

APPENDIX B



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DEPARTMENT OF HEALTH AND HUMAN SERVICES
&
DEPARTMENT OF JUSTICE**

William L. Wren
Commissioner
Department of Corrections

John A. Stephen
Commissioner
Department of Health & Human Services

Kelly A. Ayotte
Attorney General
Department of Justice

November 7, 2006

The Honorable Joseph E. Stone
Chairman
Commission to Study the Location of the Secure Psychiatric Unit
Legislative Office Building
Rooms 210-211
Concord, NH 03301

Dear Representative Stone:

We are writing to express our support for the recommendations of the Commission to Study the Location of the Secure Psychiatric Unit. We believe the Commission has conducted an extremely thorough analysis of many complex factors involved in the provision of secure psychiatric care and is to be commended for the excellence of its work. Our agencies had a very cooperative relationship in this project, which we feel enabled us to focus on the basic concerns facing our departments and the State and to agree upon a plan for addressing these very important issues.

Both the Department of Corrections (DOC) and the Department of Health and Human Services (DHHS) have been struggling to meet their responsibilities to provide appropriate treatment to persons with mental disorders who need secure care. Unfortunately, resource issues led to litigation and the DOC is now under a court order to establish a new residential treatment unit within the State Prison, which limits the ability of the SPU to meet its core mission. The obligation to provide higher levels of mental health treatment within the general prison population has limited DHHS access to the current SPU and has caused less than ideal arrangements for care of some patients within New Hampshire Hospital. This has occurred at a time of record levels of general admissions to NHH, making it more difficult and more expensive to provide treatment while controlling risks. Meanwhile, for some time DHHS has sought a less expensive setting for the care of offenders with mental retardation who are housed in a facility at the site of the former Laconia State School, a facility which the State has long promised to relocate. In addition, we are all aware that counties have been forced to deal with a rapid increase in the mental health needs of persons coming into the county correctional facilities, some of whom require more intensive treatment than the counties can provide and whose access to the SPU is limited by the same factors that pose a barrier to DHHS's use of that facility. Then there are the new responsibilities for the secure treatment of sexually violent predators who will be committed under HB 1692, which is effective January 1, 2007.

The State's ability to meet all its obligations to the various populations enumerated above and to do so in a fiscally responsible way while assuring the safety of the public is at the core of the Commission's recommendations and we urge their support by the General Court. There is an underlying objective of this process that we want to emphasize. The current configuration of services precludes access to any federal funds

The Honorable Joseph E. Stone

Page 2

November 7, 2006

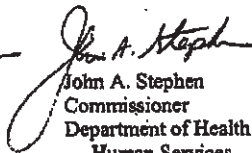
that might help pay for the treatment provided. By incorporating the SPU as part of NHH, we are reasonably assured that federal financial support can be obtained so improvements in care and treatment can be made in ways that minimize the financial impact upon the taxpayers. DHHS has a long history of finding appropriate ways to enhance federal revenues and we are optimistic that it can continue to do so in the area of secure psychiatric care.

We thank the Commission for its diligence and foresight and pledge our support of its plans and recommendations.

Sincerely,



William L. Wrenn
Commissioner
Department of Corrections



John A. Stephen
Commissioner
Department of Health &
Human Services



Kelly A. Ayotte
Attorney General
Department of Justice

Bill as Introduced

HB 1602-FN - AS INTRODUCED

2010 SESSION

10-2152
01/04

HOUSE BILL **1602-FN**

AN ACT relative to the secure psychiatric unit.

SPONSORS: Rep. Cushing, Rock 15

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill changes the name of the secure psychiatric unit to the New Hampshire secure psychiatric hospital and transfers it to the department of health and human services.

Explanation: Matter added to current law appears in *bold italics*.
 Matter removed from current law appears ~~(in brackets and struck through)~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the secure psychiatric unit.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Transfer of Secure Psychiatric Unit; Duties of Commissioner. Amend RSA 126-A:5 by
2 inserting after paragraph XVIII the following new paragraph:

3 XIX. The commissioner shall be the principal administrator of the New Hampshire secure
4 psychiatric hospital established pursuant to RSA 622:41. He or she shall establish the treatment
5 standards for the hospital after consultation with the commissioner of the department of corrections.

6 The commissioner shall:

7 (a) Administer the hospital;

8 (b) Consult with the commissioner of the department of corrections regarding transfers
9 to the hospital;

10 (c) Transfer persons in his or her custody to the unit if treatment is needed for mental
11 disturbance;

12 (d) Discharge persons pursuant to RSA 622:48;

13 (e) Review, at least annually, the mental health programs with the commissioner of the
14 department of corrections to determine what policies, standards, or practices should be revised to
15 improve treatment;

16 (f) Appoint qualified persons to positions established in RSA 622:43, I;

17 (g) Administer the hospital in such a manner as to meet accreditation standards and to
18 seek accreditation; and

19 (h) Perform other tasks necessary to carry out the administration of RSA 622:40-48.

20 2 Secure Psychiatric Unit; Commissioner Change. Amend RSA 622:40, I to read as follows:

21 I. "Commissioner" means the commissioner of the department of ~~corrections under RSA 21-~~
22 ~~H:2] health and human services.~~

23 3 Secure Psychiatric Unit; Name Change. RSA 622:40, IV is repealed and reenacted to read as
24 follows:

25 IV. "Hospital" means the New Hampshire secure psychiatric hospital.

26 4 New Section; Memorandum of Understanding. Amend RSA 622 by inserting after section 42
27 the following new section:

28 622:42-a Memorandum of Understanding. The commissioner and the commissioner of the
29 department of corrections shall enter into a memorandum of understanding to cooperate in the

HB 1602-FN - AS INTRODUCED

- Page 2 -

1 operation of the hospital. The commissioners shall cooperate in the effectuation of the transfer and
2 in meeting the needs of the persons committed to the hospital.

3 5 Secure Psychiatric Unit; Rulemaking. Amend RSA 622:44, I to read as follows:

4 I. The commissioner, *in consultation with the commissioner of the department of*
5 *corrections*, shall adopt rules, pursuant to RSA 541-A, which provide for effective treatment for
6 persons found to be dangerous to themselves or others and committed or transferred pursuant to
7 RSA 622:45 to an environment which provides for safety and security for the public, the staff, and
8 those committed.

9 6 Secure Psychiatric Unit; Commitment. Amend RSA 622:45, II and III to read as follows:

10 II. Except upon an order of court under subparagraph I(a) or in an emergency, no admission
11 or transfer to the ~~[unit]~~ *hospital* shall occur without the prior approval of the commissioner and the
12 commissioner of the department of ~~[health and human services]~~ *corrections*, or their designees. In
13 such instances, if the person to be admitted or transferred objects to the transfer, the person may
14 request a hearing or review of the decision by the commissioner of the department of ~~[health and~~
15 ~~human services]~~ *corrections* or designee in accordance with rules adopted pursuant to RSA 541-A.
16 The review or hearing may occur following the admission or transfer where immediate admission or
17 transfer has been determined necessary to protect the person or others. If the commissioner of the
18 department of ~~[health and human services]~~ *corrections* upholds the objection of a person to be
19 transferred, the transfer shall not be made. If the commissioner of the department of ~~[health and~~
20 ~~human services]~~ *corrections* upholds the objection of a person already transferred, the person shall
21 promptly be delivered to a receiving facility named by the commissioner ~~[of the department of health~~
22 ~~and human services]~~.

23 III. Except where ordered by a court of competent jurisdiction, if the commissioner objects to
24 a proposed admission or transfer approved by the commissioner of the department of ~~[health and~~
25 ~~human services]~~ *corrections*, the commissioners may agree to have the disagreement resolved by a
26 mutually acceptable third party.

27 7 Secure Psychiatric Unit; Treatment Standards. Amend RSA 622:46, I to read as follows:

28 I. The commissioner shall establish clinical and treatment standards for the operation of the
29 ~~[unit]~~ *hospital* in consultation with the commissioner of the department of ~~[health and human~~
30 ~~services]~~ *corrections*. The commissioners shall review, at least annually, any interagency
31 agreements, *memoranda of understanding*, and the mental health program at the ~~[unit]~~ *hospital*
32 to determine which provisions, standards, or practices should be revised to improve treatment.

33 8 Secure Psychiatric Unit; Discharge. Amend RSA 622:48, I(b) and (c) to read as follows:

34 (b) The commissioner or designee may transfer to the state mental health services
35 system, or the state developmental services system only if the person was admitted or transferred to

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1 the [unit] *hospital* pursuant to RSA 171-B, any person admitted or transferred to the [unit]
2 *hospital*, pursuant to RSA 622:45, I, upon a determination that the person no longer presents a
3 serious likelihood of danger to self or others if such person were to be confined within a receiving
4 facility in the state mental health services system or the state developmental services delivery
5 system. If the commissioner of ~~[health and human services]~~ *corrections* objects to a proposed
6 transfer, the commissioners may agree to have the disagreement resolved by a mutually acceptable
7 third party, or if none is acceptable, by the attorney general.

