

Concord Listening Session.

Will Abbott: It's three o'clock and I think we're going to get going. Welcome to the third of eleven public listening sessions of the New Hampshire Citizens Commission on State Courts. My name is Will Abbott. I co-chair this commission with Kathy Eneguess. Kathy is from Jaffrey. I'm from Holderness. And we both work in disparate parts of the state, I'm glad to be with you today in Concord. Today's session will have two parts, from three pm to five pm and again here in the same meeting room from six to eight pm. The mission of this commission was set forth by the Chief Justice, John Broderick when he appointed it last April to independently assess the foundation and structure of the delivery of justice by the state court system from the perspective of New Hampshire's 1.2 million citizens and the people who really are the consumers, if you will, of the court system. If you look at it as a business, it spends sixty million dollars a year in public money and it has a staff of over six hundred employees, not including judges. So, it's a pretty large organization and I think the Chief Justice quite correctly seeks to try and have the citizens themselves look at how it operates to see if there is room for improvement, which I think he and all of us on this one hundred and five member body believe there is. But we're really interested in what you all think. And we would like to ask your help in sharing those thoughts with us. Before we get too much further into this, I mentioned we have a hundred and five members, if they all came we probably would have to use a bigger room. But there are a number of them here today and I guess I'd like to ask each of you who are members of the commission to stand up and identify yourselves. Ralph, would you like to start?

Ralph Littlefield: Sure. I'm Ralph Littlefield. I'm from Concord.

Byron Champlin: I'm Byron Champlin. I'm also from Concord.

Harriet Cady: I'm Harriet Cady. I'm from Deerfield.

Bill Knowles: I'm Bill Knowles. I'm from Dover.

Claudia Nixon: I'm Claudia Nixon. I'm from Concord.

Gilman Shattuck: Gilman Shattuck from Hillsborough.

Chris Johnson: Chris Johnson from Concord.

Cathy Green: Cathy Green from Manchester.

Ross Stewart: Ross Stewart from Concord.

Cheryl Killam: Cheryl Killam from Newton. Excuse me for not standing.

Mark Putney: Mark Putney from Manchester

Larry Gilpin: Larry Gilpin from Amherst

WA: Thank you all and thank you for serving. Thomas Jefferson once wrote that the price of liberty is eternal vigilance and the commission sees its role as providing part of this eternal vigilance to assure that the courts of the state are doing what they were intended to do under the Constitution and that in so doing are meeting the expectations of the people whose liberty the Constitution protects. If public trust and confidence in the judiciary cannot be sustained, we believe our liberty itself could be placed in jeopardy. The commission is interested in your thoughts about how the state courts work. We are interested in learning about the key issues you believe face the state courts. And we are interested in ideas you have for improving the courts and their delivery of jurist prudence in New Hampshire. Your input can be provided in a number of ways. In addition to testifying before this public listening session, you can also address written comments to

us through the regular mail at post office box 419, Concord, New Hampshire 03302. Or you can submit written comments electronically through our web site located at www.nhcitcourts.org. I'll repeat that through the afternoon and evening if people want that information. Or you can send us an email directly at public01@nhcitcourts.org. All your comments made today or by email or by regular mail are entered into our public record. And that's another way of saying if you don't want to read about it in the newspaper then don't write it down and don't tell us. Because we are trying to be as transparent as possible in receiving information from the public and sharing it with the hundred and five members of the commission as well as the public. We have recently conducted a public opinion survey with the University of New Hampshire survey research center and will shortly be releasing the results of this survey, which was done over the summer to gauge general public concerns about the courts and their effectiveness. The public input that's gathered by the commission between now and December will be used as part of the input that the commission gathers in its deliberations and its recommendations and our plan is to spend three months, January, February and March in deliberative mode. We will break, the commission will break into a number of research groups and those groups will report back to the full commission sometime in March with recommendations that they each believe ought to be considered by the full commission. And then the full commission will spend two or three months trying to determine which among the recommendations advance through this sub-committee process, if you will, merit being passed on to the Supreme Court itself. We end our job when we write that report to the Supreme Court, but I suggested as Kathy has equally to our colleagues on the commission that if there are recommendations which require public action either in the form of legislative action or executive action, we hope that our colleagues on the commission will join us in being advocates for those recommendations once the report is final. We have tried to keep the number of rules about participation as short as possible. I will serve as moderator for this session. My role is to assure that each person attending has the opportunity to make comments in a timely manner. In an effort to make your time and everyone else's as productive as possible, I'd like to ask you to limit your presentation to five minutes. If we have opportunity once everybody whose, who would like to make a presentation in their five minute period has done so, we will certainly open the floor to an additional five minutes to anybody who is interested. We have three by five cards. We'd like to ask each person who would like to speak to put their name and home mailing address on a three by five card. Julie, who is over at the door there, is the keeper of the cards, and if you haven't gotten one and would like to speak, please see her. We have in our prior two meetings suggested and people have been really good about this, that you avoid the temptation to try and re-try a case that you may have been involved in in the courts. First of all you can't do this in five minutes and secondly we can't reverse any orders the courts render. But try to focus if you will, on if you had an experience which in your view is negative or warrants some kind of corrective action by the system, try and focus your comments if you will, on the recommendations you think we ought to consider to making the courts more effective. If you, if anybody here has any questions before we begin about process, this is a good time to ask them. (pause) Sir?

Brian Demyanovich: My name is Brian Demyanovich and my question was, I thought that we'd be able to discuss our past experiences or whatnot with the judicial system?

WA: Yes, that's ok if you do. I just want to, I want people to understand our goal isn't to try and, if you have had an experience with it, we'd like to hear it. And if you'd like to share, you know, recommendations for improving the system. I mean if your experience was negative and you want to improve it so the same experience isn't had by somebody else, that's fine. And I realize that it's hard to communicate a recommendation without some, providing us some foundation of what your experience was.

BD: Yes.

WA: But we've had a couple of people who thought that somehow we could change a court decision that was made relative to a case that they were involved in and that's just not the case.

BD: No, and I didn't believe that was the case.

WA: Ok.

BD: But what I didn't understand was the guidelines that was just handed to me now. I thought that we could discuss a little bit just in reference so that you can see where-

WA: Sure you can and I guess if you're, if you go into details, my preference would be to leave the names of parties out of it, but just address the substance of the case. Ok?

BD: Ok.

WA: And if you've got written material you've already presented, prepared, you can submit that as well.

BD: I mention several names.

WA: In your written material?

BD: Yes.

WA: Fine. If you could avoid it in your public presentation and focus on, you know, the core content of your experience, that would be best.

BD: Ok. Thank you.

WA: Yup. Any other questions? (pause) First up is Ken Braiterman.

Ken Braiterman: Thank you very much for the opportunity. I'm actually here in two capacities. I'm speaking as an advocate for people with mental illness, as a member of the staff of the national alliance of mental illness of New Hampshire. And speaking for them, and then I would like to take another minute to speak only for myself as a family member of an inmate in State Prison. Speaking for NAMI, twenty six percent of the inmates in State Prison have a mental illness. The problem is probably even worse in county jails, both for the inmates and the institutions and the estimated number of children and adolescents in the youth development center runs toward seventy five percent. State Prison inmates with mental illness are a danger to themselves, other inmates and staff. These inmates tend to get the medication they need most of the time, but because of the procedure involved in re-ordering prescriptions, there can be significant interruptions in their medical routines. The only treatment available for most of these inmates is medication. And medicine can stop you from being sick or acting out, but to get well you also need psycho-social interventions and peer support to gain insight into your condition and learn non-medical coping skills. The families of these inmates also need a special kind of support. And NAMI New Hampshire is starting to dialogue with prison officials to make this kind of support possible. The same problems exist in county jails along with some additional ones. Since people with mental illness tend to be poorer and more isolated than most other people, they spend time in jail for misdemeanors that other people would not go to jail for. Disturbing the peace, simple

assault, vagrancy, shoplifting, vandalism. Generally people are jailed without warning and arrive with no medical records, so they face serious interruptions in their medical treatment. They're more likely to be victimized by other inmates and more likely to be isolated and segregated. One of the most dangerous things that can happen to a person with mental illness who's not stable on medication. NAMI New Hampshire believes that alternative sentencing and jail diversion programs are one of the best answers to these problems. Four years ago we introduced the Seattle model of a mental health court to New Hampshire and the first experiment with one began a year later in Cheshire County District Court. A few months ago, Judge Leary of Nashua District Court convened a panel of court officials and mental health professionals to plan a similar effort in Nashua. And NAMI New Hampshire is part of that group. We recommend that this commission take a close look at the Cheshire County experiment to see if it can be replicated in other parts of the state. We recommend that you consider all forms of alternative sentencing especially if they include proper mental health treatment. People with mental illness usually remain legally responsible for their behavior and they should be held accountable, but they can be held accountable in ways that do not drain the system's resources and put everyone involved at even greater risk. NAMI New Hampshire is also deeply involved in two initiatives involving parents with mental illness. Until last year it was too easy for parents experiencing a mental health crisis to give up guardianship of their children. They could consent just by signing a form. Parents would voluntarily give up guardianship thinking the crisis was temporary and the guardianship would be temporary. Only later would they learn that there was no such thing as temporary guardianship under law, but if the guardian objected, they faced almost insurmountable burden to have the guardianship removed by the probate court. And the guardian also had complete discretion over the parents visitation rights. That law was changed by the legislature in 2004 and a committee led by Judge Casavecchia completed work on protocols for applying the new law earlier this year. The over-riding concern for the best interest of the child has not changed, but there is now more due process protection for the parent. The probate judge must now hold a hearing and gage the parent in a colloquy to satisfy himself that consent is truly voluntary, knowing and un-pressured. In addition, the judge must hold another hearing in six months or a year to see if the guardianship is still necessary. Judges are instructed to be as liberal as possible about allowing visitation without sacrificing the child's best interests. We're now in the first year of this new procedure and it would be the perfect time for this commission to look at whether it's having the desired effect. NAMI New Hampshire is also an active participant in the coalition on mental health and family law. Many parents with mental illness believe that their diagnosis puts them at a disadvantage when child custody becomes an issue in divorce. Many judges, lawyers, guardians ad litem, DCYF staff and CASA volunteers still seem to believe that a parent with a mental health diagnosis is automatically less able to parent effectively than the one who does not have the diagnosis. If that bias was ever justified, it is certainly no longer justified. Therefore, the coalition has put together a best practice tool for evaluating objectively a person's capacity to parent. That requires more than one home visit by the fact finder and also tries to prevent the fact finder from unconsciously holding the diagnosed parent to a higher standard than a normal parent would have to reach. This commission should look carefully at the way courts evaluate a person's capacity to parent and consider the tool that this coalition has developed. For many years, NAMI New

Hampshire has conducted training about mental illness for DCYF staff. Last year through NAMI'S In Our Own Voice Program, CASA volunteers met with successful parents with mental illness and heard their stories. Three years ago NAMI New Hampshire participated with the state bar association in a continuing education conference for lawyers on mental health issues. We've conducted training and continuing education at the police standards academy for over five years. With particular attention to their first response to a person in a mental health crisis. We recommend that all these educational efforts expand. Sensitized educator, fact finders, advocates and first responders can reduce the burden on the courts and improve the outcome at the same time. Switching hats for a minute and speaking only for myself, as a family member of an inmate. We have a prison system with twenty four hundred inmates, approximately nine hundred above capacity. People are coming in much faster than they're leaving. Mandatory sentences and truth in sentencing mean more people are going to prison and staying longer than ever before. Another factor is a recidivism rate higher than fifty percent. Mandatory sentences and truth in sentencing are acts of the legislature and the courts are limited in what they can do about them. The one thing courts can do is look more carefully at the way some plea agreements are reached. Though it's not supposed to happen and prosecutors deny that it does, inmates and their families know that some defendants are given the choice between going to trial and facing mandatory sentences of twenty to forty years or pleading to a lesser charge with the prosecutor recommending a sentence of two to four. Judges need to look more carefully at the process as well as the product of some of these plea agreements. And if appropriate, use their power to reject the agreements as not truly voluntary or to dismiss charges they suspect are being piled on merely to force a deal and avoid a trial. Eight hundred of the system's twenty four hundred inmates are sex offenders. One out of three. They range from serial pedophiles to violent rapists to kids in their late teens and early twenties who get caught sleeping with under-age girlfriends. There is a wide range in their level of violence, psychological make-up, likelihood to re-offend and the kind of treatment they require while in prison. Here's where the prosecutors charging and sentencing discretion is greatest and most likely to be abused. And where the court needs to exercise the most scrutiny. The prosecutor says to a twenty-two year old, go to trial for four counts of aggravated sexual assault on a minor and face mandatory sentences of ten to forty years, or plead to one count of felonious sexual assault and I'll recommend two to four. Judges should not allow the same behavior to trigger such differences in charges that are brought against a single person. We want to avoid trials and get offenders to serve some time, but there has to be a limit to how hard we push for these guilty pleas. The vast majority of these eight hundred sex offenders are in the least like violent, least likely to re-offend late adolescent with under-age girlfriend category. Many of them are serving longer sentences than they need to and it is not in the state interest to keep them there that long. Thank you very much.

