

**GOVERNOR'S ADVISORY COMMISSION ON MENTAL ILLNESS AND
THE CORRECTIONS SYSTEM**

MINUTES

November 12, 2019

1:00 p.m.

**DEPARTMENT OF CORRECTIONS CONFERENCE ROOM
COMMISSIONER'S OFFICE
105 PLEASANT STREET
CONCORD, NH**

Commissioner Helen E. Hanks called the Commission meeting to order at 1:00 pm.

Participants:

Helen E. Hanks, Commissioner NH Department of Corrections, Chairperson
Sarah Blodgett, Executive Director, NH Judicial Council
Robert Lynn, Chief Justice, NH Supreme Court (Retired)
Thomas Sherman, Senator
Robert Steigmeyer, President & CEO, Concord Hospital
Susan Stearns, Deputy Director, NAMI
Thomas Velardi, County Attorney, Strafford County
Julianne Carbine, Department of Mental Health Services, DHHS
Lois Monette, Administrative Assistant, Commissioner's Office

This Commission was formed to examine and make recommendations on issues facing individuals with mental illnesses in the corrections system. Executive Order 2019-02

Commissioner Hanks welcomed new member Julianne Carbin from the Department of Health and Human Services.

Commissioner Hanks opened the meeting by noting the priority for this month is to finalize the report due to the Governor by November 30. A draft of the report was emailed to the committee for review.

President and CEO Robert Steigmeyer noted that he and Peter Evers are compiling their overall thoughts and will email them in the next day or two.

He wants to reinforce the main themes that have come out of the committees discussions.

1. Recognize the reconstruction of the CMHC's, and community health.
2. Understanding and defining the expectations and accountability across police, corrections, state hospital and local systems.
3. Integration – stimulate and invest in it. Broader integration with the 11-15 waiver.
4. Creating specific diversionary services.

Commissioner Hanks noted the Governor's Executive order is the base of the report. The items the order has charged us with are in the front; I tried to embed the conversations that we have had on

those items in pages 1-3. Starting on page 4 of the report is the current commission framework for recommendations that is where there is opportunity to expand on the main themes and create a plan we have developed with expanded areas of recommendation.

We have discussed some of the items in the Executive Order. In the four meetings and with the richness of our discussion, we have not had the time to talk deeply about all of the charges given to us but we have started to create a plan of recommendations.

I am starting to see how we can collaborate across the spectrum of resources, law enforcement health and human resources and some of the current LSR's.

We all agree that Diversion is important as a starting point.

How far back in the prevention framework do we recommend that we go? In looking at the 10 Year Mental Health Plan, we all agree that aligns to our recommendations We want to be careful, we do not create a whole other health system for those who we do not divert or are already in the justice system in the community.

I would advocate enriching the training of our licensed clinicians and health care providers who work with diverse audiences.

Chief Justice Lynn: I noticed in number 5D where it says "Reduce the stigma of mental illness, substance use disorders and having felonies" I don't have any problem at all saying reduce the stigma on mental illness but I'm not sure I agree with reducing the stigma of having substance abuse and felonies. The stigma of being a felon might be one of the things that stops people from becoming felons, and the same with substance abuse. They have some responsibility for having made the unwise decision to start using drugs. A certain amount of stigma about you making a bad decision is not a bad thing.

Deputy Director Susan Stearns: I would say the issue is discrimination not stigma. It is the discrimination - if you have committed a crime and done your time when you come out as a felon, you are not eligible for subsidized housing and never will be. We want people to be engaged in recovery and reintegration but the system discriminates against them. Similarly, we can find laws that discriminate if you have a drug problem. You cannot get a student loan. I think if you reframe it in that sense, then it is about how we get to the outcome we want. Level the playing field, so that you do not have an even higher bar. We do not want it to be that it does not matter if you have a felony on your record but it should not be that it is impossible for you to reintegrate and be part of the system.

Chief Justice Lynn: Let's take the example of housing, if there are limited resources and we can only spend X amount of dollars, should Miss Smith who has never violated the law, or used illegal drugs, should she get the first dibs or should Mr. Jones who has a felony record?

Deputy Director Susan Stearns: As of right now in that scenario, Miss Smith would get priority because the law prevents Mr. Jones from receiving subsidized housing.

Chief Justice Lynn: I agree with you to the extent that there should be greater resources, if there aren't greater resources and you have to make a choice, I think prioritizing the choices help someone that doesn't.

Deputy Director Susan Stearns: I think prioritizing is different from saying no you shall never. For example if I am a single Mom with kids and homeless I get bumped over someone who is a law abiding individual with a severe mental illness and no children. There are ways you can certainly

weight a system like that but we have laws and regulations that make it so it is just not an option for some.

