

THE STATE OF NEW HAMPSHIRE

STRAFFORD, SS

SUPERIOR COURT

219-2016-CR-00015

State of New Hampshire

v.

John Madore

PETITION TO UNSEAL COURT RECORDS

NOW COMES New Hampshire Public Radio (“NHPR”), a public media organization established under New Hampshire law, and pursuant to New Hampshire practice and common law, Part I, Articles 8 and 22 of the New Hampshire Constitution and the First Amendment to the United States Constitution, petitions the Court to unseal seven court records in this case that are set forth in paragraph (9) hereof. In support of this petition and as grounds therefor, NHPR represents:

Introduction

(1) On November 17, 2023, John Madore (“Madore”) fatally shot a security officer at New Hampshire Hospital, Concord, New Hampshire. A responding New Hampshire State Trooper shot and killed Madore.

(2) This fatal incident has been widely reported in the press. See Exhibit 1 for a list of the some of the articles published between November 17 and December 1, 2023. NHPR published an article about the incident on December 1, 2023, headlined “Questions linger about intersection of guns, mental health policy in wake of NH Hospital shooting.” See Exhibit 2. NHPR raised several public issues concerning Madore’s involvement with the state’s criminal justice and mental health systems and “whether a patchwork system of gun regulations may have allowed him to obtain firearms.” See Id. at 2.

The Facts

(3) By way of background, Madore was arrested and charged with committing three offenses on January 11, 2016. The offenses were Simple Assault (placing his mother in a headlock); Second Degree Assault (applying pressure to his sister's throat that impeded her breathing or blood circulation) and Reckless Conduct (placing Chief Scott Young in danger of serious bodily injury by possessing loaded firearms in locked room and indicating "the situation was going to 'end badly' or words to that effect"). See Exhibit 3.¹ On February 8, 2016, Madore filed a motion to determine his competency, which the Court sealed. The entry in the Case Summary states *Charges 1, 2,3*. See Exhibit 4, Case Summary, at *Index #17*. On March 2, 2016, the Court ordered a competency evaluation, which it sealed. See *Id.* at *Index #18*. On May 5, 2016, after hearing, the Court approved a Bail Order that required the defendant to be transported to New Hampshire State Hospital for an Involuntary Emergency Admission and upon discharge to be transported to the Strafford County House of Corrections, and a bail hearing to be promptly held. The Bail Order further stated the defendant was to have no contact with his mother or sister, "shall refrain from possessing a firearm, destructive device, dangerous weapon or ammunition," and shall refrain from any use of alcohol and controlled drugs. See Exhibit 5.² The Court again ordered a competency evaluation on July 14, 2016, and again sealed the order. See Exhibit 4. at *Index #34*. On October 26, 2016, the Court dismissed "without prejudice" the charge of simple assault "for lack of prosecution." See Exhibit 6.³ Almost a year and one-half later, on September 8, 2017, a competency evaluation was filed with the court. It, too, is sealed. See Exhibit 4 at *Index #44*. On October 18, 2017, a status conference was held "*re Restoration*."

¹ The records are accessible on line at <https://www.courts.nh.gov/media/requested-cases/criminal/state-new-hampshire-v-john-madore>

² See footnote 1.

³ See footnote 1.

That same day the State nolle prossed the charges of “2nd Degree Assault” and “Reckless Conduct.” The record states, in part: “For reasons placed on sealed record on 10/18/17.” See

Exhibit 7.⁴ Among the issues raised by this brief synopsis are:

- (a) Why did the defendant move to determine his competency and why did the Court seal the motion?
- (b) What was the result of the competency evaluation?
- (c) What occurred at the status conference on October 18, 2017?
- (d) What were the reasons the State nolle prossed the 2nd Degree Assault and Reckless Conduct?
- (e) As a result of the competency evaluation, did the Court make any findings whether the defendant was competent to stand trial?⁵

(4) On November 22, 2023, NHPR posted an article on its website, NHPR.org, written by Annmarie Timmins of the *New Hampshire Bulletin*, headlined “Police took Madore’s guns after 2016 assault and reckless conduct arrests.” See Exhibit 9 . The article reported the defendant underwent a competency evaluation at New Hampshire Hospital, and that “[t]he charges eventually were dropped for reasons not stated in the file.”

(5) The NHPR December 1, 2023 article mentioned in paragraph (2) hereof reported that:

- Arrest records from the 2016 case show that Madore was suffering from severe mental illness at that time and was involuntarily committed to psychiatric hospitals on multiple occasions in 2016 and 2017, including New Hampshire Hospital.
- The federal Gun Control Act makes it illegal for anyone adjudicated mentally ill or committed to a mental institution to own or buy a gun.
- The majority of states require notification to the federal NICS database following an involuntary commitment.

⁴ See footnote 1.

⁵ On November 27, 2023, Todd Bookman, a reporter for NHPR, brought to the attention of the Communication Manager/Public Information Officer for the Judicial Branch, RSA 135:17-c and asked whether Index 44 should be part of the public record” if the defendant was found to be incompetent. Mr. Bookman was told he needed to file a “motion to have the records unsealed.” See Exhibit 8.

- New Hampshire is one of a few states that does not require notification when someone is adjudicated mentally ill.
- In 2016, the legislature inserted into a Medicaid expansion bill a sentence that was intended to address the issue of notification. But state officials did not agree on what the sentence required.
- Although that sentence remains in effect, courts are not reporting all people who are involuntarily committed to the NICS system.

(6) Several members of the New Hampshire House believe state laws should be strengthened and have introduced in the current legislative session House Bill 1711, “The Chief Bradley Haas Mental Health Firearms Reporting Act.” See Exhibit 10. If enacted, among other requirements:

I. In compliance with the federal NICS Improvement Amendments Act of 2007, Public Law 110-180 and the Brady Handgun Violence Prevention Act of 1993, Public Law 103-159, the New Hampshire judicial branch and the department of safety are authorized to report to the National Instant Criminal Background Check System (NICS) records concerning persons who have been disqualified from possessing or receiving a firearm under 18 U.S.C. section 922(g)(4) because they have been:

- (a) Adjudicated as not guilty of a crime by reason of insanity;
- (b) *Adjudicated as incompetent to stand trial* and found by the court to be a danger to themselves or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a; or
- (c) Involuntarily committed to a mental health facility pursuant to RSA 135-C:34-54. (emphasis added).

(7) Assuming HB 1711 becomes law, the open questions are why the State, in 2017, nolle prossed the Second Degree Assault and Reckless Conduct charges and whether the rules and procedures concerning the Madore case should be revised to minimize a repeat incident. Unsealing the records set forth in paragraph (9) is the starting point to make that determination.

(8) On December 4, 2023, undersigned counsel wrote the Clerk of Court to request information about several records listed in the Case Summary. See Exhibit 11. Later that day, General Counsel for the New Hampshire Judicial Branch responded, stating “we are unable to

provide information that is currently under seal in this case.” See Exhibit 12. On December 5, undersigned counsel asked whether General Counsel could state what the records at Indexes 27 and 40 “relate[] to.” General Counsel replied, “Unfortunately we can’t provide information that is under seal administratively, without a court order. This, of course, something that can be addressed by adjudication.” See Exhibit 13.⁶

Sealed Records and Transcript

- (9) The court records NHPR requests the Court to unseal and make public are:
- *Index #17*, 02/08/2016 Motion to Determine Competency, Filed by: Defendant Madore, John, SEALED
 - *Index #18*, 03/02/2016 Order for Competency Evaluation (Judicial Officer: Houran, Steven M), SEALED
 - *Index #25*, 04/21/2016 Correspondence from OFE, SEALED
 - *Index #34*, 07/14/2016 Order for Competency Evaluation (Judicial Officer: Houran, Steven M), SEALED
 - *Index #40*, 01/09/2017 Sealed Document, Order (Under Seal)
 - *Index #44*, 09/08/2017 Competency Evaluation, *Sealed*
 - Transcript of the October 18, 2017 Status Conference

The Law

(10) In “a case of first impression,” the Supreme Court, in *Thomson v. Cash*, 117 N.H. 653 (1977), held that, based on “New Hampshire practice and common law principles ...[t]he courts of New Hampshire have always considered their records to be public, absent some overriding consideration or special circumstance.” *Id.* at 654. At issue was the deposition of a

