable than people nationwide.

McArdle: Is that the first question where we are lower than the national?

Smith: Yes. It is the first one where we are really lower than the national...perception of cost. That is interesting in that we are one of the highest income states in the country...

Champlin: But, we are at the bottom of giving...

Rivero: The first thought that came to my mind as we were talking about demographics of the state...higher education...higher income...is the types of cases people go to court with. Are they more expensive kinds of cases?

Smith: I don't know...the other point, though, is New Hampshire folks have deep pockets and short arms!

McArdle: It is also true that the billing rates for attorneys in New Hampshire are, certainly, no higher than neighboring states and may be lower than many neighboring states. It's an interesting flip...

Gardner: Andy probably has the answer to what lies ahead when you ask questions about...access to legal services...a question could be tied to this one...when they look for legal services, what do they look for?

Eneguess: Do we know why the national surveys do not ask anything about mediation?

Smith: Do we want to have it?

KE: We wanted to have it, but I am interested in...

Smith: That survey is a little bit older...maybe they did not have consistency in mediation in the courts across the country.

Herr: Do you have a sense about how the people who "don't know" respond here? Do they tend to respond more positively or more negatively?

Smith: I think the perception is, if they do not know, they lean toward positive.

Herr: So, if we sit down with people who know...

Smith: When we looked at the people who have experiences versus not experience that would be one of the questions...

Now, "Are some people treated worse than others?" These are numbers from New Hampshire only because we have some specific things in New Hampshire...our demographics are so different here in New Hampshire, I didn't think comparison is necessarily...at this time...it will be in the final report. "The people we think are treated most unfairly are involved in custody cases." That is 25%...that they are always or usually treated worse than others. "Pro se litigants always or usually treated worse than others...is 23%; low income people...we get into minority groups...non-English speakers is 17%; Hispanics 15%; African-Americans; 14%. We have a high percentage of "don't knows" here as well. These numbers are lower than the national levels.

Crosier: Are New Hampshire laws, with respect with the rights of fathers (because of our laws), different than a lot of states?

Smith: We are not going to have any comparisons for that number. That, again, is a question we decided to add to the New Hampshire survey.

Eneguess: Is New Hampshire well organized around that issue, as an advocacy group?

Gardner: New Hampshire is getting better organized around that issue.

Eneguess: I don't get it...in comparison to the others...

Gardner: I don't know, but New Hampshire!

Smith: There is rather anecdotal evidence...last week there was talk of different issues...issues of a fathers' group...fathers' rights came up...the editorial board were all rolling their heads because they have been bombarded by those groups.

Crosier: Would you say they are more vocal in the communities of New Hampshire?

Gardner: Yes! And they are really becoming quite sophisticated, and they have got an audience. So they are really moving forward. So, I am wondering if this will skew here at all.

Herr: Probably not markedly different.

Gardner: No! I do not think it is skewed, actually!

Champlin: What's interesting to me, though, is that when we throw in the "sometimes" responses, the plurality of people feels that the system is biased against the group or several of these groups.

Smith: I do have to say that the way the question is posed assumes there is some bias there. The mere fact that we ask the question, presupposes there is a problem. There is research and books about how framing of questions can lead people to particular answers; I think it is called "agreement bias."

Gardner: I think that people need to recognize that the whole role of fathers in these cases is evolving nationwide. So, I think we are sensing responses that reflect that and need to reflect that. That's what 640 intends to begin to deal with is that change.

Smith: And, you add in low income and the "sometimes" and "seldom." Seldom would be, to me, maybe once in a while. "Sometimes" is a little more frequent. Look at the sense of a bias, if I can use that term, against low-income individuals.

McArdle: Did we come up with these categories, or were they...

Smith: These are from the national study.

McArdle: Because there are several other categories you could put up there.

Smith: Yes. These are categories from the national survey.

There were several questions they asked nationally about non-traditional roles of the courts, and here we are less supportive than in the national survey. We are less supportive of a lot of these more non-traditional roles of the courts.

McArdle: It's "snap out of it!"

Smith: Yes! "...the courts considered the causes of emotional problems in their decisions." It's talking with psychologists, etc. about causes of emotional problems. And, "The courts should be responsible for local agencies and making sure that people with drug and alcohol problems are being treated properly by local agencies." Then, "The courts should order a person to go back to court to talk to the judge about treatment process." And, "The courts should hire drug treatment counselors, social workers as court staff members." So, there is significantly less support for these more non-traditional roles and non-traditional things...it's fairly strong.

Ed Kelly: Support is amazingly high on these...

Champlin: ...at a time when there is so much flack about the role of the courts: "...consider emotional problems in the decision." I am very surprised to see that it is above 50%!

Smith: The way it is worded is: "agree or disagree that the courts should consider what psychologists and medical doctors know about the causes of emotional problems when making decisions about people in court." This is an interesting one. I think there is a lot of support there, but not the things we see nationwide.

McArdle: It will be interesting to see how this changes over time.

Smith: Yes. Okay, now about personal experience with the courts. I think the major reason New Hampshire has less familiarity with the courts is that they do not have personal experience. So, we have less familiarity and are much more likely to say "we don't know" about these things than people nationwide; 61% of the people in New Hampshire say they have had no experience with the courts at all...no personal experience. Only 37% indicated this nationwide.

Then, "Someone in your household has had personal involvement in the courts in the past 12 months." This is 13% versus 38% in the last 12 months. For "family member" it is a little bit higher. People saying "no" but have had at some time in the past is about the same, but people who have had no personal involvement in the courts is much higher.

McArdle: Does this include something simple like serving on a jury?

Smith: Let me read the question. "Have you or a member of your household had any personal involvement in the courts in the last 12 months as a plaintiff (person who brought a law suit), a defendant (one who is being sued or charged), serving as a member of a jury, being a witness in court, or something else." It is open and it is identical to wording used nationally. This is a real difference here and it is one I was not expecting to be anywhere near this high. I thought we would be a little lower; I thought we would fall in the 25% to 30% range.

Herr: But, even the "no personal involvement" data says that more than one-third of the population is involved with the courts every year.

Smith: That's one-third of the households are involved with the courts every year. If you add the "17," the "10," and the "13," together, you get 40% have had some involvement in their lifetime.

Herr: ...in 12 months...

Smith: Well, that one-third category "no," but "have had sometime in the past." That is not in the last 12 months. Only the two categories on the left are in the last 12 months.

McArdle: That's about one fourth.

Smith: It's about a quarter. It is just no where near the 44% we are seeing nationwide.

McArdle: That's the big difference. If you look at the New Hampshire number in isolation, it does not tell you much but, when you look at it in comparison...

Squires: Are we sure this includes the Probate Courts? That was not asked but, if someone has a will, do they realize they are within the court system?

Smith: I do not know how people, individually, answer...if they are going to take their own experience... We instruct people...our interviewers are instructed when they read this question that, if the person is not sure, read it back to them slowly. Again, it is the same question we have used in the national survey. So, whatever respondents bring (or do not bring to the question), it is the same as what happened in the national survey. Whether they do or do not know, they should be doing it here the same as in the national survey.

And, regarding the types of cases, we have had more family issues here than we have had nationwide...fewer criminal matters. The other category here...I've looked at that...I've pulled those others out and looked at them separately. A number of people in the other categories said specific things related to divorce issues. They could probably go into the family matters. There are some other people...about 3% or 4% who said, "Traffic issues..." that sort of stuff. That could be why we are seeing less in New Hampshire than you see in other

states. We do not have big cities with all the traffic tickets...parking tickets and all the other stuff you have to deal with...I've lived in cities. I do not know how many of you have lived in cities before. It's just a pain in the neck...parking tickets. I know that Concord gives out a lot, but nothing like the big cities!

