

Hi, good morning or afternoon, I guess it is for you. It's good morning where I am. I want to just welcome you to this webinar from All Rise.

Before we get started, I just want to let you know that we would ask that you use the Q&A if you have questions throughout. We'll be responding to the questions and trying to answer as many in writing. And if our presenter has time at the end, he will also address some of those questions.

So hopefully you're here today for the webinar on target population, selecting the right participant in treatment court. We're lucky today to have Aaron Arnold. He is the Chief Development Officer for All Rise, and he is very knowledgeable on this.

He's going to give you a lot of good stuff on the soon to be released updated standards. So Aaron, I'm going to turn it over to you. Aaron, thank you so much.

And thank you everybody for being here. As Karen just mentioned, the target population standard is about to be re-released after a lot of work. I've been deeply involved in the revisions to the standards over the last couple of years.

And this one is one that we're very happy to be able to get back out to you. So all the information you're going to hear me talk about today is up to date and comes directly out of the new standard. So before I start, I've got to give you the required proviso that this project is funded by the Bureau of Justice Assistance.

And the points of view that I will express in this presentation don't necessarily represent those of the Department of Justice. All right. So we're here to talk about the target population standard.

In other words, how to get the right people into your treatment court. This is the topic that I probably present on the most. And there's a reason for that, because quite frankly, it's the most important of all of the standards.

Why do I say that? Because the treatment court model, as documented in the best practice standards, is designed to work and get good results with a very specific population. If we take in the right people into treatment court, we can be pretty confident that we will get good results as long as we follow the rest of the standards. But if we are taking the wrong people into treatment court, it really doesn't matter how well we follow all of the rest of the standards.

We're basically implementing a model that's designed for one kind of person and trying to shoehorn it to work for another kind of person. And when we do that, what happens is we don't get the results we want. In other words, we don't get reductions in reoffending.

We don't get sustained recovery. We don't get improved community safety. And in fact, we can get worse results in all of those respects if we are serving the wrong kind of people.

So it's very, very important that we make a commitment as treatment court professionals to make sure that we understand who the target population is for this model and that we're doing everything we can to make sure we're serving that right population. So just like all the

other standards, the target population standard is broken down into various provisions. There are six provisions to the standard that you can see on the screen here.

I won't read them all out. And we will cover most of them in this presentation. So we're going to start with some basic information that you really need to understand in order to properly kind of implement this standard.

And that is to understand the risk-need-responsivity principle. In brief, what that means is that providing too many services or too few services to an individual can negatively impact their outcomes. In other words, underserving those who have high treatment needs can worsen their substance use or mental health issues, while overburdening those with low needs can create new challenges and hinder their ability to participate in work, education, and child care.

So think about it another way. We really need to tailor the kinds of services and the amount of services we provide to people based on their individualized risk and need level. We can't use a cookie-cutter approach just to provide everybody across the board with the same kinds of services.

So what the research has consistently shown for decades is that the treatment court model gets the best results when we take in people who are both high risk and high need. We're going to spend quite a bit of time now really discussing what that means. In our context, high risk means individuals who are more likely than others for committing a new crime or failing to complete a less intensive intervention like probation.

I'll say that again because it's such an important concept. High risk means that an individual is at a significant risk for committing a new crime or for failing to complete a less intensive intervention like probation. What you'll notice is not included in that definition is anything related to violence or public safety.

There's oftentimes a misconception that the term high risk somehow implies that a person is likely to commit violence or is likely to endanger public safety. That is not what high risk means in the treatment court context. High risk comes directly from criminogenic risk need theory and it means simply that a person is at an elevated risk for committing any kind of new crime.

A risk assessment doesn't tell us what kind of new crime a person may or may not be likely to commit. It tells us nothing about their risk of violence or anything like that. It simply means they're likely to be arrested at some point for some kind of new criminal activity.

