

AGENDA

BENTON COUNTY BOARD OF COMMISSIONERS

Tuesday, May 25, 2021

GoToMeeting: <https://global.gotomeeting.com/join/240743477>

or Dial 1 (786) 535-3211; Access Code 240-743-477#

Livestream: <http://facebook.com/BentonCoGov>

(Chair May Alter the Agenda)

THE BOARD WILL TAKE A BRIEF RECESS BETWEEN THE WORK SESSION AND INFORMATION SHARING

9:00 A.M.

I. Opening:

A. Introductions

B. Announcements

II. Comments from the Public

Time restrictions may be imposed on public comment, dependent on the business before the Board of Commissioners. Individual comment may be limited to three minutes.

III. Review and Approve Agenda

IV. Work Session

4.1 9:00 a.m., 30 minutes – Quarterly Update from Corvallis-Benton County Economic Development – *Kate Porsche, Manager*

4.2 9:30 a.m., 1 hour - Discuss Justice System for Developmental and Other Disabilities and ADA Checklist – *Dannielle Brown, Deputy Director of Behavioral Health; John Gotchall, Tom Giles – Mental Health, Addictions and Developmental Disabilities Advisory Committee*

The Board of Commissioners may call an executive session when necessary pursuant to ORS 192.660. The Board is not required to provide advance notice of an executive session. However, every effort will be made to give notice of an executive session. If an executive session is the only item on the agenda for the Board meeting, notice shall be given as for all public meetings (ORS 192.640(2)) and the notice shall state the specific reason for the executive session as required by ORS 192.660.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the Board of Commissioners Office, (541) 766-6800.

INFORMATION SHARING

V. Information Sharing: (If time permits the following section will be heard. *The chief purpose of "Information Sharing" items is to allow the Board of Commissioners time and a venue to update one another of their individual activities.*)

- 5.1 Xanthippe Augerot, Chair
- 5.2 Nancy Wyse, Commissioner
- 5.3 Pat Malone, Commissioner
- 5.4 Joe Kerby, County Administrator

VI. Other

ORS 192.640(1)" . . . notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects."

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MINUTES OF THE MEETING
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Present: **Xanthippe Augerot**, Chair; **Nancy Wyse**, Commissioner; **Pat Malone**, Commissioner; **Vance Croney**, County Counsel; **Joe Kerby**, County Administrator

Staff: **Andy Ablitt**, Juvenile Department; **Dannielle Brown**, **Jasper Smith**, Health; **Teresa Farley**, **Sherrida Gates**, **Joe Hahn**, BOC Staff; **Erika Milo**, BOC Recorder; **Kate Porsche**, Corvallis-Benton Economic Development

Guests: **John Gotchall**, **Diane Scottaline**, Mental Health, Addictions and Developmental Disabilities Advisory Committee; **Gabriel Merrell**, Oregon State University Access and Affirmative Action Director

Chair Augerot called the meeting to order at 9:00 a.m.

I. Opening:

A. Introductions

B. Announcements

Augerot noted that it has been a year since the murder of George Floyd at the hands of the Minneapolis Police Department, and encouraged the community to acknowledge that somber occasion and be grateful for local law enforcement and collaborative working relationships, looking forward to working ever more closely to ensure equity and justice for all.

II. Comments from the Public

No comment was offered.

III. Review and Approve Agenda

The following item was added to the agenda under V. Information Sharing:

5.5 Invitation from Cascades West Council of Governments (COG) – Xanthippe Augerot, Commissioner

MOTION: Malone moved to approve the May 25, 2021 agenda as amended. Wyse seconded the motion, which **passed 3-0.**

IV. Work Sessions

4.1 Quarterly Update from Corvallis-Benton County Economic Development (CBED) – Kate Porsche, Manager

Porsche provided an update on CBED activities. Staff are refining the list of projects and continue to work closely with Sean McGuire, Sustainability Program, to ensure that the CBED work plan addresses community input from McGuire's surveys. Focus area one in the plan is to

revitalize business support and grow existing businesses, continue to assist hardest hit business owners and sectors, and continue work to elevate downtown businesses. Porsche noted this work includes all downtowns in the County; work is underway in the Cities of Adair Village, Philomath, and Monroe. A south Corvallis food hub/food business incubator project was selected for Senator Sara Gelser's list of priorities for American Rescue Plan Act (ARPA) funding. The project is budgeted at \$600,000, with potential match funding from the Urban Renewal District. Local partners could include the Oregon State University (OSU) Extension Service and businesses such as First Alternative Natural Foods Co-op. The project would start with a feasibility study.

