



The Senate of the State of New Hampshire

107 North Main Street, Concord, N.H. 03301-4951

JON MORGAN
Senate District 23

State House, Room 107
(603) 271-1403

MEMORANDUM

DATE: November 1, 2020

TO: Honorable Chris Sununu, Governor
Honorable Stephen Shurtleff, Speaker of the House
Honorable Donna Soucy, President of the Senate
Honorable Paul C. Smith, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Michael York, State Librarian

FROM: Senator Jon Morgan, Chairman

SUBJECT: Final Report of the Commission to Study Expanding Mental Health Courts Statewide
RSA 490-H:3 (SB 51, Chapter 224:2, Laws of 2019)

Pursuant to RSA 490-H:3 (SB 51, Chapter 224:2, Laws of 2019), please find enclosed the findings and recommendations of the Commission to Study Expanding Mental Health Courts Statewide. Also, please find enclosed the minutes from previous commission meetings.

If you have any questions or concerns about this report, please do not hesitate to contact me.

Sincerely,

Senator Jon Morgan
District 23
Chairman
(electronically signed)

Enclosures: Final Commission Report, Commission Meeting Minutes
Cc: Members of the Commission

SB 51, Chapter 224:2, Laws of 2019
AN ACT establishing a commission to study expanding mental health courts
statewide

Final Commission Report
November 1, 2020

DUTIES OF THE COMMISSION: The commission was established by SB 51, Chapter 224:2, Laws of 2019. The commission was tasked with at least four main objectives. First, review the best practices of mental health courts, both nationally and locally, and to make recommendations on how to apply those to mental health courts throughout the state. Second, make recommendations towards training for both new and existing mental health courts. Third, determine the anticipated administrative costs of establishing and maintaining mental health courts statewide. Finally, make recommendations pertaining to the administrative oversight of the mental health court system.

COMMISSION MEMBERS: Senator Jon Morgan (Chairman), Representative Gerri Cannon, Representative Paul Berch, Representative Mary Beth Walz, Susan Stearns (NAMI-NH), Hon. David King (N.H. Circuit Court), Jill O'Neill (N.H. Behavioral Health Association), Jake Berry (New Futures), Tracy Scavarelli (N.H. Public Defender), Shelly Golden (Public Member), Katja Fox (N.H. Department of Health and Human Services), James Boffetti (N.H. Department of Justice), Ebony Sullivan (Mental Health Court program graduate), Hon. Tina Nadeau (N.H. Superior Court), Alex Casale (alternate), Cynthia Varney (family member), Hunter Taylor (N.H. Association of Counties), and Robin Davis (N.H. Association of Counties)

MEETINGS:

- October 21, 2019 (Organizational Meeting)
- November 18, 2019
- November 25, 2019
- December 16, 2019
- December 30, 2019
- January 6, 2020
- October 15, 2020

STAKEHOLDER PRESENTATIONS:

- November 18, 2019 (minutes attached)
 - Alex Casale, New Hampshire State-Wide Drug Offender Program Coordinator
 - Reviewed structure of state's network of drug courts
 - Dr. Shannon Bader, Chief Forensic Examiner for the Office of Forensic Examiners
 - Reviewed mental health court outcomes
 - Identified questions facing mental health courts in New Hampshire and across the country
- November 25, 2019 (minutes attached)
 - Chief Paul Smith, Littleton Police Department
 - Shared experience with mental health court in Grafton County
- December 16, 2019 (minutes attached)
 - Dr. Cynthia Whitaker, Chief of Services, Greater Nashua Mental Health

- Bill Rider, CEO, Mental Health Center of Greater Manchester
- December 30, 2019
- January 6, 2020

FINDINGS:

- The purpose of mental health court programs is to provide early treatment to those suffering from mental health conditions, which may be co-occurring. For participants to be successful in these programs, they must adhere. Adherence can take various forms, such as acquiring stable housing or maintaining regular appointments.
- Both Nashua and Manchester were among the first to implement mental health court programs. Between 2010 and 2015, the mental health court in Nashua saved roughly \$2 million through reduced jail days, lower medication costs, and other factors.
- Currently, there are no national best practices for mental health courts to adhere to. However, the GAINS Center for Behavioral Health and Justice Transformation, which does have some oversight over mental health courts, is working towards developing best practices over the next few years.
- There is a shortage of statewide data pertaining to mental health courts, which impedes the treatment of underserved and vulnerable demographics.
- Drug courts and mental health courts share some overlap with each other. While it may be appropriate to combine them under one system, both programs would need to have separate goals that are clearly defined. This is important because there are treatment differences between those dealing with mental health conditions and substance use disorders.
- Currently, there are staffing shortages within the judiciary, probation and parole, mental health services, and other areas throughout the state that need to be addressed. Consistency among staff is significant for the long-term success of these courts. For example, judges tend to rotate frequently due to judicial vacancies.
- Consistent and mandated training for participating judges, prosecutors, public defenders, law enforcement, and others within this court system is another key component for success. Prosecutors play an important role because they determine who participates within these programs. According to Chief Paul Smith, in terms of training officers, it can cost roughly \$2,000 per individual for a conference.
- Participation in mental health courts must be voluntary; however, it is necessary to determine which individuals are considered legally competent, so that they may decide to participate in mental health court programming. Unlike other states, New Hampshire does not have any competency restoration services. Additionally, those who may be under involuntary commitments, for instance, may not have a choice to participate in the court program.
- Ultimately, there remains major obstacles to addressing mental health, such as stable housing, transportation, and even a stigma that surrounds pursuing and accessing treatment.