Case region outcome...no difference here...72%. So that timeliness issue is not that much different here in New Hampshire than it is in other places.

"Did you have a lawyer in the case?" Now, we just asked this in New Hampshire, and 53% said they had a lawyer; 47% said they did not have a lawyer. I did not look at the types of cases to see what the differences are here.

And, "Why didn't you have a lawyer?" Here 43% said they could handle it on their own. They did not want to spend the money. But, 32% said they could not afford a lawyer, and 14% said they wanted to be their own advocate; 14% had some other comments. This is not a large number of people here, so I would not read much into the other categories. The fact that the top two had to do with financial issues: "Didn't want to spend the money or couldn't afford it."

Crosier: If a person decided they could not afford a lawyer and the prosecution does something that is egregious, can the judge...

Kelly: The judge will maintain that...in the courtroom...the terms of the application and evidence and so forth.

Champlin: A quick question: Is there an overlap between "...can handle it on my own..." and "...could not afford a lawyer?" In other words, could a person have responded positively to both questions?

Smith: No. This was one question. We can thank Will for pulling those two apart about not being able to afford it. "I could afford, but I just did not want to pay."

Now, personal experiences in court. There are not a lot of responses to this because not as many people here have had that personal experience compared to nationwide. But, you can see that there are three that are worded negatively. That is the third one down..."Judges did not show concerns for rights..." is only 16%. The third from the bottom is, "The court did not give people an opportunity to tell their story" is only 28%. Then, the "needs of people were not considered" is 32%.

Overall, we do well on these when compared to nationwide figures. As to whether they are as we would like things to be, is a different issue. In comparison, we rank higher than the US on every one of the measures with the exception of "...the outcome of the procedures was fair...", which is 60% versus 66%, but the difference is fairly small. Overall, it is good. The two areas where we show the most significant differences are the "...staff concern for rights and support" which is 84% versus 68%" and right below that, "people were treated with dignity and respect" which 87% versus 72%. This is another theme that goes throughout. People think they are treated fairly and there is a perception that people are treated fairly and appropriately in court.

Again, about a person's own treatment in court, we do better on all of these measures than the national figures, as well. So, people do not think that race or ethnic groups made a difference...only 14% said that; 77% said their views were considered and 73% said they were treated the same as everyone else. Only 18% said the judge and staff did not care about their concerns; 72% said they were able to make their views known; 81%

said they were treated with dignity and respect; 81% said their rights were taken into account. I think that is very positive. Only 22% said they were not treated the way they deserved. Generally, people perceived they were treated well.

Nixon: Is there any information about individual fitness to respond?

Smith: Yes. We have all that. It is just not presented here. Again, this is preliminary data. The final report will have all that. I just wanted to give you a sense of where things are.

Now, "If you had to go to court again in the future, how fair will the outcome be?" Well, 77% said the outcome would be fair in the future, compared with 68% nationwide. "How fair will the judge be?"...76% of New Hampshire respondents said they judge would be fair; it was 72% nationwide. Again, perception of fairness is there. The people of New Hampshire perceive things to be fairer than people do nationwide.

And, "How likely would you be to go to the court to resolve a similar dispute?" In New Hampshire, people were much more likely than people nationwide. If you add those first two together, we've got 64%...almost 2/3 of people who said they have been to court said they would likely go to court again if they had a similar dispute. That is compared to only 54% nationwide. So, there is a perception of fairness, equal treatment, being respected, listened to...I think it shows that people are willing to go back to court; they are not turned off.

"Have you ever been discouraged from going to court?" Now, this was just in New Hampshire numbers; 86% of people said they were not discouraged from going to court. Now, let me read the wording of this question to you. We tinkered with this to emphasize it more. "People sometimes decide not to take a problem or injury that might be resolved through a law suit, to court. Have you ever been discouraged from going to court in New Hampshire?" (That is in the past year.) So, we even lay out the original question in the nationwide survey was asked, "Have you ever been discouraged from going to court?" which is very straightforward. We added that other cue in there to get people to think about it a little bit more. Still, 86% said they have never been discouraged; 5% said they had in the past year; 9% said they were but more than one year ago. So, there is not a perception that people are not going to court because they have been discouraged for whatever reason.

Crosier: Might that change? Might it?

Smith: Sure. It could.

Crosier: Might that change if, in fact, more people involved in family issues go to mediation to seek resolution?

Eneguess: Are you saying "discouraged from going to court?"

Crosier: Yes.

Kelly: Mediation is only part of the court process. I think people will come into court and then be referred to mediation as part of the court process.

Herr: Similarly, if the other side tries to sell...discourage you from going to court...

Eneguess: Wouldn't they be into court by then? Or, you are saying before going to trial?

McArdle: It depends upon what type is being discouraged. Right?

Smith: Let's put it in context with that other question about the percentage of people who said they would never go to court. Some 61% of people said they would never enter court. They said they are likely to not have been discouraged to go to court either. The reasons for not going to court...very important, somewhat important...again, these are not large numbers of people...the numbers are fairly small; again, the biggest reasons are costs: Cost of hiring a lawyer; 72% said that is a very important reason; 11% said it was somewhat important. Costs and fees...court costs and court fees...56% said it is very important; 18% said somewhat important. The length of time is not nearly as much of an issue as the cost.

Herr: I wonder if "length of time" also has an important cost influence...not the cost of fees, but personal opportunity costs...

Smith: And lawyer costs...that clock is still ticking!

McArdle: But, what you don't see up there is: "...because I won't be treated fairly anyway..."

Smith: We did not ask it that way.

Nixon: And accessibility...that was not asked either?

Smith: No. We asked...actually there is one about perception of fairness of courts; I do not know why I left it off there. There is one other question...I will get the answer for that...

McArdle: And Claudia's point...the accessibility question too...I don't speak the language...

Nixon: Physically I cannot access the court...all I see are those steps... There was something about "non-English speakers." What does that mean?

Smith: I think, as a practical point, so few people said they were discouraged from going to court...the number of people that were asked the series of questions is fairly small, so there will not be a lot that we can...there is not a lot of precision with these measures because of the size of the sampling...this is the general public; it is not really good for the group you are talking about.

About recent court issues...we asked about two specific issues to see what impact they have had on perceptions of the courts: The Claremont Decision and the impeachment trial with Judge Brock. Most people are just not familiar with these things. Look at the bar on the right: 32% are not familiar with Claremont; 52% said they were not familiar with the Brock impeachment trial. So the public is not concerned about these things! Claremont, with its impact on property taxes and other stuff in life...and that's one-third of the people not familiar!

McArdle: Well, it makes me think about the thing that was in the newspaper not very long ago...the percentage of high school students who would be able to pass the citizenship examination...

Smith: Right! Not many! Then, the impact these things have had: "The impact of the Claremont Decision has increased your respect for the court; has no impact on your respect for the court; has decreased

for respect for the court.” Claremont: slight decrease, but most people...53% indicated no impact.

McArdle: Were you talking to New Hampshire people?!?!?

Smith: This is the thing about public opinion in general...most people don't pay attention to this stuff and do not care about it... They just do not care!

Champlin: They also have very short memories...attention span of a flea

Smith: We cultivate that here. People go from thing to thing to thing...I am surprised people remember their names...

Crosier: Another thing that's going on is that I heard that readership of daily newspapers is dropping like a rock!

Gardner: Well, they are watching national news...people watch CNN or the tape at the bottom of the screen, and they are not getting New Hampshire news.

Smith: There are scary statistics about national news. One half-hour national news broadcast...guess how much information is provided in its equivalence on a newspaper! The answer is two-thirds of a page! And 65% of people get most of their news from TV.