⁶ By way of explanation, at the December 14, 2023 meeting of the New Hampshire Committee on the Judiciary and the Media, the Strafford County Clerk of Court explained that case summaries identify court orders by the heading of the order. In responding to questions about what an order pertains to, the clerk is authorized to state only what appears in the case summary. Referring to Exhibit 4, compare Index #5, “Transportation Order,” with Index #18, Order for Competency Evaluation (Judicial Officer record: Houran, Steven M.) SEALED,” with Index #40, “Sealed Document, *Order (Under Seal)*.”

sitting governor in a defamation case he brought. The deposition was filed with the court by the defendants in connection with a motion for summary judgment they planned to file. The court ruled the deposition was open to the public, stating that “absent special circumstances, those things which are filed in court in connection with a pending case are open to public inspection. This appears to be the almost universal rule dating from the earliest times.” (citation omitted). *Id.*

(11) In *Petition of Keene Sentinel*, 136 N.H. 121 (1992), the paper, during the 1990 political campaign of the incumbent congressman for the second congressional district, sought access to the sealed records from his 1979 and 1983 divorce cases based on the state and federal constitutions. The trial court denied access, in part, because “the petitioner's motive appears to be to promote public scandal by exposing the most private aspects of the divorce litigants' marital lives.” *Id.* at 124. On appeal, the Supreme Court reaffirmed its rulings in *Thomson v. Cash*, but grounded its decision on Part I, Article 8 of the New Hampshire Constitution:

We hold that under the constitutional and decisional law of this State, there is a presumption that court records are public and the burden of proof rests with the party seeking closure or nondisclosure of court records to demonstrate *with specificity* that there is some overriding consideration or special circumstance, that is, a sufficiently compelling interest, which outweighs the public's right of access to those records. (emphasis added).

Id. at 128.

In an effort to meet their burden of proof, the respondents “assert[ed] a general privacy interest.” The court ruled that was insufficient; any privacy interest must be stated “with specificity.” Continuing, it stated:

the trial judge must review each document to which access is sought and for which a specific right of privacy is claimed to determine if there is a sufficiently compelling reason that would justify preventing public access to that document, with the burden of proof resting on the party seeking nondisclosure. Before a document is ordered sealed, the trial judge must determine that no reasonable alternative to nondisclosure exists. In addition, the trial judge must use the least restrictive means available to accomplish the purposes sought to be achieved.

Id. at 129-130. The court concluded its decision by “set[ting] forth the procedures and standards”

a trial court is to use when a party seeks access to sealed court records, including:

- The court shall determine if there is some overriding consideration or special circumstance, that is, a sufficiently compelling interest, that would justify preventing public access to the records. [Thomson v. Cash, 117 N.H. 653, 377 A.2d 135.](#) The party seeking closure or nondisclosure bears the burden of proof under the standard set forth above. There is a presumption that court records are public. The court must determine that no reasonable alternative to nondisclosure exists and must use the least restrictive means necessary to effectuate the purposes sought to be achieved. For example, instead of sealing an entire document because it has been determined that parts of it should not be accessible to the public, the court should consider if redaction of those parts is the appropriate least restrictive means.
- The court shall determine if there is some overriding consideration or special circumstance, that is, a sufficiently compelling interest, that would justify preventing public access to the records. [Thomson v. Cash, 117 N.H. 653, 377 A.2d 135.](#) The party seeking closure or nondisclosure bears the burden of proof under the standard set forth above. There is a presumption that court records are public. The court must determine that no reasonable alternative to nondisclosure exists and must use the least restrictive means necessary to effectuate the purposes sought to be achieved. For example, instead of sealing an entire document because it has been determined that parts of it should not be accessible to the public, the court should consider if redaction of those parts is the appropriate least restrictive means.
- The court shall determine if there is some overriding consideration or special circumstance, that is, a sufficiently compelling interest, that would justify preventing public access to the records. [Thomson v. Cash, 117 N.H. 653, 377 A.2d 135.](#) The party seeking closure or nondisclosure bears the burden of proof under the standard set forth above. There is a presumption that court records are public. The court must determine that no reasonable alternative to nondisclosure exists and must use the least restrictive means necessary to effectuate the purposes sought to be achieved. For example, instead of sealing an entire document because it has been determined that parts of it should not be accessible to the public, the court should consider if redaction of those parts is the appropriate least restrictive means.

Id. at 130-131

(12) The most recent case to apply Part I, Article 8’s presumption of open judicial proceedings and records is *State v. Kibby*, 170 N.H. 255 (2017). At issue were letters the defendant had sent to the trial court concerning his counsel, which the court sealed, and *ex parte* court hearings. After the defendant pled guilty to seven counts and was sentenced, the trial court,

sua sponte, issued an order stating that “the record, all pleadings filed, the defendant's correspondence with the court, and all orders issued involving defense counsel's motion to withdraw shall be UNSEALED” *State v. Kibby*, 170 N.H. at 257. The defendant objected to the proposed unsealing based on the attorney-client privilege. As for the sealed pleadings and *ex parte* hearings, the defendant argued that even if they “do not include privileged statements, they include content that is so closely associated as to be privileged.” *Id.* at 258.

The Supreme Court began its analysis by citing *Petition of Keene Sentinel* and *Petition of Union Leader Corp.*:⁷

“The courts of New Hampshire have always considered their records to be public, absent some overriding consideration or special circumstance.” *Petition of Keene Sentinel*, 136 N.H. 121, 126, 612 A.2d 911 (1992) (quotation and brackets omitted). “Such access is critical to ensure that court proceedings are conducted fairly and impartially, and that the judicial process is open and accountable.” *Petition of Union Leader Corp.*, 147 N.H. 603, 604, 809 A.2d 752 (2002) (citations omitted).

“[T]here is a presumption that court records are public and the burden of proof rests with the party seeking closure or nondisclosure of court records to demonstrate with specificity that there is some overriding consideration or special circumstance, that is, a sufficiently compelling interest which outweighs the public's right of access to those records.” *Petition of Keene Sentinel*, 136 N.H. at 128, 612 A.2d 911. “Where no special circumstances exist, however, those things which are filed in court in connection with a pending case are accessible to the public.” *Petition of Union Leader Corp.*, 147 N.H. at 604, 809 A.2d 752 (quotation omitted).

170 N.H. at 258. Here, no special circumstances exist.

(13) The defendant is deceased. Under common law precedent, his right of privacy lapsed upon his death. *See, e.g., Cordell v. Detective Publications, Inc.*, 491 F. 2nd 989, 990 (6th Cir.1964)(“Consequently, the right lapses with the death of the person who enjoyed it, and one

⁷ In the *Union Leader* case, the paper sought records of meetings of superior court judges. The Supreme Court denied access: “In sum, the documents sought are not court records. Rather, they are records of meetings of superior court judges concerning internal management and operation of the court that do not directly relate or pertain to court proceedings or the superior court's adjudicatory functions.” 147 N.H. at 605.

cannot recover for this kind of invasion of the privacy of a relative, no matter how close the relationship”)(footnotes 3 and 4 omitted).⁸⁸ Further, records already available to the public disclose the defendant’s violent conduct toward family members in 2016, that he was suffering from mental illness and had been involuntarily admitted to psychiatric hospitals in 2016 and 2017, and that a competency evaluation had been performed and filed with the trial court in September 2017. Moreover, if the Court had found, based on the competency evaluation, that the defendant was not competent to stand trial, it would have been required to make its findings to that effect public to comply with RSA 135:17-c,III. But if that is not what the evaluation concluded, it would raise the question why the State nolle prossed the Second Degree Assault and the Reckless Conduct charges. The reasons, according to the State, are in a “sealed record on 10/18/17.” See Exhibit 7.

(13) The Supreme Court has yet to consider a case involving access to competency hearings and records, but federal courts have. In *United States v. Guerrero*, 693 F.3d 990, 1000, 1001 (9th Cir. 2012), the court, based on its own research, ruled, “[t]he district court did not clearly err in concluding that *competency proceedings of a criminal defendant have historically been open to the public and press.*” (emphasis added). Continuing, the court stated:

Allowing public access to a competency hearing permits the public to view and read about the criminal justice process and ensure that the proceedings are conducted in an open, objective, and fair manner. *Indeed, public confidence in the judicial system is especially significant where a defendant accused of a violent felony is not tried because he was found incompetent.* (emphasis added).

Id. at 1002. *See also, Civil Beat Law Center for Public Interest, Inc. v. Maile*, 2022 WL 17960922 (D. Hawaii 2022); *United States v. Curran*, 2006 WL 1159855 (D. Ariz. May 2, 2006) (unpublished); *cf. Poole v. South Dade Nursing & Rehab. Ctr.*, 139 So.3d 436, 440-441

⁸⁸ At footnotes 3 and 4, the 6th Circuit cited the many authorities on which it relied.