8 (c) The commissioner or designee may transfer to the state mental health services
9 system any person committed to the [unit] *hospital* under RSA 651:9-a upon a determination by a
10 physician that the person presents a potentially serious likelihood of danger to self or others as a
11 result of mental illness, but the person no longer requires the degree of safety and security provided
12 by the [unit] *hospital*. No transfer may occur under this subparagraph without the prior approval
13 of the commissioner of the department of ~~[health and human services]~~ *corrections* and
14 administrative due process pursuant to rules adopted by the commissioner under RSA 541-A. If the
15 commissioner of ~~[health and human services]~~ *the department of corrections* objects to a proposed
16 transfer, the commissioners may agree to have the disagreement resolved by a mutually acceptable
17 third party. No transfer may occur under this subparagraph without the prior approval of the
18 superior court. Any person transferred under this subparagraph shall, for purposes of treatment, be
19 under the care and custody of the commissioner of *the department of* health and human services
20 but shall for all other purposes, including, but not limited to, discharge, granting of privileges,
21 parole, and recommitment, remain under the jurisdiction of the commissioner of the department of
22 corrections and the superior court.

23 9 Replace Term. Replace "Secure Psychiatric Unit" with "New Hampshire Secure Psychiatric
24 Hospital" in the following RSA sections: RSA 98-A:6-b; 126-A:34, I(a); 135:17, I; 135:17-a, II; 135-
25 E:11, II; 171-A:8, V(a); 171-A:8-a, II; 171-B:12, III; 171-B:14; 171-B:15, I; 171-B:16; 188-F:26, XVI;
26 622:31-a, III(g); subdivision heading preceding RSA 622:40; 622:41; 632-A:2, I(n)(1); 632-A:3, IV(a);
27 632-A:4, III(a); 651:8-b, I; 651:9-a; 651:10; 651:11; 651:11-a, I, and 651:11-a, IV(c).

28 10 Replace Term. Replace "unit" with "hospital" in the following RSA sections: RSA 622:41;
29 622:43, I; 622:44, II; 622:45; 622:46, I; 622:47; 622:48; 622:49; 622:50; and 622:51.

30 11 Repeal. The following are repealed:

31 I. RSA 21-H:8, XI-a, relative to the commissioner of corrections as the principal
32 administrator of the secure psychiatric unit.

33 II. RSA 21-H:13, II-a, relative to rulemaking for the administration of the secure psychiatric
34 unit.

35 III. RSA 21-H:14-a, III(d), relative to the secure psychiatric unit.

HB 1602-FN - AS INTRODUCED

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1 **12 Notification Required; Request for New Facility.**

2 **I. The commissioner of the department of health and human services shall notify the**
3 **appropriate federal agency that the secure psychiatric unit has become a hospital and therefore**
4 **should qualify for Medicaid disproportionate share payments.**

5 **II. The commissioner shall also prepare plans and submit a request for the 2012 - 2013**
6 **capital budget relative to building a new facility for secure psychiatric purposes.**

7 **13 Effective Date. This act shall take effect upon its passage.**

HB 1602-FN - AS INTRODUCED

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LBAO
10-2152
12/09/09

HB 1602-FN - FISCAL NOTE

AN ACT relative to the secure psychiatric unit.

FISCAL IMPACT:

The Department of Health and Human Services states this bill would increase state expenditures by \$4,540,658 in FY 2011, \$4,586,062 in FY 2012, \$4,631,923 in FY 2013, and \$4,678,242 in FY 2014. This bill would have no fiscal impact on state, county, and local revenue, or county and local expenditures.

METHODOLOGY:

This Department of Health and Human Services (DHHS) states this bill changes the name of the secure psychiatric unit (SPU) to the New Hampshire secure psychiatric hospital and transfers it from the Department of Corrections (DOC) to the DHHS. The Department assumes DOC will transfer all DOC positions assigned to the SPU; all general funds budgeted for the SPU operations; all capital funds currently budgeted for phase II construction pursuant to the Holliday decree; all funds and staff positions assigned/budgeted for the Sexually Violent Predator Treatment program; all beds (rooms) assigned to the SPU (currently 49 beds which includes 3 isolation rooms); and all office equipment, furniture, and supplies assigned to the SPU. DHHS states to meet the intent of the bill, they must add additional clinical and ancillary support staff to meet accreditation standards of the Joint Commission Accreditation of Healthcare Organizations/The Joint Commission (TJC). The Department cannot determine what capital improvements must be made to the SPU to meet the safety requirements of TJC, however it is likely improvements would need to be made. A DHHS report to the Secure Psychiatric Unit Study Commission in September of 2005 recommended staffing levels for a 24 bed accredited forensic unit at 80.5 full-time equivalent (FTE) employees. SPU current staffing for the 49 beds has 33.5 FTE (which includes 3.25 FTE contract staff). The Department estimated staffing levels from the calculations used for the 24 bed unit in the previously stated Legislative study combined with existing staff assigned to the SPU. The staffing pattern and number of staff would change once a new stand-alone facility was constructed and in use. The Department assumes the New Hampshire Secure Psychiatric Hospital would not be eligible for federal disproportionate share payments (DSH) because of the proximity to the New Hampshire State Prison for Men. The Department assumes the transfer of the SPU to DHHS will occur

HB 1602-FN - AS INTRODUCED**- Page 6 -****LBAO
10-2152
12/09/09**

July 1, 2010 and that a new facility will not be constructed until after FY 2014. The Department states the new stand-alone facility will meet TJC standards and be eligible for DSH reimbursements of 30% (Federal FY 2010 rate).

Although this bill does not establish positions or contain an appropriation, DHHS states they will need to hire an additional 67 staff as a result of this bill. In addition, the Department would enter into a contract with Dartmouth Medical School to provide psychiatrist services. The Department estimates the fiscal impact in FY 2011 as follows -

	FY 2011
Salary & Benefit Costs	
2 psychologists	\$168,113
1 senior psychiatric social worker	\$73,241
3 psychiatric social workers	\$233,977
1 nurse coordinator	\$92,576
2 nurse specialists	\$169,901
11 registered nurse III's	\$857,917
39 mental health worker III's	\$1,697,458
1 ward clerk	\$38,958
1 rehab occupational therapist	\$59,874
1 rehab recreational therapist	\$59,874
2 rehab training & development therapists	\$98,029
1 food service social worker II	\$32,914
2 health facilities cleaners	<u>\$72,118</u>
Subtotal Salary and Benefit Costs	\$3,654,950
Overtime (and associated Benefits)	\$168,128
Holiday Pay (and associated Benefits)	<u>\$98,683</u>
Total Salary, Overtime, Holiday Pay and Benefit Costs	\$3,921,761
Contract with Dartmouth for Psychiatrist Services	<u>\$618,897</u>
TOTAL FISCAL IMPACT	\$4,540,658

HB 1602-FN - AS INTRODUCED

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The Department assumes costs would increase by approximately 1% annually thereafter, resulting in an increase in state expenditures of approximately \$4,586,062 in FY 2012, \$4,631,923 in FY 2013, and \$4,678,242 in FY 2014.

HB 1602-FN - AS AMENDED BY THE HOUSE

10Feb2010... 0427h

2010 SESSION

10-2152
01/04

HOUSE BILL **1602-FN**

AN ACT relative to the secure psychiatric unit.

SPONSORS: Rep. Cushing, Rock 15

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill establishes a committee to study establishing a secure multi-program forensic psychiatric hospital as part of New Hampshire hospital and developing a proposal to expedite construction and operation of such a treatment facility.

.....

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~(in brackets and struck through)~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1602-FN - AS AMENDED BY THE HOUSE

10Feb2010... 0427h

10-2152
01/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to the secure psychiatric unit.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Committee Established. There is established a committee to study establishing a secure
2 multi-program forensic psychiatric hospital as part of New Hampshire hospital and developing a
3 proposal to expedite construction and operation of such a treatment facility.

4 2 Membership and Compensation.

5 I. The members of the committee shall be as follows:

6 (a) Five members of the house of representatives, appointed by the speaker of the house
7 of representatives.

8 (b) Two members of the senate, appointed by the president of the senate.

9 II. Members of the committee shall receive mileage at the legislative rate when attending to
10 the duties of the committee.

11 3 Duties. The committee shall:

12 I. Review the history of the current secure psychiatric unit and places to which persons are
13 committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1, including previous efforts
14 and proposals to locate a secure psychiatric unit in an environment more conducive to mental health
15 care treatment rather than incarceration.

