

Commitment to Change Workgroup

APRIL 14, 2023



Agenda



- Welcome
- Public record reminder
- Workgroup member introductions
 - Who
 - Representing
- Recap highest hopes & worst fears
- Civil commitment hearing
- Adjudication
- Civil commitment criteria

Workgroup Membership

Oregon Health Authority – Zachary Thornhill

Oregon State Hospital – Dr. Katherine Tacker

Oregon Department of Human Services – Chelas Kronenberg

Disability Rights Oregon – Dave Boyer

Mental Health and Addiction Association of Oregon – Janie Gullickson

NAMI Oregon – Chris Bouneff

Oregon House – Andy Smith for Rep. Jason Kropf (D); Rep. Christine Goodwin (R)

Oregon Senate – Sen. Floyd Prozanski (D); Sen. Kim Thatcher (R)

Workgroup Membership (cont.)

Oregon Criminal Defense Lawyers Association – Allison Knight

Oregon District Attorneys Association – Channa Newell

Association of Oregon Community Mental Health Providers –Cherryl Ramirez

Association of Oregon Counties – **Chance Wooley** for Brad Anderson

League of Oregon Cities – Dakota Thompson

Oregon State Sheriffs' Association – Sheriff Matt Phillips

Oregon Association Chiefs of Police – Jim Ferraris

Oregon Association of Hospitals and Health Systems – Meghan Slotemaker

Oregon Judicial Department – Hon. Nan Waller; Hon. Matt Donohue

OCTOBER RECAP

Highest Hopes

“Add definitions to statutes while resources are built out”

“Go back to 1973 and look at intent then and reconsider definition standards”



Worst Fears

“More requirements without appropriate resources”

“Solving problems with the same solutions or strategies that don’t work”

“We won’t be able to find balance between voluntary and involuntary treatment”



Topic 1: Civil Commitment Hearing

Be thinking about:

- Civil commitment hearing process and requirements



Right to counsel

ORS 426.130 gives the following rights:

- Obtain **suitable legal counsel**,
- Counsel shall be present at **hearing**, may be present at **examination**, & may **examine** all witnesses,
- Court appointed **counsel at state expense** if financially eligible,
- A legal **guardian, relative, or friend** may **request counsel** on behalf of person,
- Person may expressly, knowingly and intelligently **refuse counsel, and**
- If the person is being **involuntarily detained**, right to contact and obtain counsel **as soon as reasonably possible**

Structure of the hearing

ORS 426.130 requires the court advise the person of the following:

- Reason for being **brought before the court**,
- **Nature** of the proceedings,
- **Possible results** of the proceedings
- Right to **subpoena witnesses**, *and*
- Person's rights regarding **representation** by or appointment of counsel

Structure of the hearing (cont.)

ORS 426.130 requires the court advise the person of the following:

- Reason for being **brought before the court**,
- **Nature** of the proceedings,
- **Possible results** of the proceedings
- Right to **subpoena witnesses**, *and*
- Person's rights regarding **representation** by or appointment of counsel

Discussion Question 1

How does the current structure of the civil commitment hearing affect treatment outcomes?



Location of the hearing (cont.)

ORS 426.130 requires the court advise the person of the following:

- Reason for being **brought before the court**,
- **Nature** of the proceedings,
- **Possible results** of the proceedings
- Right to **subpoena witnesses**, *and*
- Person's rights regarding **representation** by or appointment of counsel

Discussion Question 2

Under ORS 426.095(1), the hearing may be held in a hospital, the person's home, or in some other place convenient to the court and person involved.

- Should statute establish other locations where the civil commitment hearing may be held?
- What considerations are there to holding remote hearings on a regular basis?



