

Keene Listening Session
November 8, 2005

Kathy Eneguess: Well, good afternoon everyone. I'd like to thank you for coming this afternoon. This is the tenth of eleven of our public listening sessions of the New Hampshire Citizens Commission on the State Courts. My name is Katharine Eneguess and I co-chair this commission with Will Abbott. I am located in Jaffrey, New Hampshire and am President of the Community Technical College in Berlin and Will is located in Holderness and he is the Executive Director of the Mount Washington Observatory. Today's session will have two parts, we have one scheduled from now at 3:05 until five PM and the second will be from six to eight o'clock this evening. Just a few moments about who we are and the importance of today's session. We are a one hundred member commission that was appointed by the Chief Justice of the Supreme Court in April of 2005 to independently assess the foundation and structure of the delivery of justice by the state court system from the perspective of the citizens of our state and then to make recommendations for improvements. We realize that there are over six hundred employees of this particular branch of government and we as members of the public are very interested in not only what these employees have to say but what the public has to say so we can make recommendations. Thomas Jefferson once wrote that the price of liberty is eternal vigilance. 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 New Hampshire Constitution and that in doing so are meeting the expectations of the people whose liberty the Constitution protects. If public trust and confidence in the judiciary cannot be sustained, our liberty itself could be placed in jeopardy. The commission is interested in your thoughts about how the courts work. We are interested in learning what you think are the key issues facing the New Hampshire Courts in their work to provide jurisprudence. And we're also interested in any of your ideas you have for improving the New Hampshire judiciary and its delivery of the judicial process. Your input can be provided in oral form today, through your comments or at our other listening session which will be next Monday evening and afternoon in Salem. You can also submit your written comments to the commission at post office box 419 in Concord and the zip code there is 03302-0419. You can also submit your written comments electronically through our web site which is www.nhcritcourts.org or by sending us an email at public01@nhcritcourts.org. All your comments made today by email, snail mail or otherwise will be entered into the public record. We have also conducted a public opinion survey through the University of New Hampshire Survey Center which we released to the public today and we also continue to gather public input through December fifteenth via our web site as I just mentioned. The public input gathered will be used by the commission in the process of our deliberation and then we will be making recommendations to the Chief Justice and the Supreme Court. The commission's plan is to finish gathering the public input as I stated up through December fifteenth, deliberate over the winter and issue a final report in April or hopefully by the end of May, 2006. The commission has met three times as a commission of the whole and Monday, November fourteenth in Concord will be our next meeting. Meetings are open to the public, but as you can imagine because we do have more than a hundred members, public participation is limited to observation. The rules for this evening, I believe you have

copies in front of you, but let me just make a few observations. I will moderate this session but I want to make sure that each person attending will have time to make comments and in an effort to do such what I would like you to do is to try very clearly to make your suggestions. Please do not try and retry your case. We really don't have any ability to change anything but what we really would like to hear you speak about is your experience, take that experience and make suggestions and if you agree, comment about how the courts function, or maybe in your opinion, how they don't function. What would you suggest for improvements? In order to make as much time as possible available, if other people come before this commission this evening, I will ask that you try and limit your comments, we are here to listen and therefore it will not be a dialogue. So, if you would like to begin with some questions so that you're clear about the ground rules, maybe we can begin there but other than that I will officially open this hearing and ask if anybody would like to come and speak with us this afternoon. Ma'am, would you like to join us? Ok, would you like to just come on up and sit at this table because we would like to get your comments on the record and we would like to make sure that we have your information. So, if I can read this properly, your name is Ellen Abraham. Is that correct? Ellen Abraham: Perfect.

KE: Wonderful. Ok, very good.

EA: I was sitting here trying to think what to add when you were...I don't have...well, I have only a few sentences of comment. I-

KE: Ok.

EA: - figured there would be a zillion people. Concerning the divorce....concerning the divorce courts. Quite a number of decisions from the bench are very offensive to community values. And the community cannot remove such marital masters from the bench. People thusly learn that the courts are corrupt. The community expects that if the parent is willing and able and care has been good, children should stay with the primary caretaker. Poor custody decisions haunt children all through childhood and well into adulthood. Need I remind you that way too many men who seek physical custody of their children are wife-beaters or are avoiding child support? My question is and I understand you cannot reply, you know, I've heard that. Why do some marital masters ignore this reality when making decisions? That's what I have written, um...