WA: Thank you, Mr. Braiterman. (pause) Thomas Ficarra, did I pronounce that right?

Thomas Ficarra: Yes. Good afternoon. My name is Thomas Ficarra and I am an attorney practicing in Manchester, New Hampshire. I've been an attorney since 1986. During my career I've been a clerk to a judge in the federal court. I've been a prosecutor and since 1989 I've been in private practice. And for the last ten years a good portion of my practice is handling indigent criminal defense work that's over-flow work from the public

defenders office through a program set up by the court system and the judicial council whereby private council will take the work that the public defenders cannot do. A majority of my practice both private and this indigent work is criminal defense and I represent both adults and juveniles. And today I'd like to talk to you about some issues that I think the court commission here should consider when reviewing the courts and how they treat juvenile cases. The juvenile system is set up ideally to be rehabilitative and not so much for punishment and my experience in the court system is that the punishment end is always going to get attention and it's, and it's going to be taken care of. When people commit serious and violent and heinous acts, generally they get punished for it. They go through the system and they're usually found in juvenile court true or in adult court they're found guilty and the penalties come down. I think where some more attention has to be made in juvenile court is for individuals that are not the worst case scenario, but the kids that are coming from dysfunctional families and families where there's been abuse in the families. Families where there are uneducated and barely getting above the poverty level families and there's many families that they are at the poverty level and below. There's families with mental illness and there's families with poor education. A lot of these kids come from those types of backgrounds and they wind up in the juvenile court. The schools can't handle them because their resources are limited. Their mission is different and they see the court as a place to dump the problem kids. In the court, there's remedies that the court can use, they can send children or young offenders, delinquents to the youth development center and that's getting a big overhaul right now which it really needed. There are many placements, what we call placement programs throughout the state. They're group homes, both co-ed and single sex group homes that deal with a variety of issues. Some deal with specific type of cases such as drug and alcohol cases, some deal with sexual abuse type cases, some are just general group homes that deal with a variety of mental illnesses and just the type of problems that kids deal with. And my experience there has been some recent programs that are community based programs and that's what I think the courts should be focusing on and I would ask the commission to look into. An example I'd like to give is I had a client one time that had committed a delinquent act, wasn't anything serious, was not a violent act, but it was such that and this is not an unusual situation where the child shouldn't go home. The parent and the child are not getting along, that's kind of one of the issues that sometimes festers in these cases. There was no place to send the child, there was, there's three temporary shelters in this state where children can stay for up to sixty days. Those were all full. The child did not qualify for one of the long-term placements and so the only alternative that the court had was to send that child to YDC on a temporary basis. And the child spent several weeks at YDC until a bed became available somewhere else. The court didn't want to send the child there. I didn't want my client going there. The prosecutor didn't want the child to go there. The juvenile probation office didn't want the child to go there, but it was clear the child couldn't go home until some issues were dealt with and that was the only place left to send the child and to keep the child safe while the issue was worked through. There's a program that, it's a day treatment program that I've seen being used in some of the larger cities and it's a program that's really working. Where the kids go to school and after school the program picks them up and takes them to their facility and they stay there from about 2:30, three o'clock until about seven thirty at night. They make sure kids do their homework, if there's issues that have to be dealt

with such as alcohol issues or if there are issues of anger management, things of that nature, they handle that at the day treatment program. They also have sports and activities at the program so the kids can bond with other kids, see other kids are going through things they're going through. They also have counselors there that can deal with them with the family issues. The family also is invited and at times required to come over to the program to deal with the counseling problems that they're trying to work with. And then they bring the kids home at night, so that time before the kids are, you know, before it gets too dark out, before it gets too late, that time when maybe the parents are still at work and they're coming home and dealing with the family issues, where as some of them might be running in the streets, they're now being taken care of. And it's in the community so the kids can still go to school and not be taken out of the local school. They can still deal with the parent and they can still deal with the home issues. Many times they'll, children will be taken out of the homes and placed at a placement maybe sixty miles away, seventy miles away and the, the parents can't see them or they see them on a limited basis. That doesn't help with the problem because the kids do great at the programs but once they come back to the inner city, to their tough neighborhood, to the home that's maybe still kind of shaky, the problems resurface. So I would ask the commission to look more, or recommend to have the courts look more into day treatment programs. It would also be helpful to have the courts, because I know it's up to the courts to approve having JPPO's or juvenile probation and parole officers, they have to be approved by each court. In some of the bigger areas, where there's large population and large dockets of cases, there probably should be more juvenile probation officers. Because the probation officers when they click with the kids, when they see the kids in school, and they have a regular presence, they do have an effect. And a good juvenile probation officer can keep kids out of YDC. But when thinking about these programs it is also very important to think about the rural areas because I find that clients of mine that are in the rural areas have it the worst. Because there is no, there's nothing around for a lot of these folks, their kids don't drive, there's no transportation and so there has to be some type of plan to get the local community involved, whether it's a local boys and girls club or something if the courts can enlist the aid of programs like that to help with juvenile rehabilitation. Because otherwise they're going to come back as adults and we're going to have to deal with them with probably with far serious matters and in the long run it's more costly. Thank you.

WA: Thank you. (pause) For some of you who arrived late, if you want to speak, please see Julie, fill out one of these three by five cards with your name and address and she's right outside the door here. (pause) Ralph Brewster.

Ralph Brewster: My name is Ralph Brewster. I'm from Somersworth, formerly of Pittsfield, formerly a state representative in 1961. I'm just going to talk briefly on how to improve the court system and I got an envelope that goes very, very deep and if you want me to come back, I'll come back and for a three or four hour session. I'm the guy that initiated the national aerobic health phenomena. I'm the guy that initiated health education in every school district throughout America from 1990 forward. I'm the guy that identified red meat as the (inaudible) factor in breast cancer, testicular prostate cancer and cancer of the rectum and I'm not supposed to be that bright and the professional academic community ain't supposed to be that dumb. I'm just a big embarrassment to them so I been going steady for twenty five years, I worked for the

public for free. I've yet to get my first telephone call with a thank you. And the reason they can't say thank you, we never taught six billion people on the face of the earth and we never told anybody they were born to feel and if you can't feel, you can't express appreciation. That's the greatest single cause of divorce in this country, we never taught people how to feel and when we don't, we teach them how not to feel. And husband can't express to his wife how he feels to her and the wife is a stand-off. Imagine. And the resolve right under everyone's nose. Now I'll get back to it. That's in case you want me to come back, see? I'm the guy that initiated the eminent domain commission in the state of New Hampshire. I got caught in one of those eminent domain processes and I got royally screwed like everybody else did in them days and I says there must be a better way. So I went up to Spring Court library and I scrounged around and I located eminent domain commission from the state of Wisconsin. It was very good and so I modeled this one for the state of New Hampshire and where I had been processed, you know, I was able to fine tune it with the nitty-gritty and I had my local representative present it to the legislature and I represented, Senator (inaudible) followed through and it got enacted in 1970. Now I don't think any one of you can ever remember an eminent domain case before the court in the state of New Hampshire. That's how good it operated. And there's where we're wrong with the Supreme Court judicial review board. Going to the review board is like going to the Mafia because somebody picked your pockets. They only have their own interests and the tiger has no teeth and that's why we're always in a mess, so if you make it a public affair it can operate just as nice and good as our eminent domain commission. And so far as the eminent domain, the state legislature what ain't broke, don't fix it. They haven't had any problems for thirty five years, and it's operating probably the best state in the country so leave it alone. (laughing) So, and now I been in the small claims court a couple of times, see, and it lacks uniformity. I went into one and I got scammed. I got scammed by the lawyer and then I got scammed by the court because I was denied the right to speak after I file for an opportunity to speak. And I had the opportunity to go into the one in Dover who operates fantastic. When he sits down, it's an understanding, see, it's a behavior pattern when you're going in, the judge says now this is how it operates, the petitioner will have a chance to speak and the defendant will have a chance to speak. And then you'll have a chance for the rebuttal and this and I may ask questions, great. And everybody has a chance to speak and I went to this one in Dover and I didn't have a chance to present my side of the case and I explained and I put a complaint into the judicial review board and they say it's perfectly all right. Well I've been to the judicial review board on a bait and switch one time by a couple lawyers. I had a note due on me and they said sign this and you'll get paid. I signed it and I only got half my money and I got a receipt for a non-contracted debt for the balance. I wasn't even dead yet and then I go into court with a retired Supreme Court Justice about seventy five years of age with a known reputation that he never saw a woman in his court that he didn't like. (laughs) And I asked him a prominent lawyer, I said what's he like and oh you run up against, he says I love going in his court and representing a woman cause I got a case, one before, I can win. And I filed for a cross petition when I went into contempt of court cause I withheld on dependency money. She already got it. Cripe, I gave her everything and took a note for five years non-interest, only three thousand dollars when it came to pay off she wanted to screw me out of that and with the help of the lawyers. That's what they do, that's what their business is. They know the men have

the money and control the money and the divorce court, all they want is money, there's no justice because there is no teeth to the law and I was denied the right to be heard on my cross petition and I made a noise, I said I'm here, I showed just cause why it shouldn't be held in contempt and I can't present. I said, oh I'm going to hear is contempt, I said can I read a statement. Well that's when he made a mistake. I started right at the top and I says my generosity and I says now who would be mean enough and hateful enough to bring Santy Claus into court and what kind of a, a lawyer would it be to help Santy Claus and what kind of a court would it be to find Santy Claus guilty. Well the emphasis later on...I told him where to go very politely and he told me where to go. I served forty seven days in the county jail. And while I was waiting to go, the clerk of the court came in and he said to me, he says you did a fine job in the court today, he says you presented your case very well, you were very orderly and everything and he says I wish I was in a position to do, to help you. Well when I got out, I called these two judges – lawyers – into federal court for civil rights violation and he dismissed it for lack of diversity and the civil rights code clearly says that a lack of diversity is not just cause. Well what the hell can you do? So I got back to the regular court and I looked in the transcript of the court and I couldn't believe my eyes, according to the transcript that has to be accurate and right to the teeth. According to the transcript I was incarcerated without sentencing, kidnapped by the sheriff (laughing) and unlawfully detained at the county jail. And I went into judicial review board with a prominent ex-judge and I had a lawyer to help me and I brought the first superior court judge into court in the history of the state of New Hampshire, I believe. My lawyer was so intimidated, he couldn't get out of his chair. He wrote a note and I still got it at home any questions you want to ask. But my point is they're intimidating. If you want, you can't go before a judicial review board by a lawyer, they're intimidated. And the guy apologized to me afterwards and I said, you did right cause if you'd have got up and said anything, you might just want to leave the state of New Hampshire. They'd have crucified him. So this is my point. The biggest advance that your committee can make is the judicial review board shall be a commission like the eminent domain commission where everybody can speak freely and when it comes to the small claims court, so that there's uniformity to begin with so there's no frustration. See, I, I'm a methodical person, see I got scammed by the lawyer and I had my letter to him and his to mine and you could read it and it's a complete scam. The guy deserved to be disciplined. But no, he was apparently a friend of the (inaudible). I got screwed. I got screwed. I had to pay six hundred and fifty six dollars for a twenty five dollar damage. My car broke loose and bumped his bumper at four miles an hour. Bent on the corner They go in a body shop and they got a machine that'll hook it out there, twenty five dollars to fix it. I says go in there and get it fixed and if you're not as good afterwards as before, I says I'll buy a new bumper but I want the old one because it's worth a hundred and fifty dollars on the internet. (laughs) So I had to pay six hundred and fifty dollars and the guy ain't going to repair his bumper and if he did he's going to sell it on the internet. And they knew it and they get away, they get away with it because the law has no teeth and people do not realize, they say oh you live in a Democratic society. You don't live in a Democratic society anymore. A Democratic society is what is mine is mine and what is yours is yours and we live and let live. But we're living in is what is mine is mine and what is yours is mine. Hurray for me and screw you, that's what's happening to the airlines, they're going out of business. Imagine the guy running the

stock exchange, paying himself a hundred and ninety one million dollars for one... airline pilots getting three hundred and fifty thousand dollars. And you got your schools here. I was on the school board back in 1961 and there was only one third of the fifth grade that could read at the fifth grade level. Here it is forty years later and they still can't. I can tell them how to improve that. I've asked two Governors and the state board of ed, not interested. So, you read my material. If you want me to come back, ask me specific questions. And by the way there's no such thing as anger as we think it is and there's no such thing as arthritis.

