

## Plymouth Listening Session:

Will Abbott: My name is Will Abbott, I'm the co-chairman of the New Hampshire Citizens Commission on State Courts. I want to welcome you to this afternoon's public listening session. This is one of eleven sessions that we're holding around the state, we're about halfway through. And between myself and Kathy Eneguess of Jaffrey who's the co-chairman, one or both of us is at each of these sessions. Today's session will have two parts, one from three to five and the second from six to eight. The commission was appointed by the Chief Justice of the New Hampshire Supreme Court, John Broderick, in April of this year. There are a hundred and five members of the commission and our charge was to independently assess the foundation and structure of the delivery of justice by the state court system through the eyes of the 1.2 million people who live in New Hampshire. And specifically to make any recommendations for improvements to the system and the way it works. The purpose of today's session is to allow members of the general public to submit comments oral or written or both to the commission. We have basically divided our work into three pieces, the first is the public information gathering piece and since April the commission has been giving a reading list which is a number of documents and it keeps growing. That's one part of the information gathering. A second piece is these public information sessions. A third piece is that each of the hundred and five members of the commission have been asked to go and visit at least one or two court system, courts in the system, to understand how they operate, where they operate, what they look like, how accessible they are, all those sorts of things. So this process, the first phase of it what we call it is to gather information. And in addition to coming to one of these public listening sessions, you can submit written comments either by regular mail to our post office box in Concord, which is post office box 419, Concord, New Hampshire 03302-0419. Or you can submit electronic comments to our web site, through our web site at [www.nhccitcourts.org](http://www.nhccitcourts.org). Or you can send them directly to [public01@nhccitcourts.org](mailto:public01@nhccitcourts.org). All comments made today will be submitted into a formal record and that formal record will be reviewed by the full commission. As it goes through the next part of its work, the phase two part, which starting mid November the commission will break into a number of research groups organized by subject matter and during about a three month process, those groups will explore in much greater detail the issues that have either come up in the public listening sessions, have come up through comments or reading materials and they will be the beginning point of the recommendation process. We hope that by mid-February, early March we'll enter into phase three of the process which is bringing those recommendations from the number of research groups together. How a group of a hundred and five people does this will be very interesting, but we have a legislature with four hundred, so, they've found a way. But our goal is to get the hundred and five commissioners to receive the comments from a variety of inputs including our listening sessions, and then write a final report to the Chief Justice and the members of the Supreme Court with recommendations from the commission. In order to facilitate this afternoon's and evening's program, I will basically serve as moderator and what we're going to do is ask everybody who wishes to participate in the way of making formal comments, to fill out a little card, they're sitting right up on the bench here. And if you would, once you've filled this out, give it to Julie who's right over here to my right, your

left and proceed up to the table here. And we would like to ask that everybody who makes comments do, does so at the table where the microphones are so that we can fully transcribe the contents of your presentation. So, if you would like to make a presentation or make comments, please fill out the card and give it to Julie. What we're going to do just as a protocol, is to ask everybody to keep their comments to five minutes to give everybody who has come an opportunity to make their presentation. If we, if we exhaust the time that we have scheduled and you didn't get a chance to finish what you would like to do in five minutes, you can ask Julie and you can come up to speak for additional time once everybody who has arrived has had their five minute opportunity. I guess if I, before we get into the comments part, I'd like to ask at this time if anybody has any questions about the process or about the commission itself. (pause) Ok, hearing none, and the last thing before we get going is I'd like to ask each of the members of the commission who are present to just hold your hand up and identify yourself and tell us where you are from. Larry, do you want to start?

Larry Gilpin: Larry Gilpin from Amherst.

Ralph Littlefield: Ralph Littlefield from Concord.

Blake Allen: Blake Allen from Plymouth.

Sally Davis: Sally Davis from Thornton.

WA: And thank you all for being here. The first person I have a card from is Joseph Coutu. Did I say that right, Joseph? Please come up. Welcome.

Joseph Couto: Thank you. I really don't know how this is all supposed to work but I do know as a person whose been through this court, I think there are a lot of problems. I think one thing that should definitely happen is from the start of the divorce case where children are involved anyhow that shared custody should be the rule. I believe that there may be too much power given to judges to take time away from fathers for no real reason. I know that my experience is I don't feel that I was treated fairly in a number of instances through, through basically just judges decisions with no backing of law. They make up their mind and they just write an order and there's no referral to law whether it's asked for or not. It may even be better if it was basically set as a jury thing through a divorce case and let the public decide instead of giving the power to one person. It says that, I read this thing that I'm not supposed to speak like definitely of my case, but...

WA: I don't think we, we certainly would encourage you to talk about your case. What we would prefer is that you not mention names of, of litigants in the case or judges because we're really, there's not much we can do to change decisions that have already been made, but what we can do is hopefully recommend, or make recommendations to improve how the system operates. So to the extent that you'd like to share, you know, your experience, that's fine. I'd just like to ask you not to mention names of judges or-

JC: Ok.

WA: - masters or other lawyers or other litigants.

JC: Ok, well I mean I know in my case I've had two, I had an attorney to start with but it went so long I couldn't afford it. But at the time I had an attorney we had one judge that was so biased that my attorney filed a motion to recuse. And that was in fact granted, but I've tried on other occasions myself to have a judge recused and they refuse to do so. I think it should be set that it should be public information that if a judge has in fact been recused from a case for bias and prejudice, that should be public information. And nobody should have to walk into a courtroom to a judge who whatever particular reason

it was was biased and prejudiced to one person or the other. There's no, I've found, no, no relief or anything. There's nothing I could personally do about it. I, you can file complaints with the judicial committees, but it's basically from what I've seen judges pleasing judges and it just doesn't happen. There was an instance of my ex's attorney that had ex parte communication with the court, and was in fact trying to offer evidence into the case not letting us know. I filed the complaint with the conduct committee for that, they went through their hearings, basically he blamed his secretary that's where it stopped. You know, they police themselves. I don't think it should be that way. There should definitely be a forum where they have to go in front and have hearings, you know, if they're violating, if they violate the canons, they violate the laws, they should be punished for that. It's, I don't see as to where there is any of that. I don't know how to do it without getting like too into my own personal case and, and showing the things that I've had to go through. I know that there were a lot of false accusations made. They were proven in court to be false accusations but yet the court did absolutely nothing to the other party. It's basically that's ok, if you can get it in and get away with it they let it go. There's, there's just, in my opinion there's no real fairness that comes out of the court, the family court. There's nowhere for me to turn to for added help that I need. When things have been proven that judges are being biased and prejudiced, they, as far as I can tell get promoted. And I think that's wrong. It should be public record and nobody should have to, they, a person should be able to recuse a judge before ever walking in front of them if they have in fact been biased and prejudiced in another case that is very similar to the one that you may be walking into. But that's not the way it works. And I guess that's about it.

WA: Ok, well thank you very much for coming. (pause) There's one other member of our commission who I'd like to introduce is Ed Kelly sitting over here.

Ed Kelly: Thank you for being here.

WA: Reverend Bayard Hancock? Welcome.

Reverend Bayard Hancock: I have two major concerns that I have come here to present to you. Those are, first of all, the right and the need for the ability for not only private citizens to see the court in action, but to hear what goes on when the court is in session. I'm also concerned about the fact, it seems to me that the courts need to exist with equal respect for the courts for the people who appear before the court and for the people who are there to observe the courts in action and that respect needs to be reciprocated by the people who are there. I'm not sure that this always takes place. My name is Reverend Bayard Hancock. I've lived in the Ashland, Plymouth and Campton areas since 1960. I was Pastor of the local Episcopal Church most of those years, for the past fifteen years I've been in retirement in Campton. I have had contact with the courts, particularly the district court throughout that time and my comments are based on those particular comments. I made it a practice for a number of years to stop by the district court when it was located originally in the town hall simply as a means of to check in and with what was going on, what was being conducted, etcetera and I do not recall that there was a P.A. system there nor do I recall any trouble in hearing what was said rather clearly in that particular building. I was very much interested when the new building was built and being of a curious type, soon after it was open, I dropped by to see the court in session, the district court. And was quite surprised for two things, one there didn't appear to be any P.A. system and it was quite difficult to hear what was being said because of the