Champlin: Well...talk about people not watching national news; look at what they see on the local news...local news broadcasts. Last night, I think the top five stories on Channel 9...three or four of them were shootings or stabbings. You would think that we are a high-crime state based the news!

Smith: So, I guess you can take away from this most people, if they are familiar with things, it does not make much difference.

Eneguess: We are never going to solve the education suit!

Smith: So, our next step is that we will complete the interviews this week. We will build all the demographic tables so all the things are in it...all will be compiled so we will see how all the different groups responded. I will present findings at the August 22nd Commission meeting. It will probably a little more in depth than this...some of this will be taken out and other material put in. I do not want to take up too much time at that meeting. Then, we will prepare our final report on survey findings. We will not have the final report ready for August 22nd, but it will be done in short order after that. I do want to be able to present, at the meeting on the 22nd and, perhaps talk with people here afterward...we can continue this conversation: “What parts of this could be really worth talking to the whole Commission about and subcommittees as appropriate?”

Squires: Could you go back to slide number 23? [re-viewing slide number 23] If you look at that lower line, we can say, “This is good.” But, could you also say that almost one person out of four either does not know or thinks that a judge is not going to be fair? What kind of a business...would a physician be in practice if one patient out four thought they were not good...I do not know what the corollary in medicine to fairness is! I guess I am trying to say we may be better than the national standard which is a good thing but, on an absolute scale, I think there is some cause for concern here. If you look at the top one...does that mean that 30% believe that the outcome is not fair?

Smith: The actual number is 22% said they believe, if they had to go to court in the future, the outcome would not be fair.

Squires: Well, what a thought!

Smith: This of the 39% who have been to court.

Gardner: If you go back to Family Court information, I think you are going to find a lot in that area around fathers' rights and perceptions in the Family Court setting where dads do not feel they are getting their fair time. I think that's the kind of information that will be incredibly....that's what you are going to hear, at least from the people...if, at the full Commission, the subjects are set.

Abbott: Another way to read this is that presumably, if you lose a case, you point a finger at someone who stuck it to you. So, on the top line, 20% of the people who did not get a fair outcome don't think they will the next time, right? Am I interpreting that correctly?

Smith: No. Not with this particular...but we can certainly look at the data to get at that. But, we didn't ask people whether they won or lost the case they were involved with. That is one of the issues that would be interesting to see.

McArdle: I think that we have to look at this information from the perspective of: "What are areas where we can make recommendations and something can change?" You take whatever body of people come out on the losing side of a case, and there are a large number of those, what can you do about making them feel that they were treated more fairly? That's the danger of trying to look at two or three different sets of data and cross matching.

Smith: I think that is something the Commission can look at. I can give an example of something that could be done after a case is over. It is to have some kind of de-briefing with the losing side rather than, like with criminals, putting the shackles on and leading them away...or, if you are a loser in a civil case, to have some debriefing.

Champlin: Like the guy outside Peoples' Court?

Smith: Yes! You lost, but do you think you were really treated unfairly? Do you think that the deck was stacked against you? Get at some of those perceptions to see what happened. I think a lot of it is perception. If you let people talk about things...you see this in medical things...you've got to tell people bad news, but if you tell people bad news then listen to their response to it, they do not blame the doctor for it!

Squires: Some thought needs to be given as to how this is presented to the public. You can be sure, I think, that large numbers of the public are not interested in what happens in the nation; they are interested in what happens in New Hampshire in their court system. If, in fact, it is so that one out of five or one out of four has major problems, it strikes me as interesting.

Kelly: I am not certain that a direct comparison can be made between different professions...a judge and a physician...I am not sure they match up. For example, at least 80% of the cases in the court are criminal cases. So someone is there as a criminal defendant, who is, perhaps, found guilty. They might disagree with

the severity of their sentence...might feel it is unfair. There is no way to compare that to a physician's report to a patient about something life threatening. There is just no comparison. But, I agree with you that, certainly, someone might look at that and say one out of four feel treated unfairly.

Smith: If you think of those questions in light of the other questions about how people rated their own personal treatment in court: Their views were considered; they were treated the same; they were able to make their views known; they were treated with dignity and respect; their rights were taken into account. Those are in the 75% to 80% range. Those are high numbers. In any sort of a satisfaction scale, those sorts of numbers...people are agreeing with that. I think that's a good perception that, overall, people feel supported.

Abbott: The flip side is 20% to 25% are not satisfied or they do not know. I think one of our jobs is to find out, of those not in the "don't know" category, why people are dissatisfied.

Smith: Again, one of the things I like to look for in any kind of satisfaction survey: I want to have 90% of the people satisfied, actively saying they are satisfied with something. I want to have less than 10% saying they are dissatisfied.

McArdle: I do think, though, that you have to remember the context in which we are operating here...that is, in any court situation, you are in an adversarial situation to begin with by definition. It is not like walking into a store to purchase something. You and I are contesting each other, by nature...that's why we're here. That's where this whole thing starts. I think that can color the way the responses are interpreted.

It is now a little before eleven o'clock and Matt and Rich need to show us what we want to do on the web site. But, to Andy's point...and I think several other people made the point...is there anything you want to say at this point about how this data should be presented to the full Commission on August 22nd?

Squires: All I want to say is keep in mind potential *Union Leader* headlines...because of the percentage of people who think the courts are unfair!

Smith: I will sugar coat...

Squires: That does not matter!

Eneguess: It does not matter! It will be "...that many people do not care about Claremont..."

Smith: That will, probably, be the likely story out of this!

McArdle: But to Jim's point...you never know! Who will pick up what and flip some number and say, "Well, if X is this then Y is that!"

Gardner: I can tell you, and it will become part of the testimony on House Bill 529 as it goes into the fall. It is the Bill to change parental responsibilities to a 50/50 share by law. This will be picked up off this slide show and that will become the buzz word: "25% of the people are not satisfied; that includes you; you are part of the 25% and we have to make sure the legislature knows it!"

McArdle: On the other hand, if we are dealing with responsible reporters, they will give Will and Kathy (as spokes people for the Commission) the opportunity to say, "No! You cannot easily interpret the data that

way!" There is the possibility that people will allow you to come back and say, "That's not exactly what that the data says."

Smith: Again, it is a question for next week: Do we want to tap out anything to the Commission next week, or have this in the report?

McArdle: It is a week from this coming Monday.

Abbott: Publish it on the web site...

Smith: It is not going to be the full report, though. What you will get will be like a slide show, rather than the report with all its written details...

Eneguess: How about if we make a presentation to the Commission, have a discussion about it, make sure you are very comfortable with all that, then have a press conference sometime before we hit the road.

Kelly: Andy, is there any sort of standard you use when asking questions like that? There must be some breaking point when you say, "...never get higher... cannot get a 100% favorable response."

Smith: Right! In any sort of satisfaction work, if you are at 90%...excluding the "don't knows...", but using 90% of the people who have an opinion, that's good.

Kelly: So when you get to those 81% and 83% marks, you are really approaching...

Smith: You are really pushing it as high as you are ever going to get!

Kelly: I think that would be...in terms of interpreting those numbers...I think that would be helpful for the average uneducated citizen to deal with.

McArdle: Can I just make a comment about the press conference concept? One of the things I would think we want to be careful about, before we go out to Listening Sessions, is creating any impression...keeping sort of a neutral playing field. What we might hear in any given locale might be different. You would not want people to say, "Wow...81% of the people in the state are pretty happy, so why will I raise my hand?"

Eneguess: Maybe if there is a reporters' round table....

