

# Meeting Summary

Task Force on Specialty Courts

Meeting #3

[Link](#) to Task Force on OLIS



**LPRO**  
LEGISLATIVE POLICY  
AND RESEARCH OFFICE

<b>Date/Time</b>	August 9, 2024 ( <a href="#">link to recording</a> )
<b>Attendees</b>	<p>Chair Clara Rigmaiden Shane Anderson Kathy Brazell Sevos Joseph Garcia John Haroldson Lisa Nichols Matthew Phillips Laura Ruggeri Ken Sanchagrin Jay Scroggin Jason Van Meter Chris Wig</p> <p><b>Excused:</b> Chris Behre Heather Crow-Martinez Heidi Moawad Ann Marie Simmons</p> <p><b>Absent:</b> Aaron Gosney Kimberly Keller</p>
<b>Welcome and Roll Call</b> <i>Judge Clara Rigmaiden, Chair</i>	Chair Rigmaiden called the meeting to order and conducted roll call of the members.
<b>Member Discussion</b> <i>Judge Clara Rigmaiden, Chair</i>	<p>Chair Rigmaiden opened the discussion on topics from the previous meetings. The discussion questions follow.</p> <ol style="list-style-type: none"><li><i>Are there any experts, stakeholders, organizations, or practitioners who you think would be particularly useful for the Task Force to hear presentations from related to the four legislative directives?</i><ul style="list-style-type: none"><li>AllRise would be helpful especially regarding eligibility</li><li>Mark Stodola from the American Parole and Probation Association on the topic of eligibility and risk regarding impaired driving</li></ul></li><li><i>There was some discussion of current challenges to treatment court implementation, including the biennial grant cycle complicating treatment provider contracts, the funding need for training, and incompatible data systems. Are there any other such obstacles that</i></li></ol>

*currently exist in your experience with treatment courts that you would like the Task Force to discuss or address? No discussion.*

3. *Is there any other topic discussed in the prior meeting that you would like to discuss further or comment on? No discussion.*

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**Open Informational Meeting**

*Judge Clara Rigmaiden,  
Chair*

Chair Rigmaiden opened the informational meeting on subsection (1)(3)(c) of HB 4001, “determining whether specialty courts currently use the right eligibility metrics, including whether current metrics are accurately capturing those individuals who would benefit from a drug court program.”

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**Evidence-based Practices on Eligibility Criteria**

*John Haroldson, District  
Attorney, Benton County*

*Jim Eberspacher,  
Impaired Driving  
Solutions Director,  
AllRise*

*Slides – ([Part 1](#), [Part 2](#))*

Strategies for funding treatment courts or determining standards should be based on the 10 Key Components (what we do), the research on treatment courts (why we do it), and evidence-based best practices (how we do it). Research is ongoing, and best practices evolve. To get the best outcomes, it is critical for court teams to have a comprehensive understanding of the 10 Key Components and evidence-based best practices.

**Part 1: Risk and Need**

Research shows that the best outcomes for the treatment court model is with high-risk/high-need individuals. Eligibility criteria should bring in the target group in a way that is inclusive and equitable.

**Objective Eligibility Criteria:** To achieve the best outcomes and ensure equitable outcomes and access to programs, the assessment process should be based on objective eligibility and exclusion criteria. Using subjective criteria creates room for implicit bias to become a factor, which contributes to disproportionate outcomes for individuals based on gender, race, ethnicity, etc.

**Risk, Need, and Responsivity Principle (RNR):** Having too much, too little, or the wrong kind of response to individuals’ needs does not improve their outcomes, and may even worsen them. Teams need to be able to identify the best response for individuals to get the best outcomes.

**High-Risk/High-Need Individuals:** *High-Risk* individuals are at significant risk of committing new crimes or failing to comply under a traditional model of supervision. *High-Need* individuals have a clinically diagnosed moderate to severe compulsive substance use disorder. Some high-need individuals with substance use disorder may also have co-occurring mental health disorders such as post-traumatic stress, anxiety, and major depressive disorder; this is common in veteran treatment courts. The best treatment response would need to consider all co-occurring disorders.