WA: Thank you, Mr. Brewster.

RB: And our biggest problem is we got a lousy.....school system when it comes to public health. See we're not doing a proper job and there's no committee trying to help people. And I'm the guy that wrote to the Governor of California and why he cut out Coca-Cola through the whole state of...

WA: We'll read your material. Thank you very much.

RB: So, read my material. I got copyright.

WA: Thank you, sir.

RB: Thank you for, but I, I do hope that public control of the judicial review board and, and the lawyers would appreciate it, too.

WA: Thank you.

RB: Thank you, Thanks for listening, public.

WA: Mr. David Zwald. Did I pronounce that correctly?

David Zwald: Close enough, Zwald.

WA: Zwald.

DZ: Like I said, I had a lot of examples that I was going to give but I won't because of the guidelines here but I would like to, but, you know, I'll mail them later on. I've been dealing with the family court system and I feel like I get a lot of disrespect and bias in it. Now....what kind of recommendations I have is, I'll make it nice and short, but if there's a way where they, you know, cases can be reviewed. I went to a legislative hearing where Judge (name omitted) said the only time we ever look into it is if, you know, something bad happens and to me, you know, to me something bad is happening to me. But, you know, just a way that an independent type commission can look at it outside the court, you know, or at least the family court system because a lot of times I don't feel like the laws of this state are being followed by the judges who've decided to legislate from the bench. You know, they, if....they just don't seem to follow the rules that are on the books. You know, that's my opinion and I'll give the examples later on. Another problem is, that I've had to deal with and I don't know if the commission can look into this or not is with the visitation centers that the court orders. People to use to see their own children. You know, they're, they're an independent contractor company but people are ordered to use them through the court. These, these centers have no licensing or regulation requirements and there's no place where you can even turn to to file a grievance against them. For, you know, the way I've been treated I've....and another thing I'd like to just ask is you know, somebody like me I can't afford a lawyer anymore. I tried using a lawyer and it just cost me so much money between that and all the money that I'm having to pay out due to, a divorce settlement. Just a place where somebody can turn to like file a grievance against the court or, you know, brings things up. Maybe what you're doing here is that, you know. I guess....this is the first I've heard of this by going to hearings on

laws that are coming up through the child and family laws committee, legislative committee and they just...something like this, it really needs to be fixed. I've been feeling like my, my Constitutional rights are being violated. I'm always having to come in and prove my innocence before anybody else has to prove my guilt. I guess I've just tried to keep it to recommendations and I had a nice long list of examples to give, but I won't get into that.

WA: You can give them. I just didn't want anybody to get the impression that we could somehow be a forum for the redress of-

DZ: Yeah, well I don't want to. I don't want to get into that either, but I do have examples on how things aren't being followed and I'll send you a letter.

WA: Ok. Great.

DZ: Thank you.

WA: Thank you very much.

Kathy Eneguess: Thank you.

WA: Joseph Haas?

Joseph Haas: Good afternoon. My name is Joe Haas. Capital H AAS of Boscawen and I'm a member of VOCALS, Victims of a Corrupt American Legal System incorporated, with twenty people, three of the, who are, or were state reps and Dick Bosa, the former Mayor of Berlin, since deceased. And I do have a paper I'd like to give you that I typed up today. I scribbled some of this last night. I'm trying to keep it away from the cases and my first question is, does the end justify the means? The answer is no, there is an addition to substantial due process procedural due process. When somebody reports such a perverted end decided by a judge to the JCC, the Judicial Conduct Committee refuses and or the Supreme Court itself on appeal declines to investigate the how that that decision was arrived at. This is wrong and unless you revise your system from within as an antibody attacking this corruption then there must be an external check and balance from one of the other three branches of government. And if perverted there too, then a solution is called for from without the government as by the article ten right of revolution. Just a point to tell you about. There is a suggested bill that I've put before representative Dick Marple to hopefully put in to deal with this....this....well I don't have a copy with me but there is some type of check and balance being done by some of the people in the legislature. I'm pretty upset with a lot of them. I heard the last speaker say that there's judges that don't follow the rules. I mean when rules, well let me get to point number two here. It is presumed that the words you will receive today will be arranged in an order that will make a difference, but I have my doubts. RSA Chapter 92, Section 2 requires that the judges abide by the statutes of the state and the Constitutions of both the state and the United States. In particular, the right to a speedy trial. Defined in New Hampshire by a policy in the appendix of the Superior Court rules book to be four months. I have proof that either the state can not ad or adds and ignores the numbers. The clerks shall, S H A L L, must schedule show cause hearings by the rule. I don't have the rule number but it's in there. But that does not happen. I have names, I have dates. I have courts names to back all this up if you'd like. When the state cannot play by the correct numbers, or in other words cannot play by the rules, how can we the people expect you to play by the words. The time for this George Orwellian 1984 double-speak must end. Does the word forthwith in the RSA mean after a long drawn out trial for impeachment? No. There must be a mechanism in place for a speedy eviction of these judges on the bench who are the

liars and thieves because as we all know, figures don't lie but liars figure. RSA 92 Section Two says that when a complaint is made then somebody somewhere is supposed to investigate that and the person that violated the rule or the statute of the Constitution is to be dismissed forthwith. Those aren't my words, those are in the statute, but I challenge you to show me anywhere, anytime during the last century where any public servant has ever been forthwithly dismissed. Thank you.

WA: Thank you, Mr. Haas. Brian? I know I'm not going to be able to read your writing. D is the first, what's your last name Brian?

Brian Demyanovich: Demyanovich.

WA: Demyanovich. Thank you.

BD: Thank you for allowing me the opportunity to speak, to voice some of my concerns and opinions. I didn't come here to offend anybody and it will probably be impossible to say what I gotta say without that happening to somebody but...I wrote down a few notes and I do have some judicial concerns. And I'll just kind of read it off the paper because and try to eliminate the names that I have put in there. I think the state really needs to do away with lifetime appointed judges. Due to the enormous power and authority bestowed and entrusted with judges, we mustn't allow this lifetime appointment to continue. Judges should never be allowed to forget their role and duties required and need, excuse me, duties required and need to be demanded by the people who govern them. The impeachment process held at the beginning of this century has only served to prove that judges will never have to face repercussions for wrongdoings, will never be prosecuted, sued, disbarred for that matter, impeached ever again. Unless we set short-term limits, elect our judges or our judicial system will continue to run amuck. Crime's a serious issue everywhere in the country and New Hampshire has its share however it should never be committed behind a courtroom bench. Folks, that is exactly what has been happening daily in our courtrooms when our appointed justices in favor of prosecution ignore civil rights that are guaranteed to each and every United States citizen. As court referees, judges must enforce and protect all costs and protect at all costs that guaranteed right at the lowest level possible. If that means reprimanding police, prosecutors, lawyers or even lower court judges, or dismissing a case every now and then, then do it. That's what you're appointed for, I'd say to the judges. It's my belief not protecting our civil rights at the lowest level, that people have become victims of a multi-million dollar business scam controlled by the bar association who reaps the profits. I want our courts to undo some of the wrongs and start making them right. This can start right now by granting appeals to each and every person that has been denied that guaranteed right. It is wrong for our justices to pick and choose who gets an appeal and who doesn't. I'd like to see us do away with plea bargain, unfair sentences, due to plea, plea bargain is a gross miscarriage of justice of one's rights. I know this firsthand after a 1996 incident. That was no process by a county attorney. The system was able to be circumvented by my ex-wife who made false allegations against me in order to gain unfair leverage over a contested divorce. Through her knowledge of seventeen plus years of working for the state, she was able to manipulate an assistant county attorney, not to mention his name, who was seeking a career advancement. Although, although I followed a no process agreement, I was re-indicted, through perjury, false testimony and judge swapping.... judge swapping tactics. The DA was able to obtain a conviction after that and if I were to have plead guilty, I was offered a bargain plea of two years. When I took my case to trial,

the DA brought an additional untimely charge at the day of trial and it was allowed in court by the judge on that day and the case went forward. I was also forced to go to trial with an attorney who I no longer trusted. I tried to fire him weeks prior to the trial. This, and in the opening statement, this attorney told the jury that I was guilty. I thought that's what we was in trial for, to determine....then I was convicted and sentenced to one year at the Rockingham County Jail and to the Concord State Prison for seven more years. Basically the sentence was handed to the court by the district attorney when he said that he wanted to send out a message to the people that if a man commits a crime in this county and wants to take it to trial, then he's going to do time and a lot of it. Not necessarily for any crime that was committed. But to send out a message because I wouldn't go along with the plea bargain, basically what he wanted. After waiting more than two years in prison, my guaranteed right to an appeal was denied. And an impeachment was going under and the judge that had done one of the sentences and allowed the misconduct and allowed another criminal case to come in against me the very day of the trial was sitting in the bench, so he's not going to in turn, overturn his decision, obviously. This is a real corruption that goes on in our judicial system. So, I'd like to do, I'd like to do away with the lifetime appointment of judges. People who are in the courtroom like, that work there, even if they see misconduct or something going on in the courts, they're not anxious to come up and file a complaint against a judge or a prosecutor because of repercussions. They know that this judge is there forever and their job may only be temporary if they file a complaint. And, and also by appointing a judge for lifetime term without any, without any way for us to keep them in proper conduct. If judges are enforcing the rules and stuff of the court which in my case a lot of the rules which should have been enforced weren't. They went unchecked and they were just tossed out because they just wanted a conviction regardless of how they got it. They were going to get it, regardless that they had to break the rule or the law for a conviction, they were going to get it. And they succeeded. And then when I went to the appeals, I was denied that appeal. This isn't new, something new, this has been going on for years. We need to change it. Also, the truth in sentencing, I'd like that to be, be done away with. Ok? Bring back good time to people who are incarcerated. I'd like, and I think that's being looked at or at least it's gone to legislation on numerous occasions that....I just think that that should be done away with and I think that we need to do away with the plea bargain or bring change to it perhaps, perhaps a good change would be to allow the judges to actually do the sentence or even a jury. Let them do it instead of the prosecutor. The prosecutor usually does the sentencing. That's real bad, bad law, bad practices. If he gets a personal vendetta against someone, like in my case, rather than two years, do eight. Ok? For what? Because I took it to trial and exercised a guarantee right, I was punished more. I think we need to appoint all the judges for short terms, maybe the terms on that should be maybe every four years, like the President. We don't give a President

WA: You can keep going.