(Fla. Dist. Ct. App. 2014) (finding that a defendant's competency examinations were not confidential under State law and, thus, affirmed the granting of a motion to unseal the same); and *State v. Chen*, 309 P.3d 410, 411 (Wash. 2013) (en banc) (concluding that, pursuant to the State Constitution, once a competency evaluation becomes a court record, a presumption of openness exists that can only be overcome by making case-specific findings).

Relief Requested

NHPR urges the Court to follow the foregoing authority and New Hampshire practice and common law, Part I, Articles 8 and 22 of the state constitution and First Amendment, and:

- A. unseal the records set forth in paragraph (9), and
- B. grant such additional relief as may be necessary and proper.

Respectfully submitted,

New Hampshire Public Radio

By its attorneys,

ORR & RENO, P.A.
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Date: January 19, 2024

By: /s/William L. Chapman
William L. Chapman

CERTIFICATE OF SERVICE

I, William L. Chapman, hereby certify that on this date the foregoing was served upon all counsel of record via the Court's electronic filing system.

Dated: January 19, 2024

/s/ William L. Chapman
William L. Chapman

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EXHIBIT 1

Shooter who killed New Hampshire hospital security guard ...



CNN.com

<https://www.cnn.com> › 2023/11/18 › new-hampshire-stat...

Nov 18, 2023 — New Hampshire officials have identified 33-year-old **John Madore** as the gunman who **killed** a **security guard** at a New Hampshire psychiatric ...

Shooter who killed security officer at N.H. psychiatric ...



The Boston Globe

<https://www.bostonglobe.com> › 2023/11/20 › metro › sh...

Nov 20, 2023 — Prosecutors dropped felony charges against **John Madore** in 2017 after he underwent a competency evaluation.

John Madore found incompetent to face charges in 2016



WMUR

<https://www.wmur.com> › article › john-madore-shooti...

Nov 20, 2023 — A man who investigators said **shot and killed** a **security guard** inside New Hampshire Hospital on Friday has a documented history with guns and ...

NH Hospital shooter's troubled past: 'I have firearms and ...



Seacoastonline.com

<https://www.seacoastonline.com> › news › 2023/11/22

Nov 22, 2023 — **John Madore** was barricaded in his Strafford, New Hampshire, bedroom, with a loaded 9-millimeter pistol and an assault rifle next to him, ...

Man who fatally shot security guard at psychiatric hospital ...



AP News

<https://apnews.com> › article › new-hampshire-psychiat...

Nov 23, 2023 — Court records show that a man who **fatally shot** a **security guard** at a New Hampshire psychiatric hospital moments before being **killed** by a ...

Man who fatally shot guard at New Hampshire hospital was ...



The Portland Press Herald

<https://www.pressherald.com> › 2023/11/23 › man-who-f...

Nov 23, 2023 — **John Madore**, who was **killed** by police during the incident, should not have been able to acquire weapons after a 2016 arrest, ...

New York Daily News

<https://www.nydailynews.com> › 2023/11/23 › john-m...

Nov 23, 2023 — **John Madore**, a former psychiatric patient at the New Hampshire hospital where he **fatally shot** a **security guard**, was banned from owning guns ...

Nov 18, 2023 — **John Madore**, 33, entered New Hampshire Hospital on Friday afternoon and **killed** Bradley Haas, a state Department of Safety **security officer**.

State Trooper who killed gunman at NH Hospital named



Concord Monitor

<https://www.concordmonitor.com> › NH-names-State-P...

Nov 30, 2023 — The New Hampshire State Trooper who **shot and killed John Madore** at New Hampshire Hospital three weeks ago was Nathan Sleight, ...

Nathan Sleight ID'd as trooper who fatally shot NH Hospital ...



NBC Boston

<https://www.nbcboston.com> › news › local › state-troo...

Dec 1, 2023 — A New Hampshire state trooper who **fatally shot** a man at a psychiatric hospital shortly after the man **killed** a **security guard** likely ...

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EXHIBIT 2

NH News

Questions linger about intersection of guns, mental health policy in wake of NH Hospital shooting

New Hampshire Public Radio | By Todd Bookman

Published December 1, 2023 at 5:30 AM EST



Michael Dwyer, AP

Police stand at the entrance to New Hampshire Hospital, Friday, Nov. 17, 2023, after a fatal shooting at the state psychiatric hospital.

The gunman who shot and killed a security guard at New Hampshire's secure psychiatric hospital two weeks ago had previously been a patient there, having been involuntarily committed to New Hampshire Hospital on multiple occasions in 2016 and 2017.

That history, in addition to the fact that the gunman — 33-year-old John Madore — had also faced criminal charges following an earlier armed standoff at his home, has raised questions about whether a patchwork system of gun regulations may have allowed him to obtain firearms.

Right now, there are no clear answers to those questions. But here's what we know so far.

Madore previously had guns, but those were seized

Officials say Madore used a 9mm gun to kill security guard Bradley Haas on Nov. 17. He also had an AR-style rifle in the U-Haul he drove to the hospital that day. But the New Hampshire Attorney General has not yet said how Madore obtained those guns.

We also know those are not the same guns Madore had in 2016 when he barricaded himself in a Strafford house following a domestic disturbance involving his mother and sister. Madore ultimately gave himself up before a SWAT team arrived, without any injuries. The police seized those firearms following a bail order restricting his access to firearms, and they are still in the possession of the Strafford Police Department.

Arrest records from the 2016 case show that Madore was suffering from severe mental illness at that time and was involuntarily committed to psychiatric hospitals on multiple occasions in 2016 and 2017, including New Hampshire Hospital.

The criminal charges in the case where he barricaded himself were eventually dropped. It isn't clear if that was because he was found incompetent to stand trial, though that's what the court files seem to suggest. Some of the file remains sealed, however.

Does being committed to a psychiatric hospital in New Hampshire restrict a person's ability to own a gun?

It turns out that's a very hard question to answer.

Let's start with federal law In 1968, the Gun Control Act made it illegal for anyone adjudicated mentally ill or committed to a mental institution to own or buy a gun.

While that may sound cut and dried, the issue is enforcement: No federal agency appears to aggressively enforce this law. Instead, what typically happens is a person is charged with another crime, and then federal prosecutors may add on the illegal gun charge. But this is often after the fact — after another criminal act.

In the absence of consistent federal enforcement, what are states doing?

About 40 states do have explicit laws that lay out what should happen regarding gun possession or background checks for a person who is found to be a danger to themselves or to others because of a serious mental illness.

Much of this state-level action came in the wake of the 2007 Virginia Tech shooting, when the federal government began giving states money to set up the infrastructure so they could share information with the FBI's background check system, known as NICS. This allowed states to put people who have been found unable to stand trial or not guilty by reason of insanity or involuntarily committed into this federal database, so that when gun shops do background checks, those individuals are flagged.

But it's far from consistent from state to state.

"We don't have a clear infrastructure in each and every state that says, 'this is how we're going to go about enforcing and checking to make sure that people who are now on this list no longer have their guns,'" said Deirdre Bowen, an attorney and researcher at the Seattle University's School of Law who's written about this issue.

The majority of states do require notification to the federal NICS database following an involuntary commitment, and some also offer those people a chance to petition to get their guns back.

Some states have laws that allow authorities to actually remove guns from people when they've been involuntarily committed to a psychiatric facility or when there are concerns — whether from family members or law enforcement — about them being a danger.

And then there's New Hampshire.

New Hampshire is one of just a few states that doesn't have a law requiring notification to the FBI when someone is adjudicated mentally ill. But the background here is complicated.

A state law was actually passed in 2016, with Republican backing — a single sentence tucked into an unrelated Medicaid expansion bill — that sought to address this issue.

It says that no one should be reported to NICS when they've been involuntarily committed, but it also lays out a lone exception. It states that the only people who can be reported must have had a hearing on the matter and been represented by an attorney.

Here is the law's full text:

"No person, organization, department, or agency shall submit the name of any person to the National Instant Criminal Background Check System (NICS) on the basis that the person has been adjudicated a 'mental defective' or has been committed to a mental

institution, except pursuant to a court order issued following a hearing in which the person participated and was represented by an attorney.”

From the start, legal officials in the state seemed to have a hard time agreeing on what this actually meant. New Hampshire’s Judicial Branch in 2016, just after the law was passed, essentially argued that the statute wasn’t clear, and it was impossible to determine the Legislature’s intent.

There was correspondence back and forth between the New Hampshire Attorney General’s office and officials from the state Supreme Court about how to interpret this law, with no clear resolution.

