

## Portsmouth Listening Session

Kathy Eneguess: And I reside in Jaffrey and I have beside me Will Abbott who resides in Holderness and we are the two co-chairs of the commission and we have been holding public listening sessions up until this point, this is number four, we are holding eleven of them throughout the state. Today's session is in two parts. We are here from three to five, we are also here later this evening from six to eight. Our process this afternoon, as some of you may have already figured out is that Julie, who is standing at the doorway has some three by five cards. If you would like to join us this afternoon and discuss or any recommendations that you have with us, what we would like you to do first is to fill out your name and address and telephone number so that if in fact we do have questions as a follow-up we do have that available to us. Or if in fact you would like to contact the commission, you can do that either through our web site which is [www.nhcitcourts.org](http://www.nhcitcourts.org) or you can contact us through snail mail at our post office box which is 419 in Concord, the zip code there is 03302. Or you can also contact us through e-mail which is [public01@nhcitcourts.org](mailto:public01@nhcitcourts.org). So that will assist you if you have further information that you'd like to share with the commission as a follow up to today. Just to begin I'd like to just outline the mission of what our commission is about. As I stated this is the New Hampshire Citizens Commission on State Courts. We have a hundred and two members on the commission that was appointed by the Chief Justice of the Supreme Court in April of 2005 to independently assess the foundation and structure of the delivery of justice by the state court system from the perspective of the 1.2 million citizens of this state and to make recommendations for improvements. The court system currently has six hundred employees with judges not included. The Chief Justice wanted this group to look at the court system through the lens of the public. The purpose of today's session is very clear, we want to hear from you. Thomas Jefferson once wrote that the price of liberty is eternal vigilance. The commission sees its role as providing part of this eternal vigilance to assure that the courts of this state are doing what they are intended to do under New Hampshire Constitution. And that in order to do so, we are meeting the expectations of the people whose liberty the Constitution protects. If public trust and confidence in the judiciary cannot be sustained, our liberty itself could be placed in jeopardy. The commission is interested in your thoughts on how the courts work, we are interested in learning what you think the key issues facing the courts are and ways to improve. We are interested in your ideas for improvement in the delivery process. As I stated, your input can come in a variety of ways, not just today but by e-mail as well as snail mail as well as through our web site. We've also conducted a public opinion survey using the University of New Hampshire's Survey Research Center. We shortly will be releasing that report, we have not picked a day yet, but that was done over this past summer to gauge general public concerns with the courts and their effectiveness. So that is one piece of research that our commission has already done. The public input gathered by the commission, all the different kinds of input, not just these listening sessions, not just the survey, all of this will be deliberated by all of the commissioners before we move towards recommendations. So that this commission is committed to do the research necessary, to speak with individuals, many of our members have visited the courts, they will continue to be speaking with members of the public, yourselves and really trying to figure out, what are those recommendations. What are those underlying issues that we need to be

recommending back to the Supreme Court. The commission has met three times already. Its next scheduled meeting is Monday, November 14 in Concord. Meetings are open to the public but as you can imagine with that number of commissioners, we have limited the participation to commissioners only. The public is absolutely invited to join us to observe. A few items that I'd like to talk about at the moment. As moderator of today's session, as I stated a moment earlier, we are asking that you fill out cards so that everybody does get their turn as we have learned going around to the varying sessions, people will come and go, so we are going to be asking that you limit your time to five minutes and that you be specific about your recommendations. If in fact we need a second time for you to come up, if time allows, that's certainly allowable as well. As I said, I will be moderating, if in fact there are other questions along the way we will certainly take those questions in order. I would also just caution you, we have no ability to retry a case, so we'd like to just caution and have you avoid the temptation to retry a case. We also would suggest that, in your five minutes you couldn't do this anyway, but what we would like you to do is make specific recommendation to us about your experience. Whatever recommendation you would have as a take away. We also would like you not to be using individuals names. We would like you to be speaking from your experience specific to recommendations. So if you do find yourself using names, I will stop you as part of our deliberation process today. We really are here to hear from you, have a conversation with you, our commissioners are here to listen. We have a couple of commissioners in the room today, I'd like them to identify themselves. If you would please, would you like to start right up here?

Larry Gilpin: My name is Larry Gilpin and I'm from Amherst, New Hampshire.

Ray Taylor: I'm Ray Taylor and I'm from Kingston, New Hampshire.

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

Kathy Eneguess: Thank you. I see we also have a few members of the Press joining us this afternoon. Keep in mind we are here to listen. We are not here to question, we are here to listen. Does anybody have any questions in advance before we begin this afternoon? Ok. I will be taking your cards in the order that they were handed to me by Julie. The first person and just as a reminder, I did forget to tell you that all of today will be recorded so that we will have not only a video recording but an audio recording. All of this will be, all of our listening sessions will be made available to all of the members of the commission so that all of the input that has been taken in for the listening sessions throughout the state will be available and eventually it will be put up onto the web site.

Michael?

(inaudible)

KE: We are working on trying to house them at a certain location. We have to transcribe them first. So, you're going to have to be patient with us. I know you've been at every single one of our meetings but those will be available eventually, most likely at the law library at the Supreme Court for audio and video capability but we're continuing to work on trying to transcribe them as well. So it's going to be a bit for the timeline. Any further questions? Ok. Steve Vogl? Would you like to join us up here?

Steve Vogl: I would. Good afternoon.

KE: Good afternoon.

SV: Thank you for making the opportunity available for those people to speak who have personal experience with our court system. My challenge right now is to reduce what I've

written to five minutes, so let me try and do that. My name is Steve Vogl. I'm currently a mediator with a practice in Exeter. Certified in transformative mediation, contracted by the courts to provide small claims mediation. A former lawyer having practiced in Vermont. A child of divorced parents, a divorced parent myself having gone through two and a half years of divorce litigation resulting in a four day trial and a couple post-divorce court visits at a cost of eighty thousand dollars. In my divorce I was never accused of abuse or neglect or being an unfit parent. The eighty thousand dollars that I spent was simply the cost of asking the court to allow a father the ability to parent his child and a child the ability to be parented by her father. I have experienced divorce in the role as a child, a parent, an attorney, a mediator, a mediation client and a litigant represented by an attorney and a pro se litigant. Many people acknowledge the inappropriateness of the adversarial system, especially when it applies to family matters. Legal professor Janet Weinstein said in a 1997 article that the adversarial system is not violent, there is nothing inherent in our tradition which demands its use. Particularly in non-criminal matters. We must look with new eyes to consider what kind of system we would design to deal with these kinds of problems if we were not constricted in a vision by the use or patient of this area by the adversarial legal system. In other words, we don't have to do it this way and we have to have a new vision. Chief Justice Broderick has said that the court system belongs to the public and that he wants to take a look at the system from the front door to the judge's bench instead of from the judge's bench out. This means that he wants to look at the needs of the public as opposed to the needs of the courts or the legal community. Keeping in mind the needs of the public, it is, is it imaginable that we would design a system that would cause so much animosity and pain and cause so much, and cost so much to those who it is intended to help. As a mediator I see conflict in this, it exists between the needs of the courts and the legal system and the legal community on the one hand. And the consumers, the people on the other. The development of family law has inserted the state through its courts into the family system to a degree that it can't reasonably expect to carry out its mandate as it sees it without huge resistance by the consumers that we are seeing today. You can't have the impact on the family that the courts have without the results that you have been called upon to fix. That in essence is suggestion number one. The first solution is to reassess the level to which the state intrudes in a divorcing family absent a substantiated allegation of abuse or neglect, which is the standard for the state's intervention into non-divorcing families. Believe it or not that could be done beginning tomorrow if the judges and masters chose to do it. But I'm guessing that's outside your scope of review, so here are my suggestions based on the system today. And let me just skip to something that you said in your opening remarks. The goal is the trust and confidence of the people that the courts serve. You are here to have a conversation with us, you are here to listen. That is one of my suggestions. Bring the judge or master down off the bench, literally and figuratively. Having judges and masters sit on high is designed to ensure that those present in the courtroom know that the court rules over them instead of listening and learning from them. If the goal is truly to seek ways the court can address the needs of the parties, what party would seek to have the judge distant and foreboding rather than present and engaged in a respectful manner. In addition, judges and masters should involve themselves in a dialogue with the parties as you have said you are here to do today. A dialogue with the parties and their attorneys instead of only receiving the information that is elicited from testimony. What in effect

happens, and I know it from practicing law, is that you have to, in preparing your case, guess at what the court is going to think relevant and important. As a result you have to prepare this much which only results or the court wants to see this much. The court, the judge, the masters know what's important. They should not be restrained or constrained in their own thoughts or in any structure by being able to talk to the parties and ask questions that they think is important. This is where we must think outside the adversarial box. What is more important, preserving the integrity of the adversarial system or being human in our interactions with those who are going through a difficult conflict. I'm sure I'm getting close to my time, so let me just touch on things in general.

KE: If you find you need more time, you can certainly join us again.

SV: Ok, thank you. Some courts use a case manager. This is hugely important and needs to be expanded. Unfortunately it won't in the current system because it costs money. This reflects the fact that the courts are trying to do something that it doesn't have the resources to do. A case manager and one case manager from beginning to end will help the parties negotiate the needs of the court and reconcile the needs of the courts with the needs of the parties in presenting their case. Have discovery administered by that case manager or by the court. The free-for-all that goes on in the discovery process which I know about as a litigant and as an attorney, adds to the misery and the expense that the parties experience. There are ways to do this. I won't go into them now. If the court chooses to use third parties like guardians ad litem....ensure that that interjection of the additional third party doesn't add fuel to the adversarial fire instead of having a neutral effect. I believe New Hampshire is on the cusp of using parenting coordinators, whether it's a guardian ad litem that works with the families during a divorce to help them parent their children or whether it's a parenting coordinator, they cannot use or model their behavior on the adversarial system because it's just adding more fire to the problem. Either include the parties in chamber conferences or discontinue their use. I know it helps the judge and I know it helps the attorneys, but it just works to further distance, separate, dis-empower the parties from owning their own conflict and working with it. Give the parties opportunity to speak. In my experience in my case, in the two and a half years before trial, I spoke very briefly twice. Now why is that? It's contemplated in the system. It's meant to be, it's considered the right way. I have an attorney who speaks for me but this is not the attorney's problem, this is my conflict that I am going through and the court is intervening in that. It may not be workable in all cases, but there is nothing in any system that says that a party has to stand mute. If you look at the reasons for it, the purpose is to serve the needs of the court and not the parties. Finally a standing task force needs to be created to generate changes to the current system, devise their incorporation into the court structure, monitor its administration and make adjustments where necessary. Bold action and leadership is needed to make hard breaks with past practices because what exists now for many people is unconscionable. Thank you for letting me go over.

KE: Thank you. If you find you have further recommendations after listening...

SV: Thank you.

KE: ....you're welcome to join us again. If you'd like to give us your entire set of comments, we can certainly add those to the record. If that's something that you'd like to hand us before you leave today. Very good, thank you. Evelyn Sirrell.

Evelyn Sirrell: Good afternoon.

KE: Good afternoon. Welcome, Mayor.