If you dig into criminogenic risk need theory, what you'll learn is that there are two types of risk factors. There are static risk factors. Those are factors that contribute to a person's risk level that do not change.

Once they're there, there's nothing you can do to change them. The biggest one that falls under that category is criminal history. A person's criminal history is their criminal history.

If you're a prosecutor or you're a law enforcement officer, you're familiar with pulling up somebody's NCIC report, their local criminal history. You'll see their previous convictions. You'll see their previous arrests.

Those are set in stone. They don't change. Same thing as some risk tools will measure a person's age at onset of criminal activity.

That's not something that changes. The first crime took place at a certain age and that'll always be the case. Their sex, I should say sex really, but their sex is generally not changeable.

On the other hand, there are many dynamic factors. Those are conditions or characteristics of a person that contribute to their risk of criminal behavior that can change over time. Those include antisocial personality traits, antisocial values or attitudes.

Sometimes we'll hear that referred to as criminal thinking. Antisocial peer groups, associating with people who are actively committing crimes or engaging in antisocial behavior. Problems, challenges related to family dynamics or relationships, a lack of employment or education or unstable employment, substance use, and a lack of pro-social activities or hobbies, that kind of thing.

All of those factors on the right-hand side of your screen there are dynamic risk factors. Those are things that we can change. In fact, we do try to change in the treatment court context by linking people with targeted services and interventions that can address those dynamic risk factors and hopefully lower a person's risk level over time by addressing those specific factors.

That's risk. Again, risk is a person's likelihood of committing a new crime in the future. Their risk score, their risk level is determined by a combination of static risk factors that don't change as well as dynamic risk factors that can change if we intervene with appropriate services.

Need is the other side of the coin here. Again, going back a couple of slides, the people we want to target primarily for treatment courts are people who are both high risk and high need. We talked about high risk.

Need in the treatment court context means individuals who have moderate to severe substance use disorder that also features one or more of the following four characteristics. Those include substantial inability to control their use, persistent cravings, withdrawal symptoms if they try to stop using, and patterns of recurrent binge use. If a person has a moderate to severe substance use disorder with one or more of these features, we will consider them a high need person.

The standards use a term that you may see if you dig in deeper into the standards. They use the term compulsive substance use disorder. That's really a shorthand for what you see here on the screen.

A person with a compulsive substance use disorder is one with a moderate to severe substance use disorder characterized by one or more of these compulsive features. That is

what we're looking for for high need. I should also say for treatment courts that serve individuals who don't have an SUD, a substance use disorder, like for instance, a mental health court that might treat people with standalone mental health needs or a veterans treatment court that may treat people with standalone mental health or trauma disorders.

High need in those contexts means a person who has significant treatment needs related to mental health or trauma. For the most of you, you're looking for individuals with moderate to severe substance use disorder with compulsive features. I just mentioned this, so just very quickly again, we're most often talking about people with moderate to severe substance use disorder, but high need can also mean persons with significant treatment needs related to mental health or other needs such as traumatic brain injury, post-traumatic stress disorder, compulsive gambling, or other kinds of non-substance related treatment needs.

I just spent quite a bit of time explaining what high risk means and what high need means. Again, the takeaway is the treatment court model as it's outlined in the standards is really designed for high risk, high need people. However, we understand that in the real world, there are courts that need to or desire to serve individuals who are not high risk, high need.

Most often that means courts are taking people who are low risk, high need, or the flip is high risk, low need. You can serve those individuals in a treatment court context, but there are really important considerations to keep in mind if you're going to do that. The first is that we do not mix individuals who have a high risk with individuals with low risk.

The reason why we don't mix high risk and low risk participants is that the research shows that risk is, for lack of a better word, contagious in a way. If we mix high risk and low risk participants, the low risk participants will pick up some of that high risk behavior or high risk factors, and they are at risk of becoming higher risk themselves. We don't want to make our low risk participants higher risk by putting them in the same settings as our high risk participants.