KE: Do you have some specific suggestions that you might-

EA: Yes, I have-

KE: - make for the commission? And please don't use anybody's names, but if you can just make suggestions, that'll be helpful and all of the information will go to all of the commission members.

EA: People of good character on the bench would be an improvement in some cases. In some cases there already are people of good character on the bench. I tried to keep it short.

KE: Well thank you very much for taking time this afternoon.

EA: Thank you.

KE: Would you like to join us?

Barbara Hogan: Certainly.

KE: Sounds great, thank you. Barbara Hogan.

BH: Yes.

KE: Thank you.

BH: Good afternoon. I am Barbara Hogan. I live in Keene, New Hampshire. I have been involved with the, working for the court system since 1975 when I started in Nashua District Court. I took a hiatus and practiced law for a while and returned, worked with the courts until 1988 and then I took a hiatus and I returned to the courts in 1991. I am now the clerk of Cheshire Superior Court. I would like the commission to know that business is excellent.

(laughter)

BH: At the moment I have about three thousand open files. Those files are managed by two full time judges who sit here and by a staff of about eight or nine full time employees and a couple of part time employees depending on how you measure who works for whom because our system is a little complicated in terms of employment. With those numbers, it is extremely busy. We are disadvantaged because we don't have adequate equipment, we have a DOS based computer program which is incapable of doing anything scheduling-wise which only includes data as a list of documents not actual documents. We do not have any of the equipment we really need to be in the twenty first century. We are not internet accessible. So, we work despite the limitations of our technology. We also have a building which adds to our work. The office is split into two segments because we don't fit in one clerk's office. The design is poor and there's inadequate parking. We regularly are in difficulty with overloading the building in terms of the capacity, the room capacity is set by the fire chief. We have limited handicap access, and security is almost impossible, because of this building and the floor plan. The sheriff's department does an excellent job with the resources that they have and our security people, the bailiff's do an excellent job but there are limitations and we are concerned for our lives and our safety every single day. I have been threatened many times, I have had weapons pulled on me. I have, I was one of Carl Drega's intended victims, so I have been actively involved and security is always a big issue. It gets pushed to the side because we are so busy. I enjoy what I do or I would be doing something else. I think the staff of the courts work remarkably well. We have to be able to work with everybody from a pro se individual who is stressed, angry, upset and confused and may not be able to write or read or understand the procedure to a Supreme Court judge who's on top of everything. We are therefore multi-tasking and exceedingly flexible, working with changes in paperwork, changes in structure, changes in staffing on a regular basis and I commend the quality of work that we do. I, it is not what I would like to see it be, but with the limitations we have, it is what it is and I think it's remarkable when you think of we have files in this courthouse going back to 1763. I am the keeper of those records. We are able to find those files and we have researchers coming in here and looking for records from the 1800's, from the 1900's and I have to put my hands on them and we have been able to do it. So my predecessors did a remarkable job in keeping the system and keeping the paperwork. Right now we're involved in records preservation, among other things so it is a complicated function. We are getting as best we can, cases to the judges as promptly as possible the information they need and with the time they need to hear them. But we don't have adequate time. To supplement this and I have resumed the task of being a master under Superior Court Administrative Rule 1-6, all lawyer clerks are eligible if appointed to sit as master on civil, equity and marital cases so I have been sitting on cases for well, the last fifteen years, hearing various things to help move the caseload along to free the judges up to do their work, additional work because

business is so good. We have not had a marital master in this court for almost four years. The judges have done all of that work as well, so again, it's an ongoing challenge. It's rather, I think it's kind of like (inaudible). And we wouldn't be here if we didn't enjoy it. I can tell you the quality of the staff is such that they frequently are solicited by other people who would pay them more for their talents but they stay for many reasons and we encourage that because it takes so long to learn what we need to know to do the jobs. So, I appreciate the interest of the commission. I think it's a marvelous idea and I invite the commission and all its members to come to the court at anytime. I think it would be insightful to spend some time behind the counter listening, watching, learning, sitting in the back of the courtroom and just seeing the diversity of the questions asked. One of the things the general public doesn't know is all kinds of people come to the courthouse with questions, they think we're the answer people and they're questions have nothing to do with us often. We get questions about immigration and other issues that have nothing to do but as a resource, as a tax-payers resource, we do our best to direct them to whether the federal bankruptcy court or other agencies that can help. So, on our learning curve are many things that are really not directly related to the three thousand open cases we handle and I have no idea how many thousand closed cases we continue to manage in our understaffed, over crowded and busy facility. But thank you for allowing me to share this with you.