ES: Thank you. My first one is a question. I appeared in Concord, New Hampshire about three, four years ago in front of a commission up there. And I asked the question, do we have a good time bill in place here in New Hampshire? And is it being used? I know Maine does. I have watched and I have talked with many prisoners who have impeccable records and if we do have a good time bill in place, why isn't it being used for the overcrowding of our state prisons? That's my first question. My second one is just a little information. Because I did listen to Judge Broderick speak regarding this. You wonder why prisoners are defending themselves in our court system today. Well I guess I'm a very good example of that in trying to give my son the best defense possible. I lost all of my savings, my retirement, my little camp that I had up-country and the only thing that I had left was my home which I refused to give to an attorney. So that is why my son is going out into the court system on different things, defending himself in his green prison jumpsuit. All I can say is in watching this for eight years, the system as far as I'm concerned is not working. Thank you.

KE: Thank you. Michael Brewster? (pause) You're going to offer a specific recommendation, correct?

Michael Brewster: Yes, as I always do, don't I?

KE: Sometimes in a more circuitous pattern.

MB: That's what I'm about ready to do.

KE: Ok.

MB: It gives me great honor to be in this town of Portsmouth. I read a lot about it and it has a lot of history and, and the, I guess our government kind of started here. The Republican Party, I read started here back in the seventeen hundreds. And one of the persons I read about that I look up to is the grandson of one of the people here which was Samuel Parker. Samuel Parker was a schoolmaster and a merchant. Jonathan Hale was a Congressman at one time, in the 1850's and he went down to Philadelphia, I think that's where the Capitol was then, but being from the north here and the discussion was about blacks and slaveries, well a congressman, he was overheard by saying he says oh blacks, they were beasts in human form that didn't have any rights to be free. But later on in life Samuel Chase lived in this town, the Governor of Idaho, was from this city here. They talked to him about the atrocities they saw about the white people on Friday night just going into different communities wiping out the blacks just for something to do. And it was wrong and we had a Constitution and the Constitution said that every man shall be free. And he believed in that and he stood up for that and he went around the country by himself as a Senator telling the other states they were wrong by having slavery and he was out there by himself. And I've been kind of out here by myself saying the same thing about this state and their dealings with children and families. I think they're treating us just like slaves. Making money off us. The more they get into this system, the more money they make. And the fewer of them get to spend that money. Now I think with children, child support, I haven't had anybody tell me I'm wrong, but I argued the point with certain other people. I think in my opinion out of everybody that gets child support, pays in child support, I believe the state gets a buck and a quarter or something like that for every dollar a, a...obligor pays into the state. Last year the state brought in a hundred and seventy six million dollars from the obligors. So that makes it close to two hundred million dollars a certain few people in this state gets to spend. And when you ask them

questions, they won't answer. There's no accountability with the state. They can bring down a family and they can say anything they wish and I find in my experience any time you ask a state worker a question, he's gonna lie to you and that lie can hurt you. And it does hurt families.

KE: Michael, do you have a specific recommendation today?

MB: Yeah, take the money away from the judges. Get rid of the monies, they shouldn't be allowed. There, there's, there's no accountability. Let's, what I have to say is I think we ought to discuss article ten, right to revolution. What is the right to revolution? If I choose, if I have these state workers, agencies, the agencies lawyers who I feel is lying to me, and the courts go along and agree with them, if I feel they're giving the wrong information, they're guilty. Now, you can't bring your complaint to nobody because there's nobody to take the complaint to. Says (name omitted) at our last meeting. The child support system was audited in '87 I believe and one thing in that audit it said they ought to start categorizing complaints. What's the court do? They don't categorize it. There's no place to bring a complaint. These people are criminal by sending the wrong information to the courts. So what I'd like to see is a people's grand jury. If there was thirteen people here and I got evidence, I ought to be able to bring it on just for a grand jury just to see if there is wrongdoings and then we can go on from there. But to have these people out there ruining families, how many people kill themselves a year, fathers kill themselves? I got several friends over this, how many fathers kill their children? How many mothers kill, how many people must this state abuse constantly and there's nobody to bring these complaints to. We ought to categorize, that's the only way to find what's wrong with the state, with this system, with the judges. They won't hear no complaint because they know better. There's too much money. I say they're getting two hundred million dollars and where's that money going? It's only going to a select few.

KE: So again, Michael, your specific recommendation and then-

MB: My recommendation is to get together with the, with the judicial board to find out what is meant by right to revolution. And then we can set up our system with the people. Us people getting together we can come out of this, we don't need the judges to tell us. They're supposed to be out there interpreting the law and that's it. They should not be, be, be....they should not be.....well, they should not, well they should be just a ref and that is it.

KE: Thank you.

MB: And you mention the Constitution. That's the last thing these guys know of. Years ago I was in the-

KE: Michael, your five minutes is up. Thank you.

MB: I'll be back. Thank you.

KE: The next person. I believe it's Les Cushman, is that correct?

William Cushman: William.

KE: I'm sorry?

William Cushman: William.

KE: I'm sorry, thank you. William Cushman.

WC: My name is Cushman. I'm a resident of New Castle. I have had a rather long and very costly financially destructive relationship with the courts in a divorce. It's still going on after ten years. What Mr. Brewster said reminded me of something I heard once in Concord. I was asked to attend a hearing of a guy that had got in, he was in a no-win

situation with a bureaucracy. He was, he was accused of something that he really didn't do and actually wasn't his fault. He couldn't afford an attorney but he was given an excellent attorney from Franklin Pierce. This guy was sharp. And he was asking questions of the person from DCYF. When you first....got a hold of this person and verified his problem, did it ever occur to you to put him in contact with somebody in the legislature who might resolve his unsolvable problem. And this woman bristled and said, look, I'm a member of the child support enforcement agency. I am not a social worker. That's the attitude you have to deal with.

KE: And your recommendation would be?

WC: Well I think it would be, you wouldn't welcome it, all right? (laughing) Ok, thank you.

KE: Thank you.

WC: That's only a bit. The lawyers keep telling you that it's all done for the benefit of the children, what they don't tell you it's for the benefit of their children.

KE: Ok if you'd like to offer further information as I stated earlier, you can do that through the web site or through the-

WC: Ok.

KE: - email, etcetera. Is there anyone else here this afternoon that would like to join us for the first time? Sir? (pause) Thank you. Maybe you can help me with your last name. Michael-

Michael Geanoulis: It's Geanoulis.

KE: Geanoulis, thank you very much.

MG: That's Irish.

KE: (laughing) Just like Eneguess.

MG: My name is Michael Geanoulis. I live in New Castle, New Hampshire and as I sit here listening to people talking about the system and their recommendations, it occurred to me that I just have so much to say. I've been involved in fathers rights for many years. I was on the first commission on child support and that's what I will focus on with this particular session, I will fill out another card for another topic at a later time. I now serve on the commission for the status of men and the horror stories we heard, it's just tragic, it's enough to make you weep. It'll fill volumes, our report, I hope would be something to look forward to in regards to recommendations for solutions because we'll be talking about the lack of regard, I guess if I might just speak briefly in terms of recommendations for the courts. It just seems to me that there's a lack of respect for fatherhood in this country and that maybe we should be educating judges or recommending courses for them to learn more about family structure, the importance of the role of the father and child development... that would be, I'm going to be rambling here a little bit I guess. I did say I was going to talk about child support but these thoughts are popping into my head which I consider to be important, I hope you'll, I'm not working from notes yet. But, the custody disparity rates between mothers and fathers is, is just something that reflects to me that the judges and the courts feel that the mothers are more important for the kids than the fathers are. And I remember a conversation I had with the lawyer some time ago that stated, look, something to the effect that look, Mr. Geanoulis, you know, you can't claim that the courts are unfair when in reality they're just reflecting what society's wants and needs are and to that degree I must admit to a certain level of fault, but that's the wrong word, fault, on the part of fathers. There's got to be a better word to

describe this, but fathers are...traditionally have relegated themselves to the workplace and when they do that, they set up a history that says when there's a domestic action filed by either party, the history of it all will say, well look, sir, you know, you've been spending all of this time in the workplace and it just seems to be difficult for the courts to envision the possibility that the person that's looking at, to be disenfranchised by any actions in the courts, to have options to revise his or her workplace schedule so that they might be better able to maintain a relationship with their children going forward. So I guess that's the second part of this recommendation. I still have child support in the back of my head, but the bell's going to go off on me in five minutes, I'm sure before, before I even get to child support, as I said I have so much to talk about with regards to recommendations. And I will be seeing you people next Sunday in Concord. I appreciate that you're making a special effort to outreach by scheduling a meeting on a Sunday. Fathers are working during the work week and I appreciate that. I also appreciate seeing so many members of the citizens commission coming down here to listen. And they really didn't have to be coming. And now let's see, we were talking about giving parties options that might, that might facilitate a better connection with their children going forward for any custody action before the courts and I'd like to echo, I did also serve on the task force on family law and my gosh I learned some, some things that just shook my inner system and, and the thought that pops into my head was a comment made by a marital master that reflected, you know, what I just described about well the history of the family shows that, if the history of the family shows that the father has been in the workplace then that's got to be fifty custody, it wouldn't be fair under the circumstances like that. I apologize if I'm rambling a little bit it's just so much to cover that I guess I ought to leave it for now since I'm sure that my five minutes is closing and I'll come back at a later time and give somebody else a chance to speak. To recommend that the courts take courses in family matters and to be more aware of the importance of the role of the father and child development when they make decisions on custody matters. And to look at the possibility that while the mother and the father have mutually exclusive roles, that the input that fathers have by interacting with their children is every bit as important. And some researchers will tell you even more so than the mother's interaction with the children. And I think of the book, *The Garbage Generation*, as I make express that thought, written by Dan Amneus (sp?) who presents a very well documented case that children who have been removed or who never had a relationship with their father to start with are in dire straits in terms of wellness levels by every measure you would care to...I'm talking about cognitive skills, IQ scores, drug abuse, teen pregnancy, the whole gamut, every aspect of personality development in children are, at a disadvantage. And so while I stated that I wanted to talk about child support when I first sat down, I will leave that for another time. I also would like to talk about domestic violence and maybe I'll save that for a third time. I am just bubbling inside with all kinds of information and recommendations for you folks, so...I'm also the President of the National Congress for Fathers and Children, an organization that's dedicated for the preservation and, and promotion of the father child relationship and with that particular thought, I'd like to say that there are many fathers out there who, you know, come forward to complain about being disenfranchised with their children, yet they're the first to leave when the irreconcilable difference breaks out. I don't know how many calls that I've gotten from men who call from a distant place telling me, well I left because, you know, we just

couldn't get along and we were fighting and somebody was going to get hurt so maybe I should just leave. And I'm, like I had to say, well do you have any idea what kind of a message you're sending to the courts when you place yourself at some remote place and then try to get back in and fight for fifty-fifty parenting time with your kids. He was living in the attic of his sister's house. I can't imagine, you know, it makes things very bad for himself with such mentality. I guess I need to just echo the thought that fathers could be doing more to preserve their place with their families. And that goes for unwed fathers, too, but that's not a domain for the courts, that's a social problem.

KE: Thank you. Is there anyone else that would like to speak for the first time? (pause) Would anyone like to come up for the second time? (pause) Steven, you were first up before.