RECOMMENDATIONS:

- Members universally recognize the benefits of mental health court programs in expanding access to mental health treatment for individuals in need. Further, the Commission recognizes the considerable savings and relief such programs could provide New Hampshire taxpayers by reducing jail sentences and lowering recidivism, as evidenced by existing court programs in Nashua, Manchester, and elsewhere.
- The Commission found that for the statewide mental health court system to be successful, there must be goals defined early on as to what this system intends to do. For example, are these courts serving to reduce recidivism, costs, or a combination of things? Additionally, it needs to be determined what the intended target population is for these programs.
- Given the current lack of national best practices and strategies, the Commission feels further study is required and a professional consultant should be secured to review successful programs in other states and localities to identify the best model for New Hampshire. Further, evaluation by a consulting organization will help to better assess our state's specific needs and identify best models for staffing and structure, among other considerations. This will best position policymakers to adopt a statewide program of mental health courts that maximizes both access to treatment and savings to taxpayers in the years to come. If suitable national standards are developed, New Hampshire will align its own as appropriate.
- Commission members agreed that there needed to be a determination as to whether these programs will be hosted by either superior or circuit courts to ensure the greatest, yet most appropriate, number of individuals are reached. Regardless of the chosen court, it needs to be statutorily specified that they are responsible for hosting mental health courts.
- The Commission found that to ensure treatment, case management, drug testing, and other operations are widely available and successful, all participating agencies and organizations must be adequately funded, staffed and trained.
- Like the coordinator in the drug court system, the Commission agreed that there needs to be a statewide mental health court coordinator, or additional staff to the drug offender program to assist with the mental health courts. This position will provide management and oversight within the mental health court system and will help to ensure there is a strong connection between stakeholders, such as participants, treatment providers, court staff, and others. This dedicated position would be responsible for coordinating training needs among stakeholders.
- With funding, the Commission felt there should be emphasis on both adjudicated and non-adjudicated individuals.
- The Commission felt that providing centralized, or coordinated, mandated training would be beneficial. Due to their similarities, it may be possible for coordinated training to occur between the drug courts and mental health courts. The success of the system is reliant upon key stakeholders, such as judges, prosecutors, public defenders, and law enforcement, to be properly and consistently trained.

- While training is one component, the Commission felt it is necessary for the system to be adequately funded. Currently, there remain a significant number of judicial vacancies; therefore, judges are rotated frequently in mental health courts. Ideally, the Commission felt mental health courts would have trained judges specifically assigned to them to provide consistency and long-term success.
- As experienced under COVID-19, technology can be utilized to help overcome obstacles to accessing court sessions, mental health and other services. The Commission felt that development of a statewide mental health court system should look to incorporate technologies, as appropriate, while protecting the constitutional rights of participants.
- The Commission felt that a statewide data system should be established to monitor the efficacy of any statewide mental health court system implemented.

SB 51, Chapter 224:2, Laws of 2019
AN ACT establishing a commission to study expanding mental health courts statewide.

Organizational Meeting Report

TO: Commission to Study Expanding the Mental Health Court System in New Hampshire

FROM: Jake Berry, *Clerk*

RE: Meeting Minutes

MEETING DATE: October 21st, 2019 11:00 a.m. LOB RM 203

Commission members in attendance:

Senator Jon Morgan, Representative Gerri Cannon, Representative Paul Berch, Representative Mary Beth Walz, Helen Hanks (N.H. Department of Corrections), Susan Stearns (NAMI NH), Hon. David King (N.H. Circuit Court), Jill O'Neill (N.H. Behavioral Health Association), Jake Berry (New Futures), Robin Davis (N.H. Association of Counties), Shelly Golden (Public Member)

Commission members absent:

Hunter Taylor (N.H. Association of Counties), Hon. Tina Nadeau (N.H. Superior Court), Ebony Sullivan (Mental Health Court program graduate), James Boffetti (N.H. Department of Justice), Tracy Scavarelli (N.H. Public Defender), Cynthia Varney (Family Member)

Senator Morgan opened the meeting. He was nominated and confirmed as Chairman of the Commission. Jake Berry was nominated and confirmed as Clerk. Both votes were unanimous.