KE: Good. Thank you very much. Joe Hoppock?

Joe Hoppock: Thank you. Good afternoon. My name is Joe Hoppock and I'm a lawyer in Keene. I've been practicing here for seventeen years and I've been, until the end of this year I've been with the same office doing earlier in my career some criminal work, both here and in district court and probably within the last fifteen to thirteen years mostly domestic relations. So I've experienced a lot of the changes in the domestic relations system over the years and I've been before a number of the judges not only in this county- and masters - not only in this county, but in Sullivan County, Hillsborough County, Merrimack County and even in Rockingham County on one or two occasions. I understand the committee's objective is to obtain feedback on the effectiveness of our state courts and seek recommendations for improvements. I don't regard, at least in this county anyway, I don't regard this area, this county as having any particular problems that are not directly related to systemic ones and I would refer the committee to issues of funding and just lack of resources. Barbara Hogan, I couldn't agree with, I couldn't agree with her more on many of her statements, but in particular with respect to the lack of resources this court has and what they do in spite of those lack of resources. In my opinion, having I guess been to three or four other counties, this is probably the most user friendly county in the state. And I don't want to compare Cheshire to Hillsborough to wherever but Barbara has gone out of her way to make this place work with what she has available to her. And I know in other courts, like the federal courts for example, you can file stuff electronically and it's great. You go, it's less people-contact there, but you can get stuff filed, you can wait literally until the last second to file it, so there's you know, some temptation there to wait too long, but, and all us lawyers wait till the last minute on many things, but the technology curve between the state and the federal system is atrocious. The resources, it seems like the federal government and the federal courts have the resources the need to move cases and they move them quickly. You compare that to our system and we're not moving them. Cases are crippled in, not Merrimack County, but

Hillsborough North and South, you go nowhere. I have one case pending in Hillsborough for two years just because we can't get a one day trial. One lawyer has a scheduling conflict, it gets continued and now we're in limbo again. Fortunately for the people of this county that doesn't happen here. We have a situation, we have a clerk that's very interested in moving the cases, not just for the sake of moving them but she understands that there's people behind them especially in domestic ones and there are significant personal problems going on, there's financial problems going on, there may be issues of abuse going on. When there is an emergency, we get in. The really is when there isn't and it's just a terrible financial situation or just an uneasy arrangement where the spouses can't get away from each other. One spouse moved out, let's say, we have to wait three or four months to get in here, as Barbara said, we have been here for four years without a marital master with the two judges hearing the cases. That's very unfortunate, we probably need two judges and two masters here, would be my thought. With all this stuff, all these problems, are systemic in my opinion, they're not germane to one court or another, they start with the willingness of the state to provide the adequate funding that we need to run this court system. And I'm not talking about just to make it move, just to get cases through it. I didn't know there is three thousand cases active in this county, it feels like I have all of them some days, but you need more than eight or nine full time employees and two full time judges to deal with this. You need a system where you don't have to, you can't wait four months for cases to be heard so things like that need to be considered and I think, and I don't know if this commission is, can make recommendations about funding, but and I also know that there's unfriendly ears in the legislature that don't want to provide the resources to any branch or institution of the state government but sooner or later problems are going to slip through the cracks. Cases will not get heard, people will get hurt in a more serious way than just financially, so it would be my hope that, my request that recommendations be made to address funding and technology, funding in staffing. I'm not quite sure we have an adequate level of judges for the problems that these, the court systems face. This county, this court's not slated for the family court program until 2008. That slating coupled with the fact that we haven't had a marital master in four years is not fair to the people of Cheshire County. Someone should be assigned here, I know there's a couple of marital masters that do the circuit...the circuit route and they shift them around occasionally, someone should come here and remove some of the burden. Barbara's busy, you know, she doesn't need to be hearing cases, too, unless she wants to, however it works, but we shouldn't have to be waiting this period of time. I came in and I apologize because I didn't hear all of your comments, but having been doing this for seventeen years, I am hard-pressed to think of an offensive decision a judge has entered in my experience. I guess offensiveness can be somewhat subjective and sometimes people have a tendency to equate disagreement or strong disagreement with the notion of offensiveness, but you know the judges are assigned to decide a case. I guess the old saying is true, half the people that come before the judges aren't going to be happy with them. That's just a fact of life. But I've never seen anything offensive. I've seen some judges lose their temper, I've seen, and then apologize for it. I've seen some judges react probably perhaps a little too quickly than they should but then they back pedal from it. To suggest that our courts are corrupt is simply wrong. I've never seen anything like that. I have also seen in my years of experience, a lot of unfortunate stereotypes about the system and about judges, about