16 II. Study issues of federal reimbursement for the secure psychiatric unit and explore other
17 sources of funding for the construction and operation of a secure multi-program forensic psychiatric
18 hospital, including private charities and other entities with an interest in ensuring that consumers
19 of health care services, including persons with severe mental illnesses who are a threat to other
20 persons or to themselves, have adequate access to needed care.

21 III. Identify possible legal liabilities and court challenges that could arise from the continued
22 co-mingling of non-adjudicated persons with severe mental illness or disorders with individuals who
23 have been adjudicated and deemed to need mental health care intervention.

24 IV. Work with the commissioners of the department of corrections and the department of
25 health and human services, to develop a proposal to expedite construction and operation of a secure
26 multi-program forensic psychiatric hospital, including preparing to submit a request for the 2012-
27 2013 capital budget relative to building a new facility.

28 V. Solicit information from any source the committee deems relevant to the purpose for
29 which it is established.

30 4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from

HB 1602-FN - AS AMENDED BY THE HOUSE

- Page 2 -

1 among the members. The first meeting of the committee shall be called by the first-named house
2 member. The first meeting of the committee shall be held within 45 days of the effective date of this
3 section. Four members of the committee shall constitute a quorum.

4 5 Report. The committee shall report its findings and any recommendations for proposed
5 legislation to the speaker of the house of representatives, the president of the senate, the house
6 clerk, the senate clerk, the governor, and the state library on or before November 30, 2010.

7 6 Effective Date. This act shall take effect upon its passage.

HB 1602-FN - AS INTRODUCED

- Page 3 -

LBAO
10-2152
12/09/09

HB 1602-FN - FISCAL NOTE

AN ACT relative to the secure psychiatric unit.

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HB 1602-FN - AS INTRODUCED**- Page 6 -**

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TOTAL FISCAL IMPACT	\$4,540,658

The Department assumes costs would increase by approximately 1% annually thereafter, resulting in an increase in state expenditures of approximately \$4,586,062 in FY 2012, \$4,631,923 in FY 2013, and \$4,678,242 in FY 2014.

Amendments

Rep. Cushing, Rock. 15
February 2, 2010
2010-0427h
01/04

Amendment to HB 1602-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Committee Established. There is established a committee to study establishing a secure
4 multi-program forensic psychiatric hospital as part of New Hampshire hospital and developing a
5 proposal to expedite construction and operation of such a treatment facility.

6 2 Membership and Compensation.

7 I. The members of the committee shall be as follows:

8 (a) Five members of the house of representatives, appointed by the speaker of the house
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17 care treatment rather than incarceration.

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19 sources of funding for the construction and operation of a secure multi-program forensic psychiatric
20 hospital, including private charities and other entities with an interest in ensuring that consumers
21 of health care services, including persons with severe mental illnesses who are a threat to other
22 persons or to themselves, have adequate access to needed care.

23 III. Identify possible legal liabilities and court challenges that could arise from the continued
24 co-mingling of non-adjudicated persons with severe mental illness or disorders with individuals who
25 have been adjudicated and deemed to need mental health care intervention.

26 IV. Work with the commissioners of the department of corrections and the department of
27 health and human services, to develop a proposal to expedite construction and operation of a secure
28 multi-program forensic psychiatric hospital, including preparing to submit a request for the 2012-
29 2013 capital budget relative to building a new facility.

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31 which it is established.

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Amendment to HB 1602-FN

- Page 2 -

1 among the members. The first meeting of the committee shall be called by the first-named house
2 member. The first meeting of the committee shall be held within 45 days of the effective date of this
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4 5 Report. The committee shall report its findings and any recommendations for proposed
5 legislation to the speaker of the house of representatives, the president of the senate, the house
6 clerk, the senate clerk, the governor, and the state library on or before November 30, 2010.

7 6 Effective Date. This act shall take effect upon its passage.

Amendment to HB 1602-FN
- Page 3 -

2010-0427h

AMENDED ANALYSIS

This bill establishes a committee to study establishing a secure multi-program forensic psychiatric hospital as part of New Hampshire hospital and developing a proposal to expedite construction and operation of such a treatment facility.

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1602

BILL TITLE: relative to the secure psychiatric unit.

DATE: January 20, 2010

LOB ROOM: 204 **Time Public Hearing Called to Order:** 10:03 a.m.

Time Adjourned: 10:42 a.m.

(please circle if present)

Committee Members: Reps. Shurtleff, Pantelakos, Berube, Robertson, Movsesian, Burrige,
Cushing, Rodd, Chandley, B. McCarthy, M. Ryder, Welch, Charron, Fesh, Weare, Stevens,
Villeneuve, Gagne, Swinford and Willette.

Bill Sponsors: Rep. Cushing, Rock 15

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Cushing - Prime sponsor.

- Provided copy memorandum of final report on HB 2 FN-A.
- Transfers secure psychiatric unit from Department of Health and Human Services.
- Renames unit as the "New Hampshire Secure Psychiatric Hospital".
- Requires Commission of Health and Human Services to come forward with a plan for next biennium.

John Wallace - Department of Health and Human Services (No position)

- Spoke of past history of secure psychiatric unit.
- This goes back to 11985.
- Holliday decision expanded unit to include person in prison with mental disorders not associated with their crime.
- N.H. Hospital is not a secure facility.
- Transferring back to Health and Human Services at this time would create problems for the Department.
- Couldn't clinically administer to the anticipated population.

Mike Skibbie - N. H. Disability Rights Center (Supports)


- System requires a continuum of treatment people can more through.
- Current system doesn't work well for people who are civilly committed.
- Consolidating all aspects in one agency is a better solution.
- People not convicted of crimes should not be held at Department of Corrections.
- Should encourage the Commission to make creative suggestions.

HB 1602

Page Two

Continued

Respectfully Submitted:



Rep. Stanley E. Stevens, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1602

BILL TITLE: relative to the secure psychiatric unit.

DATE:

LOB ROOM: 204 **Time Public Hearing Called to Order:**

Time Adjourned:

(please circle if present)

Committee Members: Reps. Shurtleff, Pantelakos, Berube, Robertson, Movsesian, Burridge,
Cushing, Rodd, Chandley, B. McCarthy, M. Ryder, Welch, Charron, Fesh, Weare, Stevens,
Villeneuve, Gagne, Swinford and Willette.

Bill Sponsors: Rep. Cushing, Rock 15

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

HB 1602

20 Jan 2010

Start : 1003
Finish : 1042

Rep. Cushing prime sponsor

- provided copy memorandum of final report on HB 2 FN-A
- transfers secure psychiatric unit from Dept. of Corrections to Dept. of Health and Human Services
- Renames unit as the "New Hampshire Secure psychiatric hospital"
- Requires Commissioner of Health and Human Services to come forward with a plan for next biennium

John Wallace Dept. of Health and Human Services (no position)

- spoke of past history of secure psychiatric unit.
- this goes back to 1985.
- Halliday decision expanded unit to include persons in prison with mental disorders not associated with their crime.
- NH Hospital is not a secure facility.
- transferring back to Health and Human Services

(2)

Services at this time would create problems for the Dept.

- couldn't clinically administer to the anticipated population

Michael Skibbe N.H. ~~Govt~~ Disability Rights Center (supports)

- system requires a continuum of treatment people can move through -
- current system doesn't work well for people who are civilly committed
- Consolidating all aspects in one agency is a better solution -
- people not convicted of crimes should not be held at Dept. of Corrections.
- should encourage the ^{creators} Commissioners to make suggestions.

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 1602-FN

BILL TITLE: relative to the secure psychiatric unit.

DATE: March 2, 2010

LOB ROOM: 306

Time Public Hearing Called to Order: 1:00 pm

Time Adjourned: 1:45 pm

(please circle if present)

Committee Members: Reps. Harding, Houde-Quimby, Pilotte, P. McMahon, Jeudy, Schmidt, Beck, D. Sullivan, D. Petterson, Flurey, S. Harvey, Hawkins, R. Day, Reagan, K. Gould, S. Scamman, McGuire, C. Pratt, D. Ryder and Vita

Bill Sponsors: Rep. Cushing, Rock 15

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

*Rep. Cushing, sponsor, introduced bill.

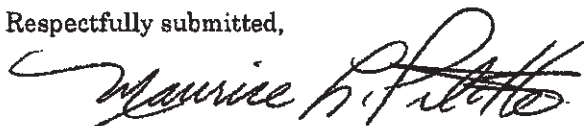
- Currently only setting for secure psychiatric unit is in the state prison even for non criminals but who are a threat to themselves or to others
- In 2005, legislature recognized that co-mingling these two groups of people was a problem – studied by commission and report given to legislature
- There should be a secure psychiatric unit at the Tobey School
- Problem is still being ignored. Not guilty by reason of insanity, involuntary and voluntary, self committed sexually violent predators and county prisoners are ALL co-mingled in state prison secure psychiatric unit.
- Committee would be set up to discuss how to transform Tobey School into -----
- State loses federal funds because they are in prison and not hospital setting

Andrea Goldberg, Director of Planning, NH Hospital and

Robert McLeod, NH Dept. of Corrections.

