

Advisory Commission Report of Findings and Recommendations



Chair: Commissioner Helen E. Hanks
Report Dated: November 23, 2021

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In light of the COVID-19 Pandemic, the Commission’s work resumed more consistently in 2021 as it pertained to continue to examine areas of implementation, intervention and recommendation. The Commission met 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
CEO	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
MLADC & LCMHC	Cassandra Abare Hoyt	Sullivan County Department of Corrections
Executive Director	Kenneth Norton	NAMI NH
House Representative	Renny Cushing	Legislature
Ret. Chief Justice	Robert Lynn	NH Supreme Court
CEO Riverbend	Lisa Madden	Riverbend Community Mental Health Center
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.

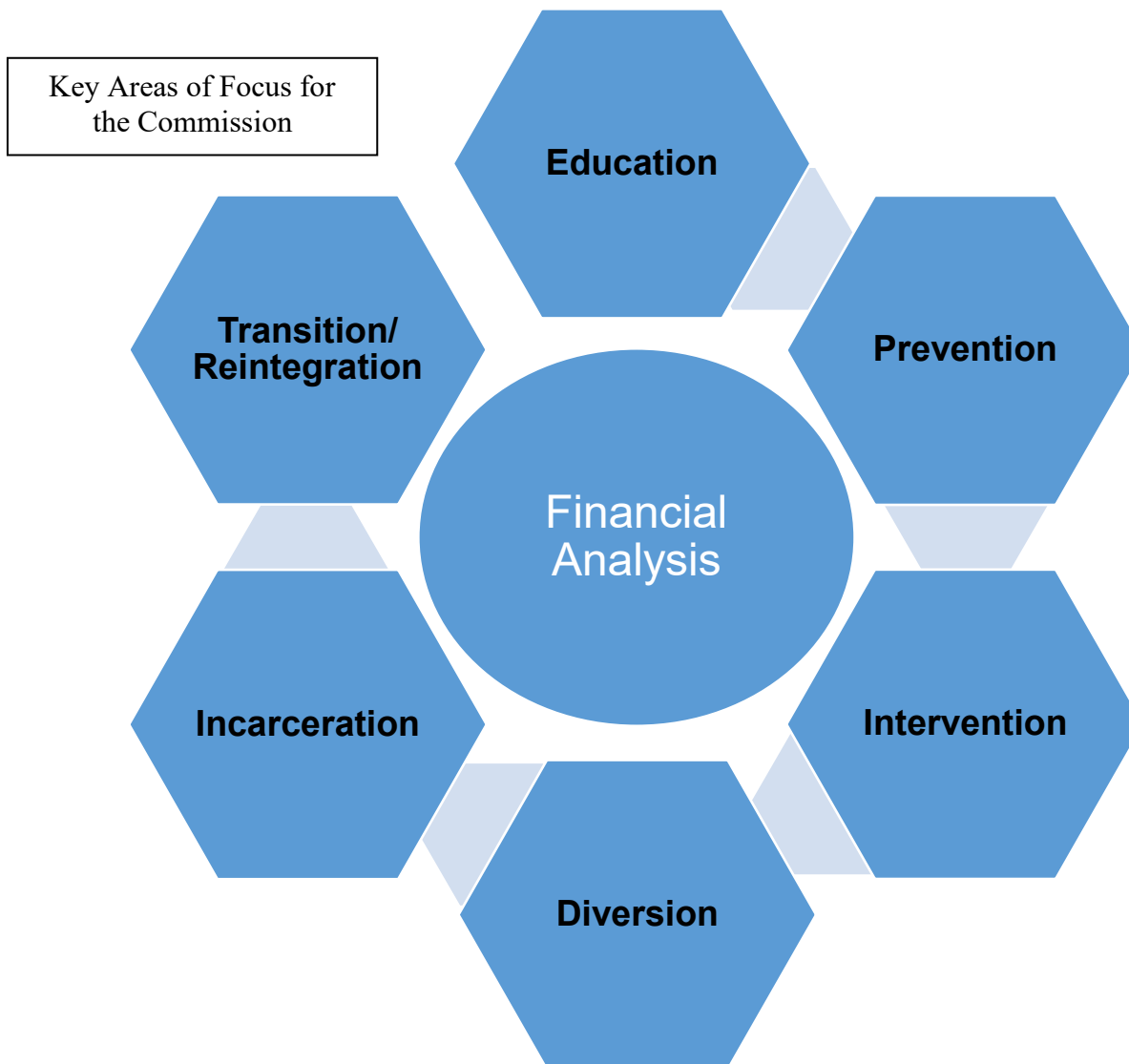
The commission meeting minutes are published at <https://www.nh.gov/nhdoc/divisions/commissioner/index.html> .