layout of the court and the way in which the matter of people who were present being able to hear was treated by the court. And not being a shy retiring type, I wrote a letter to the judge after I got home and thought about this and expressed my surprise and asked what might be done about it and I received a reply shortly thereafter saying he would look into it and some months later he reported that he had looked into it, there was need for a P.A. system and some months later still, the system was in place and I was notified. And again I went by to check it out and I must admit, I was rather disappointed by what I didn't hear. Because the microphones were there but they were not producing results at least not all of them. The placement of the microphones, one immediately in front of the judge and the one at the witness stand as opposed to the podium facing the judges bench picked up quite well and you could hear them but the bulk of the business before the court was not picked up by those two microphones but by one supposedly located on the defense and prosecution tables and at the podium where people appearing for various reasons stood to make their comments. And you just simply couldn't hear it, it didn't pick up. And I wrote a letter to the judge again saying I was glad the system was in place but it just plain was not working. And it's remained that way pretty much ever since and on several occasions I would say through three or four different letters I pointed out that I understood after asking some questions that it was probably largely a problem of funds not being available, most of my experience was with the other courtroom in this building. And the system was not state of the art by any means and so I proceeded to point out what seemed to me rather obvious ways in which the system could be improved. One would be the judge every so often asking if the people at the back of the room could hear. I do not recall that question ever being raised in any of the sessions that I attended. It also seemed to me that the microphones were fixed on the two tables and but by court protocol and the people at those tables when they address the court have to stand up. And if you know anything about the nature of microphones, if you move very far away from a microphone, it no longer picks up. This was particularly true when police officers who might have been sitting over here would stand up where they were and speak and often the people who step to the podium and make their particular comments in responding to questions from the judge, not very used to microphones, would wander off from one side or the other. The microphones that were in place didn't take very long before you got very far before you got beyond the range of the microphone and again you simply couldn't hear. In several of those letters I mentioned that all of these could be easily corrected if the court was willing to change its protocol a little bit and either that or make the microphones moveable so they could be passed around. As far as I know that has not yet taken place and we're still back where we were before. That I would say at least fifty percent of what is said you cannot hear if you are a visitor like I was on a number of occasions and even more so if you're a witness on a case and you can't hear what other people are saying before you come up to say what you've got to say. So it remains an unresolved problem which I'm unhappy about and one of the reasons I'm here is to express that concern. This, by the way this problem is not, not just a focus just on the district court, I have had on several occasions to be in the courtroom at the Superior Court. On one occasion early on when the court was still rotating around from Lebanon to Littleton to Plymouth, I'll go into that later if I haven't exceeded my five minutes. But the same thing is true there that the Grafton County Court building is a delightful building but the acoustics in the courtrooms are very poor and the same thing, you go

there either as a witness in a case or simply to observe and you cannot hear. The same batch of problems exist there as exist here for the same reason that the system again, there are two courtrooms over there and I guess most of the money was spent on courtroom number one as far as the P.A. system was concerned and when it got around to courtroom number two, there was not much money left. I have had this confirmed to me by the court, the clerk of the court over there and also by Walter Murphy who at that time was Chief Justice of the Superior Court system and they both admitted it was in part at least a financial problem. The money simply wasn't there to put in the new system, but it certainly, the judge there has the same ability as judges in other courtrooms simply to make sure from time to time that people sitting in the back of the room are able to hear what's going on. That sort of thing has not happened. Of considerable concern to me was when my letters to the judge hadn't produced any results in terms of improved hearing. I spoke to several people in the court....I spoke to one of the bailiff's, I spoke to the area prosecuting attorney wondering if something could be done there in the court day in and day out whereas I'm not and I was much concerned that their response was basically I'm not about to tell the judge how to run his court. I'm a person who thinks in terms of pictures and two pictures have come to my mind out of this situation. One is of a cast of players on a stage putting on a play. But they seem mostly interested in their ability to communicate and be heard by one another and very little attention is given to the fact whether or not they are able to communicate with the people who have paid money to see the play. And often they....the message is not getting across. The other picture that comes to mind having spent some time in the military is the sort of difficulty the average company would be in if its privates, corporals, sergeants and lieutenants were not felt that they could not pass suggestions up the line to the company commander about things that they saw which needed doing, needing attending to because they for various reasons did not choose to do so. These two particular things concern me considerably. I'd like to go back now to the session that I did attend in the Superior Court at the time when it was meeting over in Lebanon. I was asked to come for, as a character witness for a file hearing and a granting of a divorce and although the people involved as far as this particular case concerned are all living in Plymouth, we had to be in the court house in Lebanon by eight o'clock in the morning. And if you know much about the geography of New Hampshire, you know that involves considerable amount of early rising and getting over rather difficult roads to get there by eight o'clock which we did. And we were there at eight o'clock and there we proceeded to sit and we sat until after eleven o'clock before the case was heard and in the meantime there was a lot of chattering going on and a considerable numbers of lawyers with cases waiting to be heard were chatting out in the hallways and I was getting more and more uncomfortable thinking of all the things I could have been doing and was not. And I was particularly upset when I finally did learn that the case that I had gone to testify at was finally heard which I think was in the early afternoon that the judge, judge had in fact come to the building before nine o'clock and was busy hearing cases in chambers, which is fine with me but I raised the question at the time. Again when I got home I wrote him a letter and told him how I felt about it and I raised the question and I can understand there are some cases that need to be heard in chambers because of their content, etcetera but that being the case why couldn't someone have been dispatched into the courtroom to say the judge is here in the building, he's hearing cases in chambers and when he's through with that he'll come in. In the

meantime the rest of us continued like myself to sit there and get more and more irritated and feeling that the respect was not going two ways when the court sessions begin we all have to stand up out of respect to the court and it seemed to me that sometimes the court needs to pay a little bit more in terms of respect to the people. It would have been a very simple thing I think to let those of us that are here, were there and not overly familiar with courtroom procedure, to know what was going on and there was a reason for the delay and we're reasonable people, I think we would then have rested content instead of being, experiencing a rising tide of irritation. Which could easily have been handled. These are points that are of concern to me and so I welcome the opportunity to come and express them to you and I hope some of it will find their proper places in your report when you submit it to other authorities and perhaps we can get something done about these particular sticking points. They certainly seem to me to be important primarily because these are the people's courts and I think it's very important that the people have a chance to make sure that when they go to the court they can not only see what goes on but hear what goes on and judge for themselves as to whether things are being done properly and in good order.

WA: Thank you very much, Reverend. Gabe Nizetic.

Gabriel Nizetic: Good afternoon.

WA: Hi. Welcome.

GN: My name is Gabriel Nizetic. I've been an attorney in the Plymouth area for about seventeen years. And I practice both in the civil and criminal arena. I practiced in all levels of the court system and the state to include district court, Superior Court, probate court, Supreme Court and the family division as well as the inception of the family division in this jurisdiction. I knew that the commission was coming about and I tried to put together a mental note to some of the issues that I see. Most of these are procedural and I understand that most of these are also, may not be within the direct purview of the judicial branch to work a solution entirely on its own. It may have to cooperate with other agencies and the legislative branch as well. But these are some of the points that I see throughout the time. And let me start by saying that for the most part my experience with both the courts and the judges in this state overall are pretty positive. I find most judges to be receptive, open, open-minded, make good judgment calls for the most part, and the few exceptions where that hasn't been the case I've been able to file an appeal in due course. So, the issues that I'm going to bring up are really fine-tuned points for some of the issues that I've seen come out of not only my cases but cases that I have been involved in with other people. We have discussed some of these cases, some of these issues, including with the Chief Justice of the Superior Court, Justice Lynn when he was around and I had opportunity also to speak with Justice Broderick when he was a guest speaker last week before the Grafton County Bar Association, so these are not new by any means but I would like to bring some of them to the forefront again for the commission's consideration. Chief among them is the voir dire in criminal cases. We do have a statute that now authorizes for the first time, actually voir dire of juries and civil cases. That is not, been implemented on a statewide basis, my understanding from the other attorneys that I've spoken to is that it's proven very successful in the counties where it has been implemented. And depending on the success on that we'll see its implementation on a statewide basis and eventually into the criminal cases. Voir dire is conducted although on a more controlled basis when it involves sexual assault cases or