We want to keep them separate. What that means is if you're taking both high risk and low risk people, you want to have them in different treatment groups. You want to have different housing settings, and you might even want to consider having separate court hearings or court dockets for high risk and low risk individuals and make sure you keep them separate.

The other thing is if you're going to be taking people who are of different risk levels, what you want to do is create different tracks. This is really how you keep them separate from each other. What you can see here in this grid, the upper left-hand corner is the high risk, high need people.

That's the standard treatment court track. That's the real target population, the high risk, high need people. As you know, if you've been involved in treatment courts for any length of time, that's a very intensive model.

It's focused on intensive treatment, intensive supervision, and intensive recovery support services to help people who really need that high level of services and supervision and

structure. That's your standard drug court track. Moving over to the upper right, that's high need, low risk people.

That means you've got people who have high treatment needs. They've got that moderate to severe substance use disorder with compulsive features where they have major mental health treatment needs, but they have a low risk of reoffending. For those people, what we're trying to do is put them in what you could consider a treatment track, which would be heavy on treatment, giving people all the treatment they need because they're high need, but dialing back the supervision so that we're not over-supervising people who don't need to be supervised.

Again, what the research shows, this goes back to the risk-need-responsivity theory slide. What the research shows is that we need to tailor services and supervision to people's risk and need levels. Again, if we're serving people who are low risk, we do not want to burden them with a lot of supervision that they don't need.

It can actually make them more likely to reoffend. That upper right quadrant treatment track, high treatment, low supervision. Bottom left is the supervision track.

That's for people who are low need and high risk. That's people who are at a high risk of committing a new crime, but they really don't have major treatment needs. We got to do the opposite for these people.

We want to make sure we're giving them a very tight supervision, lots of monitoring, lots of drug testing, that kind of stuff, but not very much in the way of treatment needs. The reason why we want to keep the treatment needs low, the treatment services low, is because we don't want to give people treatment services when they don't need it. Again, it can actually result in worse outcomes and create problems for people.

The supervision track, high supervision, low treatment services. Finally, the lower right hand track is a special case. We really don't want to take low risk, low need people into treatment court, because if you think about it, low risk, low need people are people who are not at a significant risk of reoffending, and they don't have major treatment needs.

They really don't need much in the way of ongoing criminal justice system involvement. It's better really to divert them away from the treatment court track or from the criminal justice system altogether. Get them into a light touch diversion program that really gives them the minimum treatment and supervision that they need, just to protect community safety, and get them out of the system, because giving them supervision and treatment that they don't need is only going to make matters worse.

To put it another way, I would say a really robust multi-track treatment court would have a standard track, a treatment track, and a supervision track. The diversion people in that lower right hand quadrant would be moved off to some other track, and not really considered in the treatment court at all. We've talked a lot about making sure that we understand what risk is, what need is, and that we're putting people who are both high risk and high need into our treatment court.

That's our primary target population, but how do you figure out who's high risk and high need? Well, I can tell you one way you cannot find out is by looking at people. We don't want to assume that by observing someone, watching them, listening to them, that we're somehow going to be able to divine through our observations if they are a high risk or a high need person. The research consistently shows that human beings are very bad judges of risk and need just through their perceptions, and that really the only reliable way that we can measure someone's risk and need is through a validated assessment tool.

Validated assessment tools are basically, you can think of them as questionnaires, for lack of a better word, that are built with questions that have been proven through repeated research to be predictive of a person's risk level and their needs. So we want to make sure that we're using tools that are validated, in other words proven, you can think of validated basically means proven through research, to be accurate predictors of a person's risk and need levels. There are some resources on your screen here for where you can help get more information about validated risk and needs assessments and even help you pick specific tools that are appropriate for your jurisdiction.