Commissioner Hanks: Okay so this is our draft document so let us continue to wordsmith it and get our opinions out there as a group. If we have a complete divergence, we will do a majority vote. Certainly reducing the stigma of mental illness, examining felonies - thinking about unnecessary exclusions and barriers for reintegration.

Back to the format of the report, honing in on page 4 and what to say as a group our recommendations are. Bob and Peter will be sending a narrative of their feedback. I had taken the Senators suggestions in the areas of prevention, intervention, incarceration, transition and reintegration. But again, open to any suggestions to change the way that looks and use different language to map our recommendations.

President and CEO Bob Steigmeyer: Commissioner you brought up education as a really important first step, as I think of this flow of information, probably education will be one of those domains. Education in different ways with different constituencies, but common context education. Let's agree on common context and go from there but education will be a very important first step.

Commissioner Hanks, Under section 1, page 4. I can change the header to education or should it be prevention? It goes immediately under it to "Invest in education initiatives in our school to reduce the stigma of behavioral health under it.

Agreement from the Committee it should be both Prevention and Education.

Senator Sherman: Item 2 "Reinforcing the need for Statewide Mobile Crisis" add Teams after Crisis.

Commissioner Hanks: that lines up with the 10 year Mental Health Plan, and a RFI is out there. They have been trying but it's a workforce issue, I do think we don't want to ignore the reality that we have some workforce needs all the way through. It could be a standalone item by itself.

Julianne Carbin: We do have education under #3 Incarceration and on page 2 a) there are the "steps that can be taken to reduce incarceration and improve mental health services" and I wasn't sure if discussion had happened around what is currently happening to educate Correctional Officers. Some states have implemented robust Crisis Intervention training similar to law enforcement officers for correctional officers.

Commissioner Hanks noted that we do have robust training for CO Officers, when there is someone who is having a psychiatric or behavioral health crisis, loosely defined in a correctional facility, The officers are and always have been the first point of referral, they call a clinician to the scene for consultation and the clinician takes over control. The clinician makes the decision if the person is stable in that environment or if they need to remove the resident. Then wrap nursing and psychiatric services around them. I am familiar that they have had more formal Crisis Intervention Teams in correctional settings. County Jails, I believe some of them have a CIT model because they have collaborated with community providers but not all of them do. Also because they do not have full time staffing 24 hours a day, in all capacities.

Julianne Carbin: Community Crisis Centers - they have extensive mental health and de-escalation training, as they are the first point of contact for folks. I do not know if this is the right concept for Correctional Officers.

Deputy Director Susan Stearns: We have heard from the county level, some facilities interest in CIT training for correctional officers. There is the funding for the training and the funding for the back filling of position coverage while they go through 40 hours of training. It's very costly to implement and it's an ongoing process.

Commissioner Hanks: The curricula that we use in State Corrections is approved by the Police Standards and Training Counsel. A large portion of that is around behavioral health issues and managing those crises in the correctional setting. We actually are in the process of putting forward a whole new training curricula for approval. Our goal is to have that before the Police Standards and Training Counsel in January 2020. It is going to include some of the things NAMI is doing with Police Officers.

President and CEO Bob Steigmeyer: As you move into the Framework for Recommendations you have a listing of the 10 year Mental Health Plan, what struck me is priorities. In my limited resource world, what do we highlight as top priorities?

Commissioner Hanks: We should say from this perspective with this population.

Recommendation 1: Medicaid Rates for Mental Health Services – Thinking about the number of people leaving under the Medicaid expansion population. Those numbers are important because it helps us frame the rates issue and determine if providers have increased their inclusion of Medicaid patients.

Creating geographically dispersed opportunity for people to get provider services is critical. Medicaid rates are part of what is going to drive that.

Recommendations 4, 5 and 7 are critical pieces for this population in my perspective.

11- Workforce Coordination. We think that community service and housing support would be inclusive of workforce coordination. . If you think about housing, healthcare and jobs, they are all fundamental components on the front end of helping people be successful with reintegration.

Deputy Director Susan Stearns: Commissioner, should Mental Health Courts be listed somewhere under here in terms of prevention?

Commissioner Hanks: So, I was thinking about that and for the benefit of the members here, I also sit on a Commission to study the statewide implementation of Mental Health Courts. Until the Commission puts forth a recommendation, I was not sure it was our place to do that, yet. At least, we can put it on there, that we should continue to examine it.

Deputy Director Susan Stearns: Yes, there is what? Six Counties that have Mental Health Courts currently? We certainly don't want to lose what we have.