Steven Vogl: Just in case I can be of service and offer myself for questions, if you have them, otherwise I can go through in more detail what I was, I put together.

KE: Well, we're not here to be asking questions today, we're here to be listening-

SV: Ok.

KE: - so if there's other parts of your testimony that you didn't have an opportunity to share with us the first time that would be very appropriate.

(pause)

SV: It's just going to take a second to call this out. (pause). On the matter of discovery, I actually have not heard anybody or read anywhere this suggestion. And I can imagine that it would send attorneys... scratching their heads because, you know, it's just, it's never been heard of, but the goal is...is to make it a more civil process. No one hears about any destructive quality of discovery. It's hugely expensive. I paid, I believe...twenty three hundred dollars for the deposition of my ex-wife and as an attorney I know that one of the reasons, it wasn't my idea to depose here, but as an attorney I know that one of the reasons my attorney had was because attorneys need to see what kind of witness this person is going to make. Twenty three hundred dollars is a lot to spend and I'm not sure that includes her hourly fee, my attorney's hourly fee and of course it doesn't include my spouse's attorney's fees. So, one reason is to find out what the other person looks like, how they act, what kind of witness they're going to make. There are some, maybe some answers to questions that can't be obtained otherwise but as you might know, there are interrogatories as well which are written questions and those can be very specific as well as request to produce all kinds of documents. For what it's worth, my attorney asked my ex-spouse about our sex life. She never consulted with me about asking that question. I saw no purpose in asking that question. It wasn't relevant. And you can imagine the effect it had on my ex-wife. Now this, it's an individual thing and you might say, well some attorneys do that and some others don't. My question is, to what extent can we avoid those kinds of things if the discovery is a little bit more reined in and administered by the courts. Now this of course, this idea would also send the courts and the judges and the administrative judges and the members of the legislature who have to pay for the courts, up the wall, because that's just way too much money. So maybe that's not the end result, that's not the final picture of what a reform in that direction would look like. The point is, is that something that is usually perceived as innocuous as the discovery process but is anything but, so if not, if it's not the court that administers the discovery process other than simply the judge making rulings as to motions to compel and ordering other documents to be provided that weren't otherwise

provided, it should at least be studied, looked at. (pause) In family court, I'm also a CASA guardian ad litem, by the way, so I've been in court in that capacity, I've been in chambers in that capacity and I see how the party, or how the attorneys and the judges deal with those situations, but in my experience with a guardian ad litem, who in this case was an attorney, this guardian ad litem took, adopted as should be expected, the adversarial model as a way to relate to our family. I can go on and say all the things that I thought that she did inappropriately, but the bottom line is, contrary to what, or in contrast to what Chief Justice Broderick said in one of his interviews, that complaint forms are available at the courts. As a means, as an avenue of redressing problems you see, I was never informed of that and I wondered about why. Is it in my attorney's interest to make that information available to me? Does she even know? The bottom line is that I didn't even know and I wasn't made aware. So, you might say, well, your attorney can express your concerns to the court at the time and of course she did, she represented me. In...cross-examining or in confronting the guardian ad litem with what she had to say, but in the process, what was done was so damaging, that it really adds to the pain and suffering and to the destruction of the family. Because I will tell you that any parent going through a divorce in the adversarial system is not going to be at his or her best. And these divorces take a long time, so for two and a half years while I tried my very best to be the very best of fathers, I was fighting an uphill battle because of what I was experiencing in the court. The question is, does that have to happen that way? So, my recommendation is, and I'll tell you, I don't know how to accomplish this, my recommendation is, is that one, make a review process the means by which Chief Justice Broderick was referring to when he said that there is a complaint process. Make that transparent, make it obvious, available. And make that process also non-adversarial, so that the person making the complaint can get some satisfaction in being heard, if not having a ruling that goes in his or her favor. My experience as a mediator, is that people will accept an adverse ruling if they feel heard and that's not happening. The other thing is in the guardian ad litem training, which I'm going to do at the end of this month as a matter of fact, or the upcoming parent coordinator training and the structure, make sure that it takes on a mediative structure and not adversarial structure. There is nothing in the concept of a guardian ad litem or a parenting coordinator that requires an adversarial structure. And let me just close with one just personal experience to give you a little flavor of what I mean. No names. At court, in the lobby, talking with my attorney, the guardian ad litem comes in, and is working with papers on one side. The attorney, my attorney goes over and starts to talk to her. I go over and I say hello, good morning. And there's no response from either my attorney or the guardian ad litem. And I'm confused, so I say again, hello. My attorney shoots me a look that just about, that has about a hundred daggers in it and later berates me for what I did. My quest, two questions, what did I do and why can't I say hello, or why can't the guardian ad litem say hello? What was it in her concept of her role that made her feel like she couldn't say hello? Now, does it really matter? No. But it gives a glimpse into the psyche of what goes on in court. Thank you.

KE: Thanks. Jean Jackson? Would you like to join us?

Jean Jackson: No, not if I have to go and sit up there.

(laughter)

KE: Well, you're welcome to sit right where you are now.

JJ: Um, I just have questions, I guess. In a case where, I'm concerned about taxpayer dollars being spent. And I know recently I was aware of a case where the district attorney, a case where an expert witness was supposed to be testifying and the district attorney's office called to say that they couldn't make it that day and so the expert witness who was supposed to show up in less than twenty four hours. The state wound up paying that man for that period of time. I'm aware that the district attorney's office knew that that, that that would have to be cancelled, so that means that the state is paying for that expert witness, having cancelled him with less than twenty four hours notice. It doesn't seem to be real efficient. Having served on jury duty, I'm very aware of how much time I sat around and other people were sitting around, we're sort of going well yeah. So, things don't seem to be run very efficiently in that situation. I'm also wondering, I don't quite understand when charges are dropped, how does a person clear their record? And why do they have to be the ones to pay to process the paperwork if the district attorney drops charges?

(pause)

KE: Do you have some recommendations around all that?

JJ: Certainly businesses manage to run a little more efficiently. My doctor's office, if he has to be out of town, he certainly lets me know before the day of my appointment. Efficiency. If charges are dropped I don't think that the person who's had the charges dropped should have to pay to clear his record, I think that should be, there should be a way to figure out how to do that.

KE: Thank you. Would anyone else like to speak for a second time? Michael?

Michael Geanoulis: This compares favorably to the HB 529 hearings where I was lucky to get in a word edgewise there was so many people that had come down to speak. But I'd like to start by asking I think, to continue, just before I start in on the child support experience, if you people would do me a personal favor and entertain a request. And that would be to ask the Chief Justice to ask his judges to, his or her judges to view this compendium of research on the importance of fathers in child development.

KE: Well, it's not our role to tell the Chief Justice to do anything, so we'll take that into the comments-

MG: That's not what, I didn't mean-

KE: - and go from there.

MG: I didn't mean to tell him, I meant to suggest to him that, you know, he review this along with his family of judges. If that's not possible, I guess I'll have to ask him myself.

KE: Well, if you'd like to file that as part of your testimony, it will go to the entire commission and if that's one of the recommendations after deliberations-

MG: Ok. I will ask the-

KE: - that's where it will be.

MG: - recording if there are any judges reviewing this recording if they would see their way clear to circulate this amongst the family of judges.

KE: Ok.

MG: Thank you.

KE: Yup, thank you. (pause) Getting to the child support, a long time ago I served on the world's, New Hampshire's first commission on the Governor's commission on child support. During those proceedings it seemed that we just had to get more money to children and that over there was all kinds of enforcement, recommendations put into law

to enforce fathers or non-obligating parents or non-custodial parents to support their children. And before I continue on this line, I guess maybe I should first ask if this would be considered a recommendation for your panel. The recommendation that I will, that I will be, the bottom line recommendation will be for the courts to be more careful about how they, how the child support system is formulated, how the administration interacts with the court system to facilitate the child support payments and I'm thinking of the cooperative agreement that was made between one arm of the government that's supposed to be isolated from the other arm of the government. They, where a contract was made for consideration paid by the office of child support enforcement, the judges would give, the courts would give expedited process to child support cases. That needs to be reviewed and I will be asking for the courts to review that process. It seems downright illegal to me in face of Constitutional safeguards where the three branches of government are supposed to be separate from each other. But I'm concerned because of the hysteria built into the system and the mind-boggling amounts of money that it costs to enforce the unenforceable. Uh....in 1986 when I served on that commission, I heard the figure of fifty nine percent to fifty eight percent to sixty percent bantered about in terms of the percent of compliance of existing court orders that were being complied with. Child support....court orders. In other words, for every one hundred dollars that was ordered, it was only about fifty nine or sixty dollars being paid. And if you look into the research on it, like the one that was published by Sanford Braver, Divorced Dads Shattering the Myth, you'll find that many of these people, sixty to sixty five percent of fathers, obligor parents, most of whom are fathers, are marginal wage earners. They're just, you know, wage earners or below average wage earners that just cannot afford a second household. It's not to say that they shouldn't be paying their child support regardless, but there needs to be some kind of a safety valve for them, some more, I don't know, a review of this, of the way we support our children or a review of the way that we create children that we cannot afford to support to start with. That fifty nine, sixty percent evolved over the years into sixty, sixty one, sixty two, sixty three percent, where we are today. We are at about sixty three and a half percent of compliance of orders in the state of New Hampshire, as I review the OCSE 157 reports that are sent to the feds. It just seems to me that over the years, also during that time, the courts have been paying slightly better attention to the father child connection, you know, that shared parenting rates have gone up a little bit. Custody award rates for fathers have gone up a little bit, and according to the research by Sanford Bravery, you will find that where the father or non-obligating parent is more involved, they are far more likely to keep up with their child support payments. It just seems to me that all of the millions, and we're probably up into billions now even in New Hampshire, to enforce, I hope you don't mind if I use the term unenforceable because, you know, there just isn't enough money for two households with the marginal wage earners, not to mention all the other factors having to do with parental alienation, or you know, if you can't see, if I can't see the children, I'm not going to pay all those kinds of factors figured into this. It just seems to me like a colossal waste of money, there aren't words adequate enough to describe the tragedy that's being inflicted on the taxpayer in terms of paying for IRS intercept programs, driver's license revocals, and I'm not sure how to frame this recommendation, but I guess I would like to ask the courts to....can they, they can't initiate legislation, can they? No. I guess maybe I'm not going to be able to come up with a recommendation for the courts on that particular point on child support

but I'll just use this opportunity to make you and everybody aware and the tape aware that the child support office measures its effectiveness by a ratio called dollars spent to get child support enforced in the denominator, while the numerator we have a figure called the child support amounts collected. And if the ratio approaches five to one, in other words if they collect five million dollars while spending one million dollars, they've reached the ultimate ratio of five to one which in the minds of the federal government who formulates the child support laws, will be sufficient. But the trouble is, if they collect five million dollars and then they credit themselves for collecting this money, which most of which, ninety nine percent of it or ninety eight percent of it was collectable in the first place. So why, why are the feds taking credit for amounts for enforcement dollars that result in amounts that will be collected anyway. It just, it's just something that boggles my mind. I appreciate being...

KE: Thank you.

MG: ...able to get that off my chest. And that will conclude my comments on child support, I guess.