BD: We don't give a President life on there because we would end up into a dictatorship. Why are we doing it here even in our state? Other states aren't doing it. Our divorce courts are unfair, unjust and really in a way they make up their own rules as they go along. They're extremely biased and in my case they're grossly biased. I wish I could bring that thing back into court and I wish I could have people there to actually listen and see what took place and what transpired. As this gentleman over here was saying, that,

that the, by not following laws and not splitting up equity equally among both parties, they both work together, whatever and if it fell apart, give them each their share. But it's always one-sided and I think for the most part in this state, the women have the advantage over the male. Ok. That needs, that needs to be in check. I think we've empowered our judicial conduct committee, the professional conduct committee, and we've given the bar association, part of who police themselves and they're really not being policed. I think part of that is because of repercussions. Higher up, judges again, there for life. You're going to have to face him at one time or another. In order to enstow power in our professional conduct committee, let's give them another avenue saying if they rule against a judge, if they point out a wrongdoing to a judge, ok, that they don't have to reap a serious punishment for that because the judge is going to be there forever breathing down his back. The people, and also, people who sat on the, people who sat on the parole board, the parole board itself, some of those people have been there for years and years and years. There's malice, there's hatred, there's just plain misery in there and they don't want to parole people who deserve parole. I mean everybody, I think ,deserves a second chance in life especially if they're working very hard to obtain a second chance, but our system here in New Hampshire, the parole board, they parole almost nobody. You max out. If you get three and a half to seven, you're going to do the seven. Whether you do the whole seven behind the wall or you do it on parole, you're going to do that entire seven years, ok. And as a result of that, the parole officers that should only have like seventy five cases are, are overwhelmed with over a hundred and twenty five cases. Then the only thing that they can do is they can take and...they can take and violate a person, put them right back behind the wall rather than deal with individual cases and talk to them and just be a help, a person that you can turn to for help. The other thing is I don't think anybody should be, a parole officer should not be allowed to take somebody's parole away from them based on a violation and not, not on a conviction of a new crime. I don't know if anybody in this court, in this room here realizes but when you're released out of prison on parole, you have to sign a paper giving them the right to take you back for any reason or no reason whatsoever. If you have a parole officer that just doesn't particularly care for you, you're going back. If you've been out for five years and you've got a house payment and you've got a car and you've got your life all back together and all of a sudden you're accused of something or the parole officer comes in, maybe he may find a beer in your house or maybe a condition was you're not supposed to be out after nine and you was out till ten, you didn't necessarily break the law, but you violated a rule. Rather than see what the parole board wants to do, they just take you back and you end up losing everything and starting your life all over again. Because you'll be there for thirty to sixty days before you're even going to be heard and that's pretty stiff on an accusation. And we need to, we need alternatives to sentencing. Ok? Judges don't need to be sending everybody that comes through their courtrooms to jails. Juveniles, adolescents, adults, it seems like the only place, the only thing they know anymore is to put them, lock them up, put them away, put them in jail. We have good people in our jails and in our prisons right now. We have people that don't even belong there and they're in there, I've seen them. I was one of them and it's like a catch-all, I mean what kind of society are we doing? What, what are we allowing to take place in this state? Some people need some help, some people need higher education. Some people need a change of income, they just need help and we're putting them in prison and in jails and they

don't need to be there. There's got to be other programs set up. And these judges have to be willing to send them to a different program. They've got to be willing to make a sentence choice on their own rather than allow just the prosecutor to make that decision for them, based on a plea bargain.

WA: I'm going to have to stop you there, Brian-

BD: Ok.

WA: - because we've got ten more people who want to speak-

BD: Ok.

WA: - and I've been a little bit too slow with the hammer, so.

BD: Well, I do thank you for this opportunity to speak and thank you for listening.

WA: Would you like those written comments to be submitted or...?

BD: I hope it does make some change.

WA: Thank you. Thanks. Barbara Kirsch?

Barbara Kirsch: Thank you very much for allowing me to speak today. I'd like to speak on behalf of my husband, David William Kirsch who's currently incarcerated at New Hampshire State Prison. I appreciate the opportunity to share with you, the members of New Hampshire Citizens Commission on the State Courts, my experience with New Hampshire court system. My hope is that the words spoken today will help to bring about positive changes within that system for the future with equal justice under the law for each and every citizen. The end justifies the means. That may be what the prosecutors team was thinking during my husband David's last trial in 1996. A previous conviction had been overturned by the Supreme Court. When a subsequent trial ended with a hung jury, I believed that they wanted to be absolutely sure of a conviction this time. Toward the end of his trial, held at Rockingham County Superior Court in Brentwood, New Hampshire, I overheard a brief conversation only a few feet away from me. Just thirteen words spoken by an officer to my husband's accuser have remained firmly in my memory. They were heartbreaking words not only because of the jury's guilty verdicts but also because my eyes were opened to injustice within the state of New Hampshire's court system. My husband's conviction did not follow days of deliberation. Within a matter of hours, three guilty verdicts were handed down by his jury. In my heart and mind, those decisions point back to the thirteen words I heard from the prosecution's side that day. Although they were not recorded in any court transcripts, the words spoken have left their permanent mark. What were those words? I hope that you will listen very carefully to them as I repeat word for word what I heard that day. We're gonna win this one. We're gonna win dirty, but we're gonna win. I firmly believe that the prosecution's agenda behind those words led to my husband David's conviction. He was given three consecutive sentences of seven and a half to fifteen years, a total of up to forty five years in prison. Before going to trial, David was offered a plea bargain which included zero jail time if he would plead guilty. As a result of exercising his Constitutional right to a fair trial in the New Hampshire court system, he is now serving what amounts to a life sentence. His conviction and lengthy incarceration has been devastating to David, to me as his wife and to our family. My question to each of you is this, how many other men and women who were tried in New Hampshire courts have suffered similar devastation? Equal justice during all trial proceedings and fair sentencing, my hope is that these changes will be accomplished as a result of your work with the New Hampshire Citizens

Commission on the State Courts. Thank you very much for your involvement, for allowing me to speak and for your kind attention.

WA: Thank you, Barbara.

BK: You're welcome.

WA: Maurice Chaput? Thank you, Barbara.

Maurice Chaput: I know you've heard me. Thank you for letting me come back. My name is Maurice Chaput. I'm in favor of House Bill 529 for one thing. I do not believe in our justice system, I have no faith in it at all as I've said in the first meeting, for everything I've gone through. It is a biased system all the way, I not only suffered through my divorce case, but there were two other incidences where I had to go to court while I was going through my divorce. I got hit by a drunk driver and he totaled my car, ten thousand dollars worth of damage. I had lost use of my legs for twenty four hours. I was living in that totaled car under a bridge. The prosecutor made a plea bargain with the...um...arrested person, the drunk driver, I suffered the loss. I said to the prosecutor, what about my losses? He says contact Motor Vehicle. Not knowing the law, I thought I would get my losses. Motor Vehicle said I had to take him to court. The judge never once ordered him to make payment to me or to pay my medicals or for anything for my loss. Another incident I had in court was small claims court. I had a garage work on my vehicle, they ruined the a-frames on it and so I took them to small claims court because I refused to let them work on it any further because of the manner he was working on it, with sledge hammers and everything else. So, Doble's fixed it. In court I didn't know what was going on but the father of the son who owned the garage was with him. I later found out that the father of the son who worked on my vehicle was in the Knight's of Columbus with the judge who heard my case. I found this out a year later. That judge should have recused himself, he never did. As I said in the first meeting, I was put in jail for cancer. I got laid off from work, I had cancer, fighting for my life and the attorneys worked together against me, withheld the truth from the courts and I was put in jail, fined fifteen hundred dollars, I had to pay her attorney fees. And this kept going on and on. This is the Constitution of the United States and when I fired my lawyer, I sat in front of my computer for hours crying and crying trying to figure out how to defend myself and I showed the courts the truth about everything. All the false statements, the lies, the perjury from my ex-wife, the conspiracy within the attorneys, the fraud to Medicaid, nothing was done to her. And I was, I was still punished, the retro-active relief that was given to me was taken away and I was ordered to pay it back. I really believe that a lot of innocent people suffer but in, in my divorce, it was I who filed. And I was trying dearly to do modification, not modification....for the children's sake, mediation. And the, and my oldest daughter was to go between, who was suffering dearly, and the counselor had asked her, what is it you want from your father and through her confusion, she drew this on the paper. I'll let everybody see it and so we kept going on with our conversation and the counselor and myself, and as we kept going on, she drew this and on this side of the paper, ok, it says what I want to do. Golf, swimming, go to the park, make bead necklaces, fish, sew dolls, library, movies, kick the can, color, draw, make bead bracelets, play outside, dress dad up, make things and have fun. P.S. horseback riding and bowling. To Daddy love Shaylee. These are all the things I used to do with our children and my son was very, very young and he used to love my cooking. Well this is what he did. He loved my Chinese pie and grilled cheese and things like that and that's what he wanted to

keep having. So this is what my son had did. None of these things were admitted in court. And I did recommend at the first meeting that....we should have a new court system, new judges trained enough to be biased. There are some attorneys out there who truthfully represent their clients, but a majority of them do not and they just play the game and they take the money from the man and that's called extorting money by false representation. And that's wrong and I believe one of my recommendations would be to separate the bar from the Supreme Courts and child support because the three of them together make a power where they head off complaints or nothing gets done and that's wrong. You should separate these three powers and stop this monopoly so something can be done cause they do not abide by court rule. I've put, I've used the Constitution, I've used the Civil Rights, nothing, it doesn't matter. The judge does not care and he just hits you more and more and the more the father tries to see his children or talk to his children, he's denied and punished further. I went to the Belmont Police Department where I live because I'm in fear of going near my wife's house, to be accused again. I asked him and explained my situation and I said, would you please call my house and ask my ex-wife if I could speak to my kids. He said, sure, would you be happy with five minutes apiece? I said I would love that. Ok. And I'd like to do this for a dozen times and then if it goes well then I can continue from my house. She told this police officer if he wants to speak to his kids, he has to take me to court. She knows that I will get nowhere in court, they won't even hear my last plea, my last filing, my motion to enforce the court order and to have a hearing on visitation. She's in constant contempt of court, and yet I'm the one that's suffering and my children, or should I say our children are suffering. And I'm not the only man or only person in the state of New Hampshire or any state that is going through this. This is worldwide. The Civil War the Constitution, and this was fought for the people. Well anyway, thank you.

WA: Thank you, Maurice.

MC: And please do something.

WA: Thanks for coming. Cheryl Wilkie.

Cheryl Wilkie: Hi, I want to thank you for allowing me to speak today. My name is Cheryl Wilkie and I work for Southern New Hampshire Services Community Corrections Program and I also work for the Merrimack County Pre-Trial Diversion and Fast Program. And I'm here today to speak about some of the issues that I've come across in the past seventeen years working in the court system. I do evaluations for drug and alcohol individuals. One of the big issues that we run across on a regular basis and the court is familiar with and we really could use as much support and as much attention to it is the fact that we don't have facilities in the state of New Hampshire to deal with the problem. Currently we have done some surveys and hopefully Katie Merrow from the Center of Public Policy will get here to speak to you. She has a lot of the statistical data and I spoke with her today. Eighty percent of the offenders we have in the prisons and the jails have alcohol and drug problems. Their crimes may not be directed specifically to possession of cocaine, possession of heroin, but if you look at their history, you're gonna see the shoplifting is for the heroine, the burglary is for that, the disorderly conduct or the simple assault all play a role in substance abuse. Like I said, not all eighty percent. So if that's what we're looking for at clients that need treatment and we only have at the present time forty, I'm sorry, four thirty day programs in the state of New Hampshire that can accept people that hold maybe sixteen to twenty people and five de-tox programs that