Bottom line: It hasn’t been enforced.

So is nobody in New Hampshire getting reported to the federal database if they’ve been involuntarily committed?

That’s also murky.

The law remains on the books, and the courts are apparently not reporting all people who are involuntarily committed to the NICS system.

And yet, there are today, according to public data, more than 650 people from New Hampshire who are in the NICS system because of serious mental health concerns.

But when we asked the New Hampshire Department of Justice and the Department of Safety, they weren’t able to provide specifics on how this process is actually working — who actually flagged and reported these people.

What that means is that it’s hard to say whether Madore, the gunman at New Hampshire Hospital, would have been in the federal background database at the time of the shooting, even given his history of severe mental illness, self-harm and violence.

One thing we can say: Had he had been a resident of most other states other than New Hampshire, then he most likely would have been. He also may be one of the people currently flagged in NICS by the state: Right now, that’s not clear.

But it’s also important to note that being flagged in NICS does not prevent someone from obtaining a gun in New Hampshire. Private gun sales here don’t require a background check, and neither would a friend or relative giving someone a gun. And of course, it’s possible to obtain guns illegally.

Lindsay Nichols, policy director with Giffords, the anti-gun violence group founded by former Congresswoman Gabby Giffords, says after these types of shootings, it can be frustrating – even for gun law experts – to know what went wrong.

“Because there are multiple overlapping gaps and you don’t really know which hole this person fell through in this particular state,” she said. “Is it a reporting failure? Is it the fact that he just bought it from a private, unlicensed seller who’s not required to conduct background checks? Has the law been interpreted in a narrow way by the state, and therefore they think they weren’t supposed to report him? So it’s never entirely clear.”

At some point, authorities will likely say where Madore obtained the weapon used to kill Bradley Haas. But that may only open up more questions.

Todd Bookman

Todd started as a news correspondent with NHPR in 2009. He spent nearly a decade in the non-profit world, working with international development agencies and anti-poverty groups. He holds a master’s degree in public administration from Columbia University.

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EXHIBIT 3

The State of New Hampshire SUPERIOR COURT COMPLAINT

Case Number: 219-2016-CR-15

Charge ID:

<input type="checkbox"/> VIOLATION	MISDEMEANOR		FELONY		
	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> CLASS A	<input checked="" type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED

You are to appear at the: **Strafford Superior Court**
 address: **259 County Farm Road Dover NH 03820**
 in: **Strafford County**
 at: **10:45 a.m.**
 on: **January 11, 2016**

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT:

<u>Madore</u>	<u>John</u>		
Last Name	First Name	Middle Initial	
<u>526 First Crown Point Road</u>	<u>Strafford</u>	<u>NH</u>	
Address	City	State	Zip
<u>Male</u>	<u>White</u>	<u>5'08"</u>	<u>160</u>
Sex	Race	Height	Weight
		<u>Hazel</u>	<u>Brown</u>
		Eye Color	Hair Color
<u>08/17/1990</u>			
DOB	License #:	OP License State	
<input type="checkbox"/> COMM. VEH.	<input type="checkbox"/> COMM. DR. LIC.	<input type="checkbox"/> HAZ. MAT.	<input type="checkbox"/> 16+ PASSENGER

AT: **526 First Crown Point Road, Strafford NH**

On or about Between **January 8, 2016** in the above county and state, did commit the offense of:

RSA Name: **Simple Assault**
Contrary to RSA: **631:2-a**
Inchoate:

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did: **knowingly cause unprivileged physical contact to Theresa Fortin Madore by placing her in a headlock,**

ARRAIGNED. PLEA: NOT GUILTY ATTY: ROBINSON <u>1-11-16</u> DATE	<u>A. COVE</u> CLERK
--	-------------------------

Additional allegations are attached.
against the peace and dignity of the State.

Thomas P. Velardi 12951 Thomas P. Velardi County Attorney
 Prosecutor's Signature NH Bar ID # Printed Name Prosecuting Attorney's Office

The State of New Hampshire SUPERIOR COURT COMPLAINT

Case Number: 219-2016-CR-15

Charge ID:

<input type="checkbox"/> VIOLATION	MISDEMEANOR		FELONY		
	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> CLASS A	<input checked="" type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED

You are to appear at the: **Strafford Superior Court**
 address: **259 County Farm Road Dover NH 03820**
 in: **Strafford County**
 at: **10:45 a.m.**
 on: **January 11, 2016**

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT:

<u>Madore</u>	<u>John</u>		
Last Name	First Name	Middle Initial	
<u>526 First Crown Point Road</u>	<u>Strafford</u>	<u>NH</u>	
Address	City	State	Zip
<u>Male</u>	<u>White</u>	<u>5'08"</u>	<u>160</u>
Sex	Race	Height	Weight
		<u>Hazel</u>	<u>Brown</u>
		Eye Color	Hair Color
<u>08/17/1990</u>			
DOB	License #:	OP License	State
<input type="checkbox"/> COMM. VEH.	<input type="checkbox"/> COMM. DR. LIC.	<input type="checkbox"/> HAZ. MAT.	<input type="checkbox"/> 16+ PASSENGER

AT: **526 First Crown Point Road, Strafford NH**
 On or about Between **January 8, 2016** in the above county and state, did
 commit the offense of:

RSA Name: **Second Degree Assault**
 Contrary to RSA: **631:2**
 Inchoate:

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:
**knowingly engage in the strangulation of Jacinta Madore by applying pressure to her throat that caused
 impeded breathing or blood circulation,**

ARRAIGNED. PLEA: NOT GUILTY ATTY: ROBINSON <u>1-11-16</u> DATE	<u>A. COTE</u> CLERK
--	-------------------------

Additional allegations are attached.
 against the peace and dignity of the State.

[Signature] 12951 Thomas P. Velard County Attorney
 Prosecutor's Signature NH Bar ID # Printed Name Prosecuting Attorney's Office

The State of New Hampshire SUPERIOR COURT COMPLAINT

Case Number: 219-2016-CR-15

Charge ID:

<input type="checkbox"/> VIOLATION	MISDEMEANOR		FELONY		
	<input type="checkbox"/> CLASS A	<input type="checkbox"/> CLASS B	<input type="checkbox"/> CLASS A	<input checked="" type="checkbox"/> CLASS B	<input type="checkbox"/> UNCLASSIFIED

You are to appear at the: **Strafford Superior Court**
 address: **259 County Farm Road Dover NH 03820**
 in: **Strafford County**
 at: **10:45 a.m.**
 on: **January 11, 2016**

Under penalty of law to answer to a complaint charging you with the following offense:

THE UNDERSIGNED COMPLAINS THAT:

<u>Madore</u>	<u>John</u>		
Last Name	First Name	Middle Initial	
<u>526 First Crown Point Road</u>	<u>Strafford</u>	<u>NH</u>	
Address	City	State	Zip
<u>Male</u>	<u>White</u>	<u>5'08"</u>	<u>160</u>
Sex	Race	Height	Weight
		<u>Hazel</u>	<u>Brown</u>
		Eye Color	Hair Color
<u>08/17/1990</u>			
DOB	License #:	OP License State	
<input type="checkbox"/> COMM. VEH.	<input type="checkbox"/> COMM. DR. LIC.	<input type="checkbox"/> HAZ. MAT.	<input type="checkbox"/> 16+ PASSENGER

AT: **526 First Crown Point Road, Strafford NH**

On or about Between **January 8, 2016** in the above county and state, did
 commit the offense of:

RSA Name: **Reckless Conduct**

Contrary to RSA: **631:3**

Inchoate:

And the laws of New Hampshire for which the defendant should be held to answer, in that the defendant did:
recklessly engage in conduct that placed Chief Scott Young of the Strafford Police in danger of serious bodily injury by locking himself in a room armed with loaded firearms, refusing to come out and indicating the situation was going to "end badly" or words to that effect, the firearms in the manner they were threatened to be used being capable of producing death or serious bodily injury,

ARRAIGNED. PLEA: NOT GUILTY ATTY: <u>ROBINSON</u> <u>1-11-16</u> DATE	<u>A. COTE</u> CLERK
---	-------------------------

Additional allegations are attached.
 against the peace and dignity of the State.