allegations of sexual abuse. And that's, and that usually goes fairly well. But I can see it in other cases as well. I'll give you just a brief example. I was involved in a particular case involving a distribution of drugs. A couple of the people, an amazing number of people actually on the jury list had indicated that they had a close relative or a person be a victim of a homicide. Now what's important in that particular case is I wanted to go and they didn't give any specifications, I wanted to go into the circumstances of that homicide because that person having been killed as a result of some sort of drug-related transaction, that wasn't going to be a person that I think would have been appropriate to sit on the jury, on a drug case. So that's just a mild example. Now in that particular case the judge did say yeah I think you're right and did issue the appropriate voir dire and I could have gone much further in a number of the cases but they really limit you as to what you can do. I don't think it really impacts the make-up of the jury and courts with our Constitution to have a trial and judges as impartial as a lot of humanity would allow. I think voir dire would go a little bit further towards that end. Speaking of juries we have, we still are working on our jury instructions from 1985. The bar association has put together a committee and I know some of the people on it, to put together jury instructions and it's been stalled for the last five years. They do have working drafts, they're available online but they really haven't gotten any further. There have been major changes in the law, almost all the jury instructions are totally or substantially outdated. From 1985, the judges continue using them cause basically and updating them as they see fit because they don't have anything else to work with, the only sanctioned set is the set from 1985. The other issue I'd like to point out is in the district court rules, district court rules permit a defendant to plead guilty or nolo and the judge can accept the nolo plea. And in the superior court, you can't enter a plea of nolo but you can enter something called an Alfred plea that comes out of a case called North Carolina V. Alfred which is basically the same thing. It's an acknowledgement that I'm not going to be able to stop the case, stop the state from proving its case or the evidence is too strong against me and I'm probably going to be found guilty so let me try to minimize the impact and take the deal if I can. Either way, I haven't found judges to reject nolo pleas but I really don't know why judges would reject a nolo plea from a judicial, from a criminal justice perspective, it doesn't make any difference. If the person pleads not guilty or guilty or nolo and the person is found guilty, it has no effect whatsoever on the criminal justice reporting. It may have, it may have an impact for civil cases but that's really beyond the scope of what the criminal case is all about. And the same with Alfred, where I guess where you get the most resistance to this is in the superior courts and from the superior courts, and from the county attorneys. I don't know why they're so against Alfred pleas because it doesn't make any difference in sentencing, it doesn't make any difference in convictions and it doesn't make any difference in criminal reporting. I think the rule should be changed to allow an Alfred plea at the discretion of the defendant, basically so long as it doesn't impact any other aspect of the case. The courts use standard forms on a number of occasions. I've found a lot of the forms to be outdated and contain a lot of errors in them. When I first started practicing in this particular court from defense standpoint, there was a form that the court used to explain the differences between guilty, not guilty and nolo contendere pleas and as I looked at that form I realized that there were a lot of inaccuracies about it. I brought this up immediately to the attention of Justice Kelly and he looked at it and he agreed with me he said yeah I think you might be right,

can you give us a suggestion? And I made some suggestions to balance the form out so that people reading the form would understand the difference between not guilty, guilty and nolo pleas. And my suggestions were actually adopted, however not all courts have adopted it. The problem with most of the forms is when you get to the not guilty part, the only explanation on not guilty is I didn't do it or I'm innocent or that you deny that you committed the offense. That's not the only purpose of a not guilty plea. A not guilty plea is entered into for many, many reasons including somebody wants to find out whether or not they're charged with the right offense. They don't have the money to pay the fine, they need to make other arrangements before knowing that they're going to lose their license for 270 days or whatever, a whole myriad of other reasons and it just doesn't impart on them. The information and the ability to think about that and if you really want to be technical, anybody who has an affirmative defense can't plead not guilty, because not guilty means you didn't do it. Well an affirmative defense means you did do it, it's just that you have a defense as to why you did it. You have a justification or the law provides for an affirmative defense. That form should really be standardized for all the district courts and it should point out that there are other reasons to plead not guilty cause it's real easy to plead not guilty and then plead guilty. But it's impossible to plead guilty and then not guilty. And I get a lot of these calls after the damage is done and after pleas are accepted and all of a sudden everybody finds out oh well all these other things are gonna happen and I tell them all the time, it's too late, the court's already accepted the plea unless you can show that you were intoxicated or you didn't know what you were doing or something, it's gonna be impossible to pull that, to pull that plea. I brought this issue up with Justice Lynn and he said yeah they've talked about it for years but they've never really gotten to it. We, as attorneys are subject to routine screenings from the court, as well. If I was in Massachusetts this wouldn't happen, because the bar issues security cards and attorneys are permitted access to the courthouse without security screenings. I'd, I'd, as an attorney I just don't feel it's necessary, we're officers of the court we should be treated as officers of the court and the court has its own security system and its own security badges. And is always, there's always some concern about counterfeits or problems with fake id's out there. The court could issue them, keep track of them and the way security systems are nowadays, I'm sure that they could be coded so that they would be anti-tamperproof but that's one thing I would like to see for all attorneys in the state that we could just show our badges and go right through. Cause sometimes you can get backed up at security. It's not too bad in this court but I know places like Concord and Hillsborough has a line of people, you're standing in line ten, fifteen, twenty minutes and sometimes you can be late meeting with a client or getting up to court on time. The limits, if you take a look at the criminal statutes, the limits on felony cases have been the same for... since about 1976. If you wrote a bad check in 1976 for a thousand dollars, that was a big deal because a new car cost three thousand dollars. Today a new car costs thirty thousand dollars and yet we still have the same penalties. Most of the county attorneys and the prosecutors acknowledge this and they have de facto, changed the limits on their own, but the law hasn't really kept up with this. Bad checks, bad checks and thefts all those limits really should be raised to keep time, to keep up with the times. This would also lessen the amount of indictments and the loads on the Superior Courts who really don't need to have all those jury trials for you know, somebody writing a bad, a couple of bad checks for five hundred bucks a piece. Jury trials, currently the law

provides that jury trials can be requested in amounts over fifteen hundred. I would think it would be a useless venture to ask for a ten thousand dollar jury trial for a sixteen hundred dollar debt and yet that's what our Constitution provides. The district courts are perfectly capable of handling all trials within their jurisdiction up to twenty five thousand dollars without the need or necessity for jury trials. Most of the time these requests are made simply as stalling tactics or as harassment tactics to try and increase the expenses and to sway the litigation from proceeding forward. Again in this day of age with the jurisdictional limit and the federal jurisdiction is seventy five thousand dollars, and likely to climb in the not too distant future, there should be a reason why jury trials can't be set at least a minimum of ten thousand dollars and have the district courts have exclusive jurisdiction over at least that level. And small claims, the limit is five thousand dollars, all small claims should remain within the jurisdiction of the district courts. And all landlord tenant writs should also increase to five thousand dollars. Commensurate with the small claims. I've been on the, I'm on the web site for the judicial branch, I get my notification from the New Hampshire Supreme Court and all the other court branches as well. The search engine is not too bad however when you get into the superior, district court, files, pdf files, there's no summary provided for those and they're not compatible with Netscape Communicator 7.1. They only give you the first page which means that you have to actually physically download the file and then you have to read it and that might be ok when you only have to read maybe one or two things a year but when you have to read fifty or a hundred things a month, that really slows you down. I don't really know what the purpose of some of those, some of those orders are except to maybe give an insight as to how different judges think about different, particular issues. Some of them are quite good even though they are quite lengthy, but without a summary you'd have to spend literally hours reading some of these opinions. In the federal jurisdiction there's a rule that you cannot cite anything else unless it's a published opinion and these are not published opinions. We don't have a rule on that, we don't have a rule that says you can, we don't have a rule that says you can't. So if these, if these orders are posted for use, then we should probably have a rule that says you can use them and then have them properly indexed and if they can't be cited then we should have a rule that says that or at least have, provide summaries for those. That would go a long way towards speeding up the time on the web site as well and making those files compatible with Communicator. I think it has something to do with the latest version of Adobe is not compatible with the latest version of Netscape Communicator. Again, that's a procedural and a logistic issue. The final issue I want to bring out which I think is the most important one and I think the one we're going to start facing is the what I see as a significant increase in out-of-state attorneys conducting business in the state without, not only without license to do so but without any expertise to do so and creating problems for clients and the citizens or even the state as a whole....recently this has started to turn up in the area of real estate transactions. And we have seen a number of real estate transactions where a title has basically been made unmarketable due to the incompetence of out-of-state counsel. And out-of-state counsel advising clients as to procedures within the state without actually, without, not knowing what the procedures are in this state. Both from, both from a statute perspective and from administrative rule perspective. This is causing major problems for the citizens of this state who take this advice and basically turn a bad situation into a major, major problem and a major problem for themselves which now costs ten times