- 2005 study commission indentified need to study various models to address issues of mental health as well as maximizing access to federal matching funds
- Explained how current secure psychiatric unit in state prison is run
 - Available: Mental health counselors,
 - Psychiatrists
 - Training of corrections officers on how to deal with folks with mental issues
- Has good relationship with state hospital
- This committee would integrate the newest group, i.e. the sexually violent predators which were not in the system in the past – new modality – how should they be treated

Respectfully submitted,



Rep. Maurice L. Pilotte, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

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Harvey

Bill Sponsors: Rep. Cushing, Rock 15

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- * Rep Cushing - Introduced the bill
- Currently only setting for secure psychiatric unit is in the State Prison even for non criminals but who are a threat to themselves or to others.
 - In 2005 legislature recognized that co-mingling these 2 groups of people was a problem - Studied by commission + report given to legislature
 - There should be a secure psychiatric unit at the Tobey School.
 - Problem is still being ignored. ^{involuntary and voluntarily} not guilty by reason of insanity ^{self-committed} and ~~sex offenders~~ equally violent predators and county prisoners are all commingled in State Prison ^{secure} psychiatric unit.
 - Committee would be set up to discuss how to transform Tobey School into .
 - State loses fed. funds because they are in prison and not hospital setting

{ Andrea Goldberg - Dir - Planning NH Hosp
Robert McLeod - NH DOC -

- 2005 study commission identified need to study various ~~ways~~ ^{models} to address issues of ~~and~~ mental health as well as maximizing access to federal matching funds.
- Explained how current secure psychiatric unit in the State Prison ~~are~~ is run -
 - available mental health counselors -
 - Psychiatrists
 - Training of corrections officers on how to deal w/ folks w/ mental issues
- Has good relationship w/ State Hospital
- This committee would integrate the newest group - i.e. the sexually violent predators which were not in the system in the past - new modality - how should they be treated.

Testimony

Rep. Aushenig

MEMORANDUM

DATE: November 13, 2006

TO: Honorable John H. Lynch, Governor
Honorable W. Douglas Scamman, Jr., Speaker of the House
Honorable Theodore L. Gatsas, President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Honorable Tammy Wright, Senate Clerk
Michael York, State Librarian

FROM: Rep. Joseph Stone, Chairman

SUBJECT: Final Report on HB 2 FN-A, Chapter 177:184, Laws of 2005

Pursuant to Chapter 177:184, Laws of 2005, enclosed please find the Final Report of the Commission to Study the Location of the Secure Psychiatric Unit.

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

Enclosures

cc: Commission Members
Pam Smarling, Committee Researcher

**Final Report of the
Commission to Study the Location of the Secure Psychiatric Unit
(Chapter 177:184, Laws of 2005)**

November 13, 2006

The Commission to Study the Location of the Secure Psychiatric Unit was established in 2005 with the adoption of HB 2 (Chapter 177:184, Laws of 2005). The members of the commission were:

Rep. Joseph E. Stone, Chairman
Rep. Gene P. Charron
Rep. David B. Campbell
Sen. Robert E. Clegg, Jr. (replaced Sen. Charles W. Morse)
Sen. Lou D'Allesandro
Sen. Robert K. Boyce
Les Dolecal, Assistant Commissioner, Department of Corrections
Nancy L. Rollins, Director of Community Based Care Services, Department of Health and Human Services

The Commission held an organizational meeting on August 24, 2005 and met a total of 17 times between September 7, 2005 and November 1, 2006.

The Commission was charged with studying the location of the secure psychiatric unit and places to which persons are committed under RSA 651:8-b, RSA 135-C, RSA 171-B, and RSA 623:1 and examining potential federal reimbursement for the secure psychiatric unit (SPU). In order to understand the complexities of this charge, the Commission received the invaluable assistance of personnel from both the Department of Corrections and the Department of Health and Human Services.

ACKNOWLEDGEMENTS

The Commission wishes to acknowledge our appreciation to those individuals who provided the necessary support, knowledge and diligence to develop this report. Commissioner William Wrenn of the Department of Corrections and Commissioner John Stephen of the Department of Health and Human Services are to be commended for their commitment to the work of this commission and cooperative effort that this report represents.

Project Advisory Team:

- Department of Corrections:
Robert MacLeod, Director Medical and Forensic Services
- Department of Health & Human Services/ New Hampshire Hospital:
Chester Batchelder, Superintendent
- Department of Health & Human Services/ New Hampshire Hospital:
Jamie Dall, Finance Director
- Department of Health & Human Services Office of the Commissioner:
John Wallace, Associate Commissioner
- Department of Health & Human Services / Planning & Management:
Kevin EJ Connor, Director
- Department of Health & Human Services / Bureau of Behavioral Health:
Erik Riera, Administrator
- Department of Health & Human Services / Developmental Services:
Matt Ertas, Director

We also wish to acknowledge the valuable information afforded the Project Advisory Team from the NH State Office Park South Redevelopment Plan (*Public Works Project #80112*) and Lavallee/Brensinger Architects who provided background information regarding their development of the NH State Office Park South Redevelopment Plan and specific input relative to this project

PART 1 CURRENT SITUATION

The *Thomas Holliday et. al v. New Hampshire Department of Corrections (Holliday)* court order requires DOC to establish a Residential Treatment Unit (RTU) within the New Hampshire State Prison for Men in Concord by May, 2007. The purpose of this unit is for the treatment of inmates with mental illnesses who cannot reside successfully in the general prison population. Given physical plant limitations at the Concord prison, the RTU will be located within the confines of the existing SPU. The Court recognized the possibility of co-locating of both services, but required that the RTU and SPU staffing, residents and programming be separate and distinct. Given that at any point in time there would be approximately 40 inmates who meet the admission criteria of an RTU, the current 60-bed SPU will need to be downsized to 20 beds. Although an RTU can be co-located with a 20-bed SPU initially, significant limitations in the area of housing, infirmary and close observation areas will impede the ability to operate a functional RTU long-term. Therefore,

the creation of the RTU must be facilitated in two phases and is dependant on the transfer of the SPU/forensic hospital functions to the Department of Health and Human Services.

The current SPU operated by the DOC provides a very secure setting, but has serious shortcomings as a treatment environment given the competing clinical demands of the prison population. Also, because of its location within the prison, no financial support from the federal government is available to share in the costs of providing care to the various populations needing treatment in a secure facility.

PART 2 EXECUTIVE SUMMARY RECOMMENDATION

The Commission recommends that the DOC be allocated the capital funds needed to renovate the current SPU located within the Concord Prison for men. The renovation of the SPU would allow the Department to fulfill the requirements of the recent *Holliday* decree and create the required RTU. The RTU would house a program designed to target the needs of a subgroup of inmates with severe personality disorders and other impulse control problems that demonstrate significant difficulty adapting to the general prison population. The program would be provided in a RTU and its goal would be to aid these inmates in developing skills to better manage their impulses and behavior and to increase the likelihood of successful adjustment to prison life. Relative to the recent decree, the RTU must have separate staff and living areas from all the other populations. Such renovations would occur in two phases - the first phase being commenced immediately upon funding and the second phase commencing once the NHH forensic hospital is operational and affected inmates are transferred to that facility. A synopsis of the required capital and operating funds for SFY 08 -11 is attached (see Part 5).

Failure to create a new secure multi-program forensic psychiatric hospital will likely result in DOC not being able to meet the compliance requirements of the recent court order consistently and may result in Court intervention. The existing 60-bed SPU will need to be downsized to 20 beds to accommodate an RTU. A 20-bed SPU will not be able to house the growing number of non-adjudicated individuals that will require a secure setting including those civilly committed as sexually violent predators starting in 2007. Additionally, the DOC will not be able to provide the clinical interventions necessary for a more diverse adjudicated and non-adjudicated population. The continued co-mingling of such populations will create opportunities for future legal challenges and adverse court orders.

The Department of Health and Human Services shall establish a new secure multi-program forensic psychiatric hospital as part of New Hampshire Hospital to serve persons who have been civilly committed under RSA 135-C, mentally retarded offenders committed under RSA 171-B, persons found Not Guilty by Reason of Insanity (NGRI) committed under RSA 651:8-b and RSA 651:9-a, sexually violent predators committed under the new RSA 135-E, and persons transferred from county correctional facilities pursuant to RSA 623:1. It would provide increased capacity to care for prisoners transferred from county houses of correction for acute psychiatric care and for persons civilly committed under the new sexually violent predator law that takes effect on January 1, 2007. This would also

permit DHHS to close the 6-bed facility for MR offenders now operated on the grounds of the former State School in Laconia.