hold maybe, you know, depending, they're supposed to have twelve but occasionally they'll take more. Then we have no where to put people who are looking for help with drug and alcohol problems. At the current time, I got a phone call this morning, this is an example of a woman whose son was taken to the Concord Hospital this morning. He overdosed. He's eighteen years old. They were gonna observe him for two hours and then they would send him home. She called me very hysterical asking if there was something I could do to help her. It's a very frustrating place to be after many years knowing that it could take four to six weeks before that young man can get into a program. I have people die on a regular basis now, that didn't happen five years ago in the state of New Hampshire. Heroin wasn't here. It is now. We had withdrawals from cocaine, marijuana, and different drugs but we didn't have people who were overdosing on a regular basis and dying. We don't have one medical de-tox in the state of New Hampshire. If you're coming off of heroin or any opiate, Oxycontin, Vicaden, Percoset, these kids, they're seventeen years old, eighteen years old at Concord High School who are addicted to these drugs that have no medication to come off these drugs. They're not going to come off it. It hurts too much, it's physically painful. You become nauseous, you cramp up, you hallucinate, it's much easier for them to get another pill than it is to look at that. And how does this affect the court system? Well, then they're arrested, they're put into the jails at sixty two dollars a day when it costs twelve to twenty to do treatment. And why? I don't know. I don't know why we consistently put people in prison who have drug and alcohol problems, knowing that in two years they're going to get out of prison and they're not going to have made any changes. The state of New Hampshire and the Department of Corrections eliminated their summit program. It was their only drug and alcohol treatment program behind the walls. Now they have some substance abuse education classes that you can take but those inmates could teach those classes. And so they get out of prison and they are not only still have the brain function and the chemistry make-up to abuse drugs and alcohol, now they've learned a lot of different ways to commit new crimes. I see twenty year olds going in, when they come out after being in prison with twenty eight and forty year old men, they've learned a lot of things. These offenders, these people, these clients that I have are gonna get out of prison and they're gonna move back into our communities and if we don't do something to help them we're all gonna suffer. Now the court has always said, you know, that's not our problem, you know, you need to get them treatment, but we can't get them treatment if we don't start applying the funds that we collect in a way that's going to be beneficial. Recently in Merrimack County the Fast program was started. The Fast program is a first time alcohol substance abuse treatment program started by Dan St. Hilaire, the county attorney. What he did was, you know, a very simple thing but it was something that nobody was really willing to put their neck out and look into. He took the money that they were charging these seventeen, eighteen, nineteen, twenty year old kids was three hundred and fifty dollars a first time offense for possession of alcohol. Instead of having that money go into the general fund, he had that money go into the county. He hired a program that will educate these young people to the abuse and use of alcoholism and also marijuana. So they don't pay their three hundred and fifty dollar fine and walk out the door and we wait until they have a second or third or fourth offense. These are creative alternatives that we need to come up with. These fines are, are very, very large and we can use this money to make changes within the court system that's gonna save us money in the long run. We've got to

have a vision, we've got to stop thinking that, you know, it's just for today, it isn't just for today. There's only one other thing I want to talk about and it's the habitual offender law. And I don't know if this is even the place except that I've been seeing it and I, it's for me becoming more and more passionate to watch people who are arrested for operating after suspension because they have no money to pay their fine which is an eighty six dollar ticket so then they go to work to get the money to pay their fine and they get stopped and then they have another operating after suspension and then the next thing you know it's too many points for a habitual offender and they spend a year in prison. How do we justify putting somebody who doesn't have money in prison for a year because of driving? I'm not talking about the DWI's and the second aggravated DWI's. I'm talking about the young person or the adult who doesn't have the funds. If it was my child, maybe your child and they had an eighty six dollar ticket, I can tell you I'm going to pay it cause I'm not going to let my child go to jail because he can't afford it. But we consistently, at this time, are just racking up the points and then they end up with this habitual offender charge. And I'm seeing it more and more and the more I see it and I look at their history, a lot of them have no criminal charges, these are charges from driving and when you ask them why didn't you do, why didn't you go to court, I didn't have the money, I knew they'd put me in jail. So it's money again. So who are we hurting? We're not hurting the upper middle class or the wealthy, we're hurting the people who don't have money. So that. That's just my last piece that I think a Cinderella license in New Hampshire needs to be looked at. It exists in Massachusetts where, you know, we have got to start looking at making some changes. If somebody has been driving without a license and you want them to pay their fines and they can't pay their fines cause they can't get to work, well then do we want to pay twenty five, thirty thousand dollars a year to incarcerate them? That's all I have to say.

WA: Thank you, Cheryl. Barbara Keshan.

Barbara Keshan: Hello.

WA: Hi.

BK: I'm a member of the public defender's office and I've been since 1992. From 1985 to 1990 I was a member of the Attorney General's office and my job was to prosecute homicides. Since 1992 I've been representing poor people in the state throughout the state. I've been in every court in this state defending people charged with a gamut of crimes from trespassing to homicide. There is one point that I want to make here today and it's, it really echoes Cheryl's point. As a prosecutor and I was a prosecutor for fourteen years before I came, for seven years before I came to New Hampshire. Drugs and alcohol are destroying a population of young people in our country and because we don't put resources into treating them up front, we have to spend more money incarcerating them, back-loading those resources. And they don't get help. They don't get help in prison anymore. It's, it's been very disheartening to see the programs that have been effective in New Hampshire state prison cut back. And you know now your clients go in there and they have, they, you know, if they're going to learn anything it's because they're incredibly self motivated and even when they come out on parole, there are not programs for them. We don't put resources into addressing this significant program. Coupled with that is those rare cases, those cases that don't involve substance abuse, involve many, many times mental illness. And more and more we are incarcerating the mentally ill. And it's very disturbing to be a part of the system and see that happen and

see it happen more and more. We have fewer resources to treat people who can be successfully treated with medication and monitoring. It doesn't take a lot of resources up front to treat those people. And I would really ask this commission to be as strong a voice as you can for reform in those areas. I think it would go, it would serve us all well in the short term and the long term. Thank you.

WA: Thank you, Barbara. Henry McElroy.

Henry McElroy: How are you doing?

WA: Hi. Welcome.

HM: Thank you. I hope you don't mind if I stand?

WA: If you're comfortable standing, please do.

HM: Ok. Thanks. My name is Henry McElroy. I am from Nashua. And I am a retiring state rep and...I know what's been going on here the last few meetings and I've been watching all this input coinge in from our constituents and having heard what I heard this afternoon, again just reiterates to me, it brings up, reminds me of the history leading up to the French Revolution. If there's anybody on the committee that thinks things don't need to be looked at and corrected...you're on the wrong committee. Because this type of thing is also going on nationwide. And I would like to, for the record, for those people who mentioned things like these child advocacy courts that they go to this web site because there is a class action law suit going on against all of the health and human services organizations in this country that have anything to do with taking away children from their families and it's Constitutionalconceptsfoundation.org. And look for the class action lawsuit. They are trying also to get one started here in New Hampshire. They've got them started in twenty-eight states already. One of the reasons that I ran for state rep several years ago was because of our judicial system being unaccountable. Now I was asked to come here today by a group of several people called we the people who are the government of this country and this state as defined by the Constitution of the state. And let me bring this to your attention. This is our rule of law. There seems to be a lot of confusion about what is the rule of law in a republic operating under the rule of law. This is our rule of law and if you read the preamble it defines who the government is. The first three words in the preamble are we the people. In order to form a more perfect union...they then created the rule of law for the central government. Those same people had already created a rule of law in their thirteen countries that became thirteen countries after we wrote the Declaration of Independence, they had already written the rule of law in their country's Constitution which became later to be known as the states. So that's all preface. I just want to thank you for having us here and I have a question. After our thirteen sovereign countries which had been former British colonies prior to the Declaration of Independence had fought a war and spilled our blood to win and maintain freedom from the evils of the various unaccountable functions in England, in the English government including the parliament, the crown, the British judicial courts and the various other bureaucratic functions that they had that were bringing rules that our colonies were supposed to be following all four of which had been wreaking havoc and mayhem on our American colonies. So therefore the question for your committee is.....who we're all supporting and doing your proper job of keeping us from going into some form of a French Revolution.....the question is this, knowing the history of our country and the blood that we spilled to fight that revolution, would anybody, any reasonable person think for even a moment that we or our founding fathers or mothers

would have had the intent of setting up or allowing to develop that same unaccountable type of governmental system? Including the judicial system here in our wonderful sovereign state of New Hampshire. Would we have set up an unaccountable judicial system that we the people could not correct as needed? With forums like you're doing here and over the next several months? Needed to protect us from any over reaching tyrannical government behaviors? No, I don't think we would have set that type of government up. We had already seen what happened in the French Revolution. We saw what happened in our own revolution. I don't think anyone would allow us to have an unaccountable judiciary like we have in this state. Now a couple of examples, negative examples. Historically, you will remember how many of our former colonists, family members of ours, who were charged with crimes would be sent back to England to stand court in front of a partial jury. They had been manipulated by the judges and the lawyers, then they would get convicted and frequently many of them we never saw them again in our homes back here in America in the colonies. Ok. Number two, currently the grand jury in the United States of America which gets its authority from the Fifth Bill of Rights of the Constitution which was put forward by the states, gave rise to the jury to be used by the states and the people in the states not by the federal government. It is currently and has been for a long time being totally grossly and unlawfully used by the federal department of justice over here on Pleasant Street, to wreak havoc and mayhem on the inhabitants of the state of New Hampshire. Number three, the last example, the impartial jury, remember our family members who were sent to Europe, to England or to other English courts before partial juries. Our founding fathers knew that impartial juries were a must in order to protect us from the over reaching tyrannical behavior of any government agency. The impartial jury which gets its authority from the Sixth Bill of Rights, the rule of law our moral compass, everything we've been hearing this morning, this afternoon talks about, eludes to our moral compass being totally out of kilter. It comes from the Sixth Bill of Rights that the states put into the Constitution to ensure that every jury state and federal would not be tampered or influenced by any judges or any attorneys. The jury is you know it is being grossly and unlawfully being made partial by unlawful tampering and influence by judges and attorneys, lawyers and possibly the clerks and the bailiffs. Now I've been, just a couple more minutes. I have been involved in several courts just recently myself, Superior Courts, the grand jury court, small claims courts, ok, and I've seen this type of stuff going on, first-hand. All right. So therefore, we the people are here today with our testimony to support you and our public officials in making necessary changes to the judicial system to make them once again accountable so we the people on a timely and cost effective basis, which is to begin forthwith and by the first of January, 2006 at the latest. In other words, if we the people are the government, we've got to give you some accountability. This cannot be drug out until we all forget about this. This needs to start immediately. Here we offer you a couple must suggestions. For accountability. No more judges or attorneys or anyone tampering with or influencing juries by their mere presence once trial starts. We are supplying you with a set of, let me approach, I've got a set of about forty pages of jury instructions attached to that. That tell a jury how they can manage themselves without a judge being involved with them after the jury, after the trial starts. Number two, stop any federal uses of the grand jury at least in our sovereign state of New Hampshire, including the department of justice from convening any grand jury in the state of New Hampshire or explain why you can't do it.

If we the people are asking you, our representatives to do something and you can't do it for some reason, explain to us why you can't stop that behavior from happening.

Recently I just toured some of our military academies and I will guarantee you that those military academies are following the rule of law. They are accountable. If they get off the line even a bit, they better get back on immediately or they are out of there and it's all about accountability. Which also helps correct our moral compass. If I can read this quote this lady said, we are going to win this one, we are going to win it dirty, but we're going to win it. Where is our moral compass in that behavior? Then this gentlemen says I have no confidence in our current courts systems. That's the one that brought all this history back for me on the revolution, of the French Revolution. How far are we going to let this go before we actually take some corrections? Thank you very much.

WA: Thank you.

HM: And for your patience.

WA: Ellie Therrien?

Ellie Therrien: Good afternoon. Thank you for allowing me to address the commission. I was the director of the alternative sentencing programs in Hillsborough County for ten years. And I am presently the coordinator of the Nashua Academy program. These are all alternatives to incarceration. Over the course of the ten years, one thing that I've always wondered when you're dealing with courts is why does there need to be a cattle call? Why do we all need to show up at eight fifteen (8:15) in the district court or say nine o'clock in the Superior Court, why can't court times be more user friendly and staggered? I think also that there needs to be better cooperation between the superior and district courts. For those of us who have to be in two places at once, it's, you know, you have to pick and choose your judge that you want to aggravate. And it really shouldn't be that way, there should be a better way to coordinate it. I also think that the facilities in this state all need to be upgraded. I'm thinking in particular of the Merrimack District Court, I don't know if any of you have had opportunity to be there. But you sit on folding chairs and not only is it, is it not dignified in keeping with the court proceedings, it's also, it doesn't seem like it has very good public safety address there. And I think that that should certainly be a concern to the commission. I think that if we're going to look at where we should put our resources, obviously I agree with what Attorney Keshen had to say and Cheryl Wilkie had to say about their being no treatment, either behind the walls or treatment beds available that any of us can access and we're clogging up the system. And people are being violated time and time again because we can't get them into treatment beds fast enough. One suggestion I'd like to make is that probably seven years ago, ICJJC sponsored a two-day conference. I don't think we have that kind of money in the court system, but perhaps we could sponsor something for a day where people could get together and brainstorm and think of alternatives to incarceration. In Hillsborough County I have gotten some parolees out. The judges have looked at it because their needs can't be addressed behind the walls. Has the court looked at hiring grant writers that can look at accessing money? There's money out there but those of us that are in the trenches don't have time with what we're trying to do to go after those grants and if there could be some coordinated and concerted effort, I think that, you know, there are funds there that we might be able to access to help all of us. I think, too, that when you talk about having a conference like that you talk about reductions in sentence and you come up with alternatives and the things that I might think of because Cheryl said eighty percent, I'd

say seventy five percent of the clients we see in Hillsborough County, you know, in our programs have mental health and substance abuse issues. It's not just one thing or another. And you know, and while we're appreciative that the department of corrections and the Hillsborough County department of corrections funds our programs, they're not funded adequately. People's needs aren't being met in the community and I don't know if that can be addressed by the court but it's certainly clogging up the courts with violations. Thank you.