KE: Thank you, if you have others, you know that you can write them down and send them to us or-

MG: Ok.

KE: - certainly access our web site as well. Is there anyone else that would like to speak for a second time? Michael?

Michael Brewster: I was a stay at home dad. My child's mother...did fine when the child was born, she quit her drinking, quit her drugs, breast fed for a year and a half and the child was born during the eighties, there was a depression. There was no work out there but I had money saved, so I moved to Gilmanton and did a lot of hiking, fishing, hunting with my child even though she was only, wasn't even a year old, I brought her out with me, she was with me always. We're best buds. But something happened, the mother got into drugs and the court took the child away from me. The judge gave me an hour a day with the child. I was a stay at home, I stayed at home for two years and judge just clearly gave the child to the mother. I had to play by their rules, except when the mother wanted her time off, then I was allowed through the mother not through the courts to get the child, I got her most weekends or any time except she sometimes the mother disappeared and I had the child until the mother came back and then she went to the courts and of course the courts gave the child to her again. Now this was a woman that was booting heroin. So I had to keep a good eye on her and with a hour a day, I had to find another court, another avenue to be able to have my child more often, you know, to get back to being a family. And I hired a, and I went to Portsmouth here and I walked the streets weekends with the child. I don't know how many law offices I hit, a meter maid saw me on the street, she reported me, she thought there was something wrong and I was surrounded by cops figuring I stole my kid and but it took me quite a while to get an attorney and that attorney brought me to probate court. Dover probate. And probate gave me every other weekend but things weren't right because of the mother. Being a junkie and her husband, she re-married and her husband was a junkie, they got into falsifying lottery tickets and they were breaking into houses and they got caught breaking into a house and cashing some checks, the road they broke in on was called Pick Pocket Road. And that's when the state came down, took the child away and gave her to me for a very short time. One thing in court, they gave us a, we had a guardian ad litem. That guardian

ad litem ended up going through a child support herself while she had my case. She wasn't an attorney, so she had to hire an attorney, so one day while I had the child, they gave me the child and the guardian ad litem called me up and said they were having dinner to discuss my case. So there's my attorney, the mother's attorney, which I had to pay for, the guardian ad litem, the guardian ad litem's attorney and the child psychologist. So there's five of them discussing my case and I don't even know how much that cost. And I got quite angry and I barked up and three days later my child was taken and placed in foster care and that woman said, from the guardian ad litem, said I did some rotten things to my child. Which wasn't true, the child was seven at the time.

KE: Michael, what would you recommend that the courts do?

MB: Well, I'm getting back to the probate court judge. Now with that judge, things went wrong and he would not allow me to escape his courtroom nor would the woman who was going through the child custody battle, she finally got a divorce and re-married, she was the one who accused me, I never got a chance to face my accuser. The judge allowed her to go and move out of state, so there's the woman who accused me. When they took my child, I should have been notified within twenty four hours of the reasons why they took my child, I didn't have a clue. They had her for months and months and I was going to court every month, paying an attorney to go to court and when I got into court, all the hearings were in the back room, I didn't have the slightest idea what was going on. When I asked my judge, all, I mean my attorney, all he had to say is they want you to admit to something. I wasn't getting anywhere so I fired him and I couldn't find another attorney to represent me and since then I haven't neither. This was in '87. Now my child was without a guardian ad litem, too, she was out there by herself without any representation. At one time the judge told child support that they could be her, not child support, DCYS could be her guardian ad litem. That judge, probate judge, did not allow me my Constitutional, he did not allow me to have an attorney nor my child for fourteen years. I asked for a change of venue and he would not let me go. Now in this whole time they took my child, not one person came to my home town, not one person came to the church, not one person went to the school. Now when they took my child, I moved in with my mom figuring that would smooth it out with the state. Now my mom had my grandmother living with her. My grandmother, my grandfather, my sister and myself were living in this house and they had the audacity to say I did some rotten things to my child without any proof. Now...

KE: Michael, you need to give us a recommendation, because your five minutes is almost up.

Michael Brewster: I...see...with this judge, he's a probate court judge, now he's, and he's, he's the guy that foster kids, he gives away children, they get adopted out through his office and he was as cold to me as he, he's the wrong person to be dealing with children. I was in his courtroom fourteen years. By myself, all he had to do and when I went to court here it's like I only had hourly visits with her and I had to explain, I was ten minutes late because I brought another girl for my child to play with. When I had that hourly meeting at DCYF, I was placed in a closet there was an anatomically correct dolls all around us, it was smaller than this and they had microphones one me. I mean I went through that abuse for years. I mean that isn't right and that guardian ad litem, she went to Concord, I lived in Merrimack County, she went shopping for a judge that would take my child away.

KE: Can you give me a specific recommendation and wrap up?

MB: Why can't they be Constitutional? Why can't they follow the Constitution, this would not happen. They don't have the slightest idea, I brought it up life, liberty and pursuit of happiness. And one judge says pursuit of happiness, that ain't on there. That tells you how much they know. And one judge didn't even know how to say humane.

KE: Ok, thank you, Michael.

MB: I mean, it's just damn rotten. I could talk on.

KE: Would anyone else like to rejoin us this afternoon? (pause) Jean?

JJ: I'm just wondering why things have to be done in back rooms. I don't know that this, I just have questions. Why do things have to be done in back rooms? Why is it that people sit up there and people have to sit back here? Why? The whole system seems so...it's set up in such an adversarial way and especially when you're dealing with families.

(pause)

KE: Thank you.

Michael Brewster: May I speak up one more time? If no else wants to talk?

KE: If you give us a specific recommendation?

MB: Well, as she says now what I'm asking the court to do which they won't allow me to do is to correct their mistakes they threw in. So what other bad things are out there still on my record? Why is it, why can't I correct those problems? They won't even allow me to have the avenue to try to take those wrongs out of my records, they're still there. The state's only supposed to hold onto them for three years. They still got them. They said some bad things about me, why should I have to, I can't get an attorney anyways, why can't I have a quick avenue to get in there and get their lies and get them out of there?

KE: Ok, thank you. Anyone else like to testify for the first, second or third time? (pause)

Ok, we will be here until five o'clock and we will reopen the hearing if anyone else joins us, otherwise we will see you all at six o'clock. Thank you for taking time out of your day to join us.

KE: Ok, we're going to reopen the hearing at ten minutes to five and we have been joined by John Pendleton who has some recommendations he'd like to share with us.

John Pendleton: Let me introduce myself. I'm a practicing attorney, I've been practicing for thirteen years, my first three as assistant county attorney and the last ten as a private attorney practicing both in criminal and civil areas and I've, in the past I've done a lot of trial work. I do less today because I do more business and other related entity work. But in the past I've had a state contract for the indigent defendants. I've done court appointed work at the sixty dollar an hour rate over the past years whenever the district court called and I've practiced in almost every county in the state, I think. But I had an office in Henniker for several years after practicing as a county attorney in Strafford and then I worked in Nashua for five years before moving over to Portsmouth in the last year. So, that's a general background and I guess my primary comments would be, I'm a big proponent of continuing to fund indigent defense and legal services as high as possible. I know this is dealing with the courts but the court plays a role in the funding of indigent defense. And I have spoken to the Supreme Court's task force in regards to that and was one of several attorneys who addressed them but the current way indigent defense is funded through a flat rate and it's a very low figure through the contract group and I'm sure you guys are aware now but there's the public defenders office and then there are

contract attorneys which handle contracts and over flow. I don't think that's an effective way to fund indigent defense. Because it doesn't, it doesn't reward anybody for moving forward with the case or working a case hard, it awards people for having a speedy resolution which isn't always in the best interest of the defendant and it makes it difficult to make a living if you're not doing that. And I found that when I didn't do that, I couldn't continue to work with the contract and I only stayed with the contract I believe for a total of about a year. And so the current way it's funded I don't think it's good and I don't think the levels are high enough. I've also been very involved with the New Hampshire Bar Association over the years and current studies show it takes at least ninety dollars an hour in overhead to keep an office open. And we're paying, when you work out the flat rates on these cases, something like twenty dollars an hour I think I worked it out to or less, it was sometimes below that. And in one case I waited three years till I received the extraordinary credit that I applied for in a case. Luckily when I got it I wasn't expecting it and I bought my half of my sailboat with it, so, that worked out for me but, so those are big concerns of mine. The underprivileged in our society has, you know, we live in a very judgmental society today and if we don't give a voice to them by effectively funding indigent defense projects and legal services, then we're doing a disservice to our, to the people that use the courts. That's the only thing I came prepared to speak on, but thank you.

KE: Thank you for joining us and taking time.

JP: I'm sorry I ran in at the last minute.

KE: That's quite all right. We were planning on staying anyway. Well, thanks for coming down John.

JP: All right.

KE: Anybody else wish to speak? (pause) Then I will close the hearing at six minutes of five and we will reopen at six pm. Thank you.

END OF AFTERNOON SESSION.

#### BEGINNING OF EVENING SESSION TO FOLLOW:

KE: Good evening. I'd like to open the listening session. It's five after six. And welcome those of you that are here to join us tonight. I just want to outline a few things prior to our getting started so you kind of know where we're coming from and what the mission and role of the commission is, what we're here to do and then hopefully you're going to have lots of very good suggestions for us and recommendations that we can take back to the entire commission. First of all my name is Kathy Eneguess. I am from Jaffrey and co-chair of the commission with my colleague here, to my left, your right, Will Abbott who's from Holderness and we are as you're fully aware from the information, we are holding listening sessions throughout the state. This is our fourth session. We have been holding these sessions in two parts in each place, from three to five and from six to eight. We obviously held a session this afternoon from three to five and we will do similar tonight. A couple of things I want to point out, that we are a commission of a hundred and three commissioners and we were appointed by the Chief Justice of the Supreme Court back in April of 2005 to independently assess the foundation and structure of the delivery of justice by the state court system from the perspective of the 1.2 million citizens of this state and to make recommendations for improvement. We represent the public. Thomas Jefferson once wrote that the price of liberty is eternal vigilance. The

commission sees its role as providing part of this eternal vigilance to assure that the courts of our state are doing what they are intended to do under New Hampshire Constitution and that in doing so, we are meeting the expectations of the people whose liberty the Constitution protects. If public trust and confidence in the judiciary cannot be sustained, our liberty itself could be placed in jeopardy. The commission is interested in your thoughts about how the courts work. We are interested in learning what you think about the key issues that are facing the courts and their work to provide jurist prudence and we're interested in your ideas you might have for improving our judiciary. Your input can come in a variety of ways. Obviously you are here this evening to offer some oral comments but you also have other ways that you can send in your comments or offer suggestions and recommendations. One is through our mailbox, snail mail is at post office box 419 in beautiful downtown Concord and the zip code there is 03302. You also can send written comments electronically through our web site, the web site is [www.nhcitcourts.org](http://www.nhcitcourts.org) or you can also send us an email at [public01@nhcitcourts.org](mailto:public01@nhcitcourts.org). All your comments today or by email or by snail mail are part of the public record. We've also conducted a public opinion survey with the University of New Hampshire survey center and we will shortly be releasing those results. We are looking to hold a press event shortly. We collected this data over the summer and we will continue to collect data throughout our listening sessions and through our deliberative process. Public input is going to be used by the commission in our process of deliberating on the recommendations that we then will make to the Chief Justice and the Supreme Court. Our plan is to continue gathering public input, whether that's via web mail or email or snail mail or the deliberative process and we expect to issue a final report near the end of April, early May. The commission itself has met three times, our next scheduled meeting is Monday, November fourteenth, it is going to be located in Concord. Meetings are open to the public as the commission meetings, but as you might imagine because we have so many members, we are asking that the public comes not to participate but to observe, if you so wish. This evening I am going to serve as moderator of this particular session. My role is to assure that everybody gets their time to speak, to offer comments and to make sure that they are heard. I am going to ask that you initially limit yourself to five minutes so that if others do join us, that we certainly have plenty of time for them. We would like your comments to be focused on your experience, please avoid any temptation to rehear your case, retry your case. But what we'd really like to hear from you is what did you take away from your experience in court, what recommendations, what suggestions you might have that would be useful for the whole commission to know about. So as we continue to digest the information from the listening sessions and our deliberations and all the information that we have received from the public, we will be able to wade our way through those recommendations and see where we are at in our deliberative area. We are here to listen, we are not here to ask a lot of questions, so if you are used to a discussion, we're not here to be doing that, but we do want to make sure that all of your suggestions are on the record, so again I just want to caution you that we are on audio as well as video. So if you would like to speak this evening, we have asked that you fill out a card so that if we do have questions, we'll be able to get back to you. And at this point, I just want to make sure everybody's clear and if anybody has any questions, I'm certainly willing to take some questions now. Any questions by anybody?