Chairman Morgan summarized the enacting legislation, SB 51, and reviewed the intent of the Commission, including reviewing national and local best practices relating to mental health courts; making recommendations regarding the training needs of new and existing mental health courts; determining the administrative costs anticipated to establish and sustain mental health courts statewide; and making recommendations regarding administrative oversight of the mental health court system of New Hampshire. A reporting deadline was set for November 1st, 2020, with the goal of introducing legislation for the 2021 legislative session.

Commission members suggested potential individuals and organizations to solicit for information, including Hon. James Leary of the Nashua District Court; Dr. Cynthia Whitaker of the Greater Nashua Mental Health Center; Alex Casale, Statewide Drug Courts

Coordinator; Drug Court Coordinators; County Jail Superintendents; County prosecutors; law enforcement; and others.

Ms. Davis, of the Association of Counties, raised the issue of increased caseloads for probation officers resulting from diversion programs, and highlighted the ongoing shortage of probation officers and its potential impact on community safety.

Chairman Morgan suggested the Commission meet every two weeks, through the start of the Legislation Session in January. The next meeting has been scheduled for Monday, November 18th, 10AM in LOB 203.

Chairman Morgan adjourned the meeting.

SB 51, Chapter 224:2, Laws of 2019
AN ACT establishing a commission to study expanding mental health courts statewide.

Meeting Report

TO: Commission to Study Expanding the Mental Health Court System in New Hampshire

FROM: Jake Berry, *Clerk*

RE: Meeting Minutes

MEETING DATE: November 18th, 2019 10:00 a.m. LOB RM 203

Commission members in attendance:

Senator Jon Morgan (Chairman), Representative Gerri Cannon, Representative Paul Berch, Representative Mary Beth Walz, Helen Hanks (N.H. Department of Corrections), Susan Stearns (NAMI NH), Hon. David King (N.H. Circuit Court), Jill O'Neill (N.H. Behavioral Health Association), Jake Berry (New Futures), Robin Davis (N.H. Association of Counties), Tracy Scavarelli (N.H. Public Defender), Shelly Golden (Public Member), James Boffetti (N.H. Department of Justice), Ebony Sullivan (Mental Health Court program graduate), Alex Casale (in place of Hon. Tina Nadeau), Cynthia Varney (Family Member)

Commission members absent:

Hunter Taylor (N.H. Association of Counties)

Presenters: Alex Casale, New Hampshire State-Wide Drug Offender Program Coordinator; Dr. Shannon Bader, Chief Forensic Examiner for the Office of Forensic Examiners

Chairman Morgan opened the meeting. Rep. Walz moved to approve the October 21st meeting minutes. Rep. Cannon seconded. Motion passes unanimously.

Chairman Morgan welcomed Alex Casale, New Hampshire State-Wide Drug Offender Program Coordinator for the Judicial Branch.

Mr. Casale introduced himself and reviewed the statewide drug courts program. Currently, the network includes ten courts in nine counties, except Sullivan County, which has not enacted a drug court program and instead operates an in-house program in the county jail. In establishing the drug courts network, the state followed ten best practices established by the National Association of Drug Courts. Mr. Casale indicated there is no such overseeing entity for mental health courts. The GAINS Center for Behavioral Health and Justice Transformation, under the federal Substance Abuse and Mental Health Services Administration (SAMHSA), oversees mental health courts to some extent, but not at the same level as the National Drug Courts Association. Consequently, mental health courts differ in structure and operation within New Hampshire and across the country. The GAINS

Center and other stakeholders are working to develop similar best practices, which will likely become available in the next several years.

Mr. Casale reported that, in launching the drug courts network, the state provided enough funding to operate the full system from top to bottom, including treatment, case management, drug testing, and case management, among other operations. However, they did not increase the amount of staff for probation and parole. There have been some staffing additions in the years since, but the system remains under-staffed. Mr. Casale suggests that, if New Hampshire is to pursue a statewide mental health court system, some agencies would require additional staffing, likely including the circuit courts.

Rep. Berch asked Mr. Casale whether drug courts and mental health courts can be consolidated into a single program. Mr. Casale said that they could be combined, but the courts would have to include separate tracks. People in drug courts may have higher function, but also higher risk, and have been known at times to take advantage of individuals with mental health conditions, according to Mr. Casale. Whether the programs are together or separate, the court programs would have to be specific and clearly defined. Mental health treatment is often more individualized than substance use treatment, Mr. Casale said.