male judges, about female judges, I mean you can't satisfy all the people all the time. One of the suggestions that I heard is that there are too many battered husbands, battered wives living with battering husbands and awarding child custody to the batterers and people not paying child support. Well, it's true that there are a lot of cases or a fair number of cases like that but you can't draw general conclusions from those things, from those observations. There are abused men and there are abused women. There are statistically more abused women and the courts do a very effective job in getting those cases heard and entering the appropriate protective orders. The court system coupled with the Department of Health and Human Services, Office of Child Support Enforcement does a very, um, I would say better than adequate, in fact excellent job collecting child support. So the system is effective in that regard. The only, my primary concern that I'd like the committee to hear is that services can be better if the resources are improved, and that would be in terms of people power, more human resources and more technology. The investment today will pay off later. So, that's really what I'd like the committee to hear and I'd like to see the state pay attention, not only to the educational system that we have, which is another area of concern for me, but to invest in the state so that it can provide the resources that its people are paying for. Thank you.

KE: Thank you. Any further comment by anyone? (pause) Ok, at this point I will close the hearing at, I have about twenty five of four and if anyone else comes then we will reopen the listening session. Thank you.

END OF AFTERNOON SESSION

EVENING SESSION TO FOLLOW:

Bradford Hutchingson: - the law and don't understand the way the law works and don't really understand the charges that are being brought against them and it seems to be, it seems to me that there needs to be at every district court with the technology available today, it's easier than ever, you don't have to have a literal library of law books, but an individual who can provide legal education. I don't think that it has to be a lawyer and I think that it can be very clear that this is not legal advice, this is just assisting the defendant in reading the law and understanding what the law says so that the defendant pleads guilty when that's in their best interest, even though there may be some question, their lawyer may be saying, you know, plead no contest, well ok, but the defendant might have some guilt, want to plead guilty but want to explain why he is pleading guilty. And if he understands the way the law works, I think that it will make it easier for people to cooperate. What I see is that the court finds as little cooperation as it does from the general public, because the general public finds it so difficult to cooperate with the court. Or the general public attempts to cooperate with the court and feels like they get a raw deal from the court. And I think the rules themselves get in the way of fairness. Because every time a situation comes up, whoever the judge or the prosecutor, the lawyer they jerk right back to the rule book. Well, what's the rule say, what's the rule say instead of taking a moment, what is the situation. What's the real situation, what, and I can understand the speed at which the court wants to process its cases. One problem is there are too many cases being brought to court and this, in Keene especially the police often use shotgun prosecution of throwing as many charges against an individual as they can with the idea that one or more is going to stick. And...or they charge them with a more

serious charge that they know they can't get a conviction on to convince the individual to plead guilty to a lesser charge. So there's a whole lot of game playing and the law has become a game and for too many defendants they see it as a game and there's no respect for the court. And that's the position that I'm in now, is that I have no respect for the legal system in the state of New Hampshire, none. I have lost all respect for the legal system in the state of New Hampshire based on my personal experience and I've exercised fully my rights under Article Ten of the New Hampshire Constitution. At this point in time the government of the state of New Hampshire does not have any authority over me. There is no governmental agency from the state of New Hampshire on down that has any authority over me and that is the step that I have taken solely in response to the treatment that I have received from specifically the Keene Police, a little bit the Cheshire County Sheriff's and the courts in this county and in this town and I think that the treatment that I have received is reprehensible. No person should have to have gone through what I have been put through. I have been denied trials. I have had lawyers, my lawyer pull a legal trick out of his hat and deny me a trial that I wanted a trial. I wanted the police to prove this charge because I knew they couldn't. But when my lawyer plays a game, I don't get a trial, I don't get justice and I think a while back there was an issue, there was a few articles in the Sentinel, the issue of court security. I'm not surprised that the courts are less secure, considering what I've been through. There's two ways that I can look at it. One is that my case is an exception, an aberration of justice. No one else, maybe one or two other people have been hurt like I've been hurt. Ok, that's, so I've been really, really screwed over by the court system, well the court system owes me a whole lot of money. That's less likely, I would say most likely there's a lot of people that have been hurt by the court system. There's a lot of people out there that are really, really angry at the court system and they take it out on their kids, they go out and get drunk and create more court problems. What I see is that probably half of the police and court problems in our society are directly caused by the behavior, attitudes and actions of the court and the police themselves. There's-