(unknown speaker): I just have a question.

KE: Sure.

(unknown speaker): You indicated that the UNH has done a public survey-

KE: Correct.

(unknown speaker): - it seems to me there was some other sources of surveys that were done prior to that or in addition to.

KE: Not by this commission. What we have done is just this survey and any information that has been done prior to, if that's something that you feel that the commission would be interested in, then you need to get that to us. We have not looked at every piece of data that's out there, we are trying to gain in our knowledge base so if there's something specific that you would like to share with us, many people are doing that throughout our listening process. If there's something specific that they believe that all the commission should be reading, that we make sure that the commission knows about that.

(unknown speaker): Ok.

KE: But the only one that we have done was done this past summer through the University of New Hampshire Survey Center.

(unknown speaker): Do you know how they chose individuals to participate in the survey?

KE: Yes, it was a random dial, so the process was automatically done through their dialing system, so there was no targeting. It was all completely random. And once we get that up on the web, all that information will be thoroughly available for any questions will then go to the survey center, but it is very random.

(unknown speaker): Thank you.

KE: Any other questions I can answer? Then we will begin. I believe it's Jeffrey, is it Carano?

Jeffrey Carano: Carano.

KE: Carano. Thank you, would you like to join us?

JC: Sure. First of all, I'd like to, I have a few problems with what you've got going on here. And one is that please refrain from referencing individuals by name especially parties to cases, judges, marital masters. How are we going to solve the problem unless we pinpoint the people that are the problem? And in this case, a marital master is a major problem. And the other thing I have a problem with is a hundred and three people on a commission. A hundred and three people can't decide on what time of day it is let alone solve the problems in this state. In other words, I have a big feeling, a good feeling that this commission is not going to solve problems, but is probably placating the Supreme Court Justice or whoever put you folks together. Probably making him happy, stroking some people, but a hundred and five people on a commission to solve problems in a state with 1.2 million people and less of that going through the gin mill that you people call family courts, that this state calls family courts is ridiculous and it just should be shunned, it should be, you people should be embarrassed that you're on a committee such as that. You should be embarrassed for the rest of us.

KE: Well, we're not, so we'd like to hear your recommendations for improvement.

JC: Ok. Well in 1982, I was divorced, I had two children. It cost me three hundred and fifty dollars. Simple, clean, no problem. Ok. That was a good thing. That wasn't too bad. In 1987 I remarried and in '88, '89, and '91 I had three more children, so now I'm responsible for five children. In 1992 my ex-wife came to me and wanted some extra money and I said sure, I can afford it, things were going pretty good for me, I gave her

some extra money. I also wanted better visitation rights. My ex-wife had a bad habit of no holidays, no Christmas, no Thanksgiving. I was a babysitter, which I wasn't real happy with. In 1993, roughly, I stopped those payments because she was still treating me like a babysitter and things started to go poorly for me, the industry I was in began to shrink rapidly. In 1995, my ex through her lawyers who were working for free because my daughter's best friend's father was a high priced lawyer out of Manchester. In 1995, they brought forward and modified my divorce to include college education. The court granted college education, half of everything after scholarships, grants and loans. But this brave marital master who I'll call judge harm because that's what she is, she's harmful to people in this state, also found me in arrears of my child support. Now here is a young man, at the time I was young, had actually paid over what any court had ever wanted me to pay and she found me ten grand in arrears because she said I violated an oral contract that I had with my ex-wife. But she didn't find that my ex-wife violated the oral contract that I had with her. So now I'm a dead-beat dad. Here I thought I was miles ahead of my child support, being a good, good guy, but this judge harm found me ten thousand dollars in arrears. I couldn't believe it. I was shocked, but this was just the first of the balloon payments to try and get out of the system that the state created and that this judge, this marital masters chews up down here in Rockingham County Court. Ok. Now I've been back in front of this judge many times over the last ten years. Ok. In 2000 or 2001, I can't remember what it was, we were bickering back and forth on the amount of money that I supposedly owed for my daughter who was going to Bentley in Massachusetts. Couldn't get a straight answer out of their side. We wanted to get the information direct from the college. Ok. Finally after three attempts to get this information, judge harm finally ordered my ex-wife to give us the consent so we could get the money. But still, I'm spending money like a mad man that I can't afford, to my lawyer in this gin mill. Finally we get that. Well, we go back to court to decide, well actually in that, in that courtroom during that time when we were getting that ok, finally to get the consent, her lawyer held up an envelope and said this is directly from Bentley College, I don't know why they don't take my word for it. Well when we got the information from Bentley College, they had made changes on their end and they falsified the documents to raise what I supposedly owed. We brought this up in court, judge harm didn't see any problem with it, she penalized me. Another problem, she's an out of control jurist. There has to be some way, some how to get people like this off the bench and investigate them. Ok. So, I refused to pay and so I get ordered to court and I show up in court and there's some other guy up there, I don't know who the heck he was. And he said, are you gonna pay and I said no I'm not gonna pay because the judge let it go that these people lied in court, there's got to be some penalty for that. No, I was the bad guy, off to Rockingham County I went. Now right around that time, my wife was diagnosed with Multiple Sclerosis, I've got three young children, my wife is on medication that costs three hundred dollars a week plus all the tests and everything else that we have to go through. Actually the shots are just three hundred dollars a week. But I was forced, actually she was forced because I was in prison, she was forced to take the money that was given to my younger children from their grandparents, aunts and uncles, basically their college funds, she was forced to take that money and give it to my ex-wife to get me out of, out of jail. Can you imagine that? Now the state's in a position here, they're in a great position at that time. They're taking food and money away from minors to pay for the education of adults.

KE: So help us with what recommendation you might make-

JC: Well, they've already solved that problem by now, just, just last January, February, you can no longer force people to pay for college education for adults. Even though they set up different classifications of people violating my fourteenth amendment rights and creating different classes of children, violating my children's fourteenth amendment rights, they let it slide for seven years, or actually close to ten years or twelve years before they finally changed the law. Ok. But still they won't make it retroactive. I'm still in the meat-grinder. Ok. My case is right now in front of the Supreme Court. Now, back in court, just recently, just this past, oh probably last November. The judge, judge harm now changes the rules. We're back in court arguing over twenty five or twenty six hundred dollars cause again we don't trust the numbers coming out of my ex's side. My ex wants payment for a loan she co-signed and even though the original order from the court was after scholarships, grants and loans and the loan was clearly my daughter's and my ex-wife co-signed it, judge harm changes the rules and wants me to pay seventy five hundred dollars of that loan. Now where am I going to get the money? For most of the last ten years, I've been living at or below the poverty level. I've got a lawyer charging two hundred and fifty dollars an hour. I've got a free lawyer on the other side taking me into court and arguing over every point to run up my cost. I've got a judge that clearly hates me, but I believe she hates all men. And there's no way out for me. I'm in a situation right now, I owe my lawyer forty eight hundred dollars, she's not going to file the affidavits in fifteen copies to get me in front of the Supreme Court unless I pay her some money. Where's that money going to come from? Oh, I know, I won't buy any medication for my wife this week, how's that sound or next week or the week after. Or I won't take care of the medical needs that I have. Or I know, my eighteen year old daughter now couldn't start school this year because I couldn't help her.

KE: Is there a recommendation for the court?

JC: Yeah.

KE: As part of this experience?

JC: The recommendation for the court is if you guys don't start, I don't mean you guys, if the state doesn't do something soon... for me, cause I'm not paying another dime, I don't care what happens, I'm going back to jail, ok, and I'm going to stay there. Ok. And the state is gonna be responsible for my three younger children and my sick wife, ok. I wanted my case in front of a jury, couldn't have it in front of a jury. Why? I've got this crazy judge, this crazy marital master who can't listen to reason. She wants balloon payments. I would bet a hundred dollars that if you looked at every case that this woman dealt with in Rockingham County, you'll find that she's pumped these balloon payments every chance she could. I would bet that. There's no, there's no second-guessing her. You ask for an appeal, she's the one that makes a decision on the appeal. So you gotta go to the Supreme Court, it costs money to go to the Supreme Court. Why can't I have a trial by jury? Why can't I have my peers making decisions rather than some crazy lady who clearly hates me and probably all men. Ok. Now it doesn't end there. My fourteen year old, my youngest son, he's one of the smartest kids in the state of New Hampshire. He scored higher on the reading test of the California Achievement test than just about anybody in the state. He was honored both locally and statewide in the Center of New Hampshire this past summer. He won every award there was to win at his school. This kid, if there is a kid in the country or in the state, deserves a shot. Get him out of the

crappy public schools, get him into something that will stimulate him. Well where's that money going to come from? It certainly can't come from me because I can't take care of my minor children because I'm fighting over payments for adults. What sense does that make?

KE: So, what would a recommendation be that you'd like to frame for the courts to consider about this?

JC: Well, first of all the Supreme Court's got to get off their butt and make the right decision and make payments to adults illegal and retroactive. They should atone for their sins. They made a big sin, they should atone for it. Now there should be some reparations. I deserve something in return from the state. They've taken care of me long enough, I mean, they've had me in this grinder since 1982. That's ridiculous, that's twenty three years. That's a lifetime the state's had me in a grinder and I can't get out of it. There's no way for me to get out of it. Even if I paid the money that judge harm wanted, she'd come up with another balloon payment because that's just the way she is. Am I angry? You better believe I'm angry and there's probably more people out there like me, but when I get in front of the Supreme Court, they're gonna hear it, they're not gonna be happy with what I have to say. But uh....

KE: Well, thank you for coming-

JC: (laughs)

KE: - and telling us about it.