Ms. O'Neill asked whether there would be a benefit to having a statewide separate mental health court coordinator, in addition to the drug court coordinator. Mr. Casale responded that the drug court coordinator is a full-time job and that to add on a new separate program would require great management and oversight, which would demand a separate position.

Chairman Morgan asked Mr. Casale about training of drug court judges. Mr. Casale mentions that trainings are held at least monthly and that judges are trained in brain science, motivational interviewing techniques, and other matters to inform judicial actions. The judge needs to be a quasi-expert in these and other areas.

Chairman Morgan asked if New Hampshire has what it needs to start training without national best practices. Mr. Casale responded affirmatively.

Commissioner Hanks asked whether trainings are billable under Medicaid Expansion. Mr. Casale responded that case management and counseling are billable. Trainings are not covered.

Rep. Walz asked if trainings provided to judges are trauma informed. Mr. Casale responded affirmatively, including Adverse Childhood Experiences (ACES) and childhood trauma.

Atty. Scavarelli asked Mr. Casale if he would envision the mental health court program having a team similar to drug courts. Mr. Casale responded affirmatively, though without best practices on how often to meet, the model would look different.

Ms. Golden asked Mr. Casale how he currently works with mental health courts. Mr. Casale indicated that he does dedicate some time to assisting mental health courts. He meets every month or two with mental health court coordinators to explore areas of alignment between the court systems. Mental health court professionals and other service providers are invited to drug court trainings when appropriate, Mr. Casale said.

Ms. Stearns asked Mr. Casale if there is anything else the Commission should be aware of. Mr. Casale responded that if the Commission pursues a statewide mental health courts program, it should be sure to consider, including a statewide data system to examine trends and demographics.

Rep. Cannon asked if the drug courts are recording case management, treatment services so others can utilize. Mr. Casale responded affirmatively, though the records systems differ between the courts.

Chairman Morgan reviewed some of the resource needs Mr. Casale has identified, including additional staffing in judicial branch, among other agencies, a statewide coordinator, additional probation/parole officers, and a statewide data system.

Commissioner Hanks reported that caseloads for probation and parole officers remain high, and staffing remains low.

Mr. Casale reported that other states have a central office overseeing all diversion courts and have established state standards. Mr. Casale outlined concerns about these state standards, stating they are often not based on research and/or best practices. Mr. Casale encouraged any legislation to be flexible to allow for adoption of best practices or standards available in the future.

Chairman Morgan said it would be interesting to work with the GAINS Center as they develop best practices. Chairman Morgan asked if there are examples in other states to look to for a statewide data system. Mr. Casale responded affirmatively.

Commissioner Hanks asked Mr. Casale how the drug courts comply with federal confidentiality requirements, including those outlined under 42 CFR Part 2. Mr. Casale responded that each team is required to develop a memorandum detailing confidentiality standards, operations, release of information, and other provisions.

Chairman Morgan thanked Mr. Casale for his testimony and welcomed Dr. Shannon Bader, Chief Forensic Examiner for the Office of Forensic Examiners.

Dr. Bader reported that mental health courts across the state and country vary considerably. The federal Bureau of Justice Assistance (BJA) has said there are 10 essential elements for mental health courts. Dr. Bader indicated there is not a great deal of data related to mental health courts, but there are some studies from large jurisdictions that are telling.

Dr. Bader said mental health courts have different goals and require customization. Some courts aim to reduce recidivism, others seek to reduce symptoms, others to reduce costs. Defining goals early on is necessary.

According to Dr. Bader, some studies show completing mental health court reduces recidivism. Some studies show mental health court graduates have a longer period of time before re-arrest. Studies show mental health court participants have roughly equal access to treatment services as those outside of mental health courts. Dr. Bader suggested that these measures are complicated and difficult to interpret.

Dr. Bader reviewed a list of questions regarding drug courts, including:

- Who gets in? What are the requirements for enrollment? Are certain diagnoses excluded, including traumatic brain injury and personality disorder?
- Are participants required to self-report or are there professional screenings?
- How do we ensure inclusion and avoid over-representation of white men, as has been seen in courts around the country?
- What is the length of the program? Is it time-limited or dependent on performance/success?
- How do we ensure treatment provider accountability? Who oversees the mental health services provided and ensures quality? Would the court require that all treatments be empirically supported?
- What happens to individuals who are terminated or opt-out of the court program? Do they have continued access to mental health services? Are charges dropped?

Dr. Bader reported that mental health courts are not a magic bullet solution and that most courts around the country are not fully funded and sufficiently staffed, which can lead to failure.

Dr. Bader suggested that mental health courts are not appropriate for all cases. For instance, panhandling and trespassing cases should not be in mental health courts.