KE: So, other than an ombudsman and somebody that's going to help you, what other suggestions might you have for us to-

BH: There's a lot. First thing that needs to happen is there needs to be a policy at the level of the state of New Hampshire is that New Hampshire law enforcement officers in the normal course of their duties do not see adults in the possession of small amounts of marijuana where that is for their own personal possession and not for sale or distribution. If we just get the simple possession of adult's marijuana cases out of the courts, that's ten percent of the court's time freed up right there. It's a waste of time. I smoke marijuana and if I'm gonna get arrested and put in jail when you let me out of jail I'm going to go right back and smoke marijuana. So you arrest me and you put me in jail and you let me out of jail I'm going to go right back out and smoke marijuana. So, why don't you put me in jail for the rest of my life? For smoking marijuana? Well, why are you going to put me in jail for in the first place? If the worst thing that I do is smoke marijuana and I'm otherwise a law abiding citizen, trying to work, trying to take care of myself, trying to be a good member of the community and the worst thing that I do is smoke marijuana, even though I've been sober fourteen years and off of prescription drugs over ten years, I smoke marijuana, why should I have to worry about that as a crime? I can go out and get legally drunk, I can get drunk out of my mind legally, I can go out and do all of the things

that I did when I was drinking, legally. I can go to any one of several doctors in this town and get prescription drugs out the ying yang. They give them out like candy, they're all over the black market. I know that, I could do that. I could go get totally messed up out of my mind on prescription drugs legally, the doctors would be glad to give them to me. I walked away from that. I'm still a smoker, well I gotta pay my state taxes somehow. And I find that medicinal and sacramental marijuana helps me and it's clogging the courts. That in itself and what the system needs to realize is that most people who smoke pot, we would help you guys go after the crack-heads. We'd help you guys go after the crystal meth lab people. We'd help you go after the heroin addicts and the junkies and the tweakers and the people that are making it even more miserable. Cause that's not what we want, you know, we like to drink a few beers, we like to smoke our weed. We like to have a little fun and the police too often use that as an excuse to judge people and treat them harshly and try to arrest them for other things and it clogs the courts.

KE: And, and beyond that suggestion, what else would you recommend?

BH: There's other things that I could recommend also. Too often the adversarial system means that nobody really wins and I've had court appointed lawyers that have been public defenders and I have seen them go into the court and not act in my best interest but go in there and act like they're at war with the prosecutor. And like well what do I want, what's best for me and the lawyer is off having this battle with the other lawyer, and that's not, I don't think that's the way that it should be and I don't think that it has to be that way. I don't think the adversarial system as we call it has to create combatants. Legal adversaries are one thing, I mean Peter and I can be legal adversaries, Peter and I are not ever going to be combatants and I think too often that's what happens is the adversarial system creates combatants where people don't want to be honest, they don't want to tell the truth. And there have been times when I have been arrested for something and I've gone to court and I've been guilty enough to plead guilty and there have been other times when the cops have screwed me and I've gone to court and I'm not going to plead guilty to something that I'm not guilty of. So that's the other thing is that in this town especially, the cops are out of control. And their cops are out of control for a lot of reasons and some of the things is they keep playing games with the courts and the courts keep playing games with the cops. There's all this illegal immigrant stuff over here in Jaffrey and New Ipswich and you know, the local police arresting illegal immigrants, well good for them, they are trespassing, they do not have a legal right to be in the country, therefore they don't have a legal right to be in New Hampshire. And they know that, they're illegal immigrants.

KE: Well, we need, we need to hear what we on the courts commission can do-

BH: Right.

KE: - not how we can change the police force.

BH: Well, but I'm getting, I have gotten into the judicial because I know bow-tie boy (name omitted) he was the one that couldn't decide whether myself or another individual was committing perjury and he couldn't make a decision in this case either. He dismissed the charges and that happens too often that the judges are presented with something where the judges, their hands are pretty much tied. They'd like to do what they would like to do but because of the way the situation is presented to them, they're somewhat limited and that, the courts need to communicate more effectively with the police at what the police can do to make a case move through the system faster and easier.

KE: Ok.