The Commission recommends that the State shall allocate DHHS the capital funds needed to renovate Tobey Building located on the State Hospital Campus and that the current SPU would then be relocated to this facility from the State Prison for men. The renovation of the Tobey Building would be an efficient and effective response to the critical housing and clinical needs of a diverse population of individuals who have significant psychological and psychiatric problems and who need supervision and treatment in a secure setting. The recommendation to renovate the Tobey Building is consistent with the Campus Master Plan's vision and the original purpose for the New Hampshire Hospital campus. Moving the program to be closer to the facilities and clinical and support staff of New Hampshire Hospital would assist in assuring appropriate treatment and achieving better outcomes for the State and the persons served. A synopsis of the required capital and operating funds for SFY 08 -11 is attached (see Part 5).

Failure to create a new secure multi-program forensic psychiatric hospital would likely have three significant impacts. First, failure for the DOC to meet court ordered obligations. Second, a systemic negative impact on the on New Hampshire Hospital's ability to transfer very dangerous psychiatric patients to a secure environment for the protection of both the patients, staff and the residents if the State of New Hampshire. Third, as communicated to the Commission by the Commissioner of Health & Human Services, the continued co-mingling of civilly committed persons with criminally committed persons could create legal issues in the future.

It is noted, that based upon the experience in other states as testified by the Department of Health & Human Services, New Hampshire can expect the population of civilly committed sexually violent predators to grow steadily over the next decade. Persons committed under such laws tend to have substantial lengths of stay and to require a combination of behavioral modification and psychiatric care that is highly specialized. At some point that is very difficult to predict, it is anticipated that a new and separate facility may be required to accommodate the number of SVPs likely to be committed under RSA 135-E. The state should establish a Commission¹ to study the effects and trends of HB-1692 to determine if additional bed capacity is required.

An important step to the successful establishment of the forensic hospital would be the establishment of a Forensic Assertive Treatment Team (FACT) and Forensic Review Panels. An outline of these programs is provided as an Appendix.

PART 3 COMMISSION'S STUDIES & FINDINGS

Upon the establishment of the Commission, the Chairman coordinated focus meetings with the Department of Corrections and the Department of Health and Human Services to evaluate existing programs and facilities, affected populations, current challenges

¹ Study proposed for FY2012

and options for relocating and transferring the current DOC SPU to DHHS NHH. Tours of the affected facilities were conducted as well as tours and evaluations of potential alternative sites and buildings.

The Commission and the Departments continually struggled with balancing and meeting the requirements of the Court decree, the programmatic requirements of the unique populations and proposing economically viable solutions. Many options were discussed, evaluated and considered throughout the tenure of the Commission.

Early on in the evaluation process, it was determined that the Department of Corrections would have to create its court ordered Residential Treatment Unit (RTU) within the confines of the existing State Prison for Men in Concord. However, the creation of the RTU is dependant upon the transfer and relocation of the Secure Psychiatric Unit to the Department of Health and Human Services. Amplifying the urgency for the transfer of the SPU and creation of a new Forensic Hospital under the control of New Hampshire Hospital was the passage of HB1692, Sexual Predators Act, that is effective January 1, 2007 and that creates a civil commitment process for sexually violent predators. While the law requires the DOC to provide for and house this population, the current facility and programs will struggle to meet this new population's needs, a population that would be ineligible for any federal funding while located within a prison setting.

Various options were evaluated with respect to defining an efficient and economically feasible solution for the SPU transfer and creation of a new Forensic Hospital. In addition to evaluating the capital costs, the Commission studied the advantages of co-locating these various populations into a single forensic hospital. In addition to the programmatic benefits, it was determined that the State may be eligible to receive an additional \$2 million dollars per year in federal revenue in support of the services to these populations.

The recommendation for renovation and adaptive reuse of the Tobey Building was made unanimously. Several options were evaluated since the establishment of the Commission. Such considerations included a new 96-bed multi-phased facility located on NH Hospital Campus. While this option had the advantage of providing additional beds for future growth, the capital and operational costs were deemed to be beyond the economic realities of the State. In addition to the new construction of the building, the project would require the construction of a parking garage to replace lost parking areas for the existing staff and the anticipated 320 new staff. In contrast, the renovation of the Tobey Building would return an under utilized former direct care building to its original design intent. The capital and operational costs to do so were deemed to be economically feasible. Locating the facility on the NH Hospital Campus provided programmatic and economic benefits as well. The initial plan was to build a 45-car parking deck, consistent with the State Office Park South Master plan – but further discussions suggested that the deck may not be required due to additional parking capacity in the Brown Building Garage and elsewhere on Campus². If this were to be the case, the project capital costs would be reduced by \$335,000 and ongoing operating costs would be lower as well.

² Study of parking capacity of the Walker Building

A summary of anticipated capital and operational costs is presented in Part 5 of this report. The table below provides an overview of both Departments' facility, personnel and capital cost projections for the recommended RTU and Forensic Hospital projects:

Table 1:

	DOC RTU	NHH Forensic Hospital	
	RECOMMENDED Concord Prison Reno	RECOMMENDED Tobey Bldg Reno	
Facility & Capacity			
Square Feet (#)	29,900	67,000	96,000
Beds (#)	40	72 *	96
Personnel			
Staffing Requirements (#)	54	243	320
Transferred Staff (#)	0	23	23
<i>Net New Positions Required</i>	<i>54</i>	<i>220</i>	<i>297</i>
Capital Cost Projections ***			
Construction Costs	\$ 3,001,151	\$ 23,961,300	\$ 43,700,000
Furniture & Equipment Costs	\$ 88,560	\$ 530,000	\$ 1,800,000
Parking Deck / Structure Costs ***	\$ -	\$ 335,000	\$ 13,250,000
Total Costs	\$ 3,089,711	\$ 24,826,300	\$ 58,750,000

Footnotes:

* Bed capacity has been increased from original performna from 68 to 72 beds

** Capital Cost Projections reflect agency's Capital Budget Request estimates. DAS Bureau of Public Works and Design are currently developing detailed cost estimates. Agency's Capital Budget Request may be adjusted accordingly

*** Tobey Parking Deck: May not be required, DHHS shall evaluate existing surplus parking capacity at Walker Building and Brown Building garage

**PART 4
ANTICIPATED LEGISLATION**

**FOR THE RELOCATION OF THE SECURE PSYCHIATRIC UNIT
Statutes and Regulations Requiring Review and/or Amendment**

The Department of Health and Human Services (DHHS) has conducted a review of state statutes and administrative rules to determine which may need amendment should the Secure Psychiatric Unit (SPU) be transferred from the jurisdiction of the Department of Corrections (DOC) to DHHS. Below is a list of those provisions of law and regulation that need to be reviewed to determine if amendments are necessary.

The sections that most obviously would have to be amended are RSA 622:40-52, which is the subdivision of the law governing state prisons that deals the SPU. The subdivision describes the establishment, staffing, rulemaking, commitments, treatment standards, medical records, and discharge provisions of the SPU. These provisions would have to be repealed and readopted as part of the laws relating to DHHS and the New Hampshire Hospital (NHH).

Other statutes that refer to the SPU that may have to be amended include:

RSA 21-H: 8 makes the Commissioner of the Department of Corrections (DOC) the principal administrator of the SPU with authority to establish treatment standards for the unit after consultation with the Commissioner of DHHS and to conduct annual reviews on the mental health programs with the Commissioner of DHHS.

RSA 21-H: 13 delegates authority to the Commissioner of DOC to adopt rules regarding the administration of the SPU.

RSA 135-E: 11, Involuntary Civil Commitment of Sexually Violent Predators. Sexually violent predators who have served their terms of incarceration shall be committed to the custody of DOC to be held at the SPU or other appropriate DOC facility.

RSA 188-F: 26 describes the powers of the Police Standards and Training Council. That Council includes a representative from the SPU in its membership.

RSA 98-A: 6-b deals with holiday pay for state employees including the SPU and other state facilities like NHH and the Veterans' Home.

RSA 126-A: 34 empowers the Office of Reimbursements to investigate expenses at the SPU and other state facilities and to determine the ability of residents to reimburse the state for care, treatment, services or maintenance.

RSA 632-A: 2, 3, and 4 make it a crime for guards and others in positions of authority at the SPU to engage in sexual activity with inmates.

RSA 651: 8-b, 9-a, 10, 11, and 11-a describe the commitment of persons found Not Guilty by Reason of Insanity (NGRI) to the SPU.

RSA 135: 17 and 17-a deal with competency evaluations and treatment to restore competence at the SPU and other mental health facilities

RSA 171-B is the involuntary commitment statute for mentally retarded offenders and permits treatment at the SPU for persons who need that level of security for the protection of the public.

RSA 171-A: 8 and 8-a also reference mentally retarded individuals committed under RSA 171-B to the SPU.