Commissioner Hanks: I think it would be fair to say that the work being done under SB59 will inform the outcome of this recommendation. Part of those conversations are what does the Mental Health Court look like? We want to be in a place that it is a funded resource. Staffing resources

from the Judicial, Legal and Community Health side are going to be critical. I do think it is fair to acknowledge the work of that Commission and be careful not to replicate its work. Where would you contemplate that under? Under Intervention or Diversion?

Deputy Director Susan Stearns: I was originally looking at Prevention, but it probably is more Intervention. Some purist would say that it would have to be Diversion, there would have to be no arrests in order for it to be Prevention.

Julianne Carbin So maybe that could be in the beginning part under any issues that we are tracking. Any recommendations that come out of that Commission.

Commissioner Hanks: There is also another Commission that is looking at individuals with intellectual disabilities and their report is due November 30. In respect to a question asked me by Senator Sherman, I do not think it is widely known the prevalence of individuals who are incarcerated with intellectual disabilities. It is a very tough question to answer but it would be interesting to see what that Committee says.

Are there places in the report where you see something that makes you uncomfortable with the wording so we can make those adjustments now?

Chief Justice Lynn: In Section V f. where it talks about how once New Hampshire was considered the mental health model for the country. Would it make sense to expand on that statement?

Commissioner Hanks noted that would also be a good place to reference the 10 Year Mental Health Plan.

Executive Director Sarah Blodgett: IV c. Is it worth listing out Mentorship and Peer Support as separate options? We talked about how Peer Support is about someone who has been through a period of incarceration and is succeeding out in the community. There is the Forensic Peer Mentoring Program from the state of Georgia, that has been up and running for a while, if we need to reference something.

Commissioner Hanks agrees that is two different things.

Executive Director Sarah Blodgett: I also was wondering if we should explain what the certificate of employability is and give a little more explanation on that. It is such a great program.

Commissioner Hanks: Yes and I can insert all the links on that.

Executive Director Sarah Blodgett: When we talk about Diversion, I wonder if it would be helpful to talk about not just stopping the arrest but to connect people with services. The LEAD program (Law Enforcement Assisted Diversion) out of Seattle is a great resource.

Commissioner Hanks: Recommendation side: changing the headers to Prevention/Education, is that what I'm hearing?

President and CEO Bob Steigmeyer: Education first so Education/Prevention

Commissioner Hanks: Diversion, are we thinking it is Intervention or something between Intervention and Incarceration?

Senator Tom Sherman: Diversion can include arrest or nonarrest; you are not going through the court system. Remove it from the court system river and move it somewhere else.

Commissioner Hanks: That is why I think about Intervention and Diversion as you not in courts. Because once you are in the court system, the potential to be incarcerated increases significantly, in my view. Is Intervention and Diversion the same thing?

Deputy Director Susan Stearns: I think what I'm hearing is that Diversion is one of the Interventions. Committee verbally agrees on this statement.

Commissioner Hanks: So under Intervention, I will include Diversion as a subcategory and reference the LEAD program as an opportunity to explore deeper those methodologies and other programs so we are not bound by that. So that gives us an opportunity to formulate a strong long term recommendation in that area. Define it as not just avoiding arrest but treatment and connectivity.

Commissioner Hanks: Other areas that are missing?

Deputy Director Susan Stearns: Should we have something about Family Support under Incarceration? Committee verbally agrees with this statement.

Commissioner Hanks: and I will be including under Incarceration information on Peer Support as well.

Attorney, Thomas Velardi: Under Transition, iii Treatment, I think a big part of that is healthcare, whether it is Physical, behavioral, mental health or substance abuse.

Commissioner Hanks: So I can put more depth based on our conversations. If there is some specific language that you want captured, just send that to me to include in the document.

Chief Justice Lynn: We haven't really said anything here about costs. Is the idea that we provide these recommendations and we don't really say anything about costs? Then the Legislature and the Governor figure out in the priorities of the state as to where this is going to fit? Or do we make some comment about what the cost is going to be?

Senator Tom Sherman: With Diversion there is going to be some kind of net cost, because there is clearly savings in this also. Having people not going into the prison system, providing adequate pre-incarceration services such as mental healthcare. At some point, when we come up with some kind of recommendation, it would be nice to have some kind of balance sheet. If we could work with Legislative Services to provide some estimates for us.

Commissioner Hanks: I think it would be fair to put in a VI. a – Ongoing analysis of Financial Impact. So that it's there and people know we are not ignoring it.

Senator Tom Sherman: if we could get #1 on the 10 Year Mental Health Plan. “Medicaid Rates for Mental Health Services” for the incarcerated, that would be huge in the savings column.

Commissioner Hanks: A question raised earlier of: Does this Committee rate the recommendations that came out of the 10-Year Mental Health Plan as different priority? I think that is an important question not to lose sight of as we develop our recommendations..