BH: And I think that the courts and the police need to see that they work together and you know, one of the reasons that I'm sober today is because well, I don't have to say his name, he's the presiding Justice of Keene District Court but I can't say his name. He put me in jail Memorial day weekend, 1991, that's where I de-toxed. I decided that, you know, thanks Judge, I mean I'm not being a wise guy, I'm being, thank you for putting me in jail for the weekend. Thank you even more for letting me back out on Tuesday cause I got four days in jail, I got sober. And even then when I went to the court, I wanted to go to AA meetings seven days a week and I requested the court and they refused. They said, no, you can only go two days a week or three. I said two or three, I want to get sober, I want to go seven days a week. No, only two or three days, so I'm arguing with the court guy because he doesn't want to have the court to order me to go to AA every day which is what I want and so I ended up more than meeting my obligation and the judge instead of dropping the sentence deferred it, violated his own agreement which my understanding is the judge has a right to do that but it's kind of like dirty pool. Just because he can do it, you know, I more than met my part of the bargain and the judge decided to punish me some more and it gets too personal and in a town like Keene, it has to, it has to be that way all over New Hampshire, you stay around somewhere long enough, you get to know people and people get a reputation, people get an attitude about people. And like me, people have a reputation about me in this town. It would be naïve and delusional of me to think that people don't have a reputation of me I this town. Well, what reputation they have is entirely dependent on how long they've known me and when they've met me and people that I've known since I was doing alcohol and drugs years and years ago, they have one reputation of me and people that I've met since then have another reputation of me and people that are coming from a specific point of view have a specific reputation. And we need to start seeing that people are people and I know you said not to name names, I'm going to pick one example here.

KE: No names.

BH: I'm not going to name any names. I'm saying I'm not going to name a name as much as I would like to, I'm not going to name this name. And because it's a case that is active in the local court system. A woman who needs a lot of help, this woman is perceived as being a criminal and is perceived as being crazy and in reality this person is a battered woman. And this woman is a victim of a lot of trauma and abuse and this woman probably has multiple personality disorder. Probably full-blown, she does have different personalities or personas, most of the time she transitions in and out so smoothly you don't notice. It took me several days. I don't think the court really knows what's going on with her and so they put her in jail for thirty days. She loses her apartment so when she gets out of jail after thirty days she gets kicked loose to the streets cause she doesn't have an apartment and her mental condition deteriorates because she got put in jail for thirty days and lost her apartment and so when she gets out of jail she has nowhere to live, well they just released her from jail to the streets and now she's in and out of trouble with the police, well what does this system expect? If this system can't find a place for somebody then leave them alone. And if this system can't leave them alone then what we're gonna have is what we have is a broken system with a lot of people and it's not a case of people falling through the cracks, it's a case of once in a while people manage to actually cling on to the cargo net, cause I think of it as a cargo net. There's

you know, not much rope but huge holes. It's not falling through the cracks in the system, not what I see and there's just too many people that just don't know what to do and don't know how to stand up for themselves and don't know how to stand up for their rights and it gets too easy to take shortcuts and so the court takes a shortcut and the court takes a shortcut and it's a slippery slope argument. And I'm not saying that it should never be justified, but it needs to be looked at continually on a continuous basis, are we cutting too many corners too much, you know and the whole point of, is not to just guarantee employment for the cops and the court system, I mean I think they're pretty much always going to have a job. You know, but why do we want to make more work, more hassle, more cases, more, you know, more paperwork. There's only so much that the system can do anyway and the more things the system tries to do that the system doesn't need to do, the less resources the system has to direct towards where it can do some good. And I think the court system needs to really take a look at the demands that are being placed on it and begin to say wait a minute this is not the job of the court system, this matter should have been resolved at some level before it got to a court case.

KE: Well, I can guarantee you that we will be taking that into consideration. Have you other suggestions?

BH: No. That's, yeah I do, but that's all I can think of off the top of my head right now.

KE: Ok. Well, thank you for coming in and we will certainly share this with all the rest of the commission. Thank you.

BH: Is there any, is that pretty much it? That's the....(pause) Unless I can think of anything else?

KE: Yup.

BH: Well, no, let me, let me think a minute. This doesn't have anything to do with the local situation as far as building, this is a state wide judicial or-

KE: This is a statewide commission.

BH: - court system.

KE: What's correct. We're looking at all levels of the court system and if you have other suggestions, you can either send them in by regular mail, we can give you that post office box which is located on the back page of that document-

BH: Mm hmm.