If you need additional help, please don't hesitate to reach out to us and we can try to steer you in the right direction, but at the end of the day, it's just important to remember every jurisdiction should have a validated risk assessment and a validated needs, a clinical needs assessment in order to determine who is the right candidate for a treatment court. Some examples, and there are many, many more examples listed in the new best practice standards, but for risk screening tools, examples include the RANT, the GAIN Q3, the TCU drug screen, and then for clinical, pardon me, let me go back for a second, I just want to make sure I don't cause any confusion. So when we're looking at individuals and trying to figure out if they're high risk and high need, there's a couple of ways we can do it.

Some jurisdictions like to use a quick screening tool. The reason why they use a quick screening tool is because A, it's quick, so you can use it at the pre-trial stage to give yourself an initial impression. Are there indications that this person may be high risk and high need? So there are tools that allow you to do that quick snapshot.

The RANT is one that's good for risk and it has a clinical component as well. And then for clinical screen, you've got the GAIN Q3 and the TCU drug screen, but you can't rely on just the quick screening because they're not detailed enough to really give you an accurate snapshot. So what you need to do after you've done the screening, if you do a screening, is to follow up with a full assessment.

And here on this slide, on the left are risk assessment tools, and on the right are clinical assessment tools. On the risk side, you've got the LSCMI, the LSIR, the O-RAS, the IRA, and the CARS. And on the clinical side, you've got the GAIN, you've got the structured clinical interview five, you've got the PRISM and the ASAM criteria.

And there are others. So I would encourage you to take a look at the new target population standard when it is released very soon. But the main point at the risk of any confusion, what I want to leave you with is you need to use validated tools in order to figure out who's high risk and high need.

There are screeners that you can use early on in the process to kind of give you a preliminary snapshot, but you should always be using full validated risk assessment tools and full validated clinical assessment tools that you see on the screen here to really make a final determination. And just by the way, that final determination can be made before someone is actually formally admitted into the program or after. Courts do it different ways, but you just, whether you do it before formal admission or after formal admission, you just want to make sure that you're doing the full risk assessment and the full clinical assessment to really confirm that you've got the right candidate in the program.

Now, aside from risk and need, courts often will institute other eligibility criteria, and that's fine. But there are some things that are really, really important to keep in mind. The most important is that your eligibility criteria really need to be objective and in writing and known to everybody ahead of time.

So what that means is if you're setting up a new treatment court, your steering committee and your team should get together and say, let's talk about what eligibility criteria we want to have. Do we want to talk about criminal charges? Are we going to exclude people with certain criminal charges? Are we going to take into consideration criminal history? Are we going to exclude people with certain criminal histories? What about geography? Are we going to make, are we going to only take people who live within the county or within a certain distance from a treatment provider or so on and so forth? And if you already have your court up and running and you haven't really had a robust conversation about your eligibility criteria, it's never too late to really revisit those and say, let's really talk specifics about what kind of exclusionary and inclusionary criteria we want to have for our program. But whatever you decide those criteria should be, it's important that they be objective and measurable.

So they shouldn't be open to interpretation or leave a lot of guesswork. They should be in writing in the courts, you know, policies and procedures, participant manual, things like that. And they should be communicated and known to all the team members as well as potential candidates ahead of time.

The point of the matter is we don't want there to be any guesswork and we want to make sure we're not using subjective criteria to determine who gets into the court. Using subjective criteria is all too common. And it's a problem because if we use subjective criteria, number one, they're not evidence-based, which means they are not going to translate into good outcomes.

So let me just give you some examples. So you can see on the list here, subjective criteria includes personal impressions, perceptions of a person's motivation, like for instance, do I feel like this person really wants to succeed in this program? Are they ready for treatment? Are they really, you know, willing to engage in this intensive program? Or our sense about whether someone is likely to have a good outcome. None of those kinds of questions or what we used to call suitability considerations, none of those suitability considerations are tied to actual outcomes.

The evidence, they've been studied and the evidence shows subjective impressions are not correlated to good treatment court outcomes. So they're not evidence-based, they're not

tied to outcomes and we don't want to use them because they're going to actually cause us to exclude people from the program who really could do quite well in it. We're going to be basically cherry-picking people using invalid criteria and undermining the court's ability to get the kind of results that you want to get.

