



**Governor's Advisory Commission on Mental Illness and the Corrections System
Executive Order 2019-02**

Advisory Commission Report of Findings and Recommendations



Chair: Commissioner Helen E. Hanks
Report Dated: November 18th 2020

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In light of the COVID-19 Pandemic, the Commission’s work was stalled in 2020 as it pertained to implementation and action of recommendations. The Commission continued to meet to discuss the future and impacts on those with mental illness whose lives intersect with the criminal justice system. Members expressed concerns about the impact of COVID-19 on citizen’s mental health and if the state would see an adverse impact in access to treatment due to the pandemic as well as an increase in those entering the corrections system.

I. Commission Membership:

Title	Name	Affiliation
Executive Director & CEO	Dean Christon	NH Housing Finance Authority
City Solicitor – Attorney	Emily Rice	City of Manchester
Chief Operating Officer	Heather Moquin	NH Hospital
Commissioner	Helen E. Hanks	Chair & NH Department of Corrections
Director	Henry Lipman	NH Medicaid – DHHS
Attorney	James Boffetti	NH Department of Justice
Director	Julianne Carbin	Bureau of Mental Health Services - DHHS
Master LADC	Cassandra Abare-Hoyt	Sullivan County House of Corrections
CEO	Kenneth Norton	NAMI NH
House Representative	Renny Cushing	Legislature
Ret. Chief Justice	Robert Lynn	NH Supreme Court
President & CEO	Robert Steigmeyer	Concord Hospital
Executive Director	Sarah Blodgett	NH Judicial Council
Senator	Thomas Sherman	Legislature
County Attorney	Thomas Velardi	Strafford County
Chief Justice	Tina Nadeau	NH Superior Court

II. Commission Mission:

The Commission shall examine and make recommendations on issues facing individuals with mental illnesses in the corrections system, including but not limited to the following:

- a) steps that can be taken to reduce incarceration and improve mental health services for incarcerated individuals who suffer from mental illnesses;
- b) the use of restraints during transports to and from either mental health or corrections facilities;
- c) methods for improving transitions between county and state institutions;
- d) reforms to support individuals with a mental illness who are transitioning from incarceration back into the community; and
- e) any other issues which the Commission deems relevant to its charge.

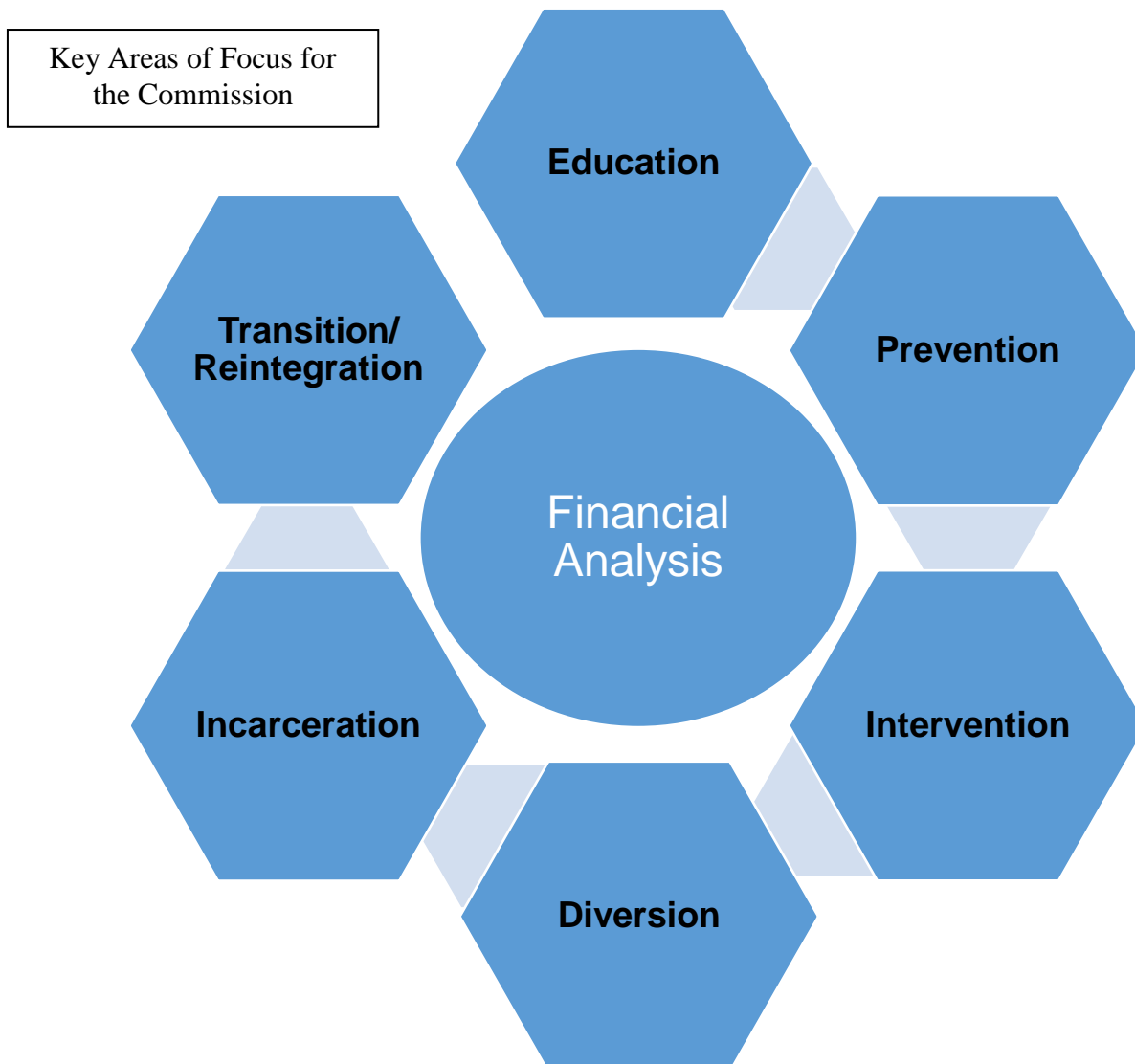
The commission meeting minutes are published at <https://www.nh.gov/nhdoc/divisions/commissioner/index.html> .