Gardner: ...understand that 81% are satisfied...you get all the people coming out who are not satisfied...you want to make sure you know what they are not satisfied about!

Kelly: We also have to bear in mind as we move around the state that there are different courts behaving in different ways. So, not everyone in one locale is going to feel favorably treated by the court.

Smith: Getting to your point, one of the nice things about a survey like this...or a useful thing...is, when you are hearing from all the specific groups in the Listening Sessions, people were very intimately involved with the courts and have lots of issues with it. Remember those are interest groups you are dealing with. They are interested parties, rather than the general public.

Herr: One potential use for this data might be a five-minute presentation at the beginning of the Listening Sessions to put into context what we have already done.

Eneguess: Yes. And that would be useful, as well, if we have a press conference with a reporters' round table; we are going to be presenting this at the front end of each of the Sessions, then opening it up to the public.

Smith: Then, we have it as part of the larger process, rather than a standalone...

Herr: I think that we need to be mindful of that. While some of this speaks to satisfaction, some of this also speaks to things which are different than satisfaction, such as "my rights." And I don't know about 80%...an 80% score on "rights" does not sound as good to me as an 80% score on satisfaction.

Smith: Some of it is, though, the way you frame questions with any sort of a scale.

Herr: I understand there is a perception...

Gardner: You know, Eric, I think one of the things you get from Listening Sessions is a sense of people's understanding of their rights. And, it is going to be one of the things we talk about. People do not know what their rights are! They have adopted, in my view, a whole set of rights that I have never read about, but they have these rights! And you are going to hear about them in the sessions, because that's their knowledge of the Constitution which is not very refined and their reading is not very refined. So, people have rights that none of the rest of us are aware of! And, I think you are going to catch some of that in the Listening Sessions. So, as a backdrop to these questions, it will be very interesting. It speaks to the fact we do not teach civics in this state anymore!

Champlin: Not just in this state!

Abbott: As the Co-Chair of this discussion, we need to move on! (Andy Smith is thanked for his presentation.)

McArdle: We have Matt and Rich from National Web Group. We met last week and went through a bunch of stuff. I have emailed several people information...so, I will turn it over to them.

Richard Knox: Being passed around here are not enough copies...we are making more copies for you...of the first cut of the design for the web site. We have always found it best to get a starting point out there and work off that, so that is what this is. We are not married to any given element. Obviously, we will take feedback on anything. The content is very changeable. Take a really close look at that design.

Squires: There is an "s" missing from Commission...

Knox: That came out of design not proofing...the graphics...it probably looked better with one less letter 's.' It probably balances better...

Crosier: What is planned to publicize the site? The fact that people do not read papers...and it won't make the national news!

Eneguess: Publicize...you mean that we have a web site?

Crosier: Yes.

Eneguess: I think, again, when we get to...after the next meeting...once this is up, I think we need to get some press releases out and do this as part of the session on the survey, and talk about it at each Listening Session and just keep working at it.

Herr: It also needs to be on the Supreme Court home page.

Eneguess: Yes...linked...

Rivero: We have not really addressed that issue at all. It is something we were not concerning ourselves with up to this point, as Rich pointed out. The search engines are, probably, not going to be any help. By the time we get into them...it is one of those things: "Are people even going to be looking for something like that?" I think we have to be pretty outgoing pushing this message, rather than putting it up there to be found. So, I think the web page would fall into the same pool as everything else you gain in terms of getting the message. It is one more piece that...you can do some stuff on New Hampshire Public Radio and the Supreme Court web site...those kinds of things.

Smith: Get it onto the *Union Leader* web site...

Eneguess: It can easily attach...we can get a ton of links here.

Knox: NH.com or any of those...

Rivero: So, if anybody has feedback on the design, I think the best process is to feed it to Ann and have Ann feed it to us. Generally, the web idea...on how the design process works...the designer will do a home page which is the first thing seen when coming the web site. Then, a template or a couple of different templates handle information that is behind the home page then the content that comes in based on information put together gets put into one of the templates...stuff behind... So the home page is really like the cover of your brochure.

Knox: Now, when you are looking at the design...one thing Anne covered at the meeting last week is try to make it look not too expensive. We really tried to pare it down and make it very simple and clean, so the focus is on the content and not a frilly, flowery design. This printout does not really match the green of the site. It is more a New Hampshire green.

Champlin: Is there going to be a printable version of data and information?

Knox: There could be...

Champlin: Well, I throw it out to the group. One of my frustrations is, for some reason, these things are always designed so the selections are on one side; the copies are on the other side...when the page is printed, they are cut off. I do not understand why that is the convention, because it is not user friendly. People may want to print some of it. I tend to want to read things in bed, not in front of the computer screen.

Knox: We designed this...the width is about 740 pixels. One thing when printing from the web is that a monitor is in landscape orientation, and you want to get as much above the fold as possible. So, you go as wide as possible. That will fit on portrait orientation paper. So, you change your orientation to landscape and it is fine.

Nixon: Will there be accessibility for text printing for those with low vision?

Knox: Yes. It will all be accessible. Yes. We did some of the New Hampshire Supreme Court pages; they are all accessible for low vision text readers.

Herr: I would say the order on the home page is not the one that describes our controls, but describe the purpose of the Commission. That is what is accomplished rather than what is controlled. The order I am looking says, "Speaks to administering grants and hiring..."

Eneguess: The Mission and Purpose and Goal.

McArdle: Fine. Change the order.

Abbott: A short Mission Statement...less wordy...

Eneguess: Mission Statement on the front...the Mission and Purpose...

McArdle: The Mission that Will wrote. Is that what you are talking about? We want that on the home page.

Abbott: Not the whole thing...just the Mission. Something less wordy...simply stating the purpose...whatever words we choose. I think we chose words at the last meeting. The full document can be buried on a separate page. What is variance analysis?

Knox: That's a piece you sent to me.

McArdle: Oh! That's Eric's Power Point presentation? The audit.

Abbott: Instead of where you have variance analysis, can there be research or something? Or "key documents" or something like that?

McArdle: Can we pause for a minute? Have we gone through the list here yet? Can we go through it?

Knox: The variance analysis is only on this because we did know where to put it.

McArdle: Let's put a parenthesis around that, all right? So the home page will include...I am looking at the notes from the July 25th meeting for the Mission Statement that you talked about that day, Will, and I will find it. It's in there somewhere. Let's go through what you have in mind for all the categories and, then, go back, all right? Otherwise, we will be bouncing back and forth.

So, the content of the home page will be revised with less legalese and have a more user friendly Mission Statement, right?

Eneguess: The Mission Statement and, behind that, ...buried underneath...right up front...so it's not so technical...it's "how we are going to do this..."

Knox: Right.

McArdle: What do you have about us? That's...

Knox: Will's...the roles of Commissioners and roles of Steering Committee members...Mission Statement...members of the Commission would be on a sub page under that.

McArdle: We also probably want a separate listing of the Steering Committee, right? Yes? No?

Knox: That could be on the web page.

McArdle: What about "contact us." Now, we have had extensive discussion on that. It's like the Claremont Lawsuit, actually when you think about it. The public information, the input process; the public information access process, and I think when we had our conference calls last week we decided that we would come up with some language which would enable the Co-Chairs; actually, this is Will's language...how it would say that the Co-Chairs of the Commission have the right to, essentially, refuse to accept certain types of input. So, Will wrote: "The Commission welcomes all public comments directed toward the Commission's goal to improve the operation of the state courts and delivery of justice in New Hampshire. To be entered into the Commission's official record, public input must contain the name and home/ mailing address of the sender. The Commission's Co-Chairs reserve the right to reject the inclusion, in its public record, any submission from a member of the public which, in the opinion of the Co-Chairs, is slanderous, malicious or, otherwise, inappropriate due to its content." I think that is well written.