**Alternative Tracks:** The standard treatment court track serves high-risk/high-need individuals in a program that emphasizes accountability, treatment, and habilitation. For individuals with different levels of risk and need, there are three alternative tracks:

1. *Treatment Track* emphasizes treatment and habilitation and is best for low-risk/high-need individuals who are not typically criminally involved, but have a compulsive substance use disorder.



2. *Supervision Track* emphasizes accountability and habilitation and is best for high-risk/low-need individuals who don't have a compulsive substance use disorder but a high level of criminality.
3. *Diversion Track* emphasizes secondary prevention and is best for low-risk/low-need individuals.

It is critically important to ensure individuals are placed in the most appropriate track; placement in the wrong one may be more harmful than beneficial.

**Valid Eligibility Assessments:** Validated assessments should be used to determine risk and need. Assessments should be done before individuals enter a program to ensure they are placed in an appropriate program. Screening tools are not the same as assessments; they are used to identify people who need assessment.

**Impaired Driving Offenses:** There are specific assessments for impaired drivers because they tend to score lower on traditional risk assessments due to lack of criminal history and high degrees of denial and separation.

**Selecting and Using Risk/Need Assessments:** [AllRise](#) has Fact Sheets that cover many topics including [how to select and use risk and need assessments](#), and the [Bureau of Justice Assistance](#) manages an online database of assessment tools called the [Public Safety Risk Assessment Clearinghouse](#).

#### **Questions/Discussion:**

- **How are screening tools validated for use with different populations?** There are several screening and assessment tools that are specific to treatment court types and specific risk/need groups; AllRise does not advise on which tool a court should use; courts would have to determine that themselves based on their context.
- **Is there an assessment specific to the veteran population?** Mr. Haroldson will check with AllRise about this. In part 2 of the presentation, Mr. Eberspacher shares that traditional validated assessments are also valid for the veteran population.
- **Is there research about which offenses may be appropriately served by treatment courts, which ones are inappropriate?** Treatment courts have the best outcomes for high-risk/high-need individuals, including violent offenders who have substance use disorders. However, courts cannot use federal funds to serve violent offenders; they must use state funds or other funding sources that don't restrict participation by type of offense.

#### **Part 2: Structure and Criteria**

How a treatment court structures its program could narrow or expand the population of high-risk/high-need individuals it serves and the eligibility criteria it uses.



**Legal Structure:** Pre-plea, post-plea (deferred sentencing, probation), probation revocation, re-entry, or a mix-model.

**Incentives:** Programs should consider incentives to participants, including avoiding prison and charge dismissal. Individuals may not have the capacity to appreciate the benefits of participating in treatment court.

**Objective Eligibility Criteria:** Eligibility criteria should be based on research and make the system more accessible. To do this, eligibility criteria should

- be written and objectively defined
- not use *subjective criteria* based on personal impressions, perceived levels of motivation, and prognosis for success (i.e., *the 3 P's*)
- not use *suitability considerations*, such as poor attitude, lack of motivation, complex service needs (unless the service is not available), or readiness for treatment
- not have disproportionate impacts on specific communities (e.g., resource requirements such as transportation)
- not present barriers to access (e.g., not offering translation and interpretation services)

**Policy Considerations:** Programs should consider community impact, stakeholder concerns, geographical obstacles, cultural competence, and victim's issues when developing the program structure.

**Program Resource Considerations:** Programs should find a balance to serving the most participants with limited resources by considering their treatment capacity, court capacity, supervision and testing capacity, as well as ancillary capacity.

**Criminal History Considerations:** Programs should consider whether to include participants with serious offenses and how to achieve equity and inclusion if certain populations are disproportionately impacted by exclusionary criteria.

**Proactive Recruitment:** To address low participation rates, courts should have proactive recruitment strategies. Meeting people where they are is important. For example, a treatment court in St. Louis had a public campaign to address distrust of law enforcement in African American communities, resulting in increased participation among African Americans.

**Other Considerations:** Programs must consider what they have the capacity to offer and what they don't have the capacity to offer, and base eligibility on what can be offered. If a court can offer a program, it is best practice for them to do it.