III. November 2020 Commission Framework for Recommendations:

The commissions last report from November of 2020 can be found at [commission-report-nov-2020-final.pdf \(nh.gov\)](https://www.nh.gov/commission-report-nov-2020-final.pdf) .

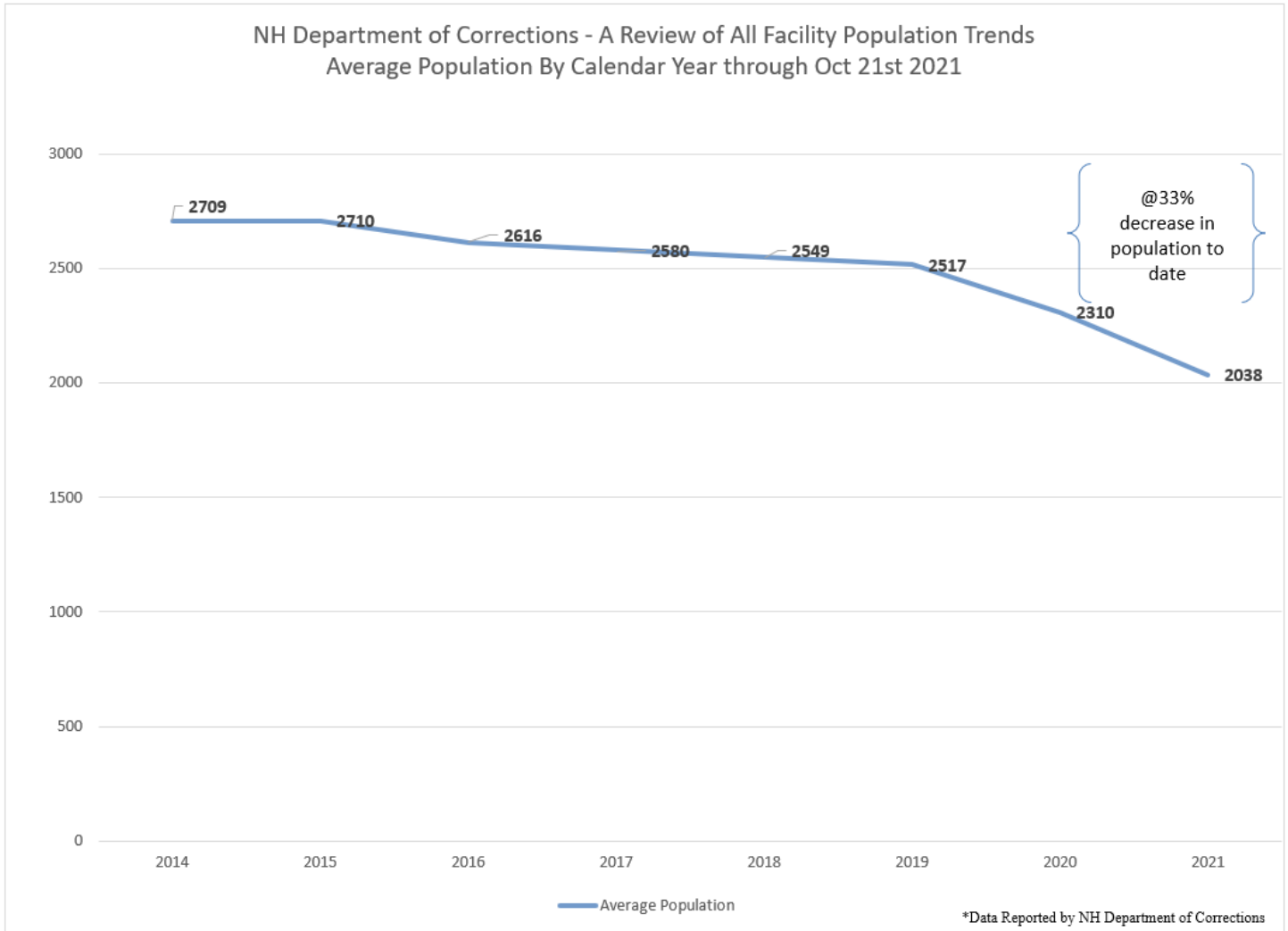
Continued focus on the Implementation of the 10-Year Mental Health Plan with inclusion of those with mental illness and justice involved as a recognized group with the same aligned needs as outlined in the plan:

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



Percent of NH Department of Corrections Residents Receiving Psychiatric Treatment:

NH Department of Corrections: Residents Prescribed Psychiatric Medications by Gender			
As of November 10, 2021			
Biological Gender	% on Psychiatric Medications	Count	Total Population
Males	37.8%	669	1768
Females	66.9%	91	136
Total		760	1904

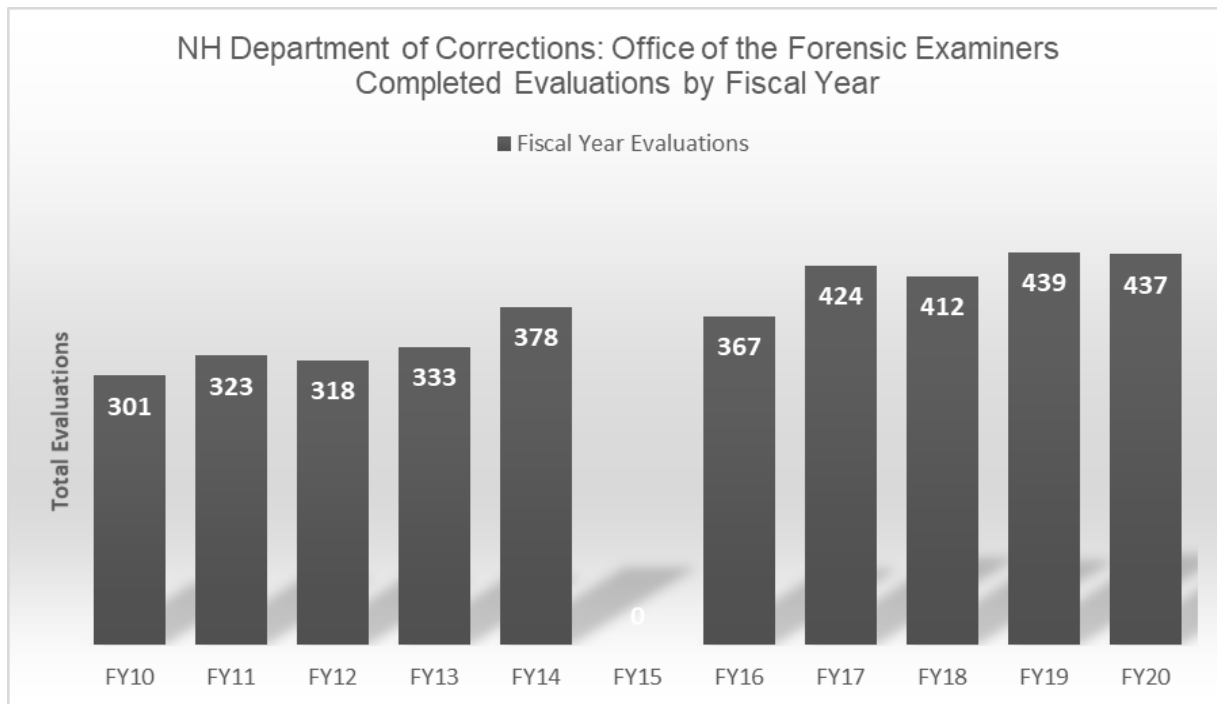
Ongoing Needs and Recommendations:

- 1.) All elements of previous report from November of 2020
- 2.) Establishing Primary Targeted Goals to focus on during FY 2021.
 - a. Areas discussed to date for review by commission include:
 - i. Increasing training access for all professions involved in the criminal justice system in areas such as crisis intervention training, trauma-informed communication, self-wellness for all disciplines involved (e.g., vicarious trauma) and other industry best practices training opportunities.
 - ii. Review national best practices for recommendation for implementation to increase diversion opportunities from incarceration for those with mental illness as appropriate. Identify and adopt diversion programs at the earliest possible phase of the criminal justice 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. Increase the use of validated assessments to inform decisions associated with treatment, risk and diversion;
 - 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, county jails, the prison system and probation parole district offices in order to streamline re-entry and create timely access to care to divert from reincarceration.
- 3.) Support Legislation Federally and Locally regarding Medicaid that removes the exclusion from eligibility while incarcerated as outlined in our previous report.
 - a. Advocate to review and increase the reimbursement rates for Medicaid to ensure a geographically accessible network of diverse providers to serve the treatment needs of Medicaid recipients.
- 4.) The Commission recommends the establishment of a legislative study committee to review the state's statutes on legal competency. In review of information presented by the Chief Forensic Examiner in N.H. Dr. Shannon Bader, our commission was provided with the following overview:

“The number of defendants ordered for competency evaluations have increased substantially over the last five years, with some states reporting 70% to 100% increases^[1]. New Hampshire experienced a 75% increase in the number of competency orders since 2015. With increases of the numbers of competency evaluations, there are more individuals court ordered for competency restoration. Numerous states have endeavored to reform the competency restoration system as states face lawsuits and legislatures desire to save money and protect community safety. The Council of State Governments, National Center for State Courts, Judges and Psychiatrists Leadership Initiative have published some useful guides for state level improvements and this information combined with research on competency restoration, and observations of states with ongoing changes from court monitors were referenced to create this document.”

^[1] Gowensmith, W. N. (2019). Resolution or resignation: The role of forensic mental health professionals amidst the competency services crisis. *Psychology, Public Policy, and Law*, 25(1), 1–14.

NHDOC Competency Evaluation Data:



Our state does not have a comprehensive restoration program for those deemed competent but restorable. The statutes are not directive in this regard. We have a commitment proceeding for treatment of a mental illness but not engagement for education associated with building someone’s competency to participate in their own defense in a court room. A Legislative study committee would work to develop a plan and recommendations for statutory language change. The committee’s work should include:

- Where organizationally does the Office of Forensic Examiners most appropriately align in the state?
- What is the best proposal for inpatient competency restoration?
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- What type of Judicial review should be included in law?
- What state agency should be the central repository and manager of the competency restoration process?
- How will competency evaluations or a program to restore competency interface with the proposed forensic hospital?
- Should we incorporate juvenile competency evaluation services in with adult competency services?

Study committee membership should include at a minimum:

- 2 members from the Senate
- 2 members from the House
- The Attorney General or designee
- A member of the Defense Bar
- A designee from the County Attorneys
- Department of Corrections Commissioner or designee
- County Jail Superintendent
- A CEO for the Community Mental Health Centers
- Department of Health and Human Services Commissioner or designee
- A member of the Judiciary
- NAMI-NH
- Disability Rights Center

- 5.) The Commission supports the plan for a new forensic hospital operated by the NH Department of Health and Human Services. The new forensic hospital will play an integral role in the system of care for justice involved persons with serious mental illness. It is important to engage in education with community members, legislators and policy leaders about the importance of a comprehensive system of care that includes the new forensic hospital.
- 6.) The Commission recommends improving data collection efforts to best understand how we can address people in the criminal justice system with behavioral health needs who frequently cycle through multiple systems sometimes referred to as high utilizers of the state’s mental health system. These data sets will help us target opportunities for diversion and intervention. Data sets such as competency orders, county jail admission data, bail personal recognizant orders, Medicaid claims data, drug court, mental health court and prison data as just some of the many opportunities to learn from their intersects. These data sets can work to:
 - a. Improve identification of and information sharing about people who frequently cycle through multiple systems to improve these systems’ ability to provide coordination of care for this population,
 - b. Strengthen transition procedures that support individuals with behavioral health and housing needs who are cycling through the judicial system, incarcerated settings, and health service systems,
 - c. Identification of specific training and education opportunities for criminal justice stakeholders on working with people who have behavioral health needs,
 - d. Identification of how existing resources and federal funding—including Medicaid—may be better leveraged to advance the collaboration between jails, prisons, hospitals, crisis service providers, housing providers, community mental health providers, and substance use disorder treatment providers,
 - e. Recommendations for utilizing telehealth to support people with behavioral health needs,
 - f. A clear understanding of current geographical gaps and challenges in service delivery for policymakers to inform how they may improve services statewide, and
 - g. Identification of additional data metrics and indicators of behavioral health that should be collected from key agencies to support evidence-based policy decisions and applications for federal funding.