Again, talking about the public input piece, do you want to...you guys have a better understanding than I do of how that is going to work.

Knox: The main way for the public to participate from the web site is via the Public Participation page on the Contact page is to click an email link. The email link will, first, open a new page containing the disclaimer on it. They do that...we are not going to provide a form on the site. We think we will provide an email link to the people that actually send an email from their email site from Outlook or whatever. That way, we know it is coming from somebody and we can track it back. They send the email with their comments. An email is sent back to them saying...with the disclaimer again...saying "In order for your email to become part of the public discussion, click this link to verify that you sent the email." They click that and the email they originally sent gets put into the box that you all can check to see their input. Did I miss anything there?

Rivero: Basically, we want to be able to track where emails are coming from to cut down on abusive emails and spam kinds of things. We also want to maintain some tight controls over verifying that the individual understands that what they are saying is part of the public record and they have agreed to that. So, the process is: They send us an email with their information and their email address on it. An email comes back to them specifically which guarantees we know who sent the stuff. That email says, "This is public record. It is permanent here. There are ramifications of your submitting this through this process. Do you agree to that?" They click, "Yes." What they sent, then, goes into the permanent record. That way, there is no way they can say, "I did not get the email. I did not know was going to be public record." It's, "You put it in...you sent it to

us...we sent you an email with a disclaimer and you confirmed it."

Gardner: What are you going to do with the public information provided this way?

McArdle: My understanding is that all the public information will be viewable by all of the Commissioners on the site. We have been going around and around on what degree of responsibility we have to readily provide that back to people. I think where we came out on that was that we will, on a regular basis, dump everything onto a CD and let people know that, if they want to see all the official public input, they can make an appointment to visit us at the library and look at it.

Gardner: What are you going to do if there are organized campaigns to get a lot of information into the public record via emails?

Eneguess: Isn't that going to happen anyway?

Gardner: Yes. I think it is.

Eneguess: That's part of the assumption that I say it ...we are going to get advocacy groups...

Abbott: If we process each of the public Listening Sessions, and they will put this on the web site too, would some of Andy's data...I cannot believe that ordinary people reading stuff in context won't see it for what it is.

Gardner: I guess my concern is what the readers of the final document, however, are going to say: "You had all this public input, and you didn't really address it." I think people like Harriet Cady will say that!

Eneguess: But, when I think we need to park that in a Research Committee and let them digest it and figure it out: I think that is where the Research Committees are going to be very instructive: "Is this more of the same? What's different? What's similar? What can we change?"

Gardner: Are you going to be able to do anything about the voracity of the information?

Eneguess: No!

McArdle: You know, we've talked about that. Remember when we were talking redacting names, editing, doing this, doing that...I think that puts us into a greater area of jeopardy. Because you make a mistake...you forget to redact a name in one email versus another...you also have to think about the amount of resources we have.

Kelly: You do not plan to respond to any of the emails. Somewhere it should be made clear to those writing in that they should not expect any response.

Nixon: I wonder, too, as you get an email and a response goes back to the user are you making sure there is not a lot of legalese? You want to remember who the audience is as you are writing.

Knox: Yes. Definitely. I will just leave it to the Commission to supply something very simple. We can also have a link in the email that goes to the web site and breaks it down. If someone wants the legalese, they

can read it. If someone wants the simple...

Eneguess: So, we need a back page that says what public is and some of those other issues you are talking about.

Rivero: But the response email will basically verify that it is public record and the information submitted is available to the public and, "...are you sure you want to submit it?"

Nixon: I guess my concern, always, is about folks with limited English proficiency. So, everything we are talking about is very strong English, so it will be difficult for some...actually many folks...

Champlin: I volunteer to work on that, if you want me to.

Rivero: Wonderful! If you send us the good verbiage, we will cut and paste it in.

Champlin: I will work with you to try to be sure it is clear. [addressing Nixon]: That is what you are concerned about, right?

Gardner: And I think we need to have something that says, "You will not get a response to this email."

McArdle: That is a very good comment; we need it in there.

Rivero: The email that comes back acknowledges receipt.

McArdle: I know, but I think we need to clearly say, "We will not be responding to any individual emails."

Squires: In the statement saying, "I agree that this information is public...", should we have something in there that says, "If this relates to a specific court case, what I am telling you is in the public record." Because it is conceivable that someone...considering the kind of stuff you do...can take a piece of information about a spouse...who knows...and throw it out there...in the public record.

Abbott: I think that what we tried to do is present our requests for public input in such a way as to reserve the right to not make accessible to the public individual presentations which, in any way, have those aspersions. Kathy and I talked about that, and we are willing to take the load on that. So, it's not the Commissioners that made the decision, it's the Co-Chairs. We will just use our best judgment. We are not going to let something get out into the public domain that's malicious or casting aspersions. On the other hand, we cannot validate factually every submission, and I think we have to present the information that way.

The other thing the two of us have talked about is for someone to get, at some point...I worked in a political office for ten years, so I know how this stuff works...I do not think we want to create the impression that just because 400 of the 500 emails we got were from Fathers United for Justice (or any other interest group) that they carry more weight because they have a majority of the input. On the other hand, I do not think we want to discredit the content of that submission. So, I think the people that were chosen to be on the Commission were chosen not just to be representatives but, also, to use their own judgment. To that point, one of the concerns I have had...I cannot remember who said it...people are going to want to re-try their own cases through the Commission. I think we have to be very careful, when doing the set up for each of the public Listening Sessions and when we put the language on the web site, that we say something to that effect: "This is not a

process for retrying individual cases.” And, Kathy and I even thought we would ask Paul Clement to set up a meeting with the fathers and just tell them that, if they want to make constructive input, here is what we believe is constructive. Don’t tell us about the nasty things the judge did to you. Tell us about how your experience, from your perspective, can be used to improve the delivery of justice or the working of the court. If we have to sit down with different interest groups in order to encourage that, I think it is good use of our time.

McArdle: We do need to get to what the protocols will be during the Listening Sessions. Let’s continue going through here. We are going to revise the home page as we discussed and we are going to indicate who the Commissioners are. You remember, at the Commission meeting on July 25th somebody read the question: “Should we include more biographical information?” Thank you, Rich, thank you, Matt, for saying that would be really difficult and expensive to do! Because, frankly, it does not matter which college a Commissioner went to! What we will do is put up names, professional title, hometown or whatever is preferred. We will not have a capacity for people to write their autobiography on the web site.

Eneguess: And I think we have had a variety of judicial colleagues say that there is a very specific listing that they wish. We may want to send out an email to each Commissioner asking, “What is it that you want on the web site for name, title, and place of whatever?”

McArdle: Yes! Right! We have had feedback from a couple of different people who have that concern.

Also, this may be the place to talk about it...we also had originally thought we would get every Commissioner an individual email address...Commission email address...and we do not think that is necessary. Richard and Matt have come up with an alternative way to handle that.

Knox: We can do one of two things. We can set up a box for everybody...all 105...in that case, you will have to set that up on your machine and, maybe, install software. Or we could simply forward this email to “your name at NHsupcourts.org” and forward that to your existing email.

McArdle: And no one would see that. No one would get your home email address or business email address.

Knox: Right! So, if somebody sends an email to Ann McArdle at NHsupcourts.org, it goes to your email address.

McArdle: But it is transparent to the sender. They do not see my address.

Knox: That way, at the end of the Commission...2006 or whenever, you can get rid of those emails and nobody will ever get anything more...

Smith: The one issue with that is that, as people move into different positions, if they get different email addresses, there will have to be a way to update that information.