more to fix than if they would have done it the correct way the first time. I would like to see a provision that real estate transactions cannot be conducted except by, except by licensed attorneys, period. There are too many problems with deeds, there are too many problems with mortgages, there are too many problems with real estate transactions and all of these problems, you trace them all back and it's due to one or two sources. It's either pro se people who think they know what they're doing and they don't or it's out-of-state attorneys who think they know what they're doing and they don't. They're creating problems in the registries and they're creating problems for the citizens of this state. Most of the and I'll give you just a brief wrap-up here, if you look, you can do a lot of the research online now and some of the registries are online, Grafton is not one of them and I inquired as to why Grafton was not one of them. And the reason I found out why Grafton is not one of them is because a lot of the information that is contained on those public records includes in many cases, due to out-of-state lenders, they're putting lenders, I'm sorry, borrowers social security numbers on the forms. When you put that information out on the net, that makes those social security numbers- which is the gateway to identity theft - available for everybody to see. So now you've got the person's name, you've got the date of birth, you've got the Social Security number and the address. You've got everything you need to steal somebody's identity totally and thoroughly. And that's why Grafton hasn't done it until they can figure out a way to either exempt themselves from the liability that will arise or try to find a way to try to redact that information from the public, from public know-how. This is not a new thing, the Privacy Act of 1974 said specifically you're not to publish or use other people's Social Security numbers without their permission and yet since 1974 they keep doing it, the registry and if you take a look at all those forms, they're all from out-of-state lenders or all from, all from non-attorneys who think they know what they're doing and they don't know what they're doing so something as insignificant as that has really put a cramp on the rest of us for trying to get legitimate business done in the state. And that's just one, I mean I could sit here, I could take up the whole two hours and tell you horror stories about, about all kinds of stupid stunts that people have done and wreaked havoc and caused problems for other people, but I think you get my gist. And hopefully this is recorded and I'll be available to discuss any one of these issues in further detail. These are all procedural, I haven't mentioned any cases per se or any, any substantive issues as I indicated, I believe the courts have that pretty well under wraps at this point. These are all suggestions for procedural changes and the courts, the courts procedures and the courts handling of cases that I think would make things a lot smoother overall over the long haul.

WA: Thank you very much.

GN: Thanks.

WA: Stephen Emanouil? Am I pronouncing that correctly?

Stephen Emanouil: Hi.

WA: Hi.

SE: I've become familiar with the family courts in Grafton County here at least the family division in Plymouth here and I have a case pending and I will try not to discuss the particulars of that case. I do see some very large problems in the family court system. I couldn't believe what can happen here. The discussion of the judges is ridiculous under 458, RSA-458. They're able to do anything they please without any checks or balances to

their power. I'd like to see some of that power taken away and written in much stricter rules. Especially before any final hearing as to the custody of a child. There should be laws against relocation of children out of this country before any final hearing. I wouldn't mind seeing rules about the relocation of children out of this country even after a final hearing. Let's see. The imputing of employment income upon the disabled is up to the discretion of the judge in family court. I was overwhelmed by that to see that the Social Security Administration rules were not enough to be adhered to to make a decision but a single judge without any medical knowledge or anything is able to do so. That it just, there's too much discretion for the family court judge. I went to look up things in the records of the court. There's, I believe, someone can correct me if I'm wrong but the, you know, I know that the Supreme Court indexes their cases and you can look up anything with a computer searching algorithms, but for the family courts in the different counties, you can't do that so you don't know what has happened to look at precedence and so forth. Without going to the counter and seeking to look at each and every file that has gone before. Oh yes. And the court was able to hire a, or impress upon you for you to hire a guardian ad litem for your children. I, I found that the particular guardian ad litem in my case was incompetent and gender biased. I brought that up under the rules of, oh I can't think of the rules, but I brought it up to (name omitted) under Judge (name omitted) and she suggested that you wait until the final hearing before making any decision about the confidence of the GAL who the court relies upon to make their decisions for the temporary placement of a child. It just, you know, and I asked for her removal, it's just denied. I had no, I couldn't interview this person to see how good a GAL they are. I have no ability to fire such a person, I can't hire such a person but I must pay for such a person. And I have written to the judicial conduct committee twice. The first time they said I should file an appeal and so the second time that I wrote to them I had filed several appeals and they just wrote on sentence and it said denied. I had given them three hundred pages of information for them to make some type of decision as to the gender bias of the family court judge right here in Plymouth. A feminist. (pause) I guess that's all I have to say.

WA: Thank you very much for coming, Stephen.

SE: Thank you.

WA: I don't have any more cards from people who wanted to testify, so at this moment unless anybody wants to come up for another five minutes, I'm going to suspend the hearing unless and until someone else comes in.

(unknown): (inaudible)

WA: Yes, sir?

Joseph Coutu: To go along with what he just said about GAL's, I believe there could very well be a good need for them but I think there should be a definite set rule of what they have to do. It's my understanding in my case that we have had more than one GAL and they all basically can do whatever they want. There is no set rule for them to do. The court gives them a job to say, ok the children would be better off with which parent, whatever the court finds the need for the GAL, but the GAL has no rule of what she, he or she has to do. I believe that there should be set that they, parents give references, that they should have to contact those references to find out, but they don't, they can basically sit, do absolutely nothing, walk into the courtroom and make a report and the court

accepts that report. There should definitely be some laws and guidelines in which they have to follow. Thank you.

Julie Morris: Can you just state your name again for the record?

Joseph Couto: It's Joseph Couto.

WA: Ok, well we'll be suspended here until five o'clock or until someone else comes in. Thank you very much.

WA: It's five o'clock and we'll declare this hearing closed.

END OF AFTERNOON SESSION.

#### EVENING SESSION TO FOLLOW:

WA: Welcome to the Plymouth listening session. My name is Will Abbott, I co-chair the New Hampshire Citizens Commission on State Courts with Kathy Eneguess who lives in Jaffrey and serves as President of the New Hampshire Community Technical College in Berlin. Our commission was appointed by the Chief Justice of the Supreme Court in April of 2005 and the purpose was really for this group of people to study the way the current state court system works, or if you don't think it works, doesn't work, and try to come up with recommendations for improving it. And we're really trying to look at the courts through the eyes of the 1.2 million people who live in the state. The purpose of today's session, is part of a larger effort to gather public input. And the commission is actually approaching its job in three phases, the first phase is gathering information and we're doing that a number of ways. Each commissioner has received a pile of material to read or references to look into further. We're holding these public listening sessions around the state, we're inviting people to make comments either by regular mail or email. And if you'd like to make written comments, you can do so by sending them to P.O. Box 419 in Concord, 03302. We also have a web site at [www.nhcitcourts.org](http://www.nhcitcourts.org). You can go to that web site and see all of the reference materials that have been recommended to the commission. You can send via that web site electronic comments. We have also conducted through the University of New Hampshire survey research center, a public opinion survey to try and get a ...probably the best way to put it is a snapshot view. This was done back in July of what people in the state think about the courts and that survey which was I think around seventeen to twenty minutes in length was conducted to seven hundred people called randomly and we'll have information, more information out about that shortly. The, this, so this information gathering phase is the first phase of the commission's work. The second phase will be what we call a deliberative phase where the hundred and I think it's actually a hundred and two now commissioners will break up into research committees of eight to ten people each. Those research committees will look at a set of issues that have been identified by the commission as important for further consideration, and the intention is that those research committees will report back to the full commission by the end of February with specific recommendations for the commissioners to consider. Phase three begins in early March where the commission of a hundred and five people will deliberate on the recommendations advanced by the working groups, the research groups and will make decisions either to make formal recommendations or not. We haven't even started talking about the process here but my expectation from talking to other commissioners is that there will probably be majority and minority reports on some issues because there are a lot of different views on some of

these subjects. But again, the goal here is to try and improve the courts, we're taking an outside look at how they work and hopefully by virtue of our final report we can affect some changes that are necessary in the view of the commission. We will report back to the Supreme Court in May and I suggested to the commission that once we make a report that we probably as a group have a responsibility to see it through and so that if we're actually going to see change happen it may be that the commission itself has to be involved in making some of those changes happen. But that remains to be seen at this point. For the purposes of tonight, I'll serve as the moderator. My role is to assure that each person attending who wishes to make comments has the opportunity to do so. In an effort to make your time as productive as possible, I'd like to ask each of you to limit yourself to five minutes so that everybody who's come has a chance to speak. If we get through everybody and you would like to speak additionally, we will make that time available to those who wish to speak more as long as we're done by eight. I guess I, the other advice I have, we're interested in hearing about maybe your individual encounters with the courts. I would prefer that you not name names of lawyer, judges or other litigants. Our purpose here is not to retry a case you may have had but rather to understand from your experience what a problem might be and how you might recommend that the problem be addressed so that other people don't experience what you did. At this point, are there any questions on how, on the process here before we get going? (pause) We do have a couple members of the commission in the audience. If you would just raise your hand and tell us where you're from? Paul, would you like to start? Paul Clements: Paul Clements, I'm from Concord and the founder of (inaudible) Dads against Divorce Discrimination.

Ed Kelly: I'm Ed Kelly from Plymouth. I serve as the administrative judge for (inaudible).

Blake Allen: Blake Allen from Plymouth.

WA: Thank you. In terms of process, what we'd like is each speaker to fill out a card, a three by five card which is sitting right up here, take a pen and a card, and hand it to Julie or to me and, and we'll call you in the order in which we receive the cards. So if you haven't filled out a card and you wish to speak, please do so. The first person, David Zwald, Zwald?