[Signature] 12951 Thomas P. Veluzis County Attorney
 Prosecutor's Signature NH Bar ID # Printed Name Prosecuting Attorney's Office

EXHIBIT 4

STRAFFORD SUPERIOR COURT
CASE SUMMARY
CASE NO. 219-2016-CR-00015

State v. John Madore

§
§
§
§
§

Location: **Strafford Superior Court**
Filed on: **01/11/2016**
SCN: **779489**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Criminal
Jurisdiction: Strafford					
1. 2nd Degree Assault	631:2	FELB	01/08/2016	Case	10/19/2017 Closed
ChargeID: 1176875C	ACN: 007025J161176875001			Status:	
Arrest:	STRF - Strafford Police Department				
2. Simple Assault	631:2-A	FELB	01/08/2016		
ChargeID: 1176876C	ACN: 007025J161176876002				
Arrest:	STRF - Strafford Police Department				
3. Reckless Conduct	631:3	FELB	01/08/2016		
ChargeID: 1176877C	ACN: 007025J161176877003				
Arrest:	STRF - Strafford Police Department				

Warrants

Violation of Bail Conditions - Madore, John (Judicial Officer: Tucker, Brian T)
05/20/2016 4:27 PM eWithdrawn
03/04/2016 3:10 PM eJ-One
03/03/2016 3:10 PM eArrestWarrant
03/03/2016 3:09 PM eReady to Issue
03/03/2016 3:09 PM Active
Hold Without Bond (Deployment Conversion)

PARTY INFORMATION

Defendant	Madore, John <i>PO BOX 324</i> <i>Northwood, NH 03261</i> <i>White Male Height 5'8" Weight 160lbs</i> <i>DOB: 08/17/1990 Age: 25</i>	<i>Attorneys</i> Nappen, Evan F., ESQ <i>Retained</i> 603-223-0001(W)
Prosecutor	Strafford County Attorney <i>Justice & Admin Building</i> <i>259 County Farm Rd, Suite 201</i> <i>Dover, NH 03820</i>	Henmueller, Katelyn Elizabeth, ESQ <i>Retained</i> 603-749-2808(W)
Jail Facility	Strafford County House of Corrections <i>Superintendent</i> <i>266 County Farm Road</i> <i>Dover, NH 03820</i>	
Office of Cost Containment Rep.	Office of Cost Containment <i>25 Capitol Street Room 400</i> <i>Concord, NH 03301-6324</i>	
Other	Forensic Examiner <i>State Office Park South</i> <i>105 Pleasant Street, Room 124-C</i> <i>P.O. Box 1806</i> <i>Concord, NH 03301</i> Strafford County Community Corrections <i>259 County Farm Rd Suite 103</i> <i>Dover, NH 03820</i>	

DATE	EVENTS & ORDERS OF THE COURT	INDEX
01/11/2016	Arraignment (Judicial Officer: Fauver, Peter H)	

STRAFFORD SUPERIOR COURT
CASE SUMMARY
CASE NO. 219-2016-CR-00015

Hearing Held

01/11/2016	Bail Order (Judicial Officer: Fauver, Peter H) \$5K with conditions Charges: 1, 2, 3	Index #11
01/11/2016	Arraignment (Judicial Officer: Fauver, Peter H) HOC Hearing Held	
01/11/2016	Complaint Charges: 1	Index #1
01/11/2016	Complaint Charges: 2	Index #2
01/11/2016	Complaint Charges: 3	Index #3
01/11/2016	Ntc of Eligibility and Appt of Counsel NHPD Charges: 1, 2, 3	Index #4
01/11/2016	Transport Order Charges: 1, 2, 3	Index #5
01/11/2016	Other SCCC Assessment report Charges: 1, 2, 3	Index #6
01/11/2016	Affidavit Gerstein	Index #7
01/11/2016	Affidavit Gerstein	Index #8
01/11/2016	Court Order (Judicial Officer: Fauver, Peter H) Gerstein Finding- State has demonstrated by aff prob cause for def arrest	Index #9
01/11/2016	Financial Affidavit	Index #10
01/19/2016	Motion to Amend Assented to Motion to Amend Bail	Index #12
01/19/2016	Granted (Judicial Officer: Tucker, Brian T)	
01/19/2016	Appearance Filed by: Attorney Robinson, Cynthia C., ESQ PD: Cindy Robinson, Esq.	Index #13
01/20/2016	Appearance Filed by: Prosecutor Strafford County Attorney CA: Kathryn Smykowski, Esq.	Index #14
01/27/2016	Waiver of Extradition Filed by: Attorney Robinson, Cynthia C., ESQ	Index #15
01/28/2016	Correspondence Filed by: Other Strafford County Community Corrections Acceptance letter from SCCC	Index #16
02/08/2016	Motion to Determine Competency Filed by: Defendant Madore, John SEALED Charges: 1, 2, 3	Index #17

STRAFFORD SUPERIOR COURT
CASE SUMMARY
CASE NO. 219-2016-CR-00015

03/02/2016	Granted (Judicial Officer: Houran, Steven M)	
03/02/2016	Order for Competency Evaluation (Judicial Officer: Houran, Steven M) <i>SEALED</i>	<i>Index #18</i>
07/14/2016	Order for Competency Evaluation (Judicial Officer: Houran, Steven M) <i>SEALED</i>	<i>Index #34</i>
09/08/2017	Competency Evaluation <i>*Sealed*</i>	<i>Index #44</i>
03/03/2016	Violation of Bail Conditions Filed by: Prosecutor Strafford County Attorney <i>Warrant requested</i>	<i>Index #19</i>
03/03/2016	Warrant (Judicial Officer: Tucker, Brian T) <i>VOBC. Bail to be set on return.</i> <i>Charges: 1, 2, 3</i>	<i>Index #20</i>
03/21/2016	Appearance Filed by: Attorney Nappen, Evan F., ESQ <i>DA; Evan F. Nappen, Esq.</i>	<i>Index #21</i>
03/23/2016	Motion to Vacate Filed by: Attorney Nappen, Evan F., ESQ <i>Mot. to Reinstate Bail Conditions (Mot. to Vacate Warrant)</i>	<i>Index #22</i>
04/01/2016	Response to Motion Filed by: Attorney Smykowski, Kathryn A., ESQ <i>(objects)</i>	<i>Index #23</i>
04/04/2016	Denied (Judicial Officer: Howard, Mark E)	
04/11/2016	Withdrawal <i>Filed by Cynthia Robinson, Esq. Public Defender for John Madore</i>	<i>Index #24</i>
04/21/2016	Sealed Document <i>Correspondence from OFE</i>	<i>Index #25</i>
05/23/2016	Sheriff's Return on Warrant	<i>Index #26</i>
05/24/2016	Bail Hearing (Judicial Officer: Houran, Steven M) <i>Transport</i> <i>Hearing Held</i>	
05/23/2016	Transport Order Party: Defendant Madore, John <i>from HOC for Bail Hrg. 5/24/16 at 2:00 PM</i> <i>Charges: 1, 2, 3</i>	<i>Index #27</i>
05/23/2016	Other Filed by: Other Strafford County Community Corrections <i>SCCC Assessment Interview Report</i>	<i>Index #28</i>
05/24/2016	Appearance Filed by: Attorney Hagaman, Meghan C., ESQ <i>M. Hagaman</i>	<i>Index #29</i>
05/24/2016	Motion to Revoke Bail Filed by: Attorney Hagaman, Meghan C., ESQ <i>State's Motion to Revoke Bail</i>	<i>Index #30</i>
05/24/2016	Bail Order (Judicial Officer: Houran, Steven M) <i>\$50,000.00 Cash only (see Order)</i>	<i>Index #31</i>