Knox: Yes. Definitely. They would have to get in touch with Ann. She will forward that information to us.

Eneguess: That will be important to all the Commissioners. There is a lot of worry out there about getting too much email.

McArdle: Yes! By virtue of the nature of some people's position and the fact that all of us go home at night and see 50 emails; we do not need another 50 on top of that!

Knox: The thing is that we are not making these public. The member listing will not include an email address.

Ostrowski: But you are forwarding all the emails, so we will get many emails a day!

Knox: They will go to one specific email box that will be read by...downloaded...I assume by one of you just for backup. We will download them for backup, if that is agreeable. Those will be readable on the web.

Ostrowski: Oh! Got it! Okay!

Abbott: There will be a password to access that?

Knox: Yes.

McArdle: Another thing that we will need to do when we go through this is to have a set of...simple, clear set of instructions that we can give people in writing, and ask them to maintain it confidential to the members of the Commission so we do not have people saying, "Here's how to break the system..." we need to have people understand mutual support: "Here's your instruction on how to use it. Please do not hand this out!" So, we will have the "about us" section; we will do the Steering Committee identification; the "contact us" will include the PO Box...again I stop there a couple of times a week and we are getting nothing there...but, for some people that will be important. Some people do not have computer access and they must have a way to contact us.

The "public participation" section...we've talked about...we thought we would put survey results in there, but survey results could also go under "resources." Let's just walk through the rest of this then address questions.

We have said we will put meeting information in a separate category with that name and it would include transcripts of the Steering Committee meetings, transcripts of the Commission meetings and a meeting calendar including all the Listening Sessions (dates, locations, etc.), and transcriptions of those Listening Sessions as they happen. And, I am reminded here, Will, that you said it would be a good idea to get those little cards made up once we establish Listening Session dates; the web site can be on the top of that.

We set up a section called "resources" which is the sheet that Laura Kiernan gave us last time with all the web site links. We can add to that as many as we want. This may be where you would rather see Eric's Power Point presentation on the audit report. I do not know...it might fit there.

We thought we would have a separate section which would outline the scope of work, the work plan, the work calendar, and the role of the Research Committees, so people can understand that as a block. Anything can change; I am just going through it quickly. Discussion boards...do you want to talk about that Rich and Matt?

Knox: Yes. We talked about that at the first meeting. It's the asynchronous discussion board, not open to the public to post...maybe to read...I have not heard a decision on that, and I do not think we have time

to go there today...it was a 2-½ hour session!

Eneguess: That will be the parking lot issue for today because, as we get into Listening Sessions, we will get much clearer about the discussion boards and use of them!

Knox: We have enough to move with at this point.

McArdle: Yes. So we can hold off on that...

Eneguess: Yes. Hold up on that and the variance goes up into the resource page.

McArdle: So, in general, in terms of the way this is laid out, do you have any feedback, any recommendations, changes, additions?

Squires: I do not think the survey results should be kind of buried under Public Participation; it should be under resources or, even, stand alone. That is a crucial piece of information!

Matt: It could go on the top page?

Rivero: Yes. This could go right here...replace variance analysis with survey results.

Nixon: When will the web site be up? As we are looking at the forums...the Listening Sessions, we offer individuals who will not be able to get to them another way to offer feedback. Maybe we could have a survey that would be exactly what is going on in the Listening Sessions for folks to get off the net.

Eneguess: We are still going to have the link to the original information/interview piece...the same piece of paper you got at the first meeting. Are you proposing something on top of that?

Nixon: Well, whatever...the survey results were just simply this. From the listening sessions, you are going to have scripted questions and answers...so whatever that is goes back.

Eneguess: Sure. That's fine.

Smith: Okay.

Rivero: We can do that.

Knox: Yeah. So, a questionnaire? Is that what we are talking about?

Eneguess: It is going to be the ground rules of the Listening Session in writing, so somebody can respond to it: "This is what happened, and if you can't make it to the Session, this is what you need to do."

McArdle: So what if we did a section on the home page that is surveys, and we have the UNH survey data available for people to view, then we put in a template which is, in essence, the questions that were on the green sheet sort of mapped over to whatever the questions are that we come up with for the Listening Sessions. People can input responses to those questions there. Is that what you have in mind? But, to Jim's point...you want that UNH survey sort of featured more.

Squires: Yes. If I was looking at this and I saw "Public Participation," we're providing links to contact us, but we've also got just above it "contact us." So, I guess...then we've got another thing for meeting information...there is a whole block for that one...and emailing too...we've been over that. Somewhere out there are the survey results. I might miss that if I am just going there for information.

Knox: It can go anywhere.

Squires: ...data...resources...

Rivero: We can move that up.

Abbott: I think it deserves its own page. Call it "UNH Public Opinion Survey" and have...

Nixon: I get concerned about community taking that little bit of information and...

Abbott: Well, Andy is going to give us this incredible narrative report that will set the whole thing apart!

Knox: At our meeting with Ann, we talked about holding off that information. I am not sure we made a decision just because, almost like the 2000 election, you could call the race too early and influence peoples' decisions. If I read the survey, it might influence my decision. I be asking myself, "Am I 'a don't know 'or a 'somewhat likely?' "

Gardner: Or, "Do I want to provide information because I think it's all wrong?" Versus, "Do I not want to reply because I think they've made up their minds?"

Knox: Right. Or, "...am I part of an advocacy group that sees it skewed in the wrong direction, and I want to campaign against it?"

Nixon: Does it make good sense to hold all the data for the forum and, then, put UNH all together on one page when everything is complete?

McArdle: What if we did this? Under Public Participation, it sounds as if we would have two formats for that. We would have email input format and the template of questions format. So, if somebody wants to write an email, they could respond to...just like people have already done...the questions on the green sheet...or whatever protocols we come up with from the Listening Sessions...so, if I am trying to figure out how I participate in this, I will go directly to Public Participation and I have two ways of doing it: email or fill out a form. Then, why don't we say on there something like: Look for the final report from the UNH survey to become a separate page on this web site on "Friday night, December 24th..." Set a date. Put it on there when you are ready and everybody has looked at it; you can't not put it out there!

Eneguess: I think this is going to take a longer conversation; we are going to start losing people [at this meeting] in about five minutes. I think we need to think through exactly when that is going to go up and, before releasing it to the public through a reporters' round table, when it's going to get out there. So, how do people access it? That is going to be part of the point. Then, they are going to be parsing it out with whatever they want to add to it in their own opinion.

McArdle: Early on...this raises something in my brain...we talked about whether we needed to get or have available to us some professional public relations advice. Not any experienced members of the Commission, but from somebody outside the Commission. And, you know, I don't think we want to guess on some of this stuff! So, I just am raising this as a thought for the Co-Chairs to consider at some point.

It sounds like we have enough and, thank you guys for offering to help and come to another meeting and continue to move on this. Seriously, when can we get this done? Do you think we can get it done by the end of August? I know Will wanted it done by July 21st.

Knox: The only things that hold us back are decisions about what we are doing.

Abbott: So, if you had everything decided, how much time would you need after that?

Knox: I think probably a couple of weeks.

Rivero: If all the material was in our hands and all we were doing is programming, it is a straight-ahead process. What slows it down is: "Where is this bit of information? Is there a rewrite on this? Has this one been approved?"

McArdle: I think we are really close on that. I will check our calendars. I think, if we can set up another meeting early next week on this, I think we could get it. Most of the decisions... 85% to 90%... are made.

Herr: You said something about how we also need to understand what our approval process is. I think they need to know what it is.

McArdle: I think it has to come back to this Committee right?