David Zwald: Yeah.

WA: Zwald. I should know cause I met you before.

DZ: Do I come up here?

WA: Yeah, just come up to this table. What, what we are doing is we are recording the, the hearing or the listening session and we intend to make the comments that you make available to all commissioners so we want everybody to speak into the mike and the floor is yours, David.

DZ: Ok, well, that's usually my seat over there. I've been going through a divorce and it's final and everything but we still have plenty of problems going on with it and most of it deals with the children and my ex as to whom which I feel is constantly being interfered with. I, you know, I can talk an awful lot right now but it doesn't really fit in with the guidelines and I know you're here to try and change things but whenever I, I feel like whenever I come into court it's, you know, I gotta prove myself, it's not a...and you know, it seems like my ex-wife's word is always taken above mine and... when, she'll come in here and she'll tell lies and stuff just to, as a form of harassment. And I feel like I

don't know what I can do about it. I don't know if there's any way of...you know, contacting, who do I contact to try and get her at least to tell the truth on a lot of things. I can't afford a lawyer, I'm paying an awful lot in child support and I work for the state so I really don't rake in a lot of money. I, you know, that, that's maybe one recommendation is just a way for the people that don't have lawyers and can't afford, can't afford to really fight for their rights because that's basically what I'm trying to do right now is, you know, I'm standing up for my rights which I didn't in the beginning because I was still trying to save my marriage. (pause)I guess I didn't really think too much about what I had to say when I came in. (laughing)

WA: That's all right.

DZ: So, hopefully you can stop me when I start running on. I did have a good experience in here Thursday, though. I've had four domestic violence complaints against me in maybe the past two and a half years. And the judge actually, you know, looked at it and said you know, none of this fits, none of this stuff that you're doing and it was just her using it to harass me. I haven't seen my kids in nearly two months. I've had special plans for them, with them and when they first changed the visitation to where my ex-wife is the one that determines when I can see them and when I can't, I, you know, I thought well this is only going to last a couple weeks. And, but it's lasting a lot longer and you know, like I said, and it seems like my kids are just being torn away from me right now so that's kind of why I'm here and that's why I keep coming to court all the time. You know, I want to see my kids, I want access to them, you know, the court order even says that they're allowed to email me and call me but she restricts that. I do have to go through a service called (name omitted) which is local here it's a visitation service and they're not, you know, they seem to be discriminatory towards the non-custodial parent. You go in there, you get searched by police. You got to sit around and wait. They've, they've been rude to me, they've harassed me. And the thing is, I've noticed about these services and there's plenty of services like them throughout the state, but there's no regulation. I've, even, you know, written to the national director, there's nothing that regulates these services even though they're receiving money from the state, even though the court orders people to use them. There's, there's nothing that kind of restricts their conduct. And like I said, you know, when I, if I can come up with more suggestions I'll mail them to you. I have had before through emails but I live around here and I just wanted a chance to speak, so.

WA: Well, thank you for coming in.

DZ: Thanks and I hope this helps and what's going on, you know, is kind of a, it shows that somebody's caring, so thanks.

WA: Thank you. (pause) Next, Fran Couth? Did I say that right?

Fran Coutu: Coutu.

WA: Coutu. Welcome.

FC: Thank you very much. I'm a little surprised at the small turnout here but I'm thinking maybe people just didn't, weren't aware of it or I think a lot of people just think it's not going to do any good. My experience with this court is being here with my son and what he's gone through, and I agree with this gentleman there's no fairness, there's no equality at these two tables. I've not seen any of that, it's like, it seems like the man has to defend himself from the very beginning. And I'm thinking that, I think what needs to happen is I'd like to see the state legislature pass the laws that govern what the judge has to do in

custody. I don't think it should be up to the judge. I think the state should make the laws and the judge should have to follow them and I think in my son's case, they lived in the same town in the beginning and I think that should have been shared custody. I don't see any reason why judges don't grant that more often. The excuse was that my son worked and his wife didn't which to me is pretty lame. I think each parent should be equally involved in their kids lives. Now there's a big separation because of the distance that they live. I can understand that. But it has to start day one in this court with the person sitting up there being fair to each party and that's not happening in this court. So my thought is I think the state needs to step in. I think they should govern what happens with the children. If they live in the same town I don't think there should be any question unless one parent doesn't want the shared custody, but other than that I think that judge shouldn't have anything to say except this is the way it is. Child support, I'm a firm believer in both parents being equally responsible in the financial responsibility for their kids. That's not happening in this court. So I for one would like to see that changed but I don't believe it's going to change until the state changes the laws. (pause) And that's about all I have to say on that.

WA: Well, thank you for coming.

FC: Thank you very much.

WA: Lee Oakley? Welcome.

Lee Oakley: Hi. I appreciate the opportunity that at least the state is taking to get involved in this. In my particular instance, I run up with a lot of problems and like the definitions in the way people would like to interpret the definitions like with joint legal custody, primary physical custody to give an idea of how this is being spun and this is the way I feel. And from my personal experience just recently I tried to, I've gone continually to my kids schools to make sure that I'm contacted if they're ever injured or whatnot. Merrimack Valley High School contacted their legal, I brought my final court decree and everything there which has restrictions, which under the restriction part has NA. There are no restrictions for me but there are definitive times for my custody and for my visitation and the way a primary physical custody is supposed to be, or reads is that primary physical custody is when a child spends more than fifty percent of the time at one or the other parent's household. The way many of these people are spinning this right now is I can't even put in my name on my children's emergency contact information unless my wife, or my ex-wife decides that it's ok, or more importantly that is, her friends can pick my kids up from school. My nieces and nephews. But if my son were to get severely injured, these people who have no legal right to sign any documentation, my kids could die before I would be called. The definitions for like primary physical custody, joint legal custody need to be very, very, very, very explicit that this is a fifty-fifty deal. And I have seen time and time again, not just in my own case, where I work I know several people that have been divorced and every time the guys are just kicked out in the cold. I think it's almost ironic when they come up with it's the whole family, or it takes a whole village to raise a child. They need to put in parenthesis there the way the courts running right now, except the father. Because time and time again if the guy, if the man is doing most of the work, like in my particular case, I was working two jobs. Well, my, it takes two jobs to basically earn a living anymore if you want to provide anything. The man has to not only hold up a household, create a household or a domicile where the kids can come and visit if he doesn't have custody of the kids. In other words you have to

have adequate, you know, you have to have a bedroom or whatnot for the kids depending on their ages. But then you have to, but then you have to pay on her half. Now in the law it's stated that both parents are equally responsible but that bench up there doesn't believe in it. I have yet to see except in one case recently of all the people I know that are divorced and there are several, that have kids that that's been anywhere nearly applied unless it's dragged back into court time and time and time again. If my, if I could come up with the money to go back to court, none of the financial information even has to be, according to the attorneys, even has to be enforced, or verified. I have to come up with my paychecks and my pay-stubs and everything else. She just has to write out well, this is what I think I need. And that's it and it's always well yeah, this is what you're going, and this is what you're going to get. If I were to do that, I could, I could, you know, I could bring up everything and anything to put down there. Well, my kids need fifty dollars in movies, my kids need all this and it's a waste of time unless you were to look at the people's incomes and make a viable choice, they need to, I agree with the lady back here that the legislature needs to come down through this and that it's a, that the guidelines have to be very, very specific and very, very stringent almost to the point of law. I can understand when there are cases of abuse and in my family I've even seen that where some of the children were abused and the courts have acted very well. But in my case, I've had allegation after allegation after allegation. I've gone to family services and whatnot and they toss it out. All she has to say is he's emotionally abusive. Well, emotionally abusive, how, if you're arguing, well, you're not getting divorced because you're having a happy time. But that's emotional abuse if you're, and in my case I don't even like to raise my voice. It just, I just don't need to, but that, but, but depending on the person in my specific instance, if you're not agreeing, you're being abusive. And that word has become the watch word for everything in the court, it doesn't matter what you do, it's abusive. You don't even have the right to disagree. And I've yet to see in any one of the cases, my older son, even in another state is going through this whole same routine and it's funny because he said, well, you know, things aren't going, things aren't going so well. I said, well this is what you need to do and this is what you need to watch out for. I told him go to an anger management counselor right now, don't even wait. And it was, it was almost a rerun of my divorce. He comes into the court, he's abusive, he's physically violent, he's this or that. My ex-wife was a drug and alcohol rehab counselor. She worked in the state of Alaska, she ran the drug and alcohol rehab prison system, prison systems, and never called a cop. Never nothing, never had a bruise, never did nothing, I never touched the woman, except when she hit me in the back to move her out of my way. I grabbed her by the sweater not even by the arms. But she hit me, but I'm the one that's abusive. And this is time and time and time again. My son has gone through exactly the same thing I have and he said Dad, it's scary because you don't have any rights. And there's no enforcement anyway, in his particular case his wife was ordered to stay there. He was in Colorado, she's in Oregon. She left him the next day. I live in the same town with my kids, I don't get to see them. And in this gentleman's instance, who makes the mother the choice of when you can see your own children? She wouldn't have those kids if it weren't for him. This is not a two way street. And I have yet to see it be a two way street. And like I said several who have gone through court systems and not just Plymouth, not just in New Hampshire, but it's always the guy who gets the raw end of the deal. And it's, you know, if it could be any kind of fair, that would be fine. But I