Ms. Golden asked Dr. Bader about the source of the data. Dr. Bader said she has electronic copies of all the articles and will forward them to Chairman Morgan.

Chairman Morgan asked about examples of successful mental health courts. Dr. Bader responded that one study highlights Sacramento.

Ms. Davis said if New Hampshire had a stronger, more thorough network of mental health services, there may not have need for mental health courts, and suggests the state needs to do a better job providing mental health services before individuals get caught up in the criminal justice system.

Dr. Bader mentioned that trial competency is required for mental health court participation. All participation must be voluntary, and a person who is found to be incompetent cannot make the decision to participate. Therefore, some cases are disqualified. On average, 30-40 percent of defendants are found to be "incompetent, but restorable." Of those, 60 percent were not restored over the last three years, Dr. Bader reported. In those cases, charges are often dropped, and individuals are likely to be re-arrested. Other states have competency restoration services. New Hampshire does not.

Rep. Berch asked if those individuals would have access to services through involuntary commitment and other venues. Dr. Bader responds that some do, but many don't, and are often re-arrested.

Ms. Stearns asked about deinstitutionalization. Dr. Bader responded that, when New Hampshire moved away from institutions, the state never built the promised community-based services. The state is still suffering from defunding experienced in 2008.

Atty. Scavarelli asked if, given the limited treatment capacity, mental health courts lead mental health service providers to prioritize justice-involved individuals over non-justice involved individuals. Dr. Bader responded that, hopefully, funding would specifically fully fund the court programs and not take away from other needed services.

Mr. Berry asked Mr. Casale if drug courts force substance use treatment providers to prioritize justice-involved individuals. Mr. Casale responded that they could.

Commissioner Hanks mentioned that insurance reimbursement rates are a main driver of provider services.

Chairman Morgan thanked Dr. Bader for her presentation.

The next Commission meeting is scheduled for Monday, November 25th. No presenters are yet scheduled. Chairman Morgan said that at least 30 minutes of the meeting will be used to build out objectives and action items to develop a plan for the report. The Commission will continue meeting on Monday's into the 2020 legislative session.

Rep. Cannon motioned to adjourn. Jake Berry seconded. Motion passed unanimously.

SB 51, Chapter 224:2, Laws of 2019
AN ACT establishing a commission to study expanding mental health courts statewide.

Meeting Report

TO: Commission to Study Expanding the Mental Health Court System in New Hampshire

FROM: Jake Berry, *Clerk*

RE: Meeting Minutes

MEETING DATE: November 25th, 2019 10:00 a.m. LOB RM 203

Commission members in attendance:

Senator Jon Morgan (Chairman), Representative Gerri Cannon, Representative Paul Berch, Susan Stearns (NAMI NH), Hon. David King (N.H. Circuit Court), Jill O'Neill (N.H. Behavioral Health Association), Jake Berry (New Futures), Tracy Scavarelli (N.H. Public Defender), Shelly Golden (Public Member), Katya Fox (N.H. Department of Health and Human Services), James Boffetti (N.H. Department of Justice), Ebony Sullivan (Mental Health Court program graduate), Alex Casale (in place of Hon. Tina Nadeau), Cynthia Varney (Family Member)

Commission members absent:

Rep. Mary Beth Walz, Helen Hanks (N.H. Department of Corrections), Hunter Taylor (N.H. Association of Counties), Robin Davis (N.H. Association of Counties)

Presenter: Chief Paul Smith, Littleton Police Department

Senator Morgan opened the meeting. Rep. Berch moved to approve the November 18th meeting minutes. Rep. Cannon seconded. Motion passed unanimously.

Senator Morgan welcomed Chief Smith, of Littleton. Chief Smith introduced himself and detailed his experience with mental health courts.

Chief Smith has been working with the Littleton mental health court for some time. He reported that mental health courts have been extremely successful when there is a judge who is experienced in our programming, but there have been some challenges facing the courts with the lack of judges around the state.

From a police department perspective, the goal of mental health courts is to reduce law enforcement contacts, and to leave people in their community, according to Chief Smith. To accomplish this, mental health courts need more structure, more commonality, as is the case with drug courts, he said.

Mr. Casale asked Chief Smith whether he has a preference between keeping mental health courts in the circuit courts or moving them to superior courts. Chief Smith responded there

are challenges to both. The drug courts, as currently constituted, don't have the expertise or the tools to address mental health needs, he said. They need professionals to address mental health and/or addiction as part of court teams.

Chief Smith reported that both parole and probation are under-staffed, creating challenges for mental health courts. The courts have relied generally on case management to provide supervision, though law enforcement is called upon when necessary.