WA: Thank you very much, Ellie. Richard Marple?

Richard Marple: Thank you very much for the opportunity to address you folks this afternoon. For the record my name is Dick Marple. I'm representing, I'm one of four representatives for Merrimack's district nine, Hooksett, about twelve thousand people. I'd like to give you a little background on who Dick Marple is. I'm a life member of the VFW after enlisting in the United States Navy for four years, having an honorable discharge. Coming out of that went through up in Vermont because New Hampshire didn't have a state police training academy. (inaudible) University is what I got my law enforcement authority from. And I came back to New Hampshire and I worked for the state as a trooper. So, I'm a former trooper and as such, I took an oath to protect and serve and that oath meant an awful lot to me because I took the same oath when I joined the United States Navy. That was a four year term and I want to talk about that in a few minutes, but I'm giving you a little background so you know, and after seven years, and this was in 1961. In 1961, the New Hampshire Legislature adopted what is now known as the uniform commercial code. Now the uniformed commercial code was going on throughout the entire country. Being advanced by the legal profession and the bankers. There was a reason involved in that because what happened in 1961 is the common law court where any one of these individuals here could have been a judge. They kept the lay judges so called up until they were seventy years old or retired or moved or whatever and then they were replaced with attorneys. So now in the district courts of New Hampshire, we have all attorneys that are running the district courts and as long as I'm on my feet here, I was on my feet during the last session when an individual was speaking about the district courts and I...should we say recognized by the speaker to ask a question of the speaker that was speaking. I was recognized to ask a question and when I did and you'll find this in the records of the last session, I said it has been my knowledge that the district courts in the state of New Hampshire are not Constitutional courts. They're merely administrative tribunals where you have to pay a toll to get through that gate to get your Constitutional rights in another court. Well the individual, and I forget who he was, he says, well the representative from Hooksett is absolutely correct. The district courts in New Hampshire are not Constitutional courts. That is a problem and now it relates back to when I was a trooper. Because when I was a trooper, we had Constitutional common law courts that had to be. Everybody was entitled to due process and due process means that you had to have probable cause before you brought anybody in, you give them due process. And there had to be either someone injured or someone's property damaged. What those in the legal profession call *corpus delicta*, body of the crime. There had to be a crime. Before you could make an arrest and bring somebody through and process them. What happened with the adoption of the uniformed commercial code was an abandoning of the common law and replacing it with commercial law and the commercial law today is that the individual that is brought into the corporate court under the corporate

government, not the Constitution government, the corporate government. The reason he's in court is because he had breached a contract that he didn't know he had with the corporate government. Now during this last session, I believe it was, I think, yes the last, I put in a specific bill, I'm going to use it to convey the point that I want to get across to you. I put in a bill to abolish the department of safety's so called title bureau. All right. Why was because when I was a trooper anybody that wanted to register their car, you went down to the town clerk and did what you did and then they got your plates. Well now you buy an automobile, notice I said automobile. You buy an automobile, then you sign that initial sales contract. You're giving the automobile dealer the authority to take the certificate of origin which is the true title to the property that you are buying and give it to the department of motor vehicles where it is then recorded not as an automobile but as a motor vehicle. It changes its status from an automobile of real property into a motor vehicle of corporate ownership by the corporate state. And the corporate state will offer you the opportunity to enter into a contract with them upon paying a fee of course. And they will issue a certificate of title. But the corporate state owns your vehicle and will now permit you to drive their vehicle on their highways for a fee of one year as long as you pay your toll of taxes at the local municipal corporation called your local government. Why I'm bringing this all out for is to try and draw a focus on corporate government versus Constitutional government and I personally am outraged at what has occurred by what I call deception by the legal profession. Deception for what, for money. Corporations are fictions, they're fictional persons. I'm not a person. I'm a human being. I have certain unalienable rights. The right to make my own decisions and not to be subject to conditional contracts that I didn't even know about. And it is the deception that is being perpetrated by corporate government, which is a business only to make money. Corporations are in business to make money. So we have two people that we serve, I should say two parties that we serve when we vote over in that.....building across the street here. Over in one hat representing the fiction of corporate bylaws for a corporate government or another hat when we're trying to protect the citizens who elected us to protect them from the (inaudible) and greed from a corporate government. It gets bigger and bigger and bigger. Corporate government does not produce anything. It is a total consumer of the wealth of the people who really generate the wealth. So you can look at corporate government as being a parasite. Pretty hard word, but that's what it is. They're parasites. Now as far as the judiciary is concerned, the judiciary is not being accountable. They're not being accountable because they do not tell the people why they are in the court. Now I looked into the court up here, I mean not the court, the state prison, and I think, I spoke with one of the guys, gals over at the AG's office, it costs about forty grand a year to put one up there, put a person up in the pen. So you go, ok, forty grand a year, that's a sizeable chunk of coin, which in....referenced earlier here, there's got to be alternative methods other than putting them up in the slammer up here. What's going on up there is about seventy five percent or over, seventy five percent of the people that are up there are not up there for crimes. They're up there because of, you know, they're five time offenders or something, motor vehicle violations, stuff like that. They should not be there. There's got to be alternative means of handling this. This, this is a total waste of taxpayers money because it only generates more and more of what I call...revolving door justice. They're in and then they're back out there. It's a revolving door. Now I had the privilege of listening to a former judge by the name of Shockett. She was in Dade

County, Florida for over fifteen years. She came up here with another gentleman by the name of Jack Cole. And she's traveling the country now. She resigned because of, guess what, revolve, and she was down there where all the drugs are coming in into southern Florida. And Judge Shockett was here to try and get our committee, I went to see it in federal relations committee. And state and federal relations of course, this was over the so called nineteen billion dollars a year on the so called drug war. What are we getting for nineteen billion dollars a year on the so called drug war? Nothing. Except churning. In the financial world they call it churning. What's that? That's a crime. Churning is a crime, that's when I churn your stock for you and get a commission every time I buy and sell your stock, that's churning. But that's what's going on in the judiciary with the lawyers. They're churning! They don't want to bring anything to a conclusion. Because then they no longer can send in their bills every thirty days for x number of hours and ring the cash register. They want to prolong it and prolong it as long as possible. What we have to have is attention to the accountability that is required in article eight of the New Hampshire Bill of Rights. The sovereignty rests with the people, that's article seven. The legislature has no authority, the judiciary has no authority and the executive has no authority. The sovereignty is vested with the people. The case on that, I wanted to-

WA: Excuse me, Representative Marple?

RM: Yes?

WA: I've let you go on longer than five minutes. There's five minutes left to this session and there's one person who would like to speak so-

RM: All right. Let me just close with this and I would hope that you will read this case (inaudible) versus Hopkins. I'll give you the citation, it's 118 US 356. And this is an extremely important case because it talks about the sovereignty of the people. (inaudible) versus Hopkins, citation 118 United States Reports and that starts on page 356. The accountability is what has got to be resolved and there has to be a change from corporate government to Constitutional government. What exists now is an (inaudible) no one knows what they are confronted with and when you have county attorneys that are entering into plea bargains, that is a commercial endeavor. Where they put their signature down, now they got a contract. I don't know, maybe I'll put one in. I still got until next Friday to put a stop to, I'm serious, to put a stop to what I call commercial endeavors by the district attorneys. Stop this plea bargaining. Let them have their Constitutional rights. I could go on and on and maybe I will at the next meeting.

WA: Ok.

RM: Thank you for the opportunity. I'll let someone else take over.

WA: Thank you for coming. Rita Dalle Molle? Did I pronounce that right?

Rita Dalle Molle: You did great. Thank you for this opportunity. I did not know of this meeting until this morning on my way to work. I heard it on the radio and I said wow, an opportunity to let someone know what's happened to me. I was never in court until July of 2000, the beginning of a divorce. People have said to me since that time, what kind of state do you live in and I said I really don't know. I said, I have been honest every time I've been to court. When this began, I knew my husband was a formidable person. I got the help of my brother and we got one of the best attorneys in the state, I believe only two people in this state are in the national association of matrimonial attorneys. Well, we got one of them. I'm a teacher and a waitress. It took me eleven years to find a full time teaching job. Now what I have in front of me that I will read because it will be to the

point, is a letter, recently I talked to my brother and he said, Rita, you're too passive. Write to the judge, write to the court and I said well you're not supposed to contact anyone. But anyway, I've written this draft and I will hand it to you. I haven't sent it but it is to the clerk of the court. I would like to point out that my former husband, I won't say the names, has been in arrears in court ordered child support, twelve thousand one hundred dollars, since May, 2003. He has never paid any of the temporary alimony either. It was ordered by your court. He currently owes twenty three thousand dollars. He was ordered to pay attorney fees in the amount of forty five eighty seven. These were due on 9-15-03. Some of the other debts he owes include mortgage, July, 2002, Bush Bucks 300, miscellaneous expenses for minor child. There are other serious matters yet unresolved which include division of pension assets, missing items awarded to the children and me, most of the family photos which include baby pictures and videos, house keys, vehicle removal, etcetera. And I'll just pause at that one. As a parent, right now we're seeing what's happening in New Orleans and one of the things I think people feel the worst about is those personal pieces of memorabilia. Well, I'm not as bad off as the people in New Orleans, however, my children deserve their baby pictures and the very few videos we have. And they're sitting somewhere, probably three miles from where I live and no one is doing anything about it. There are matters, these are matters that have been outstanding for a long time. I would like to resolve these issues. My legal debts need to be paid. I owe about eighty five thousand dollars. There are other serious family needs. I'm turning to the court now for some guidance. I have tried all the avenues of orders and hearings, resolution and enforcement of the orders which were so hard won in human and financial cost is what I need. I have been extremely patient. I have followed the court orders and have tried to cooperate. I have never been in contempt. I have always told the truth. My former husband has been in contempt numerous times. It is time for my family to move forward with more positive things. My children have not seen their father in a long time. On my daughter's fifteenth and sixteenth birthdays, her father did not see her, call her, write to her or send her a birthday gift. It hurts as a mother to see this wonderful child treated like this. Our local police have been involved with some of the family matters including a harassment incident in December '02 during which school officials called the police because her father approached her as she changed busses and was verbally abusive. He would not stop when asked to by the school administrator. You can imagine the fear she has had since then. The police are also investigating a forgery from March '04 where my name was signed to a check I never saw. These past matters need to be concluded as the court has ordered. I hope I will be able to get your help. There are new educational and medical expenses during the last couple of years for minor child which I have not even addressed due to the lack of resolution of prior issues. And then I just have a few more things. Basically, I've never been in court. But since July '02, July, 2000....within weeks of getting the temporary orders, which was September, 2000, my husband was in contempt. So what do we do? The lawyer says, well, we can make a motion. We make a motion, so five or six months later we're in court again. And the judge says yes you're wrong, you need to do this, you need to do something. So, we leave the court, I'm happy, I have a good order. Guess what, nothing happens. My former spouse is like a little petulant child who crosses his arms and stomps his feet and says make me do it and guess what? No one makes him do it. My life is in a shambles. I'm going to be sixty years old in a few months. It took me forever just to get a teaching job.