have, but all the documented versus allegations, if someone is going to make an allegation, these false allegations and I realize that it costs the state an immense amount of money to send in someone to talk to the children to make sure that actual violence and things aren't going on. If that's the case, my personal recommendation to the court is if a person is going to make those false allegations, they should be fiscally responsible. In other words, they should have to pay, if you're going to sit there and lie and these people are going to have to spend umpteen man hours to go into a court, to go into the family's home to interview the kids, send them to a psychologist, all this stuff that goes on and I'm not saying that it's a bad thing, but if you're going to lie about it, you should have to pay for it. Just like perjuring in court is supposed to be, supposedly, supposed to be a legal deal, this should be also. If you're going to perjure yourself right here in court, I sat here in court trying to find a dissolution to my marriage and sat through character assassination. I told that to my son, I told that to several guys that I know that have gotten divorced. I said don't go in there thinking they're just going to resolve what you need for household. Because when you sit at that bench, that's character assassination, that has absolutely nothing to do with your marriage. And that's the way, and that's the way that the system is set up. Whoever looks the worst, well in a way it doesn't really even matter, if she can throw mud and any of it she can even think to stick, you're dead. And absolutely none of that has anything to do with my kids. I love my kids, I would die for my children in a minute and they don't understand why their mother does what they do. I have yet to understand how a lawyer can look at no restrictions, nothing like that where my kids could literally die in school and I'd never even hear about it, not unless she decides to let them know. Those kind of definitions for joint legal custody, it has to be, it has to be black and white, stomped into stone, I don't care if they have to you know, wood-burn it into the judges desk, it's a fifty-fifty deal. I'm sure the gentleman here who has all the research, cause I've been on it, on his sites and they show you time after time actually kids do better when they're with their dads. They spend less time in courts. They spend less time in detention in schools. They do better in schools when they're with their fathers. And there's study after study that have come forth that show that and yet we're still the jerks. I've gone through this and gone through this. I don't have the money to keep pounding back into court to drag my wife into court when she is literally in contempt, but to do that, you gotta 'fess up sixteen, fifteen, sixteen hundred bucks to retain an attorney, then another hundred and what is it forty or a hundred and seventy dollars to re-open the case again. And when that happens, nothing happens. Primary physical custody, they just look at is ah, they belong to them and my wife has so much as, my ex-wife has so much as said that she basically owns the kids and that's the way she looks at it. She'll walk into anything, the doctor's office, the dentist's office and go, say, I have physical, I have custody of the kids. I have sole physical custody even though that's not what it says on the paperwork. The teachers don't know, the principals don't know what any of this means. And you keep getting hammered at it when you just want to see your kids. And if it's even, even if it's stipulated within there that there are no restrictions to persons, you still look like, you still look like, ah you're mud. You don't have your kids, so you don't, they're not yours. And so the definitions I think should, like this, like the lady behind us, it has to be put down in law and this would just be, I mean it has to be hammered in that this is, as an enforcement division within the courts, which is what the judge does. She enforces the laws. That's what and like I said, I keep coming up against

that and I have to go through every court, every school, everywhere my kids go just to get a report card. And I've gone so far as, I mean I ended up where my ex lived last time, I ended up on first name basis with the chief of police because we went around and around and around with this. And he finally had to get into it, which is stupid, I mean they have other things they need to do rather than try to enforce it, enforce a court order that people have no idea what the definitions are and that if the court is going to send out an order that the definitions need to go with it. That this person has joint physical custody or primary physical custody, it means only that the child is living more than fifty percent of the time at one or the other parent's house. And that does not stipulate that the kid does not belong or has any other restrictions from any other parent. And those definitions need to be changed or they need to be defined to a point where there's no give me a guess. Because I have one, one, one lawyer at one school that says ok I can see this, you know, we just have to make sure you know, you can see your kids, whatever that's no big deal. And then I have another school nope you can't do anything. And I've had kids in four different schools in this state because she's moved around and moved around and moved around. And I have to go through this every time, it gets old. I have the final court order, I slide it to the people and they go, well I have this one that says a temporary order. One again she's perjuring herself, she falsification documents all across the board. Nothing happens unless I want to take the time and spend a couple of thousand dollars which I don't have, I would prefer to spend that on my kids Christmas, on being able to afford things for my kids. Because I'm working basically a half a job to pay for her even though now she has a part time job. I could be, when I went to court my, my court order was set up on a fifty two hour week instead of a forty hour week because at the time we had a lot of overtime. There's no overtime now. My income's dropped over ten grand. It doesn't matter, unless I want to come back and drag myself in because it doesn't fall within that, I'm at eighteen percent, that it doesn't get changed or have an automatic filing unless it's over twenty percent. It doesn't matter. But ten grand out of thirty thousand dollars really makes a big difference. It doesn't matter that she re-married and now lives in a five bedroom house and whatnot, it doesn't matter unless I want to drag her back through because she can right now, well whatever she wants, well yes I use this for this and this for this and this for this. And the only other thing I really got wound up about that I wanted to make sure was here, when my court order was written, as far as child support, it went from a specific amount per child per week to a block number, you pay this, ex amount of dollars per child, for child support for the week. I now am paying the same amount for two kids that I was paying for three. Unless once again I want to pay the money to get a lawyer and come back into court and then watch them play, monkey around, watch them monkey around with papers. If I come in with paperwork to show that my income has dropped, once again I have to bring in every you know, paycheck from ten months back to show that overtime is not a regular part of my income. But she just has to write something down, oh this is about it. And we did that twice so far so I know that it doesn't matter. There is, there's, there is nothing that says that if you're, if you're going to lie to the judge here and she buys it, or he buys it, that anything's, and that can be proven elsewhere as in what she said, you know, you can give every allegation in the book and when they throw it out, so what. All you've done is thrown more mud and if they can make it stick, then it works. I don't personally want to try and demonize my ex, that's not the point, I don't do that in front of my kids, I don't you know

sit there and vilify their mother, whatever she does. I just say, that's your mom, you know and they're getting to the age now where they see things aren't adding up. But you lose ten years to do, before they get that educated? It's ridiculous. It takes a whole village, well sorry, I'm part of that village and I'm just tired, I'm really tired of having to go to my kids school to sit there and hear people say well I don't think this is what it means, so you don't see your kids, you can't do this, you can't pick your kids up in school and by the way, yeah if your kid gets shot or falls down the stairs and breaks his back, we'll call you if you're lucky. If well, hold it, your ex-wife didn't write your number down, so we can't contact you. That's a crime. That's basically a hit and run. Sorry I don't care about your kids. It's my understanding that in this state that if I protect, if I stand and kill somebody to protect my kids and that and I can show that someone is trying to cause them physical harm, that's ok. Unless you're not the physical custody, unless you're not in sole physical custody of your kids or you're a guy. Once again, it's a crime and it's that that's been perpetuated by the state whether through....I would like to be nice and say it's just misinformation. That's the nice way to put it because like I said, I've sat on, I've sat on these benches several times, my folder downstairs is probably three inches thick and I can't afford to do this. I would rather spend my money on my kids. Because when you're a working father, I'm not a professional guy, I work in a factory. But I sat at the last session and listened to a gentleman up here who made well into six digits, somebody tell me where it takes twenty to twenty eight thousand in child support to raise a kid. I don't even make that in a year. In a normal family, that doesn't matter. In a broken family, well sorry, you make the big money, you're going to pay big. What ever happened to fifty percent? The running joke is right now, hey I'd like to win that Powerball, but I, but personally the way these courts run, I would find somebody that I would just have to take a chance and trust because I know what would happen, well, forty percent, here you go, she gets that for what? For jerking me around for ten, fifteen years. Thank you very much for nothing. I would walk into this court and say I'll buy them anything they want, don't give her a dime. I'll pay for their food, I'll pay for their, but she doesn't have to, but she, but the non-custodial parent doesn't have to provide any information or anything that says anything about how much they really do spend. I have a hard time, I'm wondering how I'm going to pay for my oil that, oil this winter. My kids have chickens and their chicken coop is vinyl-sided. And they have a deck, must be nice. And I know how much he makes. But it doesn't matter to the court, how much I give my ex versus how much I, and I see my kids coming through where they're kicking through their, where their toes are kicking through their shoes and I pay her more than enough and with what little I have left, I'll go buy them shoes. Make the kids work to earn, earn stuff so that they can play lacrosse in school. What am I paying my money for? To vinyl-side their chicken coop? Give me a break, it's called child support, not spousal support. And that's what it's turned into and I've seen it and it's not just in my case. I appreciate the commission's time, like I said there are, there are things that just need to be, I think, completely defined. Not just for my case but like I said I can see tons and tons and tons of people's cases. You know, I could fill this courtroom up with most of the guys I know right now are working twelve hours a day because they can't afford to maintain a two or three bedroom apartment so that they can, so that their kids can come see, and pay what their wife can pay. How does she, how do they rate a job and a half for doing the same thing that you should be doing? You both have to keep a three bedroom house if you've