Judge King reported there are currently 11 judicial vacancies in the circuit courts. He asked Chief Smith about the need for consistent judicial support. Chief Smith reported that a single judge used to sit in on each team meeting, but since that judge retired, several judges have rotated through. These judges are very dedicated, but do not have the proper training, according to Chief Smith. He says judicial training is critical to the success of mental health courts, and that in an ideal situation, certain trained, dedicated judges would be assigned specifically to alternative sentencing courts.

Chief Smith reported that, under the current system, there is nothing mandating that circuits host mental health courts, leaving an unbalanced system.

Mr. Casale reported on the drug courts end, when there is a specific judge assigned to a specific program, their success rates climb. Once they get into second or third year, that's when court starts to have better outcomes. To have two or three judges stopping by every few weeks doesn't work as well, according to Mr. Casale. Forcing a judge to take part in a program could be a detriment, as could having two or three judges rotate through. This is likely true for mental health courts, as well, Mr. Casale said.

Chief Smith indicated that participants are often driven to please the judge, so having consistency in judges is important. Having different judges could sacrifice that incentive and effectiveness.

Chief Smith reported that there have been some administrative and communication issues between the district and superior courts. Some district court judges have been offended they were being issued orders by superior courts without being consulted.

Ms. Golden asked Chief Smith to describe the role of advocates in his mental health court. Chief Smith responded that advocates in Grafton County have helped to raise money to support participants with costs that are not covered by court funds, including rent, travel, and other costs.

Ms. Stearns asked Chief Smith what led him to become a mental health court champion. Chief Smith indicated he attended a conference in Anaheim put on by the National Association of Drug Court Professionals that provided training on addiction and mental health.

Atty. Scavarelli asked about mental health training for police officers. Chief Smith responded that officers are now required to take up to 16 hours of mental health training – up from four hours – but this is still not enough. There is still great need for training, education, among many officers, chiefs, prosecutors, other law enforcement, according to Chief Smith.

Chief Smith reported that referrals to drug court can come from any source, though the prosecutor is ultimately left to determine who participates in the program.

Rep. Cannon asked if prosecutors have the needed training to make proper determinations. Chief Smith said there is no mandated training, so trainings vary by department.

Ms. Fox asked whether Mental Health court professionals have substance use training. Chief Smith said in his court, mental health counselors are certified MLADCs.

Ms. Stearns asked if mental health courts are functioning in each Grafton County court. Chief Smith responded that there are mental health courts operating in Littleton and Plymouth, not in Lebanon. In Littleton and Plymouth, participants are receiving services from the local community mental health center.

Chairman Morgan asked about costs for training. Chief Smith said costs may be around \$2,000 per individual for a conference, but that police departments need support from leadership to dedicate the funds. Many chiefs don't fully understand the long-term benefits and savings that can come from drug courts through reduced recidivism.

Ms. Golden reported that Grafton County utilized planning and implementation grants through the Council of State Governments' Justice Center to host a statewide training and offered webinars.

Chief Smith said there is a lot of crossover between training for drug and mental health courts. He indicated that alternative sentencing, including drug and mental health courts, deserve to have some centralization, coordination to mandate training.

Chief Smith reported that one of the biggest challenges courts face is getting someone who is mentally ill to agree to participate. Ms. Sullivan asked if the courts have employed peer specialists to build trust and facilitate communication. Chief Smith indicated there has been an effort to engage peers in the process, but nothing is mandated.

Ms. Stearns asked about the role of crisis intervention. Chief Smith reported there used to be 24-hour support from local mental health service providers, but the funding was cut, and the support is now available Monday through Friday from 8am to 4pm. He said he is trying to get officers better trained in crisis intervention.

Rep. Berch asked Chief Smith if he would like to see combined administration of mental health, drug courts, or if they should be two different structures. Chief Smith responded there is overlap between the two systems, and there is value in having firm, consolidated leadership at the top.

Chairman Morgan thanked Chief Smith for his testimony and reviewed the objectives of the Commission. He invited each Commission member to email him with any thoughts about the various goals and the testimony heard thus far.

Mr. Casale mentioned that, without national best practices, the Commission needs to look at other states to see what standards have been established.

Atty. Scavarelli mentioned that the Commission must consider the resources that are realistically available to support mental health court programs when shaping its recommendations.

Mr. Casale suggested the Commission contemplate which court system is best suited for mental health courts, district or superior. Atty. Scavarelli indicated that superior courts could utilize the resources of a judge who has been trained in drug courts. Judge King indicated circuit courts have 34 locations around the state.

The next Commission meeting is scheduled for Monday, December 9th. Rep. Cannon motioned to adjourn. Jake Berry seconded. Motion passed unanimously.

SB 51, Chapter 224:2, Laws of 2019
AN ACT establishing a commission to study expanding mental health courts statewide.