STRAFFORD SUPERIOR COURT
CASE SUMMARY
CASE NO. 219-2016-CR-00015

06/13/2016	Motion to Amend Filed by: Attorney Hagaman, Meghan C., ESQ <i>State's Assented to Motion to Amend Bail</i>	<i>Index #32</i>
06/14/2016	Granted (Judicial Officer: Houran, Steven M) <i>"Granted; So Ordered."</i>	
07/12/2016	Motion to Extend Filed by: Attorney Hagaman, Meghan C., ESQ <i>State's Assented to Motion for Extension of Time</i>	<i>Index #33</i>
07/13/2016	Granted (Judicial Officer: Howard, Mark E) <i>"Motion granted. Deadline extended to October 20, 2016."</i>	
08/24/2016	Appearance <i>CA- Katelyn Henmueller</i>	<i>Index #35</i>
09/15/2016	Motion to Modify Bail <i>Assented</i>	<i>Index #36</i>
09/15/2016	Granted (Judicial Officer: Howard, Mark E) <i>"Upon review, motion granted. Bail modified consistent with paragraph 5, of the motion."</i>	
10/20/2016	Indictment <i>Charges: 1, 3</i>	<i>Index #37</i>
10/26/2016	Return <i>DWOP</i> <i>Charges: 2</i>	<i>Index #38</i>
10/26/2016	Disposition (Judicial Officer: Howard, Mark E) 2. Simple Assault Dismissed Without Prejudice	
12/16/2016	Transport Order Party: Defendant Madore, John <i>From NH State Hospital for Status Re: Comp 1-6-17 at 9am</i> <i>Charges: 1, 3</i>	<i>Index #39</i>
01/06/2017	Status Conference (Judicial Officer: Houran, Steven M) <i>Re: Competency (Transport from NH State Hospital)</i> <i>Hearing Held</i>	
01/09/2017	Sealed Document <i>Order (Under Seal)</i>	<i>Index #40</i>
05/01/2017	Motion to Show Cause Filed by: Office of Cost Containment Rep. Office of Cost Containment	<i>Index #41</i>
05/22/2017	Withdrawn (Judicial Officer: Houran, Steven M) <i>By Notice dated 5/17/17</i>	
05/22/2017	Correspondence Filed by: Office of Cost Containment Rep. Office of Cost Containment <i>Withdrawing Motion to Show Cause</i>	<i>Index #42</i>
06/01/2017	CANCELED Show Cause Hearing	
09/08/2017	Sealed Document <i>State's Assented to Motion to Reschedule Status Hearing</i>	<i>Index #43</i>
09/08/2017	Granted (Judicial Officer: Howard, Mark E)	

STRAFFORD SUPERIOR COURT
CASE SUMMARY
CASE NO. 219-2016-CR-00015

10/16/2017 Transport Order
Party: Defendant Madore, John
NH State Hospital - Status Conference 10/18/17 at 9am (CANCELLED 10-17-17 jf)

10/18/2017 **Status Conference** (Judicial Officer: Houran, Steven M)
re Restoration
Hearing Held

10/18/2017 **Disposition**
1. 2nd Degree Assault
Nolle Prossed
3. Reckless Conduct
Nolle Prossed

10/18/2017 Return
NP
Charges: 1, 3

Index #45

Index #46

TARGET DATE

TIME STANDARDS

EXHIBIT 5

STATE

John Madore

Case Number: 219-2016-CR-015

BAIL ORDER

This Bail Order is by agreement after hearing

pending arraignment indictment trial sentencing appeal VOP that the above defendant:

I. A. Be released on \$ _____ personal recognizance

B. Be released on \$59,000 ~~cash or corporate surety~~ cash only, to convert to P.R. to transfer to

II. DEFENDANT'S RELEASE IS SUBJECT TO THE CONDITIONS THAT: the N.H. State Hospital for I.E.A.

A. Defendant not commit a federal, state or local crime while on release. Immediately upon discharge from

B. Defendant shall keep on file with this Court a current mailing address and check daily at that address for receipt of notices in this case. from Hospital, bail shall automatically

III. The Court determines that because the above conditions will not reasonably assure the appearance of the defendant as required or will endanger the safety of the defendant or of any other person or community, the following additional conditions of release will be imposed:

a. The defendant shall have no contact, direct or indirect, with Theresa Madore + Jacinto Madore

b. The defendant shall live at _____

c. The defendant shall not travel outside of New Hampshire

d. The defendant shall execute a Waiver of Extradition approved by the Court revert back to cash only, with

e. The defendant shall refrain from possessing a firearm, destructive device, dangerous weapon or ammunition defendant to be transported to

f. The defendant shall refrain from the ANY excessive use of alcohol and the use of controlled drugs as defined in RSA 318-B SC HOC and a bail hearing to

g. The defendant shall comply with the following curfew: _____

h. The defendant shall abide by all terms and conditions of probation and/or parole

i. The CBPO dated _____ remains in full force and effect

j. Strafford County Community Corrections

i. The defendant shall be supervised and monitored by Strafford County Community Corrections.

ii. Defendant shall be evaluated by Strafford County Community Corrections. If accepted by SCCC, bail shall convert to personal recognizance in the amount indicated in paragraph I.B., above. Defendant shall not be released until bail bond is completed.

iii. If defendant violates terms of this bail order, or of any provisions of SCCC supervision, bail shall revert to cash only, with a bail hearing to be scheduled.

iv. If SCCC supervision is ordered under paragraph III (j)(i) or (ii), it shall be according to whatever conditions that SCCC deems necessary for supervision. In addition, the following conditions shall apply:

1. Electronic Monitoring
2. GPS
3. Sobrieter
4. Mental Health treatment referral
5. Submit to random drug and/or alcohol tests.

faxed/scanned 5/24/16-KTM

transportation to and from NH Hospital

k. Other: Strafford County Sheriff's Department shall provide all necessary

l. Bail REVOKED / DENIED - The Court finds there is no condition or set of conditions that would ensure the Defendant's compliance

Date 5/24/16

[Signature]
Presiding Justice

Steven M. Houran
Presiding Justice

5/24/16 3:35pm

EXHIBIT 6

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Strafford Superior Court
259 County Farm Road, Suite 301
Dover NH 03820

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

RETURN FROM SUPERIOR COURT

Case Name: **State v. John Madore**
Case Number: **219-2016-CR-00015**

Name: **John Madore**, 526 First Crown Point Rd Strafford NH 03884

DOB: August 17, 1990

Charging document: Complaint

Offense: Simple Assault	Charge ID: 1176876C	RSA: 631:2-A	Date of Offense: January 08, 2016
-----------------------------------	-------------------------------	------------------------	---

Disposition: Dismissed/Quashed

Date: October 26, 2016

Action taken: By Judge

Dismissed without prejudice for lack of prosecution.

Mark E. Howard

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Katelyn Elizabeth Henmueller, ESQ Defendant Defense Attorney Evan F. Nappen, ESQ
 Other SCCC _____ Dist Div. _____

EXHIBIT 7

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Strafford Superior Court
259 County Farm Road, Suite 301
Dover NH 03820

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

RETURN FROM SUPERIOR COURT

Case Name: **State v. John Madore**
Case Number: **219-2016-CR-00015**

Name: **John Madore**, PO BOX 324 Northwood NH 03261

DOB: August 17, 1990

Charging document: Indictment

Offense:	Charge ID:	RSA:	Date of Offense:
2nd Degree Assault	1176875C	631:2	January 08, 2016
Reckless Conduct	1176877C	631:3	January 08, 2016

Disposition: Nolle Pros

Date: October 18, 2017

Action taken: By Prosecutor

For reasons placed on sealed record on 10/18/17

Katelyn Henmueller

J-ONE: State Police DMV

C: Dept. of Corrections Offender Records Sheriff Office of Cost Containment
 Prosecutor Katelyn Elizabeth Henmueller, ESQ Defendant Defense Attorney Evan F. Nappen, ESQ
 Other SCCCP Dist Div.

EXHIBIT 8

From: Av Harris <AHarris@courts.state.nh.us>
Sent: Monday, November 27, 2023 2:32 PM
To: Todd Bookman <tbookman@nhpr.org>
Subject: RE: release of Madore competency records

I think you would need to file a legal motion to have these records unsealed

Av Harris
Communications Manager/Public Information Officer
New Hampshire Judicial Branch
aharris@courts.state.nh.us
603-415-6770

From: Todd Bookman <tbookman@nhpr.org>
Sent: Monday, November 27, 2023 2:27 PM
To: Av Harris <AHarris@courts.state.nh.us>
Subject: release of Madore competency records

EXTERNAL EMAIL WARNING! This email originated outside of the New Hampshire Judicial Branch network. Do not click on links or open attachments unless you recognize the sender and are expecting the email. Mouse over links to confirm the target before you click. Do not enter your username and password on sites that you have reached through an email link. Forward suspicious and unexpected messages to 'suspicious@courts.state.nh.us'.

Hi Av,

I wanted to bring something to your attention regarding the release of files from John Madore's 2016 criminal case.

Below I've pasted RSA 135:17-C, which states that written findings related to competency "shall be part of the public court file."

From our perspective, Index 44 should therefore already be part of the public record, assuming he was found incompetent. Its possible that Index 17, 18, and 34 should be released, as well.

I realize you are not making the call on what files get released, so my request is that this information be forwarded to whoever is making those decisions.

If necessary, we are prepared to file a motion to request these documents be released. But from our standpoint, the statute already calls for their inclusion in the public file.