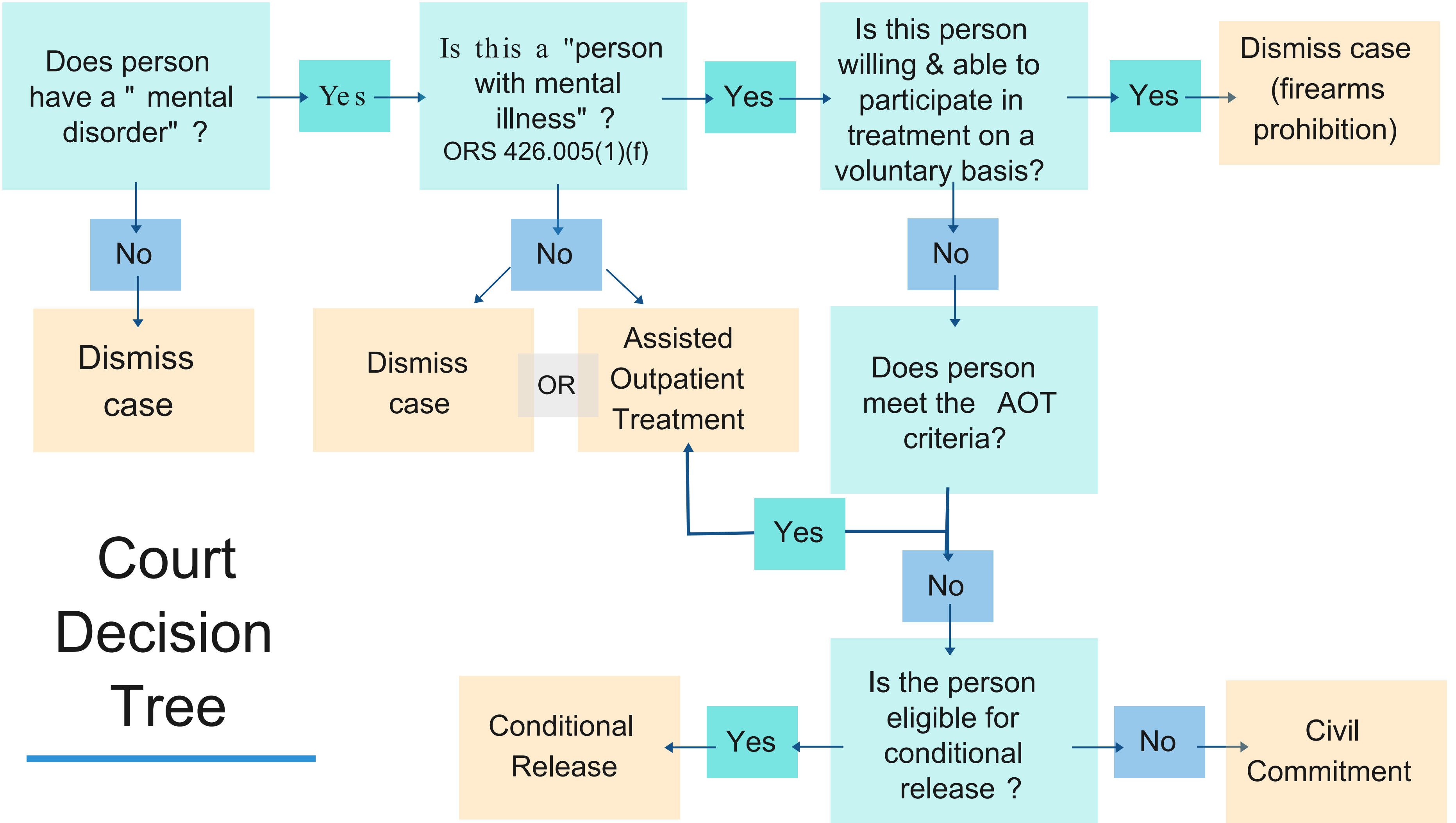
Current Statutory Definitions

Mental disorder is not defined in statute

Person with mental illness is defined as, because of a **mental disorder**, a person is

one or more of the following:

1. **Dangerous to self or others**
2. **Unable to provide and not receiving care for basic personal needs necessary to avoid serious physical harm in the near future**
3. A person with a **chronic mental illness**:
 - Who has been **committed** within the **past three years**,
 - Is exhibiting substantially **similar symptoms/behavior** to those that led to their **previous commitment, and**
 - Based on a reasonable medical probability, will **become dangerous or unable to provide** for basic needs without treatment



Court Decision Tree

Does person have a "mental disorder" ?

No

Dismiss case

Is this a "person with mental illness" ?
ORS 426.005(1)(f)

No

Dismiss case

OR

Assisted Outpatient Treatment

Is this person willing & able to participate in treatment on a voluntary basis?

No

Does person meet the AOT criteria?

Dismiss case (firearms prohibition)

Yes

Assisted Outpatient Treatment

Yes

Conditional Release

No

Does person meet the AOT criteria?

Is the person eligible for conditional release ?