When I waitress I make two thirty seven an hour plus tips. I'm worn out. I now have high blood pressure and other issues due to this divorce. I'm not heart broken over the loss of love, the love was gone for fifteen years. I'm heartbroken over the fact that I owe eighty five thousand dollars to family and lawyers and my very good lawyer dropped me at one point. I kept feeling like, oh we're so close, we're so close, we'll get the order this time. We walk out of the court, I got, I hear about the order, it's wonderful, we're happy. Nothing happens. I hear about people who say well, gee where I live they take away their license, they dock their pay, they do this, they do that. Well, I was married to a very intelligent man. He became a consultant, he lost his job. He doesn't do a regular W-2 form. He's living a very nice lifestyle. My children and I don't do vacations, we don't do anything. It's not fair. My son, who doesn't give a lot of compliments said, Mom, you've taken the high road. Well, guess what? These children are learning that if you take the high road, pardon me, you'll get screwed because this is what's happened. We are in a shambles. My daughter has maintained high honors for her first two years of high school without a computer in our home. She has no computer, no cell phone, nothing. We are struggling. We shouldn't be like this. We're just average people. The other thing, my husband was such a strategist but the court never listens to you. I begged can I make a statement, you know, asked can I make a statement. No, the judge will never hear a statement. My husband is a strategist, like a chess player, like a military man. He put us into bankruptcy about four months before he said he wanted a divorce. This was part of a plan. Credit cards I've never seen, never heard of. Maybe he was furnishing his place with this woman that he met. I don't know. But I suffer that, first of all not having a high income and then having credit issues. I have a house that's falling apart. If I could get this thirty or forty thousand dollars that's owed to me, that would help me. But still, why is nothing enforced. All this stuff is not worth the paper it's written on. And I'm still paying lawyers and I'm still paying my brother and I'm still struggling. And honestly, it's just wrong. Thank you.

WA: Thank you for coming, Rita.

RD: I liked the opportunity.

WA: We're going to take a break here until six o'clock. If anybody who has not spoken would like to speak, please see Julie on your way out and we'll have you up at six. Thank you all for coming.

END OF AFTERNOON SESSION.

EVENING SESSION TO FOLLOW:

Will Abbott: Good evening. This is the third of eleven public listening sessions being held by the New Hampshire Citizens Commission on the State Courts. My name is Will Abbott, I co-chair this commission with Kathy Eneguess to my left here. I'm from Holderness, Kathy is from Jaffrey. Neither of us are lawyers which is why the Chief Justice told us that that imminently qualified us to co-chair this commission. I'd like to ask, we have a hundred and five members on this commission which seems daunting but it actually, I think is going to work to our advantage. And I'd like to ask those commissioners who are here to identify themselves, raise your hand and just state your name.

Katrina Swett: Katrina Swett from Bow, New Hampshire.

Claudia Nixon: Claudia Nixon, Concord.

Gene Berg: Gene Berg, Manchester.

Byron Champlin: Byron Champlin, Concord.

Dick Chevrefils: Dick Chevrefils, Concord.

Paul Clements: Paul Clements, Concord.

WA: Thank you. The commission was appointed by the Chief Justice to independently assess the foundation and structure of the delivery of justice by the state court system in New Hampshire from the perspective of its 1.2 million citizens. We're looking to the public to provide us with input on ideas for changes in the system based on personal experience, observation or whatever. I'm not going to repeat what I said earlier this afternoon about going into some of the philosophy behind our work other than to say that our challenge is to gather public input which we're doing between now and December. Our next phase after gathering public input is to go into a deliberative mode where we'll have between five and ten research committees that will be made up of the hundred and five commissioners who for three months will deliberate and bring forward to the whole commission recommendations and then we'll take another two to three months to do a final report. It seems ambitious from where we sit now, but that's the plan. Tonight what I'd like to do is ask each of you who would like to speak to give us your name and address and phone number on a three by five card, you can see Julie right over by the door there to get a card if you don't have one already. Or Julie, if you want to hold your hand up, if you'd like to fill one out, she can bring one over. I'd like to, I'll be the moderator of this session. Kathy gets the honor next Monday night in Portsmouth. I would like to ask each of you to limit your presentation to five minutes in the interest of making available time for everybody who wishes to speak to speak. And I'm going to try and keep close to the five minutes, if you see me put my finger up, that means you've got one minute left. If we have enough time and you would like to speak an additional five minutes after everybody has had a chance to speak, that will be fine. I would like to suggest that you resist the temptation to retry a case you may have been involved in before the courts. First of all, you can't do this in five minutes and secondly we can't reverse any court orders, so try to stick to recommendations from your personal experience that you believe would be worthy of the court system to consider. Our task is to make recommendations, I've advised the hundred and five members of the commission that I think that we ought to be prepared to carry forth those recommendations beyond just the final report to the Supreme Court and those things that require legislative action, we should pursue that and those things that require other action, we should pursue that. It remains to be seen since we're at the very early stages how much work that is going to be. If anybody has any questions on process, now would be a good time to ask that, those questions. (pause) Seeing none, I'll ask the first person to come up and if you'll please have a seat right here, we are recording these sessions so that we have a permanent record of all the comments that we can share with the commission. I would also like to say that anything you say will be public, considered part of the public record and I would strongly encourage you not to use names of people in litigation and if you do, I'm going to ask you not to. So, please get to the point. You can, I didn't mean this afternoon and I think some people thought I may have meant this, it's not that we're uninterested in hearing your case, or what you've been through. But we really want to hear it in the context of a recommendation for this commission. So, names

really are irrelevant and particularly names of other litigants. That said, Martha Miller, you're first. Right there, yeah. Have a seat.

Martha Miller: My name is Martha Miller. I live at (address omitted) in Auburn, New Hampshire. My phone number is (omitted). I'm here to discuss boundary line disputes in the courts. From 1999-2003, my husband and I were involved with a boundary dispute with our neighbors. I'm here for the old, for the elderly and for people who cannot afford to have good lawyers. It began with surveyors and we found out there was an issue of a boundary dispute. It led to lawyers, and lawyers led to the court system. The process led to animosity between neighbors. During the mediation system, lawyers and surveyors were present with a volunteer mediator. We were asked to compromise, but at no time were we able to speak as people to people or surveyor to surveyor, neither side was able to speak the truth. Our day in court was an eye opener. Our lawyer was, our lawyer was referred to us by my union and we received discounted service. Their lawyer was a high profile developer lawyer and their surveyor was a professional testifier. The judge had to go through the process of a court system and that meant she could only be told things that our lawyers presented. Our lawyer at no time presented legal...cited legal types of things to help our side. Through, through the process, it came down to she liked one surveyor better than the other. Their point of view better than the other. It was professional testifier over an ordinary surveyor in our area. We lost. And before we had gone to court, we went through the mediation and I think that's one of the places where a change can occur. I think that the mediation cannot just be lawyers with lawyers, surveyors with surveyors and people who cannot agree on a moment and don't have any chance to speak to each other. I think that there should be a panel of surveyors, citizens and possibly lawyers. The lawyers would be able to provide the real estate law, RSA statutes, things like that that would help people understand the truth of the situation. Now I know that all truth depends on your side. But in the court system, people hold back information. They hold back things that would shed light on the truth. During mediation, either side did not want to share what was really going on, or to say this is what I see, this is what, you know, what's going on. If you had a panel of surveyors who could then listen to two surveyors sides, not lawyers sides, two surveyors speak about what they know, what they've been trained to do, and then from there if they would be able to listen, share insights, suggestions and conclusions to the people who are involved. And at that time during mediation, those people could possibly speak, person to person and see, oh I was wrong, and oh, you or whatever or make compromise because you're not able to do that in the mediation process. After that I think that rather than going before lawyers who are able to meld things especially if they are very competent to be able to have the judge see the surveyor panels position, any side that they have as well as see the whole breakdown of each surveyors point of view and from there be able to have, call on other surveyors, call on other lawyers to say this is what I'm seeing, is this really the legal...avenue to go? Once we got through, we were told that the appeal would probably not be able to occur and it would be too costly. It cost us a fortune and so I don't want this to happen to other people. It's done for us, it's over, we're moving on, but at the same time it would be nice to have something change where judges who are overwhelmed with their criminal cases, with their, you know, their family court issues, where somebody who is really a professional in this area could be able to shed light and truth on it. One of the things we learned was that, I remember speaking to my surveyor and I said all I want is the truth to

prevail and he said, justice will prevail, the truth may not. And we don't believe it did occur. That's what I'd like to say.

WA: Thank you very much, Martha. Bruce Blandin?

Bruce Blandin: Hi, how are you? My name is Bruce Blandin, I'm from Bedford, New Hampshire. And my issue has to do with the family court in Hillsborough North, where I've been going for the past six years trying to resolve custody issues and child support issues. Rather than get into all the details of the case, I'll, you know, kind of try to hit some high points and make some suggestions. The first thing I can say is, guardian ad litem, I was assigned a guardian ad litem. I have a disabled son who has a mental illness. This guardian ad litem had no experience, was not trained in any of the issues that would come up with my son. He did not follow the court order. He was given a court order to investigate and it was brought to the judge's attention, the judge said I can't really order him to follow the court order. So basically he did what he wanted to, when he wanted to. Didn't talk to doctors, said he wasn't trained and then he made recommendations on custody and where my son should be placed. And he recommended my son be placed in a residential lock-up. Now, the judge went along with this but thank God the school system didn't and he's been going to a day placement for a year now and he's been doing great. Whereas a residential lock-up, and I work in one of these facilities, he might have been exposed to some really horrendous things and his condition might have gotten worse rather than better. Upon returning to court a year later the guardian said, yeah I made a mistake because I didn't talk to the doctors. I didn't really have any knowledge of this. I went along with one recommendation. The judge did nothing about it. There was lying that occurred. The judge acknowledged the lying in the transcript, did nothing about it. The lawyer said he lied, my ex said she lied, the guardian said he didn't represent the facts, the judge did nothing about it. Child support is another issue. We have, supposedly joint legal and physical custody, yet the judge orders me to pay child support, college expenses of twenty five hundred dollars a month, which is more than I make a month because I work with disabled children in a mental facility. She ordered me to pay for day care for my son who I'm trained to take care of as a matter of fact, I have degrees and you know, I have more experience than the people that my ex is sending him to, but she orders me to pay day care for an inexperienced babysitter with a child that needs, you know, a trained caretaker. So, you know, I think a good place to start is, would be that there is no real hard and fast rules for guardian ad litem. There's no statute set up, there's no way they should perform. There's no hard and fast rules as to when they can file reports, what they need to do in the reports, if they should file court orders. Where you can file a complaint, it's just an anything goes type of thing and these people are making some big decisions in regards to children and families. So, my suggestion would be that, and I know that legislation, legislature's working on this, it's just that they, you know, come up with some standards for guardian ad litem like they have in other states, Massachusetts is a good example. Hold guardian ad litem accountable, hold judges accountable to the law which is being broken in these courts every single day. I think we're working on the child support issue where they're trying to redo, you know, they're doing a study and trying to redo the child support laws, but right now there's a lot of people suffering with...they pay child support plus they pay all the add-ons and even though the other party can afford to contribute, they don't. It's based on one, you know, the non-custodial parent's income. Another thing is judges make rulings and they cite no

judicial basis. I got a ruling basically changing the custodial status, the legal and physical custody status but it gave no reason and my case now is in the Supreme Court. They accepted it because of that, the judge gave no reason. I asked for reconsideration, they just stamp it denied. I wanted to know, ok, what calculation did you use for child support. Denied. They gave me no answer, no reason, so you have to file a costly appeal. And this is, like I said six years, a hundred thousand dollars later. And only because I'm the non-custodial parent, that's it. I was labeled the non-custodial parent from the beginning. I have no background, no history, no domestic violence, nothing. Yet, this is the kind of stuff that's going on in the family court every day and I thought it was just my situation but I hear it time and time again I've been in a number of legislative hearings, a number of these types of hearings and I hear it time and time again from grandmothers, fathers, which is why we're trying to pass HB-529 for assumption of equality. I just don't think it's right and I think the kids and parents are suffering now and we need to do something now. I want to see my children, I want to be there for my son and the only thing that's preventing it is a judge whose admitted herself she wasn't trained in this kind of stuff, that she couldn't really make a good decision based on what she knew about mental illness and you know, the whole environment. I guess to finish up I would say maybe take a look at some of the cases that are before the Supreme Court and you'll get a good idea, you know, in the family court, of what's going on out there. It's very sad. Thanks.