JC: No, there's got to be enough problems in there that, that's pretty clear. I mean having a single marital master is a bunch of crap. Ok? That's wrong. These people, you don't know what their backgrounds are, they screw up their own kids and now they're screwing up with mine. Ok? You've got the lawyers who don't want to resolve problems, they want the two hundred and fifty dollars an hour. They're in, they're in it, too. What do they want to solve the problems for? I said to my lawyer, just recently, I said you're arguing away my rights, why don't we go after these people on a Constitutional basis, well it's already been decided in the state Constitutionally. I said yes, the Supreme Court decided that it didn't violate the state's Constitution, but what about the federal Constitution, it definitely violates that because it creates different classes of people. Well, oh, if you want to do that, get another lawyer. Because she doesn't want to ruin her meal ticket. She's part of the problem, too. You've got the courts that are part of the problem, you've got the attorneys that are part of the problem and you've got mostly men out here taking the brunt of this. And it's wrong. It's absolutely wrong. And there's got to be a way for me to have some recourse.

KE: Ok.

JC: I can't afford recourse, there's got to be a clear and easy way for me to get some, some way to go. I can't afford another lawyer right now. Chances are it's going to get thrown out of Supreme Court because I can't pay my lawyer right now. So here I am back in Rockingham County and I'll be in the jail. Now is there going to be anybody out there that's gonna come to my aid? No, there won't be. I'm just another dead-beat dad, just another jerk. That's what the state wants you to be. They made those laws like that, to punish men to make them feel like jerks.

KE: Well, thank you for sharing your experience and we'll share that with the rest of the commission.

JC: Great.

KE: Thank you. Wayne Wood?

Wayne Wood: Well, gee thanks for the opportunity to speak. I didn't really prepare anything, I don't think I need to. I had a similar situation and it involved divorce courts in New Hampshire. I was divorced in Maine in 1991 and to be truthful with you there was no problem. It worked. In 1997, I remarried. My ex-wife, while we were away on our honeymoon went to court and filed contempt of court charges against me accusing me of non-payment of medical expenses. There was something else, I can't remember, but that was the primary one. I came back from our honeymoon with my new wife, who's a sweetheart, a wonderful woman, my son, my six, he was six at the time, found in the back door from the sheriff's department a request to show up in court for contempt of court charges. Well, we go to court, my new wife is very unhappy. She should be happy because this is her first marriage. She was just about destroyed two years in the family courts. We go back to court, the marital master, I don't want to say because it was a woman, I don't know, but it was....you don't know me and she didn't know me and I go into court and I present my case. The contempt of court charges as far as medical expenses, I says well I spent twenty one years in the United States Air Force, I retired. My ex-wife, my son, has full benefits to use in a military facility, Champers, Martin's Point. I was a general manager at Metlife, I had a major medical plan in place there which supplemented my retirement medical coverages. And I also had in place a individual major medical to cover any expenses that would not be covered somehow somewhere. When I presented that to the court it was pretty obvious there was no contempt of court. Well the stage was set and it just got worse from there. They said, well we want to increase the child support based on the New Hampshire guidelines. I said, that's fine, I have no problem with that. I had already paid more than the court ordered for the entire time I was divorced. So there was no problem, I was already paying almost as much as they finally came up with. I had never been late once. I had never missed a payment, didn't make a difference. Did not make a difference. They forced me into the office of child support enforcement. Which was kind of an unfortunate thing cause I never had a problem, now I became a client of the state and the expense involved with doing that, they put me through the Portsmouth department of health and human services, this program down here. I did exactly what they said, things got messed up, they were sending the payments to the wrong places. It turned into a nightmare, I had to get the attorneys from Concord to come down and they realized the problem, they were on my side but that was only after department of health and human services child support had called my secretary, asked her personal information, you know how much I earn, my social security number and my secretary told me this is inappropriate. So I had to complain about that. That was really, really unfortunate, They were starting to garnish my pay at greater amounts because of their mistakes but ultimately that did get corrected. But when we were in this process of getting more child support, the contempt of court charges, if you can believe this, this went on for two years. I was divorced seven years prior to that. This went on for two years. I forget how much I spent. I know she spent a lot, too, for her attorney. My son was having some problems, he was pulling his hair out. My ex-wife had exposed him to harm's way with guys that she was dating, burning her clothes in the front yard, pulling knives on her, he was pretty upset about this so we went to a clinical psychologist. The psychologist pretty much identified the problems, and wanted to come to court and present that to the marital master. She never gave him a

chance. Never even gave him the opportunity to speak. Fine. The other attorney on the other side, I didn't find out until the end, they were going to make me pay for him for her bringing me to court, for the contempt of court charges which were false. And the only way I got out of that in the end is because he became such an ass, excuse my language, that even she couldn't tolerate him and she held him in contempt of court basically cause he was really, my name is Wayne he was using terms like what do you think you're in Wayne's world, he was going off the wall. Because he couldn't find anything wrong with me, there's absolutely nothing, I mean I have never missed a payment, there was nothing, absolutely nothing. I said so what give me additional child support, I don't care, I'll pay it. I'm already paying more than the court ordered and a hundred percent of his medical coverages. You know, I don't have a problem with that but it went on for two years and cost us a lot of money. She, then decided, the marital master said we're going to have a GAL. They hired a GAL. And she said, we'll you're going to pay the GAL. I'm not going to make her pay, I'm making you pay the GAL and you also have to sign this thing saying you'll pay more than two thousand dollars which is what the state mandates is the maximum for the GAL's. I said, how come? You'll just pay it, so I ended up paying more than two thousand dollars for the GAL which the report was never even accepted by the court because they never even looked at it. Then she wanted a CPA, an accountant to calculate out, you know, how much I earned, what was going on and I said fine. So I paid for a CPA, I paid for the clinical psychologist, I paid for my ex-wife and my son to go to him, too, so that we could resolve the problem. Then she came down when she said I would go to the office of child support enforcement, my ex-wife didn't even know about it, didn't want it and when her lawyer told her that you have more control this way, she decided it was a good thing. Then the, like this gentleman just said about the college costs. You know, they came down and said you're going to pay the college cost for your son. I said well, I don't really have a problem with that either. I've already set up a uniformed gift (inaudible) a college funding for my son I have a 529 plan established for his college education. She said that doesn't count. You will be establishing from this point on. I didn't understand that either, no matter how right and considerate and fair and honest you were and did things, it didn't make a difference. I mean....

KE: So what specific recommendation would you give having gone through that whole experience?

WW: There's got to be some fairness in the courts, I don't know, there's an awful lot of people on the bench that have an agenda that is in contrast to the best interest of family. I should be considered as an equal parent in that court, not as a child support payment, not as a, you know, a person that's a problem. I'm not a problem. But that's the only way they look at fathers. You go in there and they make the presumption and assumption that you are bad. Dad's aren't bad, mom's aren't bad, kids want mom and dad. But you go into a court and anybody getting divorced, I'll take you to the cleaner's, that's what, you know, you're told as a man. The system supports the woman to use the system against the man. That's exactly what they did with me. My wife, my current wife and still is my wife, went through two years of hell. I mean, you get married to be happy, you don't get married to be unhappy and she was very, very, very unhappy for two years. And that was almost the intent of my ex-wife to make this other woman, my new wife, unhappy. And the family courts, the divorce courts in New Hampshire supported that one hundred percent even though you prove that there was nothing but lies about the contempt of court

charges, it didn't make a difference. It did not make a difference. In the, excuse me, in the end my attorney who's a family law attorney, after having spent two years with me and understood who I was, what I was, how good of a person, how good of a dad I was, how fair and honest I was, she couldn't charge me for all the times that she spent in the court. She said, this is wrong, Wayne, what was done to you in this court in New Hampshire was wrong. She didn't cut my bill completely out, she cut it in half though. She says I can't charge you what I would have charged you cause it's wrong what happened to you in this family court. That happens to a lot of people, though. I think that the solutions need to be that, I even made a suggestion to the courts, I said you need to review some of the cases that you've done, maybe a year or two down the road and see what the impact on the people was. You'll have a better idea if you followed up on some of the cases and see what you're doing to people. I know you sit up there and you give us five or ten minutes and stuff like that, you don't give us enough time but you're impacting our lives for the rest of our lives. Why don't you follow up periodically to see what the impact that you had, was it successful, was it detrimental to the family, what. When, when I, when parents come into a court in New Hampshire for a divorce, they should be given the same fair and consideration as equal parents. The presumption should be that you're both equal parents. It shouldn't be that you're more of a parent than the other. There should be no, domestic violence charges, I mean that's a trump in the court system in New Hampshire, you can make a false accusation and it's taken as gospel. All they have to say, I'm afraid of what he might do to me. I mean that's like thought police, you know, accusing you of something. You can't defend yourself against that. But the courts will immediately, I didn't have that incidentally, but I know a lot of people who have. They've had false charges and that's a difficult thing to overcome, they can't even continue with the divorce until they address the domestic violence charges. But in the interim, these people are removed from their homes if they have any weapons, they're removed also. They all now have a disadvantage in the courts because they're not in the home, they said you abandoned the children because you left the home, even though you were forced out of the home. So I think that the domestic violence charges really, personally the way I think it should be in all honesty, if anybody files a domestic violence charge against anybody, it should be in the criminal court. Because if you weren't married, you wouldn't be in family court dealing with the issue of harming somebody. If you, if you hurt somebody, you should go in a criminal court and you should be able to have the opportunity to explain what happened and if you're guilty, you should go to jail. It shouldn't be that maybe you know, he might hit me or I'm afraid of what he might do to me. And that doesn't work, that doesn't work because the children lose. The children want mom and dad, the children deserve mom and dad and that should be what the state of New Hampshire tries to do, make sure that both parents continue a meaningful relationship with the children. It shouldn't be adversarial, it shouldn't be this huge expensive process to go through divorce. It's a whole cottage industry that surrounds it, everything from guardian ad litem to clinical psychologists to the office of child support enforcement, you know, health and human services, I mean there's a whole industry that makes a living off the destruction of our families. So...

KE: Well, thank you for sharing your recommendations.

WW: You're welcome. Thank you.

KE: Richard Samdperil? (pause) Good evening.