Yes

Conditional Release

No

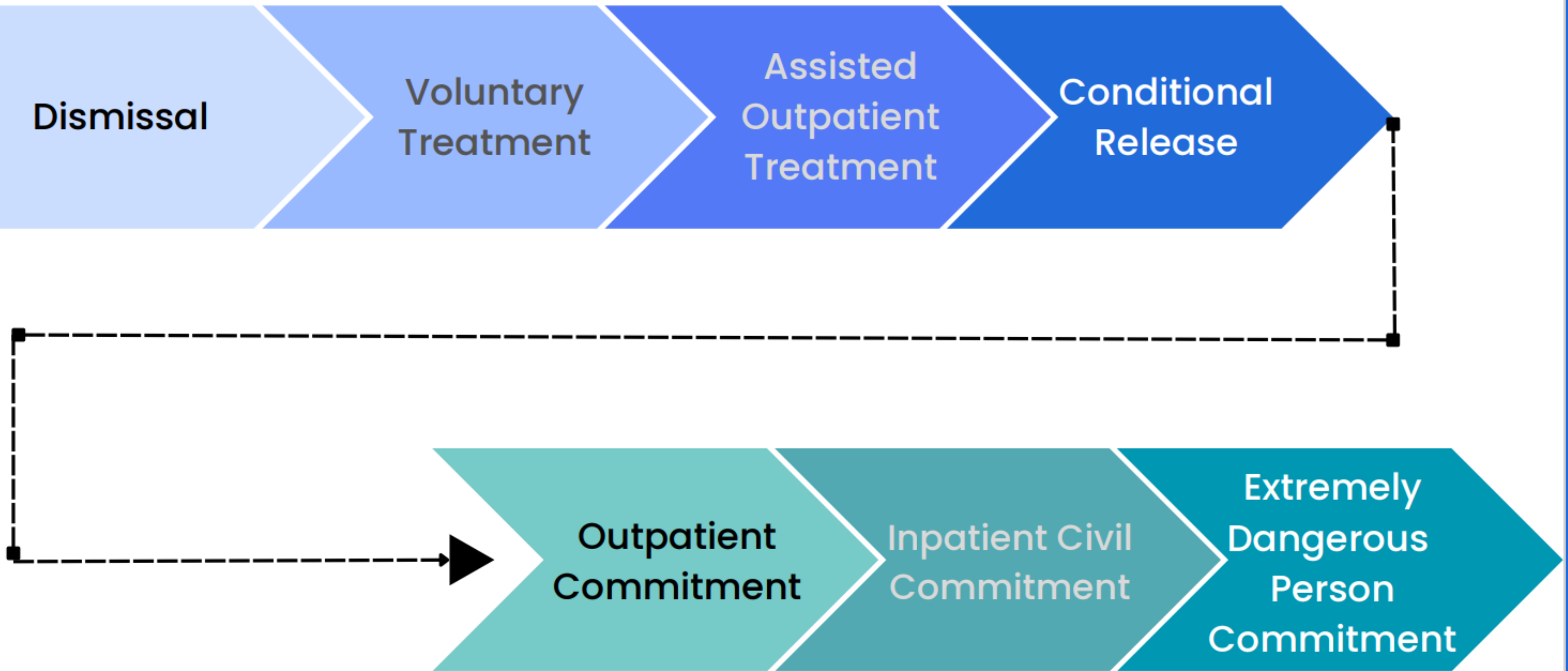
Is the person eligible for conditional release ?

No

Civil Commitment

	Person with Mental Illness	Treatment	Oversight	Confinement/ Duration	Commitment
Dismissal	No	None	None	No	No
Voluntary treatment	Yes	Voluntary	None	No	No
Assisted outpatient treatment	No	Voluntary	Court	No	No
Conditional release	Yes	Involuntary, if a term of release	Court	No	No
Outpatient Commitment (including trial visits)	Yes	Involuntary	OHA	No	Yes
Civil commitment	Yes	Involuntary	Court/ OHA	Yes (180 days with possible recommitment)	Yes
Extremely dangerous commitment	Yes	Involuntary	Court/ PSRB	Yes (2 years with possible recommitment)	Yes

Current Civil Commitment Continuum



What is missing from this continuum?

	Person with Mental Illness	Treatment	Oversight	Confinement/ Duration	Commitment
Dismissal	No	None	None	No	No
Voluntary treatment	Yes	Voluntary	None	No	No
Assisted outpatient treatment	No	Voluntary	Court	No	No
(New Level)	Yes	Involuntary	Court	No	No
Conditional release	Yes	Involuntary, if a term of release	Court	No	No
Outpatient Commitment (including trial visits)	Yes	Involuntary	OHA	No	Yes
Civil commitment	Yes	Involuntary	Court/ OHA	Yes (180 days with possible recommitment)	Yes
Extremely dangerous commitment	Yes	Involuntary	Court/ PSRB	Yes (2 years with possible recommitment)	Yes

Dismissal

Dismissal if court determines the person is not a person with mental illness

Upon dismissal individuals are not prioritized for service delivery



Dismissal

Discussion Questions: Dismissal

1) Under what circumstances is dismissal appropriate?