KE: - you have in front of you. You can mail that in and or you can email. If you don't have email you can clearly go to the library and the library can help you and email it to us and all of the emails or any of your comments are going to go to the entire commission. So everyone will have all of your comments transcribed.

BH: Ok. There is something that I do want to end with and for too many people going to court is too frightening of an experience. And the court, I think it would help everybody if the court could look at ways to make the court seem a little bit more comfortable. I'm not talking about making it informal and to lose the good respect and dignity of the court, that's not what I'm talking about. But to make it seem a little bit more human, to think about the colors that the court is painted. Think about ways that the decorating and design, not anything fancy, just what color do you paint the walls. Find out what color is a good calming, soothing color. Just make the court experience just, you know, take off some of the rough edges for people, you know, and a lot of people when they go to court, they're scared, they're really terrified. They've done something wrong and they know they're going to have to have some kind of consequence about it, they're willing to face it

but they feel like they want to be treated fairly and they want to get what's appropriate. They don't want to feel like they got away with something and they don't want to feel like they got punished too much either. And so the (inaudible) rules are good for guidelines but the judges need and the prosecutor, all the people need to be able to have a little bit of flexibility and to look at situations and assess situations as they are, and not be rigidly bound by an inflexible set of rules that can't possibly cover more than a few situations. There needs to be that flexibility built in and the court needs to be able to offer the person the ability to show some responsibility and if they can then that's something that the court can work with and if they can't, well that's pretty much what we've got already. You know, guys going into court and trying to see if they can get off on the charge or you know, see if they can get it reduced or go in and tell some story. The other thing, I do want to speak about is this mental health court thing that's in Keene. That's worse than a joke, that's an insult and I'm not even sure it's legal. As far as I know it hasn't been challenged. Thank God the Keene Police have not actually arrested me because well for one thing what court are they going to take me to because I could just as easily claim the mental health court, well wait a minute, in order to go to the mental health court, I have to claim that I have a mental illness. Well, there's no objective way to determine whether or not I do or do not in fact have a mental illness, so in order to be tried in a court of law where the standard of guilt is beyond a reasonable doubt, it's starting off with the presumption of something that can't even be determined beyond an educated guess. And the other thing is I'm, I was misdiagnosed as having mental illness when in fact I'm mildly retarded. I'm disabled, where's the disability court? You created a separate class of people, you segregated this class of people, you've said this is like (inaudible) and the Nazi's saying we're gonna put yellow stars of David on the Jews, well Keene District Court has said we're gonna single out these crazy people and send them to mental health court. Well, is there gonna be a battered women court, is there gonna be a retarded court, is there gonna to be a wheelchair court? Should there be a drug court? Even the idea of mental illness in a mental health court, I can see why that would individual would want to push so strongly for that after knowing his daughter as well as I did. And but that doesn't justify it. The court system should be the court system and if there needs to be something like a mental health court, there needs to be people within the court system. There needs to be something within the regular court system that works within the regular court system to assist persons that need that sort of help. But to create a separate infrastructure and a separate court is a waste of money, it's a waste of time, it's a waste of energy and it splits the system even further. Cause the, which court is the judge sitting in today? Who's scheduled to be where? The other thing is that I have known personally people in this town that have gone through the mental health system and they're dancing around laughing cause they got off with a slap on the wrist for doing things that I'd be in prison if I went through regular court for the things that they did, but oh, I have mental illness and Monadnock Family Services steps in and says oh, we'll give them services and we'll give them medication and all these case workers and case managers and meanwhile you've got some guy that's committed multiple felonies and he's laughing cause he might get, you know, a couple weeks at County Farm and then a little bit of time and then he'll be out doing his thing cause he's pretending he's crazy. And that's what the mental health court allows is people to use it, who otherwise commit crimes and then say oh I'm crazy. And there's a whole system around here that's just

waiting for those people to provide services for so they can bill in their name for money.
And....

KE: Ok, well thank you. We'll share all your comments. Appreciate your taking time.

BH: I had no idea what this was going to be tonight.

KE: Mm hmm.

BH: I just saw a notice in the paper and said a chance for me to go and talk about the court.

KE: Yup.

BH: Hey, Peter, did you-

KE: That's exactly right.

Peter Heed: Thanks for coming in.

BH: - surprised I wasn't here this afternoon? (laughs)

PH: I wasn't here this afternoon either.

END OF KEENE LISTENING SESSION