Richard Samdperil: Good evening. I'm a resident of Portsmouth, but I'm employed by the New Hampshire public defender. I should say I'm not here in any official or professional capacity. I'm here just as someone who has practiced law in our courts for over ten years. I've practiced in every court in Cheshire, Sullivan, Hillsborough, Rockingham Counties, the New Hampshire Supreme Court and some various courts in other counties and these are really just my personal observations and thanks for the opportunity to listen. First, you know, I have to say that, I'm sure you hear a lot of negative stuff about the courts, but I think we have some very good judges, some very good court personnel. I think our clerks work very hard and are perhaps under-appreciated... that I think they try and the bailiffs try, the court officers try very hard to be kind to people, to be helpful...to be responsive to their problems and I think they frequently get overlooked, in our system at least. And that's one of the reasons, I don't know if anyone ever comes in front of you and suggests that there should be a different message for, a different method for putting judges on the bench, but personally I think that appointing judges is great that we have an independent judiciary. I think in the past few years with the exception of Governor Benson's administration, we've seen a judicial selection panel which I think has resulted in some great people being put on the bench. And it's a great opportunity to solicit other people's opinions in the field in a very kind of private and confidential way. And I think that process has worked really well. I would, I guess, advocate for a permanent or maybe legislatively created judicial selection panel as opposed to at the whim of the Governor. My other quick points for specific recommendations are fairly limited, tonight at least and I guess the first one would be that there are an awful lot of number of people that I come into contact with in my job that are by definition indigent but also have mental health problems and substance abuse problems. And there are just not enough resources to address people with that combination of problems. And it's really, I think, a disservice to that population and it's something that we as a state and as a community really should pay more attention to. I mean you're not probably going to hear from those people because those are not the people that come to these types of forums or who get mobilized politically. They're really people you don't see in terms of a group, but the resources for people with substance abuse problems are limited. The resources for people with substance abuse problems and bi-polar disorder or other significant mental health issues, where they have to take medication, are... I can count them on two fingers. There just isn't the resources for that and what happens is those people end up being in jail. And it's not that I am here to tell you that people who violate the law shouldn't be in jail it's that there are, I think by agreement among all of the players involved a lot of people that are incarcerated pre-trial waiting some sort of drug treatment program that really don't need to be there that it's a waste of resources, financial resources of the county, financial resources of the state because I think everyone agrees there's a significant number of people that should be in treatment but there's no way to get them there. They don't have medical insurance, they can't put themselves there and you know, we certainly work hard to try to get them to those types of treatment. But I think there is a population that is sitting in jail awaiting treatment that probably doesn't need to be. With that said, I think another issue that the courts should consider is stronger emphasis on alternative sentencing. Again, not because punishment or jail time is not an acceptable form of punishment, it is in a number of

situations, but that they're given a lack of alternatives, particularly for substance abuse users. There is this kind of default of jail being imposed and I think it doesn't really solve the problem in the sense, I think our county jail, my understanding is there is an eighty, over eighty percent return rate for people within two years. And I think that is... probably a number of those people are substance abusers and that is just ridiculously high. And so it's not that jail is not appropriate as a punishment, it's that we need to explore some sort of other form of punishment or other form of treatment that is going to keep our costs down and be more effective. The only other suggestion I wanted to make tonight is that there is no sentencing statistics currently kept, that I'm aware of by the state. My belief is that sometime in the late 1990's, the administrative office, I'm sorry, the Superior Court Center stopped keeping statistics. They still collect in banker's boxes sentencing orders from every county court in the state. Every county court does their sentencing orders on different paper in a different font, some of them attach the indictment, the charging document that goes along with it. Some of them don't. Some of them make specific reference to subsections in the charge, some of them don't. And so, in trying to figure out what sentencing statistics are, it requires me as a lawyer to go to the Superior Court Center to go through every single charging document for the past year if that's what I'm interested in, two years if that's what I'm interested in- (tape ends, new tape): or the similarities in certain subsections of charging documents and then go to the court and say this is what I think the sentencing statistics are for this particular crime, but honestly I can't be sure because there's no uniform method of keeping these statistics. And the statistics aren't kept anyway. It's not as if there is somebody there actually keeping statistics, so I think it was probably a cost measure, that's just my guess, but it's information I think our public should have, it's information that should be accessible to attorneys. I think people in the process, whether they be prosecutors, judges or defense lawyers should have access to that information and it's not that it's not something we can't do. I mean it's there, it's just a matter of somebody keeping specific statistics about sentences and there being some uniformity in sentencing decisions. So those are my short suggestions. Thanks.

KE: Appreciate your time. Thank you. Joanne Stella. Good evening.

Joanne Stella: Hello. How are you? My name is Joanne Stella. I'm also a resident of Portsmouth and an attorney in this area for about twelve years. And I think I have a somewhat unique experience as an attorney in that I represent mostly clients in the district court and do a lot of small claims work which most attorneys don't do because usually people are going to small claims court without an attorney. Because of that I have some specific recommendations about how the district court system works and what I see some of the problems and one of the basic problems is technology. You know, you can't get a small claims complaint form online. I don't think there are any district court forms that I know of available online. I think the family court, you might be able to get some of those forms online. I think you can get a financial affidavit maybe and a couple of others. And I think there are some web sites where you might be able to download if you have a certain category of software which my computer did not have for forms. But in most other states that I'm aware of this stuff is basic now, any form that the court generates can be gotten online and downloaded. I think it's pretty rare and that presents a problem because if you really think about how someone dealing with the district court would be approaching something, they would need to see the form to figure out well what

information do I need. And if they actually have to go to the court to get the form oftentimes thinking they'll be able to file it that day and then they realize oh no there's all this information that I need. Then they, you know, have to leave the courthouse, go get this information. Some forms might have to be notarized, such as a petition to annul. Another district court form that people are filing very routinely, and they might not realize they have to get it notarized and then they have to take the form. And, you know, people are sometimes taking off from work to go do this or doing this on their lunch hour, that sort of thing, so not having the forms available online is a big problem. The other thing, although I agree with Richard that there are many clerks in this state that are very helpful and bailiffs and all kinds of court personnel that are very helpful, I think there is however a significant problem with how overworked they are and perhaps that leads to what is one of my complaints and I've been... experienced this personally as an attorney dealing with a case. But I've also seen other people being at the clerk's window trying to get information and the clerk's dealing with them in such a way that's so short and so unhelpful that the person goes away confused or actually gets some kind of legal advice when they should have, the clerk should have, would have been better off telling them nothing, that was wrong. And I've many times had to pull someone aside and say gee, you know, let me help you out here because this is not the right information. And I do think that that in large part stems from them being overworked, I also think it's just a matter of the court system valuing that kind of sort of customer, consumer satisfaction. As opposed to kind of thinking of the people that are approaching the clerk's window as you know, how can we get rid of these people as quick as possible. And, and sometimes it's very concerning, there's one court that I practice in routinely that their policy is that they won't give copies at the clerk's window. So when you're in court with the judge and the judge is writing some kind of order either on a criminal case or a civil small claims case, they won't copy it for you that day when you're leaving the courthouse. And the problem with that is, you know, they're overworked so they don't want everyone coming up to the clerk's window after they've been in court asking for copies. The problem with that is if you don't read something right away and know exactly what the judge ordered, if the judge made a mistake or there was some misunderstanding and you try to come back later on, they're gonna say I'm sorry it's too late, that's the judge's order. So, you know, there's I mean there's all kinds of reasons why you might need something in hand that day. So I think that should be a real concern and I'm not sure exactly how you would address that, having more information online might help people. And the, in not having the clerks so overworked might also help. Or having some kind of community liaison or consumer information person or someone that people can contact with those questions or ask those questions at the courthouse, someone who would be expected to answer those questions and who wouldn't feel as though, you know, it's not my job kind of thing. There was one other concern that I had which related to criminal cases and domestic violence. In the criminal system, the police department and whatever prosecuting agency they use, some police departments prosecute themselves. Some of them hand it off to the county attorney's office or have their own attorney that they hire, but they basically make the decision as to whether or not a criminal case should be categorized as domestic violence. And they check off this box on the complaint and then everyone refers to it as domestic violence. And the problem that I have with that is that what...the cases that I've seen are oftentimes relationships. You have a boyfriend and a girlfriend and there is

some kind of violence between them. Which to me does not mean that it makes it domestic violence. When I first went to law school and became a lawyer and studied domestic violence and the issues, the social and economic impacts of domestic violence on the individual and on society, it had a definition that was about being in an abusive relationship. Being in a relationship where you were isolated economically, isolated from friends and family where there was verbal abuse or physical abuse or both. And it was, it was a definition that incorporated those categories of implications for that particular person. We've now boiled it down to just being in a relationship. And what happens, what I've seen happening is that I have, you know, I've represented on numerous occasions college students who have been dating maybe three months or something, they both get drunk in a bar and one finds out that the other is cheating on them or something and maybe the girlfriend slaps the boyfriend across the face and they yell at each other and walk off down the street. And a police officer saw it happen and arrests this, you know, twenty-two year old college student and charges it as domestic violence. And then it's become so standardized and it's being sucked into this, you know, domestic violence category and to me that's almost appalling to true victims of domestic violence. This relationship that these two had for three months has nothing to do with abuse, they're not abusive toward each other, there's no economic isolation, there's no isolation from friends and family. They're both living independently. The only connection to this definition of domestic violence is that the two of them were in a relationship for a short period of time. And now all of a sudden I'm facing a prosecutor who wants, you know, twelve weeks of domestic violence counseling for this twenty-two year old female in college whose, who has never abused anyone or isn't, you know, so that's, that's just one of my other concerns is I think the court systems are taking this category of domestic violence and I don't even know where it comes from, they check off this box on the top of the form and the court treats it as though it's a separate case. I've had many courts that will hear domestic violence cases in chambers, you know, giving them this kind of secrecy to you know, protect the victim and help the victim and I don't even know where this definition comes from. And there really is no definition and I guess that's my concern. And the courts are allowing this designation on the complaints and it's, it really doesn't have a legal definition that I know of and I think it devalues the true domestic violence that occurs in our community. Thank you.

KE: Thank you very much. Michael, would you like to join us again?

Michael Geanoulis: Hello again. For the record my name is Michael Geanoulis. I live in New Castle, New Hampshire. I am the President of the national congress of fathers and children but only because nobody else will take that seat. I'm the only one that comes forward every year. I'm also a member of the commission on the status of men. And I'd like to talk about the problem of domestic violence. This time. As a member of the commission on the status on men, we heard lots of complaints from men who came forward to testify about their personal problem and the predominating theme seemed to be about men complaining about unfair treatment in family court domestic violence proceedings and to allege that unsubstantiated charges of domestic violence were being used as tools to place them at a distinct disadvantage in civil matters before family court. I also served on the task force on family law during which time a marital master and I will let her remain unnamed, told that task force on family law that the word on the street was that a woman can readily gain immediate possession of the children, home and other