Senator Tom Sherman: There are so many parallels with what DHHS is doing with people who are not incarcerated. Do you have ongoing liaisons with them?

Commissioner Hanks: Yes our departments are in frequent engagement with Health and Human services making sure that Justice involved individuals are part of the language in the contracts between DHHS and vendors where relevant. I think it is more than just Health and Human Services. We continue to work with other State Agencies in a collaborative way.

Senator Tom Sherman: I think that in all the discussions that we have held around the state mental health infrastructure and needs: Corrections are so much the same. I’m not sure what the restrictions would be around someone who is on parole vs someone in transitional housing from New Hampshire Hospital. In terms of cost savings and not duplicating efforts, bridging that silo would be helpful.

Commissioner Hanks: I think maybe it’s saying: “Making sure that it’s not a silo.”

Attorney, Thomas Velardi: Roman numeral V h. when we talk about competency and restorability, that thorny snare looks very different if you are a 135C (Mental disease of defect) vs a 171B (Intellectually disabled). In other words, how the County Attorneys and the Attorney General’s Office handles that issue is very different from how DHHS handles it. I’m not sure the process should be different.

DHHS does the 171B’s and Attorney General designates that County’s County Attorney to do the 135C’s, the vast majority of these things because of the diagnosis, not competent, not restorable and dangerous which is the track these have to follow for an involuntary admission. This is a small part of the pie but the fact of the matter is, these citizens are treated very differently depending on which agency is handling involuntary admission. I never understood it, even though the diagnosis are worlds apart and why is the process so different and why are so many people on 171B not receiving the services they need because they are not being put into services. These are all justice-involved people; they have been adjudicated not competent, not restorable and dangerous.

Commissioner Hanks: I think that question promulgates the idea there should be a committee to examine competency. In thinking about my time working with Justice Nadeau and the Office of Forensic Examiners, I think it is time for us to decide as a state and to map out the intersects of those commitment laws. DHHS is a critical partner and the mental health system as well, there are what I would call oddities in the law that I have watched for years now. We should decide and set a whole separate set of recommendations on how that path happens for a person. I think we put it here and I would suggest we all spend more time educating each other on what that is. I would suspect that a recommendation later from us would be around creating a committee to do that very specific detail work.

Deputy Director Susan Stearns: For many years, I have been a facilitator for the Rockingham County Coalition on family mental health and I received an email today from Jen Mayer-Cox who

is one of your forensic examiners because we have been having this discussion about competency and restorability. We have determined we need a smaller working group because this larger group only meets quarterly so I just wanted to let you know that Rockingham County is starting to look at this issue.

Commissioner Hanks: I think it is a statewide issue, her supervisor is Dr. Shannon Bader, Chief Examiner, and she and I have definitely been talking for quite some time. There is also a smaller group of individuals with the lead of Justice Nadeau who have been talking about this as well. We have done a lot of good information sharing. The start of these meetings was out of the evaluation process itself not being as organized. This has dramatically changed for the better. It is the whole process and why are we doing what we do. The whole process as a state, Massachusetts our neighbor and California have very different systems. What is the right system does come up in the context of this conversation but it definitely requires a different group of individuals coming together and saying how it should look in the future and then Legislative sponsors for any future change.

Good point and back to V. h. lending itself to establishing a committee to vet the state laws on commitment and how that process should be defined. The unwritten conversation is around restorability and we don't have a robust outpatient program on restorability. So this committee would look at competency, restoration, commitment laws and all those things associated. Partners in that conversation have been Disability Rights Center, Department of Corrections, and DHHS. Many years ago there was a committee to study the intellectually disabled, I think Senator Larson was the chair at that time. A review of the report from that committee would assist future work.

To recap:

I will add to page 4 and 5 the reference to the 10 Year Mental Health Plan, the committee is going to work to make recommendations on prioritizing the steps based on this charge. Is what I heard that we should create a roman numeral I Education and a separate roman numeral II for Prevention? Renummer the rest and under Intervention I'm going to create a category specifically called Diversion. I will use the elements we talked about there. The recommendation to look at things such as the LEAD Program. I will add more depth to the Incarceration section,

Senator Sherman: I don't know if you want to add more depth on page 3 to roman numeral II a. You probably know this but they are having educational sessions across the state on the implementation of the restraint bill. Susan Patchel is leading the charge. I will send the information to Commissioner Hanks.

Commissioner Hanks: If this is comfortable for everyone, anything you want specifically worded, please email that to me, I will get another reiteration out to everyone to review. I doubt we will have time to meet again before this is due. I will put a footnote on the completion of this report that this is based on ongoing feedback and dialogue.

The meeting adjourned at 1:58 p.m.

The next meeting TBD

Respectfully submitted, Lois Monette