Dismissal

Discussion Questions: Dismissal

2) What needs to be in place for dismissal to work?



Dismissal

Voluntary Treatment

court determines the person is willing, able, and probably will participate in voluntary treatment



**Voluntary
Treatment**

Discussion Questions: Voluntary Treatment

2) Under what circumstances is voluntary treatment appropriate?



**Voluntary
Treatment**

Discussion Questions: Voluntary Treatment

3) What needs to be in place for voluntary treatment to work?



**Voluntary
Treatment**

Discussion Questions: Assisted Outpatient Treatment (AOT)

1) What is AOT?



AOT

Discussion Questions: Assisted Outpatient Treatment (AOT)

2) Under what circumstances is AOT appropriate?



AOT

Discussion Questions: Assisted Outpatient Treatment (AOT)

3) What needs to be in place for AOT to work?



AOT

Discussion Questions: Conditional Release

1) What is conditional release?



**Conditional
Release**

Discussion Questions: Conditional Release

2) Under what circumstances is conditional release appropriate?



**Conditional
Release**

Discussion Questions: Conditional Release

3) What needs to be in place for conditional release to work?



**Conditional
Release**

Break (5 minutes)



Discussion Questions: Outpatient Civil Commitment

1) What is outpatient civil commitment?



**Outpatient
Commitment**

Discussion Questions: Outpatient Civil Commitment

2) Under what circumstances is outpatient civil commitment appropriate?



**Outpatient
Commitment**

Discussion Questions: Outpatient Civil Commitment

3) What needs to be in place for outpatient civil commitment to work?



**Outpatient
Commitment**

Discussion Questions: Inpatient Civil Commitment

1) What is inpatient civil commitment?



**Inpatient
Commitment**

Discussion Questions: Inpatient Civil Commitment

2) Under what circumstances is inpatient civil commitment appropriate?



**Inpatient
Commitment**

Discussion Questions: Inpatient Civil Commitment

3) What needs to be in place for inpatient civil commitment to work?



**Inpatient
Commitment**

Discussion Questions: Extremely Dangerous Person Commitment

1) What is extremely dangerous person commitment?



**Extremely
Dangerous
Person
Commitment**

Discussion Questions: Extremely Dangerous Person Commitment

2) Under what circumstances is extremely dangerous person commitment appropriate?



**Extremely
Dangerous
Person
Commitment**

Discussion Questions: Extremely Dangerous Person Commitment

3) What needs to be in place for extremely dangerous person commitment to work?



**Extremely
Dangerous
Person
Commitment**

Discussion Questions: Other Government Intervention and Support Options

1) What are other options?



Discussion Questions: Other Government Intervention Options

2) Under what circumstances are the different options appropriate?



Discussion Questions: Other Government Intervention Options

3) What needs to be in place for the different options to work?



Person - first Terminology Across the States

Person with mental illness

- Illinois, Iowa, Mississippi, Oregon, South Carolina, Texas

Person requiring treatment

- Michigan, North Dakota, Oklahoma

Person in need of treatment

- Vermont

Subject of the hearing

- Rhode Island

How should the statute refer to someone involved in these proceedings?

Discussion Questions: Terminology

How should the statute refer to someone involved in these proceedings?



Food for Thought

ORS 426.005(1)(f) defines a “**person with mental illness**” as a person who, because of a **mental disorder**, is dangerous to self or others or unable to provide for basic needs. Similarly, ORS 426.095(1) refers to the person involved in the proceeding as a “**person alleged to have a mental illness.**”

- 1) **Should we define mental disorder in statute?**
- 2) **Should we replace definition of person with mental illness with criteria for involuntary treatment?**

Thoughts on Viewing Involuntary Treatment in a Continuum?



Homework



- All workgroup members to distribute April survey to their CTC Workgroup constituent email distribution list
- Read ALL materials provided in advance of the next meeting



Staff contacts

- Facilitator: Chris Thomas
cthomas@gobhi.org
- Workgroup Analyst: Christopher Hamilton
christopher.j.hamilton@ojd.state.or.us
- Workgroup Analyst: Candace Joyner
candace.n.joyner@ojd.state.or.us
- Senior Assistant General Counsel:
Debra Maryanov
debra.c.maryanov@ojd.state.or.us
- Administrative Support: Bri Navarro
brianna.m.navarro@ojd.state.or.us