RSA 622: 31-a requires the Commissioner of DOC to adopt policies regarding medical care for inmates and to charge inmates a reasonable fee for medical care. SPU inmates are exempt.

RSA 623:1 allows a person confined in a county jail, the state prison or other place of detention to be transferred to a medical facility for evaluation or treatment. (SPU not mentioned specifically).

In addition, there are numerous administrative rules that refer to the SPU that may need to be modified, including:

Cor 101, Cor 102, Cor 103, Cor 301, Cor 302, Cor 303, Cor 304, Cor 307, and Cor 404. Review of these DOC rules is outside the scope of this document.

He-W 543.01(g) defines a "Designated receiving facility (DRF)" to mean a secure psychiatric unit within a Medicare certified psychiatric distinct part unit (DPU), which: (1) Has special treatment capabilities to provide services for patients who would otherwise be admitted to the New Hampshire Hospital central facility; and (2) Is certified by the division of behavioral health pursuant to He-M 405.

He-M 611 establishes procedures for transfers to and from the SPU.

He-M 527 deals with admission to and discharge from a developmental services designated receiving facility.

9

Part 5
Capital and Operating Fund Requirements

Department of Health & Human Services					
	State Fiscal Year				
	2007	2008	2009	2010	2011
Capital Cost Projections *					
Program Development	DHHS & BPW Staff				
Design Development & Bid Phases		\$ 2,429,600			
Construction		\$ 20,651,600	\$ 1,215,100		
Furniture & Equipment		\$ 530,000			

Cost Per Fiscal Year \$ - \$ 23,611,200 \$ 1,215,100 \$ - \$

Operating Cost Projections					
Personnel Costs**		\$ 600,457	\$ 984,033	\$ 5,205,089	\$ 11,994,795
All Other Costs (facility & program operations)				\$ 2,125,924	\$ 5,321,080

Cost Per Fiscal Year \$ - \$ 600,457 \$ 984,033 \$ 7,331,013 \$ 17,315,875

Revenue Projections					
Federal Funds (DSH)				\$ 2,565,855	\$ 8,311,620
Other Funds			Evaluation of Addl Revenues is On-going		

Revenue Per Fiscal Year \$ - \$ - \$ - \$ 2,565,855 \$ 8,311,620

General Fund Projections					
General Funds		\$ 600,457	\$ 984,033	\$ 4,765,158	\$ 9,004,255

DHHS
General Fund Requirements
Per Fiscal Year \$ - \$ 600,457 \$ 984,033 \$ 4,765,158 \$ 9,004,255

Department of Corrections					
	State Fiscal Year				
	2007	2008	2009	2010	2011
Capital Cost Projections					
Program Development	\$ -	\$ -	\$ -	\$ -	\$ -
Design Development & Bid Phases	\$ -	\$ -	\$ -	\$ -	\$ -
Construction *footnote 1 & 2	\$ 1,271,166	\$ -	\$ 1,729,985	\$ -	\$ -
Furniture & Equipment	\$ 88,560	\$ -	\$ -	\$ -	\$ -

Cost Per Fiscal Year \$ 1,359,726 \$ - \$ 1,729,985 \$ - \$

Operating Cost Projections					
Personnel Costs*	\$ 3,125,873	\$ 3,219,649	\$ 3,316,239	\$ 3,415,726	\$ 3,518,198
All Other Costs (facility & program operations)	\$ 3,746,846	\$ 3,859,251	\$ 3,975,029	\$ 4,094,280	\$ 4,217,108

Cost Per Fiscal Year \$ 6,872,719 \$ 7,078,901 \$ 7,291,268 \$ 7,510,006 \$ 7,735,306

Revenue Projections					
Federal Funds (DSH)	\$ -	\$ -	\$ -	\$ -	\$ -
Other Funds	\$ -	\$ -	\$ -	\$ -	\$ -

Revenue Per Fiscal Year \$ - \$ - \$ - \$ - \$

General Fund Projections					
General Funds	\$ 6,872,719	\$ 7,078,901	\$ 7,291,268	\$ 7,510,006	\$ 7,735,306

DOC
General Fund Requirements
Per Fiscal Year \$ 6,872,719 \$ 7,078,901 \$ 7,291,268 \$ 7,510,006 \$ 7,735,306

Part 5
Capital and Operating Fund Requirements

10

Departments of Health & Human Services and Department of Corrections					
	State Fiscal Year				
	2007	2008	2009	2010	2011
<i>Combined Capital Fund Requirements Per Fiscal Year</i>	\$ 1,359,726	\$ 23,611,200	\$ 2,945,085		
<i>Combined General Fund Requirements Per Fiscal Year</i>	\$ 6,872,719	\$ 7,679,358	\$ 8,275,301	\$ 12,275,164	\$ 16,739,561

DHHS - Descriptions & Footnotes

A 68-72 beds total renovation of the Tobey Building (67,000 SF). The three floors would be separated into 12-pod units to house the various populations to be served. This is the favored option due to the ability to adequately meet the needs of these populations and from a funding prospective as both Capital needs and Operating needs are less significant then the other options.

Of the projected 243 staff that will be required to operate and manage this psychiatric facility, 23 of those will be transferred from the Laconia DRF facility. This will also allow the Department to close and vacate that facility which is located on the grounds of the former Laconia State School.

* Capital Cost Projections reflect the agency's Capital Budget Request estimate - \$24,826,000 (*Building Renovation @ \$23,961,000; Parking Structure @ \$335,000 and FFE @ \$530,000*). DAS Bureau of Public Works and Design are currently developing detailed cost estimates. Agency's Capital Budget Requests may be adjusted accordingly.

** Personnel Costs - NHH: Personnel costs for FY07 is the cost of bringing on the Program Development Team that will set up the programs necessary to operate and work with the design contractor in renovating the physical space to meet those program needs. FY08 costs include the same team along with the hiring of staff to open the first phase of the facility. It is expected to become operational in six twelve bed phases until fully staffed and operational in FY11 (2010 @ \$5,205,089; 2011 @ \$11,994,795).

** Personnel Costs & Revenues - BBH: Costs for these programs are preliminary and as presented do not reflect any potential revenues. BBH will be refining staffing models and will be updating costs and revenue projections accordingly.

DOC - Descriptions & Footnotes

Footnote 1 * if construction costs are completed in phases - phase I = \$1,271,166 and phase II = \$1,729,985.

Footnote 2 * if the building was empty during construction costs could be reduced for construction by \$100/sf although the costs for housing acute care psychiatric services for the non-adjudicated population is estimated at \$800 / day and the adjudicated offender population is estimated at \$80/day.

A Construction cost analysis shows the cost savings in construction costs would be displaced to paying for alternative housing.

APPENDIX A PROGRAM NARRATIVES

Department of Corrections Residential Treatment Unit

The *Holliday* Court Order dated May 19, 2006 requires that DOC create a separate housing unit for residential treatment (RTU) for inmates with serious mental illness including personality disorders associated with affective instability, impulse control problems, and borderline personality features, who currently do not require acute psychiatric hospitalization. The RTU must have a sufficient number of qualified staff and needs staff and living areas for the residents unique and separate from the SPU. The DOC estimates that it has about 40 inmates at any given time who meet the criteria for admission to a RTU. On October 26, 2006, the Court approved the Department of Correction's plan for the residential treatment unit. The Court also understands, given the state's budgetary process, that certain elements of the plan may not be fully implemented by May of 2007. Therefore, the Court is requiring the DOC to submit an update for compliance in February of 2007. Although the Court has allowed for some extensions to the May 2007 deadline, substantial staff recruitment, program design and physical plant renovations must be accomplished in a short period of time.

The RTU must have sufficient and appropriate group therapies and structured activities. Additionally, RTU residents shall have access to all other prison programs, activities, and services normally available to inmates in the general prison populations. In order to carry out appropriate security and clinical programming for the residents, the Department must establish and fill 54 staff positions including mental health, recreational therapy, educational/vocational, correctional officer and support personnel.

In order to accommodate staffing and programming needs of the RTU, physical plant renovations are necessary. Renovations must be accomplished in two phases given the necessity for the DOC to operate both a 40-bed RTU and a 20-bed SPU until a secure multi-program forensic psychiatric hospital can be built. Phase one renovations include modifications to staffing areas to accommodate the increase in staffing and the delineation of residential areas so that SPU and RTU residents are not co-mingled. Phase two includes a separate wing for inmates with acute psychiatric needs, close observation rooms for individual on suicide watch or in restraints, and a medical infirmary.