Meeting Report

TO: Commission to Study Expanding the Mental Health Court System in New Hampshire

FROM: Jake Berry, *Clerk*

RE: Meeting Minutes

MEETING DATE: December 16th, 2019 10:00 a.m. LOB RM 203

Commission members in attendance:

Senator Jon Morgan (Chairman), Representative Gerri Cannon, Representative Paul Berch, Representative Mary Beth Walz, Jake Berry (New Futures), Cynthia Varney (Governor Appointee), Shelly Golden (Grafton County Mental Health Court), Susan Stearns (NAMI NH), Hon. Tina Nadeau (N.H. Superior Court), Hon. David King (N.H. Circuit Court), Helen Hanks (N.H. Department of Corrections), Ebony Sullivan (Mental Health Court program graduate), Jill O'Neill (N.H. Behavioral Health Association)

Commission members absent:

Hunter Taylor (N.H. Association of Counties), Robin Davis (N.H. Association of Counties), Traci Scavarelli (N.H. Public Defender), James Boffetti (N.H. Department of Justice)

Presenter: Dr. Cynthia Whitaker, Chief of Services, Greater Nashua Mental Health; Bill Rider, CEO, Mental Health Center of Greater Manchester; Dr. Lisa Callahan, Senior Research Associates, Policy Research Associates (by phone)

Chairman Morgan opened the meeting. Rep. Berch moved to approve the November 25th meeting minutes. Rep. Cannon seconded. Motion passed unanimously with two abstentions (Judge Nadeau, Commission Hanks).

Chairman Morgan welcomed Dr. Cynthia Whitaker of Greater Nashua Mental Health and Bill Rider of the Mental Health Center of Greater Manchester.

Dr. Whitaker introduced herself and reviewed the history of the Nashua and Manchester mental health court programs. She recalled that the Nashua program, known as Community Connections, started in 1998 as a grassroots effort because of a need identified by a legal liaison subcommittee involving clients who were in jail and not getting the mental health treatment they needed. Dr. Whitaker stated that, upon his arrival, Judge James Leary helped to grow the court, expand participation, and engage new partners.

Data distributed by Dr. Whitaker showed nearly \$2 million in savings from the court between 2010-2015 through jail days saved and lower medication costs, among others. Similar savings continue into 2018, though those numbers are based on averages, not hard counts, Dr. Whitaker reported. These numbers are likely to be under-estimations, she said.

Mental health courts not only save money, but they help participants access multi-disciplinary treatment, as well as housing and other needed supports, according to Dr. Whitaker.

Dr. Whitaker introduced Bill Rider from the Mental Health Center of Greater Manchester. Mr. Rider reported that several years after the launch of the Nashua program, leaders sought additional federal funding to expand the program to Manchester. Prior to that, several treatment providers and others had met informally to support justice-involved individuals with mental health issues, but there had been no formal mental health court, according to Mr. Rider. When the SAMHSA grant was awarded, the court program was created.

Mr. Rider reported there are four critical pieces to a successful mental health court:

- 1) All stakeholders must fully believe in the program;
- 2) Court liaisons must make strong connections with a broad range of stakeholders from participants to court staff to treatment providers to others;
- 3) Policies and procedures must be clearly documented, and there must be backup and transition plans to ensure consistency to overcome staffing and program changes;
- 4) There must be a system of peer supports to improve engagement and trust in the program.

Chairman Morgan asked Mr. Rider about the process of selecting court liaisons. Mr. Rider responded that liaisons must be genuine, communicative, flexible, invested in the program.

Justice Nadeau asked Dr. Whitaker whether individuals included in the shared data would have certainly been in jail without the program. Dr. Whitaker responded affirmatively.

Commissioner Hanks reported that the \$3.18 average daily savings highlighted in the data seems low. Dr. Whitaker agreed.

Commissioner Hanks asked Dr. Whitaker what staffing the mental health centers had to add to make the courts work. Dr. Whitaker responded the only position added is the court liaison. She reported that treatment staff has grown to manage the additional clients, but those positions can be covered by billable services.

Mr. Berry asked if Medicaid reimbursement rates are sufficient to cover billable services. Dr. Whitaker responded that mental health centers have been able to make it work, though additional funding would be welcomed.

Justice Nadeau asked about individuals with co-occurring disorders. Mr. Rider responded that many individuals with co-occurring disorders could benefit, but haven't been able to engage successfully with treatment until mental health court. The courts help engage individuals earlier and help to provide treatment and to address the social determinants of health that often cause behaviors of desperation, according to Mr. Rider. Courts are able to help individuals access housing, supported employment and medical benefits, which they then recognize as a practical benefit to the program, Mr. Rider says.