Malone asked about possible coordination with the new commercial kitchen at the Benton County Fairgrounds.

Porsche will contact Lynne McKee, Natural Areas, Parks, and Events Director, about that option. CBED focus area three is expansion of buildings and infrastructure. The community needs small-scale manufacturing space for local inventors. CBED also wants to work with OSU on a larger scale research industrial park. The other work plan priorities are unchanged. The work plan will be part of CBED's two-year contract with the County. CBED will work with County staff to update the contract and return it to the Board for final review before the end of June 2021. Porsche will also send a report on CBED work through the fiscal year third quarter.

The Board approved of this plan.

Augerot asked Porsche to address the role of partner organizations.

Porsche explained that CBED helps manage funds passed to external economic development partners, including the Small Business Development Center, the Corvallis Foundry, and Oregon RAIN. Porsche convened a work group with two Economic Development Advisory Board (EDAB) members and a representative from Business Oregon. The group will review proposals and provide the Board with recommendations before the end of June 2021.

Augerot observed that the recommendations should be complementary to the City of Corvallis and Benton County Strategic Visions.

Malone asked if EDAB will resume meeting soon.

Porsche replied that the City has approved the reorganization of CBED's Advisory Boards. EDAB includes both County and City members. Porsche wants EDAB to meet two to three times per year with other groups, rather than monthly. Meanwhile, EDAB could work ad hoc on projects in the work plan.

Malone approved of this approach.

4.2 Discuss Justice System for Developmental and Other Disabilities and Americans with Disabilities ADA Checklist – *Dannielle Brown, Deputy Director of Behavioral Health; John Gotchall – Mental Health, Addictions and Developmental Disabilities Advisory Committee (MHADDAC)*

Brown reviewed the staff recommendation that the County begin using a checklist when developing agenda items for people affected by mental health issues, addictions, or developmental disabilities.

Gotchall presented on the use of an Americans with Disabilities Act (ADA) checklist in health care and justice care. Partners include the ARC of Benton County, Disability Equity Center (DEC), Benton County MHADDAC, and state and local disability resource teams, which include Ablitt, Smith, and Brown. People with disabilities do not have special needs, but human needs. Benton County has almost 17,000 residents with developmental disabilities and 24,000 residents experiencing any disability. Routinely using the checklist ensures compliance with the anti-discrimination, protection, and inclusion requirements of the ADA. Checklists can save lives and provide measurable and sustainable benefits.

Title II of the ADA is a law applicable to all state and local governments that protects people with disabilities from discrimination based on disability. Accommodation is not part of this; accommodations are simply tools to achieve anti-discrimination. This approach increases customer and worker satisfaction, improves health and safety, and reduces per capita total costs of services.

Most people with disabilities are largely unseen by those providing government services. In 2019, officials said the prevalence of developmental disability in Benton County was 2-3%. That is a measure of disability services from the County budget. The actual prevalence is about 18%, or 15,000 residents. Developmental disability services are expensive; inclusion is low cost and priceless. Early accommodations reduce the need for accommodations later. The ADA does not require a mandate or budget; it must be built in. The US Supreme Court has said that failure to incorporate accommodations is exclusion. Gotchall reviewed the history of protections that led to the ADA in 1990. The ADA may require additional preventive measures.

In 2019, Benton County created a Criminal Justice Assessment, which has many mentions of mental health and two mentions of mobility disabilities, but no mention of developmental or cognitive disabilities. Disabilities are not a mental health disorder. Gotchall shared Title II concerns with Oregon Criminal Justice Commission Director Mike Schmidt, who agreed the criminal justice system has a blind spot for disabilities. Ari Basil-Wagner, former Justice Systems Improvement Program (JSIP) consultant, began incorporating this feedback into JSIP. Kurth, current JSIP Manager, has included members of the disability community in ongoing process improvement plans.

In 2020, the County purchased AutoMon case management software, which has no disability or accommodations tracking options. However, the AutoMon software team is willing to work on upgrades and pilot projects. The Benton County Sheriff's Office is interested in tracking accommodations and making accurate risk assessments with the software.

The ADA checklist evaluates whether services, programs and activities include people with developmental and other disabilities. Gotchall proposed that the County use the checklist to ensure that services, programs and activities include people with developmental and other disabilities. A three-month pilot could be monitored by Hahn and used to refine the checklist.

Augerot thanked Gotchall and invited discussion of whether and how to pilot a checklist.

Malone praised Gotchall's approach and use of partnerships. This provides a map to follow.

Wyse was in favor of trying the checklist.