assets by filing an ex parte domestic violence petition claiming to be in fear of her safety. I'll be making a recommendation about domestic violence shortly, but first I need to set the tone and explain a few facts about the problem of domestic violence and how it leads into injustices and whatnot. The accused may then have an immediate restraining order placed against them on a temporary basis, quote, I have that word in quotes in my notes, even though they may not have been given an immediately, an immediate opportunity to be heard in his defense. And I'm gender specific this particular time around because most of the time this problem is inflicted on men. The procedure on the street is commonly referred to as the silver bullet because of its efficiency and effectiveness and it's difficult to challenge such charges. A temporary order as it seems have a way of evolving into permanency because of the difficulty in proving one's own innocence which is a point I'd like to re-emphasize at a later time tonight. And because of docket time problems, lawyer accessibility and cost involved. According to the New Hampshire coalition against sexual and domestic violence, New Hampshire sees anywhere between four to seven thousand petitions for domestic violence relief annually, in recent years it's been hovering around four to seven thousand, such petitions. The vast majority are filed against men. It is not unusual since judges are prone to err on the side of caution for DV, domestic violence ex parte petitions to be granted immediately on the justification that an urgency exists. I am using notes that I plan to submit to the commission on the status of men for their report which is due on the first of November and I would encourage everybody to read that report assuming that my colleagues on the commission will allow this, this startling bit of evidence to be brought forward. And I encourage this, this citizens committee to do the same. The court statistics on domestic violence have proven to be difficult to obtain but one report from the administration, administration office of the courts which was a 1999 study funded by the state justice institute indicates that the majority of such petitions are granted which is in stark contrast to what the task force on family law force was told by a judge who come down to tell them that we don't always grant these, these petitions for domestic violence relief. In the Salem and Littleton jurisdictions according to that report, ninety eight percent and one hundred percent of ex parte DV petitions for restraint of the defendant in his absence were immediately granted in 1999. According to the report, often in the absence of the accused having an immediate opportunity to be heard in his defense. So the men's commission in an effort to better understand the domestic violence problem, invited Dr. Murray Strauss, PHD, tv expert and co-founder of the family research lab at the University of New Hampshire to speak to us. He's a world renowned expert on domestic violence. I will have to be brief but there's a web site which, which will, you can access to get his whole presentation, but in brief, Mr. Strauss told the men's commission and the task force on family law, he was invited both, to both committees, commissions, that most educational programs have unfairly referred to the perpetrator as him and the victim as her over the years. Much of the education and dialogue has unfairly and inappropriately discounted dismissed or denied the estimated one third to one half of all domestic violence victims and on that point relative to one third to one half of all domestic violence victims I would refer you to a collection of domestic violence research abstracts at a web site that will be delineated on the men's commission report. I'm assuming that that will get in there, but it's a fiebert web site and for the convenience of those that might want to get access to that right away, all you need to do is type F I E B E R T in any search engine and it will come right up, first or second. The stereotyping has

had a negative impact on men's status with their families. Strauss further indicated that female aggression should be treated equally serious if only as a matter of safety for them. It's true that women are more likely to come up injured in domestic violence conflicts. But that men stay in abusive relationships for many of the same reasons claimed by women. The efforts to get relief from the domestic violence problem have been, shall we say, unduly influenced by special interest over the years who have successfully sold that domestic violence is a male responsibility kind of problem over the years. The whole truth on this emotionally charged dichotomy and that's what it is for the most part, emotionally charged hysterical kind of atmosphere. It is not being fully revealed. It's as if it didn't matter that there were male victims and worse that only males should be seen as aggressive because female assaults are not viewed as a serious problem. And in any case only women should get relief and the best testimony to that last point comes in the form of the federal violence against women act, federal violence against women act, VAWA, which is up for renewal this year. It's a prime example of gender exclusiveness and you can tell that by its title alone, only women shall benefit from government intervention. No one at any of those hearings for renewal or enactment of VAWA in the first place was allowed to testify on behalf of male victims at any of those proceedings. So powerful is the bias against men. The one-sided report comes in many forms and can have long lasting effects. As long ago as 1981, Strauss, Gels and Steinman reported that 1.8 million women and 2.0 million men and I ask you to note the slightly higher number for men, were assaulted by their partner on that year studied, I think it was the year prior to 1981. From that data, half-truths evolved like the inflammatory exaggeration which appears on the web site of the American judges association. Which has it bulleted in a prominent spot, the bulletin, every fifteen seconds, a woman is battered somewhere in the United States. And I have a web site for that. Which should emerge in the report from the men's commission. Nothing is ever published about the real surprise and I'm quoting the researchers who used the words real surprise in their report which came in the form of behind closed doors, (inaudible) and violence in the American Family. Nothing is ever published about the surprise that on the even shorter time span, fourteen seconds, between assaults by women on their partners. As unbelievable as it seems, and talking about standard conflict tactic scales, which are derived by researchers on domestic violence everywhere. The book on which this report, on which this was reported is behind closed doors in 1981 violence in the American family anchor books in 1981. And now to get to my recommendation for the courts on this particular topic on domestic violence, but first a couple of more points. It seems that judges and criminal justice people and others who ordinarily can be trusted to be impartial and unbiased arbiters of the truth, can be unwitting accomplices in the dissemination of DV domestic violence half-truths and exaggerations as well. In the annual report of the New Hampshire domestic violence fatality review committee, DVFRC, for example, the domestic violence problem is introduced in the overview with a statement quote, between three and four million women are beaten by their husbands every year unquote. Men who are likewise implicated in the abuse and murder of children in the overview of that report. There were no references or exaggerations about the number of men assaulted or murdered by their partners in that overview. Nor were there any references made about the true nature of the murder of children. The domestic violence family review committee is chaired and administered by judges. It's chaired by a judge and it's also administered

by criminal justice people and others, which, a segment of the population that's commonly referred to on the street as the domestic violence industry. There's billions of dollars motivating all of this. And the...

KE: And your recommendations?

MG: ...and that report and I will get right to it. And the report...the, the, these judges and criminal justice people should be aware of the United States Department of Justice report murder in, murder in families which states that women were over half of the defendants - fifty five percent - in the murder of their offspring. And a quote 2003 child maltreatment report showing that forty, while forty percent of child abuse victims in 2003 were abused by mothers alone, mothers alone, eighteen percent of child victims were abused by fathers acting alone which is in stark contrast to the way domestic violence is being portrayed in terms of the way men are perpetrators. So I guess what I'd like to do then and then we go on to talk about what an organization called radar, R A D A R, an acronym which stands for respecting accuracy and domestic abuse reporting and then you know, there's twelve points in particular but I'll skip over that and get right directly to the recommendations, leaving you to discover the points that will support the need for these recommendations. Since judges typically issue restraining orders based only on the word of the woman, allowing the man an immediate opportunity to present his side of the argument and since so many laws define violence so broadly as to allow restraining orders to be issued on the flimsiest pretexts. For instance in New Hampshire, the standard of evidence is upon a showing of immediate and present danger of abuse. You know, that's as flimsy as you can get. All you need to do is approach the court and say I'm in fear of my safety and off he goes, which is usually most of the time it's the father being forced into the street. Before I make my recommendation, I'd like to quote what one judge told the task force on family law, he stated that he was confident he could discern the truth at ex parte hearings in the defendant's absence by the demeanor of the plaintiff and that he was well educated in the problem of domestic violence. On that particular point, this report will show that judges really shouldn't be going to educational seminars that are controlled and governed by the other side of this argument and that's what's happening. There's a recommendation showing that judges should be more careful about the educational programs that they attend. It's hard, it, I went to one of those educational seminars, the tenth annual one last year at the Mount Washington Hotel and nowhere could I find any references about women being assaultive or abusive. To either their spouses or their children. And that's, that's the mentality that that one particular judge is operating on. And an attending prosecuting attorney responded to a question about New Hampshire Constitution and my recommendation will be that the judges abide by the Constitution that they were sworn to uphold in a brief statement here. But before I recommend that I'd like to cite you article 15 in brief, which provides quote that no subject, no subject shall be held to answer for any crime or offense, any crime or offense, until the same is formally described to him and to be fully heard in his defense. As a member of the task force on family law, I raised that issue with the prosecuting attorney and the judge. Their responses were indicative of the mire and the tragedy that we are embroiled in in family law. This prosecuting attorney responded to me by saying that article 15 does not apply to subjects in civil matters and at that point I need to repeat to you article 15 of the New Hampshire Constitution which presides that no subject, no subject. This prosecuting attorney told the task force on family law and further provided

ex parte justification by citing Inray Jayson (sp?). Which was a Supreme Court decision that allows emergency ex parte testimony. And, in brief Inray Jayson, you can look it up, I think on the state search engine, I don't have the year cited yet, but Inray Jayson upheld ex parte testimony, that's one sided testimony in the absence of the defendant. On the trustworthiness of a policeman. Now that's fair enough. Policemen have an unbiased and an objective attitude with no interest in the outcome of the decision. And that's, and that's what should be noted as the qualifier in that case. It's unlike domestic violence proceedings where the woman who makes the charge has an interest in the outcome of the case. And therefore that one-sided testimony should not be allowed. So I guess I can conclude my testimony by asking the judges to uphold the Constitution to which they were sworn to uphold.

KE: Thank you very much. You're going to be sending us this testimony or you're going to go back to the commission?

MG: I'm hoping that my colleagues on the commission on the status of men will incorporate this, this commentary and its first biennial report-

KE: Ok.

MG: - but if they don't, I will send it to you off (inaudible)

KE: Very good. Thank you.

MG: And, and, and the absence, assuming that they will provide that, that they will allow that testimony to go forward, it's quite, you know, it's going to be controversial and it's going to be, it's going to be difficult reading for some people but if they do allow that to go forward in the report, I will make available the entire report to you all.

KE: Thank you. Anyone else wish to speak tonight? I have no more cards. (pause)Sir, did you wish to speak tonight?

Scott Garman: I would. Do you want me to fill a card out after?

KE: Yes, please.

SG: I'll be very brief. My name is Scott Garman, that's G A R M A N. And I live in Dover and I also serve on the New Hampshire commission on the status of men. And I just wanted to reiterate some of the things that Mike Geanoulis has said. I've heard testimony from a lot of people and I'm talking dozens, you know, well over fifty who have a lot of grievances with the family court system. And I'm neither a father, I've never been through the family court system myself, so I've kind of come at this from the perspective of an outsider and I think that the volume of people who have come forward to speak is cause for concern. Now the two areas I have seen and one is in domestic violence petitions which Mike Geanoulis went over, The two areas that seem to be of biggest concern there is the fact that number one there's no accountability for perjuring and obtaining a restraining order. People who have been able to disprove the accusations do not seem to get any relief in the form of some sort of consequence on behalf of the person who lied in front of the court. And in another sense the person who is being accused is not being given sufficient ability to defend him or herself in front of the court. And I think it's not necessary to even bring gender politics into the situation, the system could be abused by anyone, male or female but I think due to stereotypes that society has, this tends to be something that is used quite often against men. And I just wanted to speak to one other thing in the family court system. That I've heard testimony from a number of fathers who are disabled who feel that their child support awards are not taking into account properly their disability. I've heard from a lot of people who have been put into

poverty or homelessness because of the fact that their disability checks have to go directly to child support and so and they feel they have no recourse for relief in that matter. So those are the two things I wanted to cover and again there could be some sort of accountability system and I don't doubt that the current restraining order system has served its purpose well for a number of people but I think due to the way that it's formed, it is ripe for abuse and it is being abused in the state.

KE: Thank you for coming.

SG: Thank you.

KE: If you could just fill that out for us. Thank you. Does anyone else wish to testify this evening?

Bill Cushman: I'd like to make a quick comment.

KE: Certainly, just identify yourself for the record again please.

Bill Cushman: Ok. Bill Cushman.

KE: Uh huh.

BC: In defense of the court system, I sat through a hearing in Manchester about a year and a half ago. The husband was trying to stop all payments to his wife and his children. He's got a daughter, one daughter who's twenty one years old and she is mentally retarded. And the other daughter is pretty sharp. The wife and to... pro se, because he couldn't afford a lawyer...I didn't find out what the outcome of that thing was but it's pretty obvious that the judge was in favor of, on the side of the father. It's probably not very important but the father is a lawyer and a judge. They have a tendency to take care of their own.

KE: Thank you. Does anyone else wish to testify for a second time? (pause) Then I will declare this part of the hearing over and we will be available until eight o'clock in case someone else chooses to come and speak this evening. Thank you.

KE: Thank you all for joining us this evening. It's ten minutes of eight and I'm closing this hearing.