Herr: I think committees, generally, make bad decisions!

Abbott: I think we need to be able to know on August 22nd what day this is going to be up. If it is not going to be August 22nd, is it September 1st or September 15th? You guys need to tell us if you need two weeks, and we need to have another meeting of this Committee, then we are looking at the end of September.

McArdle: Are you [addressing the Committee members] willing to let the Co-Chairs make the decisions?

All: Absolutely! Yes!

Abbott: So we will go to the August 22nd meeting with a date. By then, we will know the date.

Knox: The thing about web sites is that they evolve. They can change.

Smith: That may be something to shoot for: Get most of the stuff that we talked about up there...

Eneguess: I think that the public input and some of that...I think that needs to be up and running, if possible, by August 22nd.

McArdle: The 22nd is one week from Monday.

Eneguess: I know that.

McArdle: I think on the 22nd we can have a date for when it will be up, and I think we can make it a firm date, but I do not think it will be up by then...that's my guess. I do not think you put up three-quarters of a web site. If we are this close and we say, "It's going to be August 29th."

Abbott: I think that is fine. Let's just announce it on August 22nd.

McArdle: Okay. Is there anything else on the web site? We have very meaningful conference calls at 6:30 Tuesday mornings, if anybody wants to participate. Is there anything else on the web site? Okay. Thank you, guys. [Know and Rivero depart] Now, other items for today?

Eneguess: The protocols for the Listening Sessions. We are pretty clear about where we want to try to get. Does anybody else have any other suggestions? If we talk about the survey information, we give the kind of outline of a very clear...I think Will and I will have to work on this again...here's the parameters for the Listening Sessions.

Gardner: I have some guidelines I did for my public hearings, and I will get them to you. I combined House stuff and Senate stuff over the years. I have had good luck with it. People stayed where we wanted them to stay. They were helpful.

Eneguess: I think our reiteration is going to have to be "not retrying" but "what is it that can be beneficial here." I think we will have to continue to be very clear about that.

McArdle: So, can we have those written down somewhere?

Gardner: Yes. I will get those to you.

McArdle: Please email them to me, I will summarize them...

Gardner: They may not be perfect...

McArdle: Okay. That is fine. Thank you. We are working on the dates for the Listening Sessions. Laura has checked with the Chief Justice about his availability. We are trying to do them on Mondays because my recollection is that Monday is the best day. We added two locations to the seven we originally listed. The two new ones are Nashua and Plymouth.

Eneguess: Somebody wanted Berlin too.

McArdle: We have Derry, Keene, Salem, Lancaster, Portsmouth, Concord, Nashua,...we are now up to ten, are we saying? We are adding Berlin and are up to ten.

Nixon: We are not doing Manchester?

McArdle: Well, we decided to do Derry only because we thought Derry could take in Manchester, Londonderry and Derry. And, about locations, we have talked about wanting them in a public place, and we have

talked about doing them at the courts. I called Laura and asked how we are going to do a 3:00 to 5:00 session in a court. Her comment was that she has a number of locations such as aldermanic chambers and other sites to go over together and see what we can come up with. A concern I have about that is that I was just down in Nashua at the mayor's office. The aldermanic chamber in Nashua is not very big!

Smith: We did some research with some folks at UNH to try to identify places around the state that can handle different types of training sessions in publicly accessible places. We have identified three hundred plus places across the state that can cover every region. I will put you in touch with the woman who has organized that.

McArdle: Okay. That will be great.

Kelly: Most courthouses have multiple courtrooms and scheduling can be worked out.

Eneguess: Also, we had concerns...if we go someplace other than the courts, we have available security. If it was a town hall, the police should know about the security area.

Kelly: If you are at a court house, that is not a concern.

Nixon: I can talk with Cheryl Killian to see about how accessible the buildings are.

Squires: In Nashua, there is Daniel Webster College and the Technical Institute. They are accessible.

Gardner: Also, you may want to be sure there is audio equipment because, sometimes, they cannot hear and you cannot hear them at some locations.

Eneguess: We talked about using some of the public educational institutions who are pretty high tech.

McArdle: Thank you, Andy. That will be helpful. We must nail down the dates for the Listening Sessions. We also need to develop a check list for all the things you talked about that need to be in place, such as security, audio equipment, accessibility, etc. At the Commission meeting, Andy Peterson talked about having identified in each location a group of people who are going to be the marking team. We will have consistency of materials and message and announcement protocols, but in Keene, we ought to be talking to the head of the Chamber of Commerce and a few other people to say, if necessary, "Would you be a swat team to get people out?"

Champlin: Are we going to be keeping records of the comments?

McArdle: Yes.

Nixon: Another recommendation...I know we talked about transportation before...when we have dates and times, if there is a request, we need to search for interpreters. I do not know, if folks who are hard of hearing not users of American sign language...there might be a request for cards or closed caption projected onto a screen. Anybody can read, verbatim, what is being processed in the room. That might be another costly...

Eneguess: All the community colleges have that...as well as the publics...and the courts.

McArdle: We are now at the stage where we are trying to nail down dates. We will add that to the list once we get dates and locations done. [addressing Champlin as he departs...] Thank you. Are you around this afternoon?

Champlin: I have a meeting at three.

McArdle: Okay. I will get in touch with you.

Champlin: Wednesday, Thursday and Friday are pretty good days for me.

McArdle: Okay. Thank you.

Okay, what I am going to do, I think, is dash out quickly and copy the emailed addendum from Cathy with a list of potential Research Committee topics. [Andy Smith exits to get more copies of the addendum.]

The Commission meeting is taking place August 22nd. Somewhere in this pile I have a draft letter that Kathy and Will are going to send out to the Commissioners...I recall that the agenda will include Andy's summary presentation on the survey, an overview of the web site, the specific nailed down dates and locations for Listening Sessions and the request that people look at that list and have everybody sign up for one or more of those dates. Also, Laura thought it would be very helpful for us to have Dawn Goodnow give an overview of how the court system works.

Gardner: I think we really need to start to educate the whole 105 so their knowledge base is thorough and consistent.

McArdle: I guess I would say, when you take a look at this list...again Cathy put this together based on the flip chart notes and other information we discussed from time to time. It is a sort of a semifinal list of Research Committees. You will recall that some of the feedback we had at the July 25th meeting led me to believe that some people are concerned that we not prejudge the entire list.

Eneguess: I think the prejudging is entirely appropriate. I guess the question needs to be: "When are we going to begin the research part?" We need to be thinking about that in the fall during the Listening Sessions. If there is a group that has an interest in some of these, I think we need to have them get together, figure out who will be the chair of that particular group, and begin. Otherwise we are going to be sitting here in the middle of January having the same conversation.

McArdle: You made the comment...I think it was Marty Gross that raised that issue...there is nothing to stop this Commission from adding to the list, depending upon what is heard in any particular arena, right?

Abbott: I think the bottom line is that we have 105 people on the Commission, so we can handle quite a few committees if we need to, but the outcome on August 22nd ought to be the preliminary list; not the final list, but the preliminary list. And, I agree with Kathy that we should start recruiting chairman and asking people to consider which Research Committee they want to serve on. We can talk more amongst ourselves about how to do that. One fear is that, if you have 15 different committees and everybody wants to be on three rather than spread out, we have an issue. We could ask people to pick their top three and we could assign that way. We will figure that out.

Herr: My fear is that Research Committees will proliferate and/or each will ultimately end up creating a set of recommendations. So, if we have 20 Research Committees, we will have 60 recommendations and no unifying framework for 60 recommendations. It will look like a laundry list. Alternatively, we could say, at the end of all this, "The court needs to focus on five things (and each could have bunches of points/themes...). One of these is access; another is cost; etc. Without those themes guiding our research efforts, we will end up with some big holes and a laundry list of way too many things. I will admit one of my biases about state government is operating around process and all that, but not outcomes. How can the outcomes of the judiciary improve significantly?