Augerot asked what would be the most effective pilot, at what level of decision making. The specific actions required may be clear at the programmatic level but diffuse at the Board level; organization-wide policies need to be managed by specific people.

Kurth thanked Gotchall for setting a benchmark of what progress should occur. Disability-related training for law enforcement and the community is budgeted into the JSIP. Kurth noted that the agenda item submission process for Board meetings now includes a 2040 Vision checklist, which could offer guidance on how to implement an ADA checklist.

Augerot commented that the 2040 checklist still needs work to be more effective.

Kerby felt the pilot should be small and shepherded by Hahn and Neville.

Brown shared that Mental Health has been working on the checklist option for months. The checklist should be piloted in a small population first. The County could start with one set of public meetings with a small agenda, rather than a full Board Meeting.

Hoffman agreed about starting with a pilot that is small, but large enough to be meaningful, and a duration that does not delay implementation too long. The checklist has been tested in many environments successfully. Hoffman recommended that Health Equity Coordinator Rocío Muñoz also be involved.

Hahn was very excited to launch the project, which meets goals for a larger equity checklist.

Smith felt the checklist is a helpful tool to create awareness and responsiveness. Probably fewer than 2% of the population will be formally eligible for disability services; many other people are ineligible, but still need accommodation under the ADA.

Gotchall explained that the ARC of Benton County, the DEC, and Corvallis Police Department (CPD) already use this checklist. CPD was one of two sites nationally to receive the Collaborative Crisis Response Training Award for incorporating developmental disabilities and accommodations into crisis response. Benton County Sheriff Jef Van Arsdall is also interested.

Kerby to meet with Hahn, Brown, Hoffman, Neville, and Smith to develop a pilot plan for the Board by the end of June 2021.

The Board approved of this approach.

Gotchall recommended involving the County ADA Coordinator in the project.

Augerot requested that Scottaline, Gotchall, and Merrell continue to be involved.

V. Information Sharing

5.1 Xanthippe Augerot, Chair

Augerot to respond to a constituent email about effects of glyphosate (an herbicide) on animals.

Augerot will attend a Linn-Benton Funders meeting, hosted by United Way and including community partners such as the Benton Community Foundation and Samaritan Foundation. Participants will discuss ways to use ARPA funding across different organizations for larger-scale change, supporting community members with early childhood education, housing,

homelessness, education, and health. Kerby will probably be the main staff person involved in future.

5.2 Pat Malone, Commissioner

Malone mentioned the past project of developing an Information Technology tool to track emails to the Board and responses, for greater efficiency. Malone would like the project revived in future and suggested that a telephone tree approach could help direct inquiries to the right recipient. Email form letters can receive a form response.

To help direct community inquiries, Wyse suggested a webpage with all department contact information in one place.

Malone praised Health Department staff and volunteers for doing a wonderful job of pandemic response, especially vaccination efforts, and suggested a future in-person celebration.

Malone shared that Budget Committee member Javier Cervantes is moving from a position at Linn-Benton Community College to one with the Albany School System.

5.3 Nancy Wyse, Commissioner

Wyse commented on not receiving many community emails or calls as Commissioner so far.

Wyse attended the Monroe City Council meeting virtually. Sheriff Van Arsdall presented a law enforcement plan for Monroe.

5.4 Joe Kerby, County Administrator

Kerby shared that a contact management system had been an intended project under Neville, but was put on hold during the pandemic. It is important to be more efficient in managing inquiries, complaints, and requests. Staff can prioritize the project after Neville resumes normal (non-EOC) responsibilities on July 1, 2021. Electeds typically receive more emails than telephone calls.

Kerby noted that the County ADA coordinator is Aaron Pena, Human Resources, who will be included in ADA checklist discussions.

Kerby has asked Stephanie Kerst, BOC staff, to work with the Rewards and Recognition Committee on a staff recognition event. August 2021 is probably the earliest time to safely hold such an event; Kerst will consult the Health Department for guidance.

Malone shared that Governor Kate Brown approved the Pendleton Roundup for 2021, a good sign that large events may resume by early September 2021 or sooner. Oregon is on track for a 70% vaccination rate. Malone would like a recognition event to include an external component to inform the community of the great work by staff.

Kerby agreed. Kerby followed up on last week's meeting with the Corvallis City Council regarding the Home, Opportunity, Planning, and Equity (HOPE) Board recommendations. The City plans to formally accept the recommendations on June 7, 2021. At the June 8, 2021 BOC Goal Setting meeting, Hoffman, Kerby, and Julie Arena, HOPE Coordinator, will review the City's priorities and recommendations on who should lead the response. At the June 15, 2021

regular Board Meeting, staff will bring the HOPE recommendations for the Board to formally accept. Kerby will return to the City Council on July 1, 2021.