KE: Thank you.

WA: Thank you, Bruce. David Bickford.

Maurice Chaput: Excuse me, Dave, you dropped a piece of paper. (inaudible)

David Bickford: Oh, thanks. Well, good afternoon, or good evening, whichever. Pleasure to be here and thank you very much for taking the time to be here yourselves and listen attentively. I'm a state representative here and I do a lot of work in family law and I understand you've been getting a lot of concerns about family law here and I do want to point out a problem I have observed and that is the training of judges. We, in the task force on family law, of which I sponsored that bill that created that organization, came out with recommendations and one of those was training of judges. Particularly in family law, that's what I speak to particularly. But we also have an organization known as the coalition against domestic violence and sexual assault training, presently. And I have to take exception to that. I'm not sure if they're the right party to be doing that. I don't believe that they have the right motives in mind, I don't believe that they stick to their agenda that they're supposed to stay to. I know they lobby in the legislature. They follow me around very closely. And lobby against many of the bills that I work on. They slow them down. We've got many passed, just the same, irregardless of them, but they do slow the works down. I'm very concerned they're doing the same thing with the court. And I'm even more concerned that they're doing it and in the future other organizations will be able to do it. I've had some judges tell me, not the ones here today, but that they're concerned about being expected to go to the coalition seminars because they feel it's a special interest group. I feel the same way, so going down the line that's my recommendation. We've got to be very careful whose agenda's being trumpeted out there and it could get very dicey in the future depending on who's doing the training. I'm also president and chairman of the commission on child support and I heard some comments about that. I listened attentively to that. We did learn that in the (inaudible) cases about thirty, I think about thirty three percent are deviated from in that. But there are people we

don't know why and I think a lot of the problem the courts get or the complaints they get really lies on the shoulders of the legislature. The legislature hasn't really done a complete job. We have an (inaudible) direction, principals for the judges and which way to go so it becomes, do your own thing and different people in different courts for different justices and different marital masters get a whole different reading, or get a whole different direction. We need the courts to give us some, to ask the legislature, please give us some unified direction, you know. They need to speak up and say that. We've got a little bit of that on the task force of family law, we had Stephanie Nute with us and, to point out a few things that had been not addressed. We could use more of that kind of dialogue. Some time ago the legislature took away the control to some degree of the guardian ad litem. I'm also a member of the guardian ad litem board that you heard about just a few minutes ago. I think the court is going to need to look back and ask the legislature now to be accountable for that because there was a great deal of complaint back around, I want to say ninety six, ninety seven or something like that about guardian ad litem. Well, those same complaints persist, they continue and that was why the legislature took it away and created the board. So, all these years we still don't have all the rules in place. There's not been any disciplining action, there are no rules of disciplining action even. But we both the court and the legislature seem to be looking in opposite directions and not addressing and saying we've got to move forward and do it properly. I was there the other day at a meeting. They're putting together a training class. One of them is going to be on family bylaws and I said, well, I'd like to see the outline before I vote on the training and no one had it to show us what was going to be taught and I had to vote against the training because nobody knows what it's going to be. They're just hiring someone or asking someone to come in and train and hope they'll do it right or that the way, they'll be, well, they do their own philosophy, let me put it that way. Nobody knows which one it's going to be. So that's what I say down the line we need to be looking at each other and continuing this, well some people call it friction, but it's accountability, you know, both branches of government need to be accountable. The legislature has pointed the finger at the courts a lot and it won't hurt for the court to look back and question the legislature a little in the direction it's going. So, anyway that's what I really wanted to point out.

WA: Thank you very much for coming.

DB: Thank you.

WA: Gary Bedaro? Did I pronounce that right?

Gary Bedaro: Yeah. I just heard about this an hour ago so I'm not really prepared for anything. I just went to the legislature to look into, I did some little research here. And so far I found out five of the judges in this state are not bonded and don't have a proper oath of office at all. No bonds. And the other thing, all these judges signing, creating these law suits and bringing these things into court, they're bringing the federal reserve notes or money and the Constitution says it has to be paid with dollars, lawful money which is silver or gold. So, the clerk of courts are accepting fraud into courts because they're taking federal reserve notes or checks. And our Constitution says they can't take that. I would have been a lot more prepared for this, but like I said I only had about an hour here. But none of these judges have any oath of office, the proper oath of office. They only took an oath of office to the citizens of the corporation, period not to the sovereign people of this state. None of them are bonded. Four of them, two of them in this county,

two in Hillsborough County and one in Rockingham County, none of them are bonded and they don't have proper oath of offices, I just want to bring that to people's attention.

WA: Thank you. Jon Kelly.

Jon Kelly: I wrote a letter and I promise that what I'll deliver tonight is the short version of the letter. But I'm hoping I may leave my copies.

WA: Thank you.

JK: And I also wanted to preface my remark with the knowledge that my experiences with family court, my losses were strictly financial and sometimes I do count my blessings that I did not lose children, I only lost my life savings. I can only imagine the agony of the folks who speak to you about having lost their children. First, thank you for serving on the commission. A just court system is a foundation of democracy and I appreciate your working to help New Hampshire achieve this ideal. In my divorce, I lost not just my life savings but more importantly my faith in the courts and my belief that the judge would treat me fairly, could distinguish between truth and perjury, and would abide by New Hampshire statutes. Now I know at this point it may be tempting to take my concerns less seriously to write me off because I lost in divorce court, in fact in our culture we sometimes label men bitter in order to give ourselves permission to ignore injustice. I hope that you won't. I went to family court counting on the statutes, one of which promises that the court may decide that an equal division of property may not be appropriate or equitable after considering a valid pre-nuptial contract which I felt we had. The judge decided the pre-nuptial contract was invalid because it was not written down. I understand that was his interpretation, but in order for him to make that interpretation, he had to ignore nine years of documented evidence, the testimony of witnesses and my ex-wife's own admission. Another issue in my case causes me even greater concern. I feel I lost not because the judge made an interpretation, I lost because he ignored the law. I was counting on RSA 458 which says that the court may decide that an equal division of assets may not be appropriate or equitable after considering the health of each party. I presented documents from a dentist and from an oral surgeon to prove that I required surgery that would cost more than ten thousand dollars. But apparently, RSA 458 did not apply to me. I, too, felt that lying happened in the courtroom. And my lawyer as gently as he could, used documentation to bring the lying to light but the judge's response was that it simply didn't matter. I eventually went to another lawyer, examined the ruling and I asked him about appeals regarding the above issues. He gave it to me straight. He said that perjury was in the jurisdiction of the county prosecutor and that that office routinely ignores its responsibility in this matter. Asking the county attorney to enforce the laws against perjury would waste my time. The second lawyer also confirmed for me that the judge had ignored RSA 458 but he said this kind of thing happens all the time, especially to men. He told me that if an appeals court rules that a judge in a divorce case has to apply the law, thousands of litigants would come out of the woodwork and expect justice as well. He advised me not to count on the appeals court to uphold the law if it meant this kind of inconvenience. Finally I learned that the cost simply to file an appeal was three thousand dollars, a price unaffordable to working people and certainly beyond the means of someone recently impoverished by a divorce court. I acknowledge there should be a screening process, not everyone who loses is entitled to an appeal. But I think that screening process should be based on the law, not based on personal wealth. That second lawyer raised questions that I could not afford to explore alone, but I think they are

essential questions for the citizens commission. Is there evidence of gender bias in divorce rulings? Is there a mechanism to ensure that judges actually apply the law? Is it true that the county attorney has neither the resources nor the inclination to take perjury seriously? It's too late for me, but I hope that future litigants are treated justly by New Hampshire divorce courts. To that end I offer three recommendations. Number one, appoint an independent body, perhaps the committee on judicial conduct, to ensure against gender bias in family court. Second, give the county attorney the financial resources and the moral imperative to take perjury seriously. And then third and finally, open the appellate court to those who have statutory grounds for appeal, not just those who have loads of money. Thank you.

WA: Thank you, Jon. Are there any others who would like to present comments? (pause)

Michael Brewster: Yeah, I got a comment.

WA: Michael, you gotta get a card and fill it out and I'll call you up. (pause) Thanks. Have a seat, Michael.

MB: Here we go again. I just want to run over the, what I said at the first hearings, just real quickly. I thought that was a problem, problem number one which you heard again, everybody states judges don't follow the rules. So, I think that's because of seventy three A, rules of (inaudible) will have the force and effect of law. It was illegally put in there and it's hampered law ever since. Number two, get rid of the bar association because they seem to be all around us, they're ruling, they're, they got a monopoly here. We'd be better off with a couple different bar associations so we all, it lowers the prices, it gives us a better legal system. And again, number three, I think there's way too many bullies, I'll call them bullies and liars and stuff, and we got to get them for perjury or whatever because we're only families. And we just want to get over this. This should not be a lifetime commitment. And, and another thing, I was wondering, when we hire, when the state hires a lawyer, a judge...do they have to put in a certain amount of hours? You know, are they on a forty hour day and if not, and how much vacation time do they get? And these grant monies that they get, how much money of these grant monies, how many millions of dollars of grant monies do they get to say like and where did that grant money come from say Mr. (name omitted) going to, where'd he go, to the war zone. Who paid for that and who's paying for say, (name omitted) to fly to San Francisco to do a project for and, and for judges to come here if there was a, if you had a session at three, aren't they supposed to work until four thirty? Can they just take time off and lobby over here? They're lobbying here during last year's session, you look at the task force on family laws, you got, you got, there is no separation of powers because you got them here and shouldn't they be working? We hired these people to work. They're here lobbying. They ain't working, they're lobbying. So, a few things I thought I'd just add. Thank you.

WA: Thank you. (pause) Are there any others who would like to speak?

Maurice Chaput: On the first card I filled out I asked if I could have an extra five minutes at the end if there was time available?

WA: Mm hmm.

MC: Should I have to fill out another card or could the first card be-

WA: No, you can come up. Is there anybody else first, before you do, is there anyone else who hasn't spoken who would like an opportunity to speak? (pause) Come on up, Maurice.

MC: Ok. The part I was trying to get to in separating the bar from the Supreme Courts and child support is because it's one monopoly and what's happening is you have people who may be filing complaints against judges gets cut off somewhere along the line because of this monopoly. Child support pays the courts, so in my case what had happened was I was falsely accused of not paying child support for six consecutive months and I was hauled in and destroyed and torn apart by child support and thank God my employer had a copy of every single check that was signed and cashed proving I paid, but the point I'm getting at is she filed under oath on paper that I did not pay and nothing was done to her for this yet I was the one who was interrogated and destroyed. The other thing is child support seems to work together with the attorneys instead of following the rules where they should be non-biased. Child support should not be working with attorneys against people. Child support should be for the children. For the best interest of the kids, not on who's going to win and because you're a man. The VAWA has invested our system, infested our system so bad and it's mostly women who are working in the system, they all stick together to destroy the man. Every now and then it's a woman but it's mostly men who are getting destroyed and I can't help feel that if you separate these three powers and also have a place for people to go where they can get the help to make a complaint of there's a violent a...if there's a, not a violent, a real motive to file a complaint. Because a lot of these people don't have the knowledge. And one other thing and then I'll end my thing is, they have a two year limit on filing complaints, well for some people it takes two years or three years to recover from the emotional damage that they've incurred through it. So there shouldn't be a two year limit. I mean there's a ten year limit on certain things, there's a three year limit on bringing someone to court on an automobile accident. There shouldn't be a two year limit, there should be a longer limit there because some people do get devastated, extremely well and hurt so bad to the point where it takes them time to recuperate from that damage before they can come to reality and think straight to file a complaint. Thank you.

WA: Any others who haven't spoken who would like to? (pause) Well, we're going to stay here until eight. I don't want to keep anybody here who doesn't need or want to stay any longer, so you're free to leave and we'll suspend our, our meeting until others show up. So thank you all for coming.

END OF CONCORD LISTENING SESSION.