got a boy and a girl over the age of six years old. How come he has to pay one and a half times? I told my son and I would tell every guy I know that gets a divorce until these things are changed until it actually proves out to be a fifty-fifty deal, do everything you can, say anything you need to to get custody of your kids, other than that, you'll never see them. Or to get to see them, you will fight because once again the court has to remember you're not sitting at these benches because you are agreeing on things. And that's the whole point. You know, there's supposed to, you know the whole thing about liberty is she's supposed to be blindfolded and holding the scales that are settled equally. Not here. And that's the sad part about it. I know I'm over my five minutes of time, I appreciate the time, the time for the commission and I appreciate their efforts.

WA: Thank you. Joseph?

Joseph Coutu: I, too, have been through the whole restraining order type deal things and through my case it's, my ex files a restraining order saying that oh I was so violent all this stuff happened on these certain dates. She files it, it gets granted right away and we have a hearing on it. I come in and I prove on every single date she's listed that nothing could have happened. The police were never called, there was never a mark, she never went to the hospital. So the restraining order is dropped but what it does is it gives her the right to have our marital property given to her. I stood in this courtroom, I had a job, I actually had two jobs. She wouldn't work so I was working two jobs. The judge gave her our marital home because she was going to go sign up for welfare so she would have an income, gave her the children, I couldn't have them because I worked second shift. So that's not a good shift to be a father. We had, the same, supervised visitation centers definitely need rules. She was late and I was forced to leave and because I was on time, that needs to be a lot of governing that happens to that if these courts are going to use them the way that they do I believe that they also need to fall under the same laws. I have the same problems with schools. I think it should be written in every single court order, straight out, no questions asked that both parents have the right. The schools should be ordered to send both parents complete schedules. When it's time for school pictures, I have to fight and fight and fight to get school pictures of my children. That's ridiculous. Child support, same boat for me, if you get two jobs so you can afford to have a bigger place for your children to live, then you owe her more money. I pay child support, it's supposed to be a fifty percent thing. She doesn't work. She hasn't worked, she won't work. She'll do the welfare thing so I pay the state, so the state's supporting my children. I have to pay. I said well what's she doing, you know, that doesn't matter. Her income doesn't matter, it's all based upon what the guy does. It's like people say, I can't come in here every time I need to to try to rehash stuff because I can't afford to pay the price. But because she chooses not to work and lives off of the child support that I pay, she can file a motion and it's always waived. You know, that's ridiculous, I need to pay but she doesn't. I also believe that every single person who walks into family court representing themselves pro se, should be given a complete copy of the cannons. They're supposedly the rules in which a judge is supposed to follow. I sat here numerous times before I knew that there was anything like that. They say that, you know, the judge can't show you any bias and prejudice, they can't give the appearance of that. They can't do certain things. All those things that happened to me through my, through my case, and it's like it ended up that one judge was finally recused, they had to recuse themselves because they were, they were violating these things, it's like I didn't know. You know, I should not have to

pay five, six, seven thousand dollars to have a lawyer come stand here with me to make sure that a judge does what the law says they're supposed to do. You know, we trust that it's going to be right that there's never, I mean, I've had allegation after allegation filed against me. My ex drug me through a sexual abuse allegation on our two year old daughter because she was going to be found in default in this court. We went to DCYF, the report came back that she's using it as a tool in a custody battle. This court sucked it right in and chewed it up and spit it out at me. They took my children away from me. The report came back, I had a court order that said she needed to take that baby to a doctor immediately. She didn't do it. No doctor's report, the father doesn't get to see the kids. Come to the court, they don't care. You know, I finally got some visitation with my children back, but I had to have my mother or my father with me. I was not allowed to change my baby's diaper. I took the child to the doctor. The doctor said this child's never been abused. A tool, her using it, this court bought it right up. Nothing ever happened to her. No charges filed against her for false, for false for falsely charging me. The court uses it, they take it, they say you're abusive. Look, this happened and they use it and they spin it and they drag you through the mud. I mean, just like everybody else in here. You know, father after father can sit here and say the same thing but there's no recourse for me. There's nothing I can do. I had a GAL who put in her report that I was very angry. You know, I asked the GAL at a hearing if I were to falsely accuse you of sexually abusing my child, would you be angry? You know, they didn't want to answer the question. And it's like I lived that, that's the life that we live. And these judges sit here and let it happen and happen and happen. I mean I don't believe in domestic violence. I know it's out there. You know, I also know that there's documentation that goes with it. So before we start taking children away from their fathers just because the ex-wife wants the marital property, and they run to the courthouse to file for a restraining order because oh it's so horrible, let's get him out of the house now, I have the house and I have the kids. You know, when it comes back and the man, I've sat at that table and I've proven time and time again that I was innocent of the charges, you know, we walk out of the courtroom, she still has the house, nothing's happened to her. I remember seeing on the bottom of the thing where it says you're signing it under the penalties of perjury. Perjury does not exist in family court. You know, I have proven time and time again that the allegations made aren't right and the judge will do nothing. It's, it's hard, it's really, really hard to continue to fight. I'm glad there's a commission here. You know, I hope something comes from it. I truly, truly hope it. It's a huge, in my opinion, a huge, huge problem. If it started out that from day one, obviously if people are getting a divorce, then they're living together, you're living in the same town. If it went from day one you have shared custody, there's no child support awarded, you know, I think the divorce rate in the state of New Hampshire would drop drastically. If it wasn't, oh, well I gotta get divorced, now I'm gonna run to the state and they're gonna support me. If it wasn't so easy for, for women to get that support from the state the divorce rate would drop drastically. If you could walk into a courtroom, I would love to be able to walk into this courtroom or any courtroom and think that I am going to get a fair shot. I was here recently and, and I was amazed at what was happening. I was trying to ask questions, I was constantly getting cut off by the judge. The judge was telling me that I can't ask that question because it's not relevant. They didn't feel it was relevant. It's like if I'm trying to present my case please let me. I asked for the recusal of them. And they simply said

that they don't need to be based on the fact that I don't like their decisions. You know, the cannons are laws. They're supposed to govern the court, but they don't. And if people don't know about them, you know, you can sit here and get rail-roaded all day long, all night long by anybody. I mean I think it's a very well documented thing in the state of New Hampshire that fathers have fought hard, they have fought long just to try to be treated equal. And you're not. You walk into a courtroom and you're not. I walk in time and time again with the hope, you know, that maybe this time, maybe this time, maybe this time. And it doesn't matter there's never enough, there's never enough, there's never enough. There's never enough to change custody from the mother to the father but there's always enough to take time away from the father and give it to the mother. It's ridiculous. I mean, the marital home was given to her. She decided she wanted to move away, she just left. She moved and then came to court and said well, I had to do it and the court said ok. You know, now you guys live two and a half hours apart. Joe, you can't see your kids as much, you know, the time that you had during the week when you both lived in the same town, that's gone because she moved. Where's the laws that govern that? Judges in family court, in my opinion, have way, way, way too much power. I truly wish that the legislature would sit down, write laws that told a judge what decision they could make in every single instance. I know that's probably not possible but for them just to be able to say it's their discretion. It's their discretion. The discretion is, is, in my opinion, is their easy way out of being very sexually biased towards men. I guess that's probably about it. Thank you.

WA: Thank you, Joseph. Is there anybody who has, who would like to speak who hasn't filled out a card? Michael? Thanks.