Mr. Rider suggested that, unlike drug court, mental health courts do not require a full treatment team, but benefit from well-established community treatment teams to provide multiple connections with the participant that the court liaison cannot provide.

Chairman Morgan asked about increased prevalence of post-traumatic stress disorder. Mr. Rider responded this stems from increased experiences of trauma in the home or in the community.

Chairman Morgan asked about the greatest challenges facing the mental health courts. Mr. Rider responded that the \$50,000 funding provided by Hillsborough County to support the court liaison position remains vulnerable. This funding covers the majority of the roughly \$90,000 cost of the position, according to Rider.

Mr. Rider and Dr. Whitaker note that funding structures for mental health courts vary with each program.

Chairman Morgan thanked Dr. Whitaker and Mr. Rider for their testimony and welcomed Dr. Callahan by phone.

Dr. Callahan reported that she is part of a group that is working to develop best practices guidelines for mental health courts. Currently, courts differ between communities and states in structure and practice, but research shows they are successful in reducing jail days and increasing access to treatment, she said. SAMHSA is supportive of this effort, but is not providing funding.

Dr. Callahan reviewed the differences between drug and mental health courts. Having a mental illness is not a crime, unlike drug possession, she noted. Whereas in drug courts, the ultimate goal is often abstinence, in mental health courts the primary goal is treatment adherence, according to Dr. Callahan. Successful completion of the programs may look different. Rather than achieving abstinence, completion in mental health court may be stable housing and/or regular attendance of treatment appointments.

Ms. O'Neill asked who the target population for mental health courts should be. Dr. Callahan responded that participants are typically high need. Some courts co-exist with drug courts, and others are separate, she reported. Clearly defining the target population is critical to program success, according to Dr. Callahan. In many courts, participants have more serious charges than in drug courts, she said.

Ms. Stearns asked what Dr. Callahan recommendations she would make in the absence of best practices. Dr. Callahan responded that funding is critical to program success. She stated that stakeholder engagement is similarly crucial, and that the support of judges, public defenders, prosecutors, and others is essential for the program to succeed.

Chairman Morgan thanked Dr. Callahan for her testimony.

The next Commission meeting is scheduled for Monday, December 30. Rep. Walz motioned to adjourn. Jake Berry seconded. Motion passed unanimously.

SB 51, Chapter 224:2, Laws of 2019
AN ACT establishing a commission to study expanding mental health courts statewide.

Meeting Report

TO: Commission to Study Expanding the Mental Health Court System in New Hampshire

FROM: Jake Berry, *Clerk*

RE: Meeting Minutes

MEETING DATE: October 16, 2020 10:00 a.m. Virtual meeting over Zoom

Commission members in attendance:

Senator Jon Morgan (chair), Representative Gerri Cannon, Representative Paul Berch, Representative Mary Beth Walz, Jake Berry (New Futures), Cynthia Varney (Governor Appointee), Shelly Golden (Grafton County Mental Health Court), Susan Stearns (NAMI NH), Alex Casale (in place of Hon. Tina Nadeau, N.H. Superior Court), Hon. David King (N.H. Circuit Court), Helen Hanks (N.H. Department of Corrections), Ebony Sullivan (Mental Health Court program graduate), Jill O'Neill (N.H. Behavioral Health Association), Tracy Scavarelli (N.H. Public Defender), George Waldron (in place of Robin Davis, N.H. Association of Counties), James Boffetti (N.H. Department of Justice), Peter Starkey

Commission members absent:

Hunter Taylor (N.H. Association of Counties)

Chair Morgan opened the meeting and invited questions or comments about the draft final report previously distributed to committee members.

Mr. Casale relayed comments from Hon. Tina Nadeau suggesting that the coordinator position be placed within the structure of the existing coordinator's office within the Judicial branch, rather than creating a separate structure. In addition, Justice Nadeau suggested the commission empower the judicial branch to determine what level of court will oversee the programs.

Ms. Scavarelli suggested the Commission consider the budget constraints experienced under the COVID-19 pandemic when making its decision. Further, Ms. Scavarelli suggested locating any mental health courts at the superior court level, in order to utilize resources already available, including those in drug court system.

Ms. O'Neill recommended establishing consistency in the data being collected in existing mental health courts across the state.

Commissioner Hanks suggested including recommendations around the use of technology, as has been applied under COVID-19, to overcome travel, access concerns.

Commission members continued to review and suggest changes to the draft findings and recommendations, including adding language regarding the potential structure and supports for a statewide court system, the use of technology, and other matters.

Commissioner Hanks moved to approve the report as presented; Ms. Stearns seconded. The motion passed unanimously,

Rep. Berch moved to adjourn the meeting. Judge King seconded. The motion passed unanimously.