Augerot observed that the Benton Chief Financial Officer position had formally posted.

Kerby added that recruitment was launched on May 17, 2021. The first review of applications is June 21-22, 2021. Finalists will be interviewed with the Board in mid-July 2021. The Board and Kerby would prefer to interview three candidates.

5.5 Invitation from Cascades West Council of Governments (COG) – Xanthippe Augerot, Commissioner

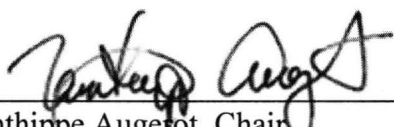
Augerot received an update from Randi Moore at Cascades West Council of Governments (COG) about the Stand by Me (SBM) financial literacy program. Benton County supported SBM's first year through Community Development Block Grant housing funds, since financial skills contribute to social determinants of health. The first year of funding has lapsed. COG has established a 501(c)3 to spearhead the program; community member Hanna Valva is the Board Chair, and Jaime Sarabia, Health Department, is a board member. COG would like Linn, Lincoln, and Benton Counties to provide funds for a Program Coordinator and regional trainers. COG has trained its own staff and is working with Strengthening Rural Families and Kidco Head Start. COG will submit a formal funding request to Benton County for about \$40,000 per year. SBM also received a \$36,000 grant from Oregon Community Foundation to expand the bi-lingual component. Augerot would like to invite Linn and Lincoln Counties to join Benton in supporting the program.

VI. Other

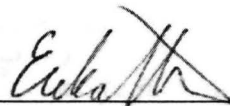
No other business was discussed.

VII. Adjournment

Chair Augerot adjourned the meeting at 10:48 a.m.



Xanthippe Augerot, Chair



Erika Milo, Recorder

** NOTE: Items denoted with an asterisk do NOT have accompanying written materials in the meeting packet.*

Outline for EDO SWP 21-23

1. Looking Back, Launching Forward

- a. Combination (from 19-21) of executive summary, guiding principles

2. Lenses Through Which We Work

- Equity – creating a vital and prosperous community for all *
- Environmental and sustainability – balancing economic growth and environmental sustainability
- Community 2040 Vision's - furthering the community's vision

3. Overview of Focus Areas (* indicates connection to the 2040 & the New Normal project of Sean McGuire's; ^ indicates in 20-21 City SOP)

Focus Area #1: Revitalize, Support, and Grow Existing Businesses	
Continue assistance to hardest hit businesses sectors and business owners	• Explore grant and loan opportunities (<i>Amount of funding, number/types of businesses assisted.</i>) • Complete After-Action Report on COVID Emergency with Regional partners and business community.* (<i>Report on lessons learned</i>) • Work to elevate downtown businesses and support downtown organizations such as DCA; assist with EID ^ • Explore permanent, seasonal BROW program. (<i>Program implementation</i>)
Support and grow traded sector businesses	Business Retention & Expansion (BRE)^ • Outreach: On-Site Visits, Email/Phone Call Check-Ins • Transaction advocate: Work closely with business in target sectors groups to help them through permitting and project processes • New & creative ideas for connecting with businesses (newsletter, videos, social media, online forums) • Hosting annual Benton County Tour, and other events bringing awareness and networking to local target industries and groups (<i>Track business touches. How did our actions affect a demonstrable outcome; share stories; which core values this this work underscore?</i>)
Bolster businesses in target and emerging sectors	• Food & Beverage ○ Cultivate local food hub with a focus on business development– possible ARPA funding from Oregon Legislature • Agriculture and Agritourism ○ Connections of agriculture to local and regional businesses ○ Work with county on Agritourism code • Science, Research and Technology ○ Biotech Incubator Space • Emerging Artificial Intelligence (AI) Hub (<i>Track progress and outcome. How did our actions affect a demonstrable outcome; share stories; which core values this this work underscore?</i>)

Create and Strengthen Emergency Planning for Businesses*	• Host emergency preparedness planning seminars for businesses (annual)* • Meet quarterly with Corvallis/Benton County emergency planners to outline and refine this work/keep lines of communication open • Consider possible business certification for emergency preparedness* • Encourage and support work by ED subcontractors in this area (Quantify events held, number of attendees; number of Benton County businesses with emergency certificates.)
Focus Area #2: Champion Policies that Create a Pro-Business Environment	
Manage economic development tools: enterprise zones, urban renewal districts, opportunity zones, to incentivize business improvement and growth	• Manage South