You also, you know, another way, you know, that we sometimes see subjective criteria come into play is in primarily like in rural jurisdictions or whatever, where there's a, you know, there's a small population and people tend to know each other. People might say, well, you know, I know this person's family or I know their living situation. They're living with other people who are using drugs or they have a multi-generational history of substance use in their family.

They're not surrounded by good support systems and I don't think that they're going to be successful in this program given kind of, you know, who they're living with, who they're surrounded by, kind of, you know, what seems to be sort of their family trend. These are ways that we sort of discriminate against people who really could stand to benefit from the services and would keep people out for improper reasons. So again, make sure that eligibility criteria are objective, they're not open to interpretation, they're written, and they're communicated in advance to potential participants.

Okay, I already said that. A couple of important points to stress when it comes to criminal history considerations. And again, it's very, very common for treatment courts to take into consideration a person's criminal history or their chart or even their current charges when deciding whether they can come into a treatment court.

And that's perfectly fine. There are legitimate public safety reasons or whatever for the team to decide we can't take people with certain criminal histories. However, we want to make sure that we're not excluding people for criminal history reasons that are not evidence-based.

Because really at the end of the day, we have to remind ourselves, individuals who are high risk and high need are the ones we want in treatment court because they're the ones who get the best results. They're the ones who get the best bang for the buck in a way. These are the people who are at the highest risk of committing new crimes.

They're the ones who are going to be cycling through the system. If we can intervene with people who are high risk and high need effectively, we can really stop the revolving door and save money and protect public safety in the long run. That's especially true for people who are high risk, high need and facing prison.

Because on top of being the high risk, high need people who are the target population, we also have enhanced legal leverage because of that prison sentence, which gives the person additional incentive to really give it their all and make sure that they're doing everything they can to succeed in the program. So if you just think about it for a minute, people who are high risk and high need and are facing prison, those are going to be the people who are often charged with pretty serious crimes. Crimes like crimes of violence, crimes involving the sales of drugs, people who've been in treatment court previously.

But here's the thing, we don't want to exclude those people categorically because they're the people who often, as I said, are the prime candidates for treatment court. The people who we can make the most difference with and have the impact on community safety down the road by preventing reoffending among people who are most likely to reoffend. So the bottom line is we don't want to categorically exclude people who are charged with violent crimes and we don't want to categorically exclude people who are charged with drug sales.

What we want to do is go back to what we said at the beginning of this presentation and ask those key questions. Number one, is the person high risk? Number two, are they high need? And number three, can we safely supervise them in the community? If you can answer yes to all three of those questions, there's really no reason to exclude them from the program because again, these are the people who are going to get the best results in treatment courts and by serving them, you're going to have the most positive impact on public safety. Another thing, and I'm a former prosecutor, I should have said that at the beginning of the presentations, I'm a former prosecutor, so I'm very familiar with some of the concerns that prosecutors rightfully bring to the table when they're talking about who to let in and not let in in a treatment court context.

But one thing that really needs to be stressed is treatment courts are just about the most intensive supervision and accountability that we have available in the criminal justice system. I mean, of course, you can always send someone to prison if you think that they're an imminent danger to the public or they're violent or they cannot be safely supervised in the community. But at the end of the day, that's really a fairly small percentage of people who are involved in the justice system.

Most of the people in the justice system, what we're really trying to do is give them sufficient supervision and accountability to change their behavior and make sure that they're not committing future crimes. But if you think about it, treatment courts are, in most communities, the most intensive option that we have. So if prosecutors are tempted to turn people away from treatment court because it's seen as a soft option or a diversion option or an easy option, the fact of the matter is if you send them anywhere else, they're likely to get less supervision, less intensive treatment interventions, and worse results.

Treatment courts are considered

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