**Memorialize Decisions:** Record decisions about rules and processes in the required operations manual and ensure every team member and referral source understands them.

#### **Questions/Discussion:**

- **What are the distinctions for impaired drivers and DUI courts?**  
Courts should focus on the behavior and not the substance used in



impaired driving. Individuals charged with impaired driving minimize their behaviors and interactions with the justice system and separate themselves from the drug-using population. The best place for them is a separate track or DUII court. Use a validated assessment specific to impaired drivers because they typically score low on traditional assessments.

- **James Eberspacher comments:**

Traditional validated assessments are valid for veteran populations who are justice involved. Programs must ensure clinical evaluations assess for mental health and trauma, not just substance use disorder.

There is a debate about moderate-risk individuals being appropriate for treatment courts due to limited research on the population.

The timing of assessments is important; they are often done after program entry but should be done prior to entry to ensure individuals are appropriately placed.

Nationally validated tools should also be validated locally to make sure they meet population needs; programs don't typically validate locally due to resource constraints.

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**Criminal Justice Commission – Development of Oregon Specialty Court Eligibility Standards**

*Adaline Padlina, CJC*

*Rachel McArthur, CJC*

*Ryan Keck, CJC*

Slides ([link](#))

Oregon's specialty courts standards are based on national best practice standards (AllRise). The Criminal Justice Commission (CJC) is working with Oregon Judicial Department (OJD) to update Oregon's standards to reflect recent updates to the national standards.

**Assessment Tools:** All CJC funded courts are using validated assessment tools. OJD provides coaching on when to use certain tools.

**Admission to Treatment Court:** Per Oregon statute, moderate-risk/moderate-need individuals must be considered for treatment courts.

**Specialty Court Grant Program:** Court-level implementation of standards is not mandatory in Oregon, so the grant program is intended to incentivize adherence to best practices. The program uses a scoring system that promotes equity among courts. The current biennium (2023-25) marks the first-time courts received a scorecard, the first time the grant was anchored in standards, and the first time courts were compared by court type.

**Questions/Discussion:**

- **How many courts did not meet the standard for using objective eligibility criteria?** All of them met the standard, but some needed some coaching.
- **What is considered high-need in mental health, veterans, and other non-traditional treatment courts? Is it still based on substance use disorder?** It is based on a clinical diagnosis of a mental health condition; it does not have to be a substance use disorder.



- **Why doesn't Oregon require courts to implement the standards?**  
This requirement is not in statute and not CJC policy.

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**Local Considerations  
that Affect Referral  
and Entry**

*Chris Behre, Attorney,  
Multnomah County  
Public Defenders*

*John Haroldson, District  
Attorney, Benton County*

Multnomah County uses charge type, assessment-based risk and need levels, as well as miscellaneous requirements to determine treatment court eligibility. Individuals are screened for eligibility very early in the process and assessed prior to program entry. Based on their assessments, individuals may enter one of multiple treatment courts:

- **Sanctions Treatment Opportunity Progress (STOP) Court** (no longer active) served high-risk/high-need individuals who had a substance use disorder and needed intensive treatment, but had little to no prior involvement with the criminal justice system and a misdemeanor possession charge.
- **Success Through Accountability Restitution Treatment (START) Court** serves high-risk/high need individuals who are charged and expecting a prison sentence. The charge criteria is intended to motivate participation. The defense attorney has to complete a referral packet, and exclusionary criteria include sex-offenses, domestic violence, and severe mental health disorder.
- **Multnomah County Justice Reinvestment Program (MCJRP)** serves individuals who are not high-risk/high-need and who may or may not be expecting a prison sentence. Prior to adjudication, probation staff determine eligibility using a Level of Service/Case Management Inventory (LS/CMI). Because this assessment does not consider the charge, defense counsel is cooperative and present during the evaluation. Those determined to be high-risk/high-need are referred to the Success Through Accountability Restitution Treatment (START) Court team.
- **Driving Under the Influence of Intoxicants (DUI) Program** has similar requirements as START Court but uses a different assessment.
- **Mental Health Court** uses a subjective process and does not have charge or risk requirements, which has led to disparities in who has access to the program.
- **Strategic Treatment and Engagement Program (STEP) Court** has similar considerations to START, but it is a multi-track court with low-risk individuals participating in a low-risk track. Individuals are still required to get an initial assessment, but they receive new assessments after adjudication because some tools and responses may be more reliable at that point.