Sincerely,
Todd

135:17-C Information Related to Competency Determinations. –

All evaluation reports, recommendations, medical records, or other documents related to the court's determinations under RSA 135:17-a, I, II, and III shall be kept separately from the public court file and shall not be disclosed except as follows:

I. The court may order release with the written consent of the parties.

II. The competency report may be provided to the receiving facility or the secure psychiatric unit pursuant to RSA 135:17-a, VII.

III. In any case in which the court finds that the defendant is not competent to stand trial pursuant to RSA 135:17-a, I, or has not been restored to competency pursuant to RSA 135:17-a, IV, the court shall make written findings which describe the evidence which was relied upon to make its determination. Such written findings shall be part of the public court file. The prosecutor shall provide a copy of the written findings to the victim, as defined in RSA 21-M:8-k.

Source. 2012, 151:2, eff. Aug. 6, 2012.

REPORTER
NEW HAMPSHIRE PUBLIC RADIO
2 Pillsbury Street, 6th Floor, Concord NH 03301
tbookman@nhpr.org

EXHIBIT 9

NH News

Police took Madore's guns after 2016 assault and reckless conduct arrests

By Annmarie Timmins - New Hampshire Bulletin
Published November 22, 2023 at 4:59 PM EST

- Facebook
- Twitter
- LinkedIn
- Email

STRAFFORD, SS

STATE

SUPERIOR COURT

John Madore

Case Number: 219-2016-CR-015

BAIL ORDER

This Bail Order is by agreement after hearing

pending arraignment indictment trial sentencing appeal VOP that the above defendant:

I. A. Be released on \$ _____ personal recognizance

B. Be released on \$ 5,000 cash or corporate surety (cash only) to convert to P.R. to transfer to

II. DEFENDANT'S RELEASE IS SUBJECT TO THE CONDITIONS THAT: The N.H. State Hospital for J.E.A. Immediately upon discharge from that Hospital, bail shall automatically

- A. Defendant not commit a federal, state or local crime while on release.
- B. Defendant shall keep on file with this Court a current mailing address and check daily at that address for receipt of notices in this case.

III. The Court determines that because the above conditions will not reasonably assure the appearance of the defendant as required or will endanger the safety of the defendant or of any other person or community, the following additional conditions of release will be imposed:

a. The defendant shall have no contact, direct or indirect, with Theresa Madore & Jacob Madore

b. The defendant shall live at _____

c. The defendant shall not travel outside of New Hampshire

d. The defendant shall execute a Waiver of Extradition approved by the Court Revert back to cash only, with

e. The defendant shall refrain from possessing a firearm, destructive device, dangerous weapon or ammunition defendant to be transferred to SC HOC and a bail hearing to

f. The defendant shall refrain from the ANY excessive use of alcohol and the use of controlled drugs as defined in RSA 318-B

Screenshot

A 2016 bail order unsealed at the New Hampshire Bulletin's request Wednesday shows that a judge prohibited John Madore from possessing guns following a 2016 arrest in which he allegedly threatened to shoot the police.

His mental health was a concern too. Last Friday, Madore fatally shot a New Hampshire Hospital security officer, according to the authorities.

This story was originally produced by the New Hampshire Bulletin, an independent local newsroom that allows NHPR and other outlets to republish its reporting.

Strafford Police confiscated guns from John Madore in 2016 following his arrest during a tense scene in his mother's home, where he allegedly told the police, "I have firearms and this is not going to end well."

They did so under Strafford County Superior Court bail orders that were unsealed Wednesday at the Bulletin's request. Michael Garrity, spokesman for the Attorney General's Office, confirmed after the bail orders were unsealed that the police had confiscated the weapons.

It remains unclear how Madore obtained the gun police say he used to kill New Hampshire Hospital security officer Bradley Haas on Nov. 17. The court ordered his competency be evaluated in the 2016 case, and he was admitted to the New Hampshire Hospital under an emergency admission. Guns purchased through a licensed dealer include a background check that asks about mental health hospitalizations.

Federal law prohibits a person who has been adjudicated as "mental defective" or has been committed to any mental institution from possessing a firearm. However, New Hampshire keeps mental health records confidential and therefore does not provide them to the national database used to perform background checks.

The bail conditions in Madore's 2016 case have raised important questions since last week's fatal shooting at New Hampshire Hospital. Madore, whose residence was unknown, was shot and killed by a state trooper on duty.

Two Strafford County Superior Court bail orders unsealed Wednesday at the Bulletin's request show that Madore was forbidden from possessing any dangerous weapons. That would have included the 9-millimeter handgun, semi-automatic rifle, and ammunition the police listed in Madore's arrest affidavit.

On Wednesday, Garrity said that the guns "remain in the custody of the Strafford Police Department."

Garrity said the 9-millimeter handgun the police say Madore used to kill Haas was not the same one cited in his 2016 arrest affidavit.

The authorities have also not said whether they believe Madore was connected to the AR-style rifle, tactical vest, and several magazines of ammunition found in a U-Haul in the hospital parking lot last Friday. But Garrity said Wednesday none of the equipment was involved in the 2016 case.

The 2016 bail orders had been sealed because they included information that Madore was referred to mental health treatment after his arrest, according to Judge Mark Howard's Wednesday order to unseal them. Madore's competency evaluations remain sealed.

According to the unsealed portions of Madore's 2016 file, the police had gone to his home for reports that he'd hit his mother, knocking her to the ground, and choked his sister until she could not breathe.

Madore spent some time in jail as well as the New Hampshire Hospital, the same place the police say he killed Haas.

The charges were eventually dropped for reasons not stated in the file. Charges are often dropped when a person is found incompetent to stand trial.

New Hampshire Bulletin is part of States Newsroom, a network of news bureaus supported by grants and a coalition of donors as a 501c(3) public charity. New Hampshire Bulletin maintains editorial independence. Contact Editor Dana Wormald for questions: info@newhampshirebulletin.com. Follow New Hampshire Bulletin on Facebook and Twitter.

EXHIBIT 10

HB 1711-FN - AS INTRODUCED

2024 SESSION

24-3144
09/08

HOUSE BILL *1711-FN*

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

SPONSORS: Rep. Roy, Rock. 31; Rep. Stone, Sull. 8; Rep. Meuse, Rock. 37; Rep. Monteil, Ches. 15

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill authorizes the state to report mental health data for firearms background check purposes and provides for processes for the confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

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.

24-3144
09/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

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

1 Short Title. This bill shall be known as "The Chief Bradley Haas Mental Health Firearms Reporting Act".

2 Sale of Firearms; Criminal History Record Check, Mental Health Record Check, and Protective Order Check. Amend RSA 159-D:1 to read as follows:

159-D:1 Sale of Firearms; Criminal History Record *Check, Mental Health Record Check*, and Protective Order Check.

The department of safety may become the point of contact for the federal government for the purposes of the National Instant Criminal Background Check System (NICS).

I. Neither the court nor the department of safety shall transmit information on persons seeking voluntary treatment or on persons involuntarily hospitalized for assessment or evaluation.

II. Information the court or the department of safety causes to be transmitted to NICS pursuant to this chapter shall not be considered as public records pursuant to RSA 91-A.

III. The records entered into the NICS Indices pursuant to this chapter shall only be used for purposes of determining eligibility to purchase, possess, carry, or transfer a firearm or ammunition. Information furnished shall not include confidential medical or treatment records, confidential tax or financial data, or library records.

IV. Neither the court nor the department of safety shall submit the name of any person to NICS signifying a prohibition under 18 U.S.C. section 922(g) except pursuant to the processes outlined in this chapter.

195-F:6 Appointment of Attorney.

Unless otherwise provided in statute, a person may be appointed an attorney by the court for the purposes of any hearing referred to in this chapter.

4 New Paragraph; Access to Governmental Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph I-a the following new paragraph:

I-b. Information caused to be transmitted by the court to the National Instant Criminal Background Check System pursuant to RSA 159-F:5, II.

5 New Chapter; Relief from Disabilities. Amend RSA by inserting after chapter 159-F the following new chapter:

CHAPTER 159-G RELIEF FROM DISABILITIES

159-G:1 Relief from Disabilities Petition.