III. November 2019 Commission Framework for Recommendations:

The commissions last report from November of 2019 can be found at <https://www.nh.gov/nhdoc/divisions/commissioner/documents/final-commission-report-gov-adv-mi-cjs-november-2019.pdf>.

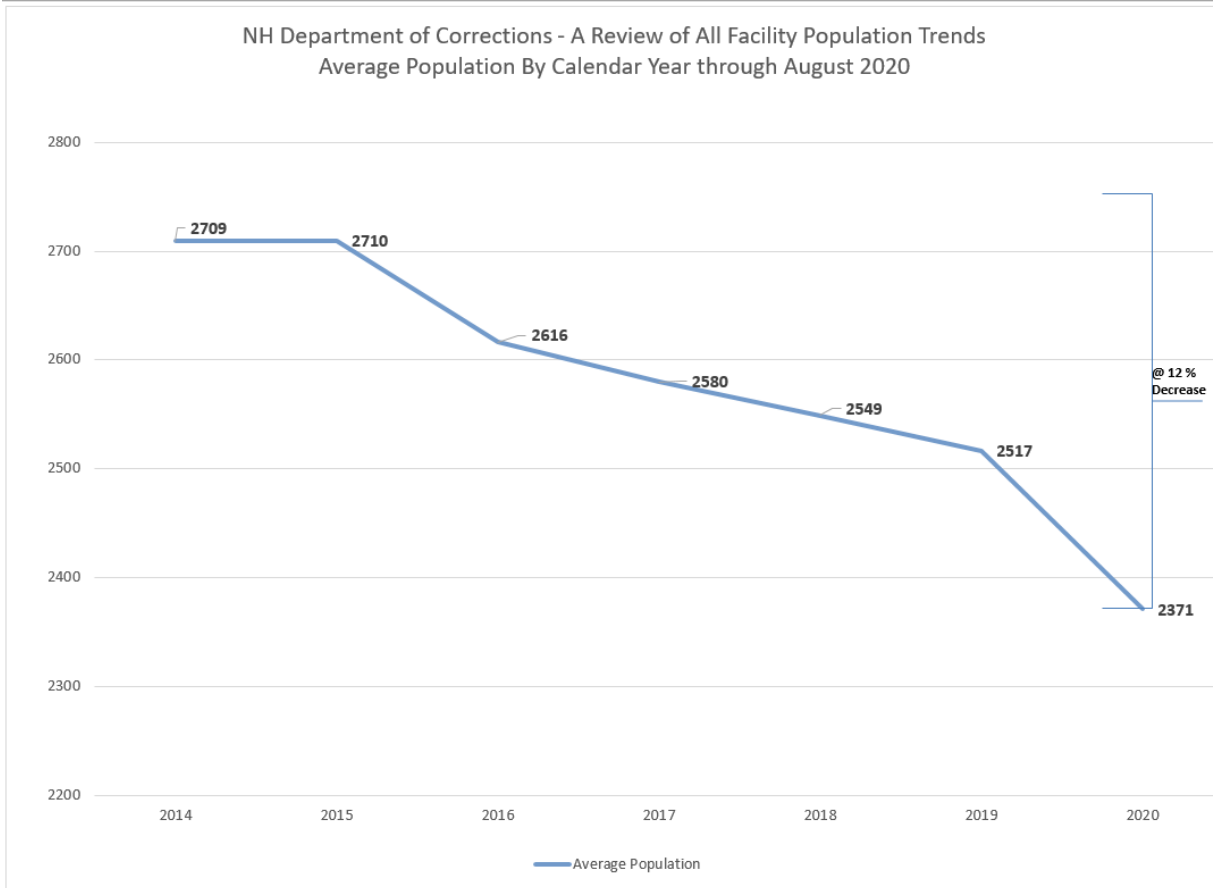
Implement the 10-Year Mental Health Plan with inclusion of those with mental illness and justice involved as a recognized group with the same aligned needs as outlined in the plan:

Recommendation 1: Medicaid Rates for Mental Health Services
Recommendation 2: Action Steps to Address Emergency Department Waits
Recommendation 3: Renewed and Intensified Efforts to Address Suicide Prevention
Recommendation 4: Enhanced Regional Delivery of Mental Health Services
Recommendation 5: Community Services and Housing Supports
Recommendation 6: Step-up/Step-down Options
Recommendation 7: Integration of Peers and Natural Supports
Recommendation 8: Establish a Commission to Address Justice Involved Individuals
Recommendation 9: Community Education
Recommendation 10: Prevention & Early Intervention
Recommendation 11: Workforce Coordination
Recommendation 12: Quality Improvement & Monitoring/DHHS Capacity
Recommendation 13: Streamlining Administrative Requirements



Data Dashboard:

NH Department of Corrections Population Trends



Snap Shot of NH County Jail Census:

New Hampshire County Corrections

Population Data by Facility as of July 17, 2019

County	Inmate M/F	Current Count	Maximum Capacity	Total Bedspace Available
Belknap	M & F	77	110	33
Carroll	M & F	46	132	86
Cheshire	M & F	86	214	128
Coos	M	20	66	46
Grafton	M & F	56	175	119
Hillsborough	M & F	234	736	502
Merrimack	M & F	173	262	89
Rockingham	M	151	340	98
Strafford	M & F	389	495	106
Sullivan	M & F	63	168	105

TOTAL **1295** **2698** **1312**

Note:

Coos Co. - Females kept on books but out on bracelets

Rockingham Co. - Females are sent out to Hillsborough or Strafford County Facilities

Percent of NH Department of Corrections Residents Receiving Psychiatric Treatment:

NH Department of Corrections: Residents Prescribed Psychiatric Medications by Gender			
As of July 1st 2020			
Biological Gender	% on Psychiatric Medications	Count	Total Population
Males	29%	611	2086
Females	66%	113	170
Total		724	2256

Ongoing Needs and Recommendations:

- 1.) All elements of previous report from November of 2019
- 2.) Establishing Primary Targeted Goals to focus on during 2020 and 2021.
 - a. Areas discussed to date for review by commission include:
 - i. Strengthen our State’s Mental Health System by ensuring we have a timely culturally competent community-based mental health care across the whole State using both telehealth and in-person services that are focused on consumer empowerment, quality of life, proper treatment and recovery. Ensure these services are available for Medicaid recipients in order to increase broader geographic access for those involved in the corrections system.
 - ii. Ensuring and broadening access to timely treatment for those with Mental Illness and Diversion Opportunities from Incarceration. Identify and adopt diversion programs at the earliest possible phase of the criminal process, preferably before booking or arraignment. Engage local and state affiliates, consumers, stakeholders, and other advocates to support and develop diversion strategies available throughout the whole State that promote collaborative training between community healthcare partners and state and local law enforcement, community engagement, and early intervention in an effort to keep persons with mental and substance use conditions out of the criminal justice system.;
 - iii. Safe and Affordable Housing Post Release from Incarceration; and
 - iv. Strong Reintegration and Re-entry Plans. Advance the collaboration with community mental health providers and county jails as well as the prison system and probation parole district offices to streamline re-entry and create timely access to care to divert from reincarceration.
- 3.) Seek support to engage with the Justice Center: The Council of State Governments (See Attached Presentation)
 - a. Using Justice Center Resources to analyze NH Department of Corrections, County Jail and NH Department of Health and Human Services data to best understand mental illness and the corrections system in NH in order to develop legislative initiatives to address gaps identified through the data analysis.
- 4.) Support Legislation Federally and Locally regarding Medicaid that removes the exclusion from eligibility while incarcerated. Legislation sponsored by Congresswoman Kuster sought to do this:

In review of H.R. 4141 Humane Correctional Health Care Act which would repeal the Medicaid Inmate Exclusion policy that bans justice-involved individuals from the Medicaid program during incarceration.

We would recommend supporting bills such as H.R. 4141 for these reasons:

- a) Currently, all correctional facilities have to place anyone booked in a prison or jail into suspend status with NH Medicaid. This is an administrative burden on resources. The only use of Medicaid as a payer of healthcare service at this time during incarceration is for inpatient eligible stays and these are performed retrospective of the inpatient stay for Medicaid eligible residents. Prior to Medicaid expansion, NH Department of Corrections (NHDOC) deferred payment of Medicaid eligible inpatient stays to Medicaid rather than the general fund in the amount of @ \$540,000 (FY14) after Medicaid Expansion NHDOC deferred @ \$2M (FY18) to be paid by Medicaid rather than the general fund. As currently exists in State Corrections, NHDOC re-enrolls residents in Medicaid 30 days prior to their estimated release date.

If H.R. 4141 passed, correctional facilities can work to establish a greater span of relationships with community providers to defer outpatient based services to be covered by Medicaid as well as all other hospital based services during incarceration. This would result in potentially significant cost savings for correctional healthcare services. Further, correctional facilities would not have to go through the suspension process with Medicaid and would continue to use the Medicaid coverage benefit during incarceration creating a more seamless community transition.

- b) Our current NH law states RSA 623-C:2 –
“...the state department of corrections or its agent shall pay health care facilities licensed pursuant to RSA 151 no more than 110 percent of the Medicare allowable rate for inpatient, outpatient, or emergency room care provided for prisoners in state correctional facilities.
(b) Except as provided in subparagraphs (c) through (e), and subparagraph (h), the state department of corrections or its agent shall pay independent health care providers licensed in this state no more than 125 percent of the Medicare allowable rate for care provided for prisoners in state correctional facilities.”

If H.R. 4141 passed, the State should consider seeking to amend this to align to the Medicaid rate as the base rate of payment for healthcare services in correctional facilities. Correctional administrators have been stating since the adoption of Medicaid expansion that we are caring for an otherwise Medicaid population. As the discussion continues to occur over the Medicaid provider rates, H.R. 4141 would also bring closer attention to established reimbursement rates as correctional facilities would need a greater network of NH providers willing to accept Medicaid patients. This need exists outside of the potential passage of H.R. 4141 to create a wider geographic network of Medicaid providers in order to have seamless access for justice-involved citizens in the community post release. In FY19, NH Department of Corrections spent @ \$11.9M to medical payments to providers. Using Medicaid as an insurer would defer some of this cost to the federal Medicaid program.

- c) Standards for correctional healthcare services are inconsistent from site to site across the nation. These exist for multiple reasons including but not limited to litigation outcomes setting a healthcare standard, budgeting restrictions effecting the implementation of high cost treatment services and differences in administration regarding defining what is constitutionally appropriate healthcare in correctional settings. In many situations it is stated that we provide community standard of care, how is that defined? Citizens navigate their healthcare access based on their insurance provider and financial means to pay. Community-based healthcare then is driven by health insurance primarily and then informed by the national standards published by treatment groups such as the American Association for the Study of Liver Diseases (Treatment for Hepatitis C).

If H.R. 4141 passed, correctional settings would align to the treatment protocols and health insurance standards set by Medicaid as 90+% of the population incarcerated is eligible based on the income standards definition under Medicaid Expansion. This would begin the process of creating consistency in prisons and jails as it pertains to healthcare practices including use of pharmaceuticals and treatment protocols such as for gender dysphoria, hepatitis C and medication-assisted treatment (all three are national correctional hot topic areas due to litigation).

Commissioner Hanks' comments are cited in an article published in the Concord Monitor –

<https://www.concordmonitor.com/Booker-Kuster-urge-Medicaid-funding-in-prisons-29544515>