Five different criminal justice structures currently exist to provide treatment access to individuals who fall into the four Risk-Need quadrants. The availability of each program differs by jurisdiction and the resources provided.



- **Deflection Programs** (new) are developed by jurisdiction. Designed to deflect individuals from the criminal justice system, this approach involves a citation and then a referral to intervention.
- **District Attorney (DA) Diversion** is a contract between a DA and a low-risk/low-need individual to dismiss charges.
- **Conditional Discharge** is a form of supervision for low-risk/high-need individuals and may involve treatment resources.
- **Probation** offers resources to fund treatment and has conditions attached.
- **Treatment Court** serves high-risk/high-need individuals.

**Questions/Discussion:**

Lane County does not have the resources to establish programs for individuals who don't meet the high-risk/high-need criteria for treatment courts.

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**Member Discussion**

*Judge Clara Rigmaiden,  
Chair*

Chair Rigmaiden opened a member discussion on eligibility metrics. The discussion questions follow.

1. *Do Oregon's specialty courts currently use the right eligibility metrics? What are the right eligibility metrics?*
2. *Do current metrics accurately capture those individuals who would benefit from a drug court program?*
3. *Should statewide modifications be made through legislation or other mechanisms to Oregon's eligibility metrics standards and practices?*
4. *How would you summarize the purpose of eligibility metrics in specialty courts?*
5. *What factors may result in variability of how eligibility metrics are applied in Oregon's specialty courts?*
6. *What recommendations would you like the Task Force to consider related to the eligibility metrics directive?*

Despite local challenges with implementation, we have the right metrics and practices, but hope to get more support and resources from the state to navigate challenges and make sure courts are doing the best they can with the resources they have.

Professional literature offers definitive evidence about who treatment courts should serve. To promote equitable access and outcomes for all populations, we need to ensure that we have the resources to accurately assess need and provide the most appropriate level of services. However,





funding is a significant challenge to fidelity of implementation, and counties are closing treatment courts due to lack of resources.

**Suggested Research Question: What is the trend over time of the number of treatment courts statewide and the number of people who were served?**

Addressing this issue is difficult when there is an intersection between the Justice Reinvestment Model and the Treatment Court Model. Because there can be a tendency to move cases to specialty court, low-risk individuals may be getting more severe punishment than is appropriate.

Because the state does not have the data to know who is eligible for these programs but not participating, it is difficult to capture disparities in access and participation. While it is best practice for courts to collect such data from the beginning of the process, subjectivity and local factors may affect access before the treatment court is even involved.

That problem could be addressed by building a model that promotes the collection of such intake data by the appropriate system actor and pulling that data together into a central system. It is essential to have a data system that could help courts and the state to strategize and continuously improve. However, changes in pre-trial system and release criteria can make it more difficult to assess intake data.

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**Wrap Up and Fourth Meeting Preview**

*Judge Clara Rigmaiden,  
Chair*

Chair Rigmaiden closed the discussion and summarized the planned topics for the next meeting on August 23. That meeting will include presentations and discussion on the identification of the appropriate accountability mechanism to ensure that specialty courts are operating according to the standards of the commission.

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**Public Comment**

*None*

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**Meeting Materials**

- *Member Discussion Topics* ([link](#))
- *Development of Oregon Specialty Court Eligibility Standards* ([link](#))
- *Evidence-based Practices on Eligibility Criteria (Risk and Need)* ([link](#))
- *Evidence-based Practices on Eligibility Criteria (Structure and Criteria)* ([link](#))
- *Example Grant Program Feedback Letter* ([link](#))
- *Example Grant Program Scorecard* ([link](#))

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**Future Meeting Dates**

Aug. 23, 2024  
Sept. 6, 2024  
Sept. 20, 2024  
Oct. 11, 2024  
Oct. 25, 2024  
Nov. 8, 2024  
Nov. 15, 2024