Michael Brewster: I'm just gonna repeat some of the stuff I've already mentioned at other hearings and the biggest problem I think we have here is I think one of our biggest problems I'll say is 73A. Probably you guys don't know what 73A is. That was... started out with something I call the son of a gun. That's, son of a gun was chief of police Laconia carried his gun into the courtroom. Judge wouldn't, a judge wouldn't allow him, he's got his own bailiff to carry a gun and he felt that's safer by telling that judge that leave your, telling that chief, leave your gun outside. Well, the chief refused to and seeing he couldn't bring his gun in, he didn't testify against the person that was in court, so the judge had to let that particular person go. And months later, another person arrived in court. And there were guns there and he said he was scared of guns, and he didn't want to testify or do anything because he was scared of guns. So they brought it up to legislature. And of course when it hits legislation, it was a move for the judges to pull their moves. They didn't discuss guns in court, that was when they went to the commercial code of the courts and with that they, they put it out on a ballot, they had to change the Constitution of New Hampshire. So, they put on the ballot that 73A was the Chief Justice of the Supreme Court would be the top dog and it would work it's way down as far as administrating court. And that sounded good and people voted for it. But, right before it went into press, there's this guy Carl Peterson, I guess was the last one to sign that illegal-like and when it went from to press into the law book, there was a sentence wrote in there that says words so promulgated will have the force and effect of law. Judges don't make laws. So, seeing they have the force, their rules have the force and effect of law. So right from there, that day on, judges have no rules they have to follow because their rules, they can go back to 73A and say their rules are law. So... they're unlawful. Now the second

problem I think we have is the bar association. They're taking over our courtrooms, they're taking over our courthouses, they've taken over our Capitol building. You cannot go into any hearing and you'll, you'll be over-run by.. by judges, by lawyers. When you go into a hearing over there at the LOB building, you see (name omitted). She seems to be in the way of everything over there. She's the judicial conduct committee, she has something to do with conduct committee, executive secretary or something. But she chairs a lot of the hearings over there. She chairs the guardian ad litem, the right to know, she's at too many hearings and I call her old stonewall because she just blocks anything to do with family that somebody wants to push forward, it ain't going nowhere.

WA: Michael? When we were talking informally I didn't say anything. But, I'm going to ask you now to not, if you have-

MB: Mention people. All right.

WA: - issue, talk to the issue not the people. It's not fair for me to talk about you behind your back and it's not fair for you to talk about other people behind theirs, so I'd just respect that.

MB: She's part of this council, she ought to be here.

WA: That's-

MB: She shouldn't be part. I, oh, I'll continue on. And I think this is judicial, this isn't legislation. Judges should try to separate themselves as best as humanly possible for conflict of interest. When a family goes to court, for one thing you're in civil court. Civil court you don't have Constitutional rights because there, it doesn't come into play. So that's a mistake right there by bringing us into this type courtroom. No family has any rights in the, it doesn't, it doesn't play into it. There is none. So, with the bar association a part of legislation, you know, there should be separation of the three branches which there ain't. This stonewalling, oh, this stonewall go to legislation to protect us, they just won't let it go. Why? Because there's too much damn money. There's a lot of money flowing around for all these people and especially now, you take judges, you think we'd hire them for forty hours a week. What, what do they get, I mean how many weeks off do they take and how many times do they leave the state to go to other places? We're a solvent state, we can think for ourselves, they ought to stay right here. Now, we have a Supreme Court judge who's leaving. He's going over to the war zone or something so he says. But he went over there last year. Now did he go over there on a grant? Did we pay him our taxpayers pay him to go up, look for another job and now that he found one he's, he's quitting. How long was he over there doing his survey or whatnot? So that, I see a problem there just, just with too many lawyers and it's the bar association stopping, stonewalling all good hearings that are going on over legislature. They just don't talk about it. It's something you can't, you can't ask them questions they won't, they won't give you anything. So, we have that for a problem and it seems like, I've been at most of them and now they're going, because of this hearing, this is, judiciary doesn't make laws. Why, we should be in legislature. We should have our, legislature are two, they just don't operate the way, it's too much conflict of interest. They're thinking of their own self-interest. And if you look at the, the hearings, the what is it? Task force on family law, majority of them people are, there's judges on there. Judges should separate. What are judges doing sitting in legislature? That's, there should be separation of power and state. So, that is why no good legislation is being brought up because, so we gotta break up the bar association. It's a monopoly, it's in the Constitution, it shouldn't be. But they won't

allow us to bring that stuff forward. I think we need to bring out Batman or something to straighten them out. Bullying. I don't know if you watch today Good Morning America, there was, there was quite a talk about bullying, you know, just cooperative bullying and when you get into the system, that's all you get. They just, I wasn't used to seeing so many faces and when you got faces after faces attacking you different angles all the time and they're doing nothing but bullying, they're lying, they're nothing but scoundrels. They ought to be, they hate families, you know, they ought to be hate crimes against, we need to bring in the (inaudible) get these guys busted, bust this whole mess right up. Families should not be in court, there ought to be another way. We can work our way out of this, but the bar association won't let us. The people, they don't, I went to Laconia and I asked the retired Attorney General, what (name omitted) is that his name? And (name omitted) was beside him and I just told him, I says, I don't know who the people are anymore. And he started laughing at me and the people there made him apologize to me. It's ridiculous and if you do see a crime I'm here just to report crime. I went through what everybody else here. It's a crime and when you can't bring that crime to anybody, can't get anybody to pay attention, you know, I've been at legislation, I've heard crimes, I heard people come in and say their kids were raped by somebody. You think, I've heard some rotten things, do you think legislature or somebody would have a concern. They could care less. They don't care about children, all they care about is that money, there's a lot of money flowing out there and that's the main, that's all they're concerned about is their own pocket and watching their own wheels spin. So actually in my personal opinion, this is illegal right here, we should be over to the state legislature and they should be doing this and not the judiciary. What else do I have to say?

WA: Your time is up.

MB: That's good. I said enough. But to give an understanding, that's what the problem is, it's with legislation and (inaudible) because they haven't made any laws to guide it because the bar association won't allow it. So what we ought to do is have, start in with grand juries, we got twelve people, do we have twelve people here, we can have a grand jury right here and start busting some of these people that are...breaking these laws against families. And we ought to go up to the Governor's office, pick a day and we'll get twelve people and we'll start a grand jury right up there. I think I said enough, thank you. (laughs)

WA: Is there anybody else who has not spoken who would like an opportunity to speak? Would you please fill out a card and come up? (pause) Thank you. Kelly Oakley, please have a seat. Welcome.

Kelly Oakley: I'm not a very good speaker, but I'm a step-parent and I've been involved with Lee Oakley's case for the past eight years and I just had a couple of suggestions. I'm a divorced parent and the way me and my ex-husband handled things and it's worked out pretty well and... my ex-husband and I do not get along, otherwise we'd still be married if we got along. But we came through this court, but we kind of deviated from our divorce decree on our own. And the way we work things now is we do a joint physical custody, and we split everything. Neither of us pay child support anymore and we split all of our daughter's bills down and we get along much better than we did when we were paying child support... and we got a mediator and did all of that. Now, dealing with his situation and coming to court with him has been extremely frustrating and dealing with the schools and being a step-parent and finding that the other step-parent involved in our

case has much more rights as far as the school and because that's, because she puts his name on there on like my husband said, he has the rights and....oh, I've lost my whole train of thought but....

WA: That's all right, take your time.

KO: As far as the child support issue, I think there should be accountability and not just in our case, but in many people's case, how, if there is child support awarded where one party has to pay the other party, why isn't there accountability? Why is it just a set amount sent and they can just spend it however they want and no, nobody knows where that money is going or and why kids are coming with clothes that are three sizes too small or and you're spending money that you don't, that you don't have to clothe them when you're sending the money that's supposed to and you don't know where the money's going that's supposed to be going towards the children. So I would think that some type of debit card or something of that nature, an accountability... something written into the divorce decree for that and definitely a fifty-fifty situation right off the bat unless there is documented proof of abuse. Emotional abuse which...or physical abuse and definite proof, not just taking someone's word which in our case that's for the past six years that's what it was. Some, the ex-wife's word... is, we weren't able to see one of the children for the past six years because the judge took the ex-wife's word over....without any proof. And I don't understand what law in the whole United States or New Hampshire says that one without proof that you can do that. That's, to me, it's completely illegal, you know and how that can happen is unbeknownst to me. And here, I think there needs to be accountability for the judges actions also. The judges need to be accountable for their rulings. If they make a ruling that is, you know, then they need to be removed, they shouldn't be able to sit there and make judgment calls, bad judgments, one after another in family court and ruin people's lives or and it be ok. And that's, that's all I have to say.

WA: Thank you, Kelly. Is there anybody else who hasn't had a chance to speak who would like a chance? (pause) Then I think we'll suspend this hearing until somebody else comes in, you're welcome to go. Thank you all for coming. You're welcome to stay and we'll be here until eight o'clock but thank you.

WA: It now being seven fifty six (7:56), I declare this hearing over.

END OF PLYMOUTH LISTENING SESSION