Department of Health & Human Services New Hampshire Hospital Forensic Hospital

Establishing the SPU under the DHHS will likely allow operational costs of the facility to qualify for Disproportionate Share Hospital reimbursement from the federal government. In order to meet the requirements for licensure under New Hampshire Hospital's name, the facility must meet and maintain strict staffing and treatment criteria, requiring the addition of 243 positions. Eighty-five percent of these positions are clinical

positions, many of which are require specialized expertise to manage and treat these unique and dangerous populations. Programs to provide the treatment necessary for a wide array of patients will require a staffing model that meets standards set forth by the Joint Commission on Accreditation of Healthcare Organizations. To offset some of the need for new positions, the proposal would incorporate the Designated Receiving Facility in Laconia into the project, bringing the 23 positions from that program to the new secure multi-program forensic psychiatric facility (forensic hospital) thus reducing the number of required new positions to 220. The current \$1.3 in annual operating costs for the Laconia program has been incorporated into the total operating costs for the project.

Additional efficiencies realized by establishing the project under DHHS are centered on the support service departments. Although DHHS would service the dietary needs from a commercial kitchen within the forensic hospital, food storage and ordering, dietician services and oversight of the services will be central to NHH. Additionally, Environmental Services, Facilities and Engineering, Financial Services and Information Technology support would remain central to NHH, along with most administrative functions.

Once the forensic hospital is operational, DHHS anticipates that the building will open in phases and the operational budget that has been established will reflect that. If the program opened in 12-bed units, each spaced 45 – 90 days apart, it would be approximately a year and a half before the facility reached 100% capacity and the budget has been prepared to take advantage of the savings the phase- in represents. The only deviation from that plan would be the recruitment of four key management staff that would occur on approval for the project. An Assistant Medical Director, Assistant Superintendent, Assistant Director of Patient Care Services and Assistant Administrator of Psychiatric Services will be required to develop programs relevant to the unit, work with the design team and recruit staff to operate the programs. NHH is experiencing about a 12-month lead time in recruiting and hiring Psychologists and Physicians so this will figure greatly in the timing of the opening of the unit.

***Department of Health & Human Services - Bureau of Behavioral Health
FORENSIC ASSERTIVE COMMUNITY TREATMENT PLAN:***

The Commission has heard testimony from both the county jail system as well as DHHS concerning the prevalence of individuals residing in the county jails who have serious mental illness and/or substance abuse problems. These individuals are often difficult to engage in treatment and present as repeat offenders with multiple incarcerations that are, at least in part, influenced by their mental illness and/or substance abuse problems and lack of treatment. The current county correctional system is not equipped to manage the complex treatment needs of these individuals and has in the past depended upon the DOC SPU as well as New Hampshire Hospital, both of which have diminishing capacity as a resource to the county jail system.

The Commission has reviewed a proposal from the DHHS, Bureau of Behavioral Health to establish a specialized community based treatment team, that will provide intensive services to individuals within the county jail system as well as in the community post release,

with the primary objective being engagement in critical treatment services and aggressive outreach and monitoring.

As described in this proposal, the Forensic Assertive Treatment Team [FACT] is designed to provide highly specialized, intensive level services for adult individuals who have both a serious mental illness as well as forensic issues which taken together place the individual at risk for incarceration and place the community at risk from the actions of the individual. The FACT Team model is designed to provide close oversight and supervision in conjunction with the criminal justice system within the framework of an intensive level treatment approach that is characterized by:

- A dedicated treatment team
- Clinicians who have specialized training in working with this population
- Clinicians who have small clinician to patient ratios [1:10]
- At least 1 FTE Master's Clinician with a LADAC [Licensed Drug and Alcohol Counselor]
- Services provided primarily in the community
- Aggressive outreach, use of conditional discharges, coordination with probation and parole, as well as law enforcement to ensure that individuals presenting at risk for dangerous behaviors are rapidly assessed and appropriate disposition plans are developed.

The Commission is recommending approval of the proposal to establish 1 to 3 FACT Team pilots that would be focused on the regions demonstrating the most need for these services, based on projected numbers of individuals to be served as well as current needs in the county correctional system. The FACT and Forensic Teams have been proposed to support the new Forensic Hospital, however, they could be activated prior to the hospital opening if the Legislature wished to fund the program prior to its anticipated FY 10 start-up. The proposal includes consultative and treatment services provided within the county jails, with the goal of rapid assessment, stabilization and assistance in coordinating a disposition appropriate to the needs of the individual. These services would be inclusive of psychiatry services as well as 24/7 on-call services. As these are institutional settings, the providers of these services would not be able to collect any Medicaid reimbursement for services provided within the jail, and a funding mechanism would need to be developed to cover this portion of the FACT Team Services, with the need to explore federal, state and county sources of funding.

The Commission is recommending a further study Committee to formulate specific recommendations to DHHS as to which region(s) will participate in the pilot program, development of specific outcomes measures to determine the level of success for the pilot program, and develop a timeline for implementation. The projected salaries and benefits per FACT team are approximately \$450,000 per fiscal year. We have projected implementation of services in fiscal year 2010 (concurrent with the opening of the Forensic hospital). The County Jails have expressed a need for such services now, thus, if the Legislature wished to fund these programs in advance of the facility's opening the staffing and programs could be implemented prior to such time.

APPENDIX B



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DEPARTMENT OF HEALTH AND HUMAN SERVICES
&
DEPARTMENT OF JUSTICE**

William L. Wrenn
Commissioner
Department of Corrections

John A. Stephen
Commissioner
Department of Health & Human Services

Kelly A. Ayotte
Attorney General
Department of Justice

November 7, 2006

The Honorable Joseph E. Stone
Chairman
Commission to Study the Location of the Secure Psychiatric Unit
Legislative Office Building
Rooms 210-211
Concord, NH 03301

Dear Representative Stone:

We are writing to express our support for the recommendations of the Commission to Study the Location of the Secure Psychiatric Unit. We believe the Commission has conducted an extremely thorough analysis of many complex factors involved in the provision of secure psychiatric care and is to be commended for the excellence of its work. Our agencies had a very cooperative relationship in this project, which we feel enabled us to focus on the basic concerns facing our departments and the State and to agree upon a plan for addressing these very important issues.

Both the Department of Corrections (DOC) and the Department of Health and Human Services (DHHS) have been struggling to meet their responsibilities to provide appropriate treatment to persons with mental disorders who need secure care. Unfortunately, resource issues led to litigation and the DOC is now under a court order to establish a new residential treatment unit within the State Prison, which limits the ability of the SPU to meet its core mission. The obligation to provide higher levels of mental health treatment within the general prison population has limited DHHS access to the current SPU and has caused less than ideal arrangements for care of some patients within New Hampshire Hospital. This has occurred at a time of record levels of general admissions to NHH, making it more difficult and more expensive to provide treatment while controlling risks. Meanwhile, for some time DHHS has sought a less expensive setting for the care of offenders with mental retardation who are housed in a facility at the site of the former Laconia State School, a facility which the State has long promised to relocate. In addition, we are all aware that counties have been forced to deal with a rapid increase in the mental health needs of persons coming into the county correctional facilities, some of whom require more intensive treatment than the counties can provide and whose access to the SPU is limited by the same factors that pose a barrier to DHHS's use of that facility. Then there are the new responsibilities for the secure treatment of sexually violent predators who will be committed under HB 1692, which is effective January 1, 2007.

The State's ability to meet all its obligations to the various populations enumerated above and to do so in a fiscally responsible way while assuring the safety of the public is at the core of the Commission's recommendations and we urge their support by the General Court. There is an underlying objective of this process that we want to emphasize. The current configuration of services precludes access to any federal funds

The Honorable Joseph E. Stone

Page 2

November 7, 2006

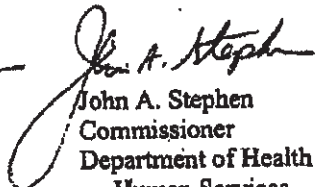
that might help pay for the treatment provided. By incorporating the SPU as part of NHH, we are reasonably assured that federal financial support can be obtained so improvements in care and treatment can be made in ways that minimize the financial impact upon the taxpayers. DHHS has a long history of finding appropriate ways to enhance federal revenues and we are optimistic that it can continue to do so in the area of secure psychiatric care.

We thank the Commission for its diligence and foresight and pledge our support of its plans and recommendations.

Sincerely,



William L. Wrenn
Commissioner
Department of Corrections



John A. Stephen
Commissioner
Department of Health &
Human Services



Kelly A. Ayotte
Attorney General
Department of Justice

APPENDIX C



Association of Counties

COUNTY CORRECTIONS AFFILIATE

103 County Farm Road

Claremont New Hampshire 03743

Telephone: 603-542-8717 Facsimile: 603-542-4311 Email: doc@sullivancountynh.gov

October 23, 2006

**Representative Joseph Stone
12 Nottingham Road
Deerfield, NH 03037-1500**

RE: Study Committee proposal

Dear Representative,

The County Corrections Affiliate has been active during the past six months in following the progress and in contributing dialog toward resolution of establishing a Secure Residential Treatment Unit and FACT Teams for mentally ill offenders.

Upon reviewing the Study Commission's presentation, the Corrections Affiliate is pleased by the direction and recommendations made thus far. We are hopeful that working in this collaborative manner, progress can be made in culmination of the outlined programs. We would like to be involved in future discussions to ensure that secured psychiatric beds are available to county inmates.

Over the past year, the County Corrections Affiliate has been involved in a mental health initiative. The Corrections Affiliate is committed to diverting individuals with mental illness from the criminal justice system and in providing safe and secure psychiatric treatment to those incarcerated. We are committed to continued dialog and information sharing with the Study Commission and DHHS toward this common goal.

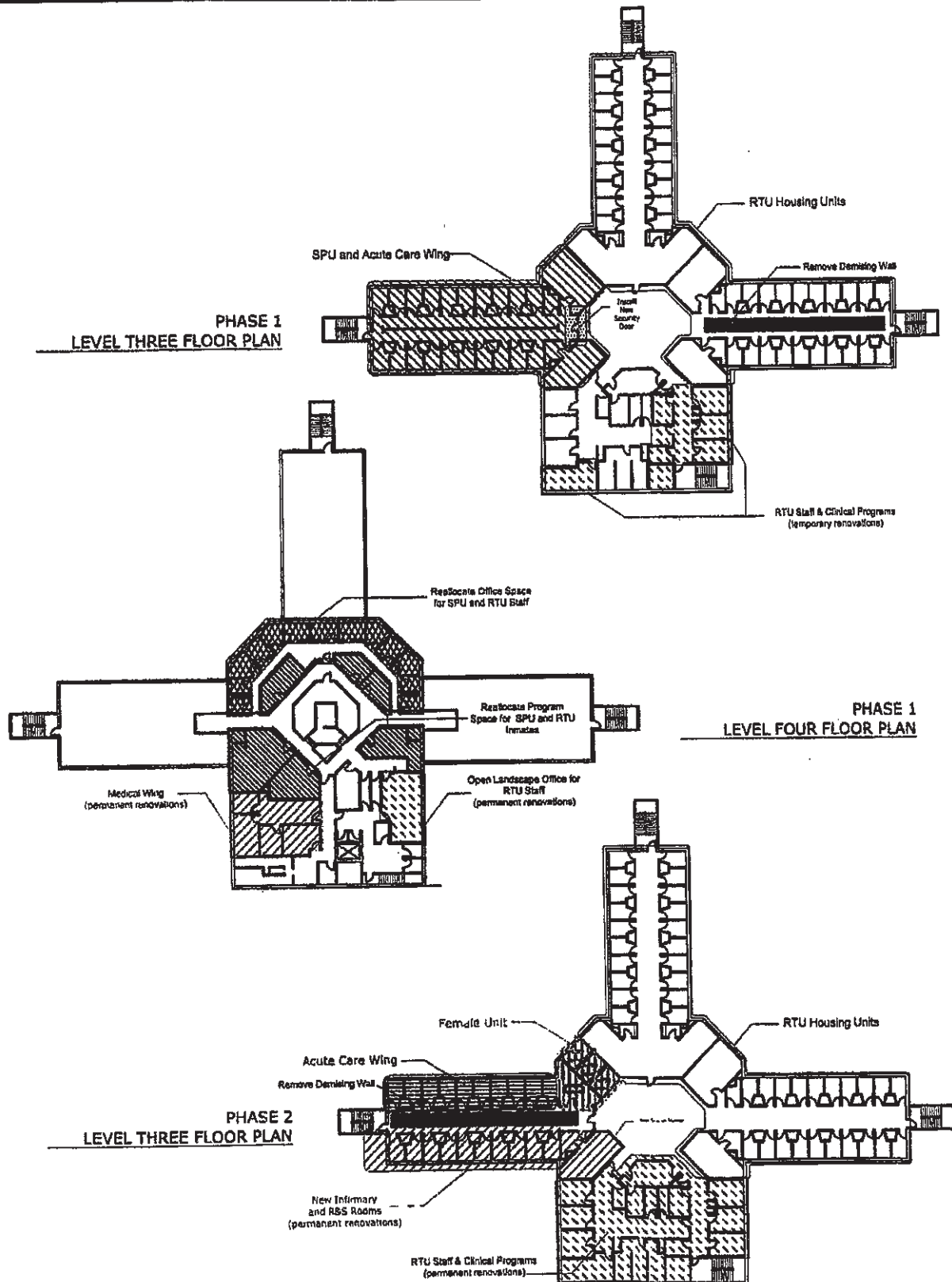
If you have any questions or concerns regarding this issue, please contact me directly at 603-542-8717.

Sincerely,


**Scott R. Hagar, President
NHAC Corrections Affiliate**

Appendix D-1

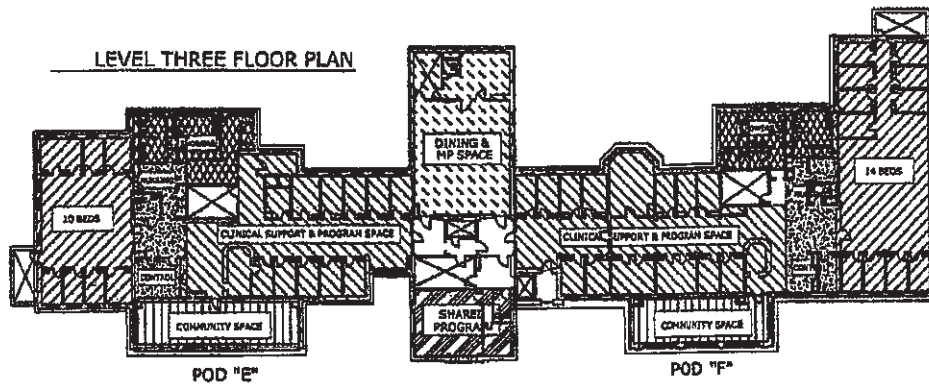
PRELIMINARY SCHEMATIC PROGRAM RESIDENTIAL TREATMENT & ACUTE CARE UNITS SPU FACILITY ADAPTIVE REUSE PROPOSAL



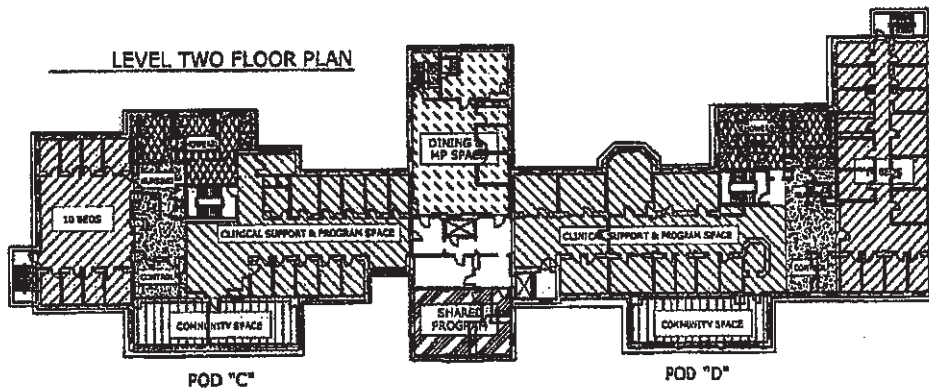
Appendix D-2

PRELIMINARY SCHEMATIC PROGRAM SECURE MULTI-PROGRAM FORENSIC PSYCHIATRIC FACILITY TOBEY BUILDING ADAPTIVE REUSE PROPOSAL

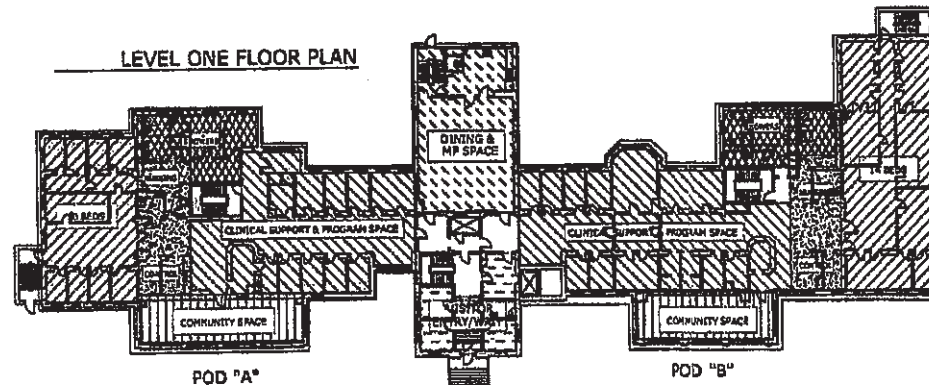
LEVEL THREE FLOOR PLAN



LEVEL TWO FLOOR PLAN



LEVEL ONE FLOOR PLAN



LOWER LEVEL FLOOR PLAN