Eneguess: We need to frame these around some fundamental guiding principles for the research. If, in fact, the Research Committees are going to take this on, maybe we should frame it around: "What is the work that has been done?" And, going back to the gap analysis adding to the gap analysis piece of information: "What's the work that has been done? What are the recommendations that are currently underway within the system? What are the outstanding issues?" The Research Committees can continue to fill in those blanks around these topics. Then, there is the framework for everybody to have a look/see at the end of that process, then we can go back to begin to frame the specific questions. Otherwise, I do not think we will get there.

Abbott: Haven't we already identified what most Commissioners think are the most important issues?

Eneguess: Well, we have the listing...yes.

Abbott: I think we might be surprised. If we handed out this list at the next meeting and asked everybody to pick their top five, and we do a statistical analysis: If the majority pick five that are consistent throughout, we may end up with eight or nine. I think you will be surprised. I'll bet 105 people can come to closure that this is too many, and the real priorities are five of the fifteen. I may be proven wrong, but I think it is worth a shot!

Smith: One of the things I see missing...and I hate to add something new to it...but I thought of it even as a broader these...is the issue of technology...use of technology throughout.

Eneguess: I think that was on the original list.

Abbott: Does anyone see anything else missing?

Herr: Time. One of the things that came out of the survey was...there was some perception that things just took too long.

Abbott: ...cases...adjudication?

Herr: It also drives economics of the system.

McArdle: So, what I hear you saying is there is a good possibility we can take this list and group them into like categories...five or six categories...and be specific about what kinds of issues are covered under various categories, then let people sign up.

Herr: That also enables us to think more broadly about the issues; what happens to be on the

research list at the moment.

McArdle: Let's see if we can do that.

Eneguess: When you have suggestions for buckets to put them in, email us.

McArdle: Are you guys okay on the agenda for August 22nd? We will have Andy's overview, web site update, and drop dead date for the web site. Dawn Goodnow will talk about Listening Session dates and locations, and protocols for listening sessions. By then we will have categorized, hopefully, all these topics into five or six general areas and get people to sign up for them. That's a lot. Can we do that in three hours?

Gardner: I just want to comment that I think, once Andy makes his presentation, it is public. There will members of the Commission that will take that and make it public. Anything you hand out will get public. I think everyone needs to know that will happen. It just will happen.

Eneguess: As soon as the agenda goes out, the press will be invited.

Gardner: I wonder it will help if you do not provide a handout...

Abbott: We made a big issue about being transparent, and I think we need to deliver here. The only issue to my mind is whether we want to announce this publicly the same day so that we manage the story a little bit or just let people run with whatever we put out. One way of doing this is we could have our Commission meeting in the morning and have a press conference in the early afternoon and release things. Questions could be answered from the press.

Eneguess: Why not have a reporters' round table?

Abbott: That will be two weeks before the first Listening Session. So, I see this as an opportunity to get some press for the public Listening Sessions.

Squires: I would like to go back to Ann's suggestion that we need some communications help because who is contacted and the wording and the tenor and all that is crucial. As far as I am concerned, I am an absolute amateur. The only thing I know is that there is a body of knowledge here that can be applied and the sooner we get some expert advice, the better. Now, Laura...she is pretty savvy, but she has got to be removed from this. But, I think the sooner the better.

McArdle: Well, I've got somebody that I've talked to you guys about.

Eneguess: We have to be as apolitical as we possibly can be...

McArdle: Right!

Nixon: Have Listening Session dates been identified?

Eneguess: At the moment, we are looking at Mondays in September.

McArdle: We are looking at the Mondays in September. Believe it or not, the Mondays in October are

problematic because of such holidays as...are you ready? Here we go: Columbus Day, Rosh Hashanah, and Halloween! So, I asked Will and Kathy to give me a couple of other days in September and October. If we could wind up by mid-November, it would be good.

We have said we would do two sessions in each location. One would be 3 to 5 and the other would be 6 to 8. I think we should be as consistent as possible about the times.

Eneguess: The Chief Justice wants to be at each session to just listen. He does not want to add; he wants to only listen; he wants to be present at all of them if he possibly can. Coordination with his calendar is important.

Nixon: Again, I want to be certain that the process for obtaining interpretation, if necessary, is in place. Especially when talking about legal stuff. So, please be mindful. If you want some help doing that search, the center can be contacted.

McArdle: As soon as I get the dates...because we now need to match up dates with locations. Is there anything else? I do have one question. There is a Commission meeting scheduled for August 22nd. Assuming we will start the Listening Sessions in early September, we said we would have Steering Committee meetings once a month...the 2nd Tuesday of each month. That would put our next meeting on September 13. My only concern is that I thought you might like to meet as a Steering Committee once more before the show goes on the road!

Abbott: A question is whether or not there is a need do that that.

Crosier: No. I don't think so.

Nixon: Well, I just discovered that we are facilitating these Listening Sessions ourselves. I did not realize that when I bought into this Commission.

Eneguess: Claudia came on at the last minute and did not read the full list of responsibilities! Facilitating is one role of the Commissioners.

McArdle: Everyone around the table, except me, is a Commissioner. We are all going to be attending the meetings.

Nixon: That's fine.

Abbott: The next meeting is September 13th.

McArdle: Yes. Ten to noon. Also, please note that, when I talked to Laura...exchanged voice mails with her yesterday...the Commission meeting on August 22nd may need to be in the Supreme Court building itself. She is checking on that, hopefully, today.

Eneguess: Do we want to push the meeting to the 20th, so we get past the first Listening Session...the Steering Committee meeting?

Abbott: No. Let's keep it on September 13th.

Gardner: Have you yet given out a schedule for the full Commission meetings?

McArdle: No, because I was hoping we could get the Listening Sessions nailed down. Now, please help me clarify this in my brain. Were you saying you were not going to hold a Commission meeting during the Listening Session phase? In other words, we have ten Listening Sessions between the first of September and mid to late November. Are you going to want to hold a "Commission meeting" during that time?

Eneguess: We had suggested holding Research Committee meetings, but not a whole Commission meeting until closer to the end of the year.

Abbott: I think we ought to schedule a date in November for a Commission meeting whether or not the Sessions are over. On August 22nd we can let everybody know that date. Also, I do not think we should encourage the Research Committee to get going right away. I am concerned about the perception that we are not letting the public drive this. I do not think we are going to be organized enough anyway to start doing this work until November. The November meeting ought to be the meeting at which we assign tasks to each Research Committee and decide on the process, the timetable, and all that. Then we can say we waited until we had public input as part of this.

McArdle: That meeting will be Monday, November 14th. The following week is Thanksgiving week, so I am tentatively putting November 14th on the schedule. That will be in the transcript of this meeting but I hope that within a week I can send an email to you guys with a full schedule.

Gardner: That greatly helps the group of 105 to begin to organize their time.

Abbott: Maybe by November we can have dates for the next twelve months.

Eneguess: If we bucket the Research Committee topics, people can start looking for materials pertaining to their topics of interest.

McArdle: They can use that time to read. There is a lot of reading to do... Is there anything else for today?

Abbott: I have a question in terms of timing, location, and dates. Is it your plan to have a handout on August 22nd that gives the whole Commission dates, times and locations?

McArdle: I certainly hope so!

Adjourn: 12:06PM

Future Meeting Dates of the Full Commission (9:00am to Noon)-

Monday, August 22
Tuesday, September 13
Monday, November 14