Any person who has a non-emergency involuntary commitment under RSA 135-C:34-54 or has been found not guilty by reason of insanity or incompetent to stand trial and found by the court to be a danger to himself or herself or others pursuant to RSA 171-B:2, 135-E:5 or 135:17-a, as outlined in RSA 159-F, and who is subject to the firearm disabilities of 18 U.S.C. section 922 (g)(4), may petition for a review of the person's mental capacity to purchase a firearm. Individuals found not guilty by reason of insanity may file for relief with the court 6 months after the finding of not guilty by reason of insanity status, unless the person was committed to an institution pursuant to RSA 651:8-b, in which case the person may file for relief 6 months after absolute discharge. Individuals found incompetent to stand trial and found by the court to be a danger to themselves or others under RSA 135:17-a, as outlined in RSA 159-F, may file for relief with the court 6 months after the finding of incompetency, unless the person was committed to an institution pursuant to RSA 171-B:2 or RSA 135-C:34-54, in which case the person may file for relief 6 months from when an absolute discharge order has been filed with the probate court. A person committed under RSA 135-E:5 may petition for relief 6 months after absolute discharge.

159-G:2 Psychiatric Examination.

Upon receipt of a petition for relief, the court shall order an independent psychiatric examination from the department of health and human services, bureau of behavioral health to be completed prior to the hearing, which shall be scheduled in no more than 45 days from the date the court ordered the independent psychiatric evaluation. The independent psychiatrist shall provide the court with an opinion as to whether the person is disabled by a mental illness and is likely to act in a manner dangerous to public safety.

159-G:3 Hearing; Order; Appeals.

I. The petitioner may present evidence and call witnesses at the hearing on the petition. The court shall make written findings of fact and conclusions of law on the issues before it and issue a final order. The court may only consider applications for relief due to mental health adjudications or commitments that occurred in New Hampshire. The court shall review the circumstances regarding the firearms disabilities imposed by 18 U.S.C. section 922(g)(4), and records consisting of at minimum mental health and any criminal record, if applicable, and the person's reputation developed through character witness testimony, witness statements, or other character evidence.

II. The court shall grant the relief requested in the petition if the judge finds by clear and convincing evidence that the petitioner will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the final order grants relief, the court shall, as soon as possible, request that the NICS entry be redacted and shall notify the United States Attorney General that the basis for the record being made available no longer applies. The petitioner may appeal a final order denying relief within 30 days of the order to the New Hampshire supreme court. The supreme court shall review the case de novo and has discretion to review additional evidence.

III. If the motion for relief is denied, the person may petition the court for relief again after 2 years have elapsed.

6 Application Required. The attorney general shall make application for approval of section 5 of this act to the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, or other such agency as may be required by federal law in order to ensure New Hampshire citizens are provided with the ability to have their rights restored. RSA 159-F shall not take effect until the attorney general receives federal approval of the restoration of rights process.

7 Contingency. Sections 2 - 5 of this act shall take effect on the date the attorney general certifies to the secretary of state and director of the office of legislative services that the state has received approval from the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, pursuant to section 6 of this act. If the attorney general does not receive such approval, sections 2 - 5 of this act shall not take effect.

8 Appropriation; New Hampshire Judicial Branch. The sum of \$1 for the fiscal year ending June 30, 2025, is hereby appropriated to the New Hampshire judicial branch for the cost of independent psychiatrist evaluations. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

9 Repeal. RSA 126-AA:2, VI, relative to submission of information to NICS, is repealed.

10 Effective Date.

I. Sections 2 - 5 of this act shall take effect as provided in section 7 of this act.

II. The remainder of this act shall take effect 60 days after passage.

LBA
24-3144
12/20/23

HB 1711-FN- FISCAL NOTE AS INTRODUCED

AN ACT authorizing the state to report mental health data for firearms background check purposes and providing for processes for confiscation of firearms following certain mental health-related court proceedings and for relief from mental health-related firearms disabilities.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, as introduced, at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

AGENCIES CONTACTED:

Department of Safety, Department of Justice, Department of Health and Human Services, and Judicial Branch

4677177

EXHIBIT 11

Orr&Reno

William L. Chapman
wchapman@orr-reno.com
Direct Dial 603.223.9107
Direct Fax 603.223.9007

December 4, 2023

VIA EMAIL

Kimberly T. Myers
Clerk of Court
Strafford County Superior Court
William A. Grimes Justice & Administrative Building
259 County Farm Road, Suite 301
Dover, NH 03820

Re: *State v. John Madore, Case No. 219-2016-CR-00015*

Dear Clerk Myers:

I represent New Hampshire Public Radio and its reporter, Todd Bookman. Mr. Bookman has reported on the recent tragic incident at New Hampshire Hospital, in which John Madore shot and killed an unarmed security guard.

Mr. Bookman has provided me with the Case Summary for the above-referenced case in anticipation of moving for access to obtain several of the listed records. But before doing that, would you tell me (1) what the initials "SCCC" stand for in Index #6; (2) the subject of Index #25, "Sealed Document, Correspondence from OFE," and what the initials "OFE" stand for; (3) what the initials "HOC" stand for in Index #27; (4) the subject of Index #40, "Sealed Document, Order (Under Seal);" and (5) what "re Restoration" refers to in Index #45.

I look forward to hearing from you. If more convenient, call or respond by email.

Sincerely yours,



William L. Chapman

cc: Todd Bookman
WLC/mem

4628343

EXHIBIT 12

THE STATE OF NEW HAMPSHIRE
ADMINISTRATIVE OFFICE OF THE COURTS

DIANNE MARTIN
DIRECTOR



ONE GRANITE PLACE, SUITE N400
CONCORD, NH 03301
(603) 415-0665
dmartin@courts.state.nh.us

December 4, 2023

Attorney William L. Chapman
Orr & Reno
45 South Main Street, P.O. Box 3550
Concord, NH 03302

Re: Response to request for information regarding case records.

Dear Attorney Chapman:

The purpose of this letter is to respond to your request for information about case records, which was sent via email to Clerk Kimberly T. Myers of Strafford County Superior Court on December 4, 2023.

Specifically, you posed the following questions on behalf of New Hampshire Public Radio and a reporter of that outlet, Mr. Todd Bookman, from the case file of *State v. John Madore*, No. 219-2016-CR-00015:

- (1) what the initials "SCCC" stand for in Index #6;
- (2) the subject of Index #25, "Sealed Document, Correspondence from OFE," and what the initials "OFE" stand for;
- (3) what the initials "HOC" stand for in Index #27;
- (4) the subject of Index #40, "Sealed Document, Order (Under Seal);" and
- (5) what "re Restoration" refers to in Index #45

Please understand that we are unable to provide information that is currently under seal in this case. However, we are happy to assist you in understanding the acronyms and terms that are associated with the publicly accessible descriptions and captions of case documents.

"SCCC" refers to Strafford County Community Corrections. "OFE" stands for Office of the Forensic Examiner. "HOC" stands for House of Corrections. "Restoration" as it is used in this case refers to being restored to competency.

Please let us know if we can be of any further assistance.

Sincerely,

Erin Creegan

Erin Creegan
General Counsel
New Hampshire Judicial Branch

EXHIBIT 13

Chapman, William L.

From: GeneralCounsel <GeneralCounsel@courts.state.nh.us>
Sent: Tuesday, December 5, 2023 4:36 PM
To: Chapman, William L.
Cc: Superior Courts
Subject: Re: State v. John Madore, Case No. 219-2016-CR-00015 [OR-IMANAGE.FID379989]

Hello Attorney Chapman,

Unfortunately we can't provide information that is under seal administratively, without a court order. This is, of course, something that can be addressed by adjudication.

The Strafford County House of Corrections is located on 266 County Farm Road in Dover.

Best,
Erin Creegan

From: Chapman, William L. <WChapman@orr-reno.com>
Sent: Tuesday, December 5, 2023 8:41 AM
To: GeneralCounsel <GeneralCounsel@courts.state.nh.us>
Subject: State v. John Madore, Case No. 219-2016-CR-00015 [OR-IMANAGE.FID379989]

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Ms. Creegan-
Thank you for your prompt response.
Concerning the two sealed records – Indexes #27 and #40 – can you not at least tell me what the record relates to, e.g., Mr. Madore's competency? See, in this regard, Indexes #17, #18, #34 and #44.
Concerning Index #27, where is the House of Corrections located?
Bill Chapman

From: GeneralCounsel <GeneralCounsel@courts.state.nh.us>
Sent: Monday, December 4, 2023 5:43 PM
To: McFall, Mary E. <MMcFall@orr-reno.com>
Cc: Kimberly T. Myers <kmyers@courts.state.nh.us>; Av Harris <AHarris@courts.state.nh.us>; Chapman, William L. <WChapman@orr-reno.com>; tbookman@nhpr.org; Superior Courts <superiorcourts@orr-reno.com>
Subject: RE: State v. John Madore, Case No. 219-2016-CR-00015 [OR-IMANAGE.FID379987]

Good evening,

Please see the attached response.

Best,
Erin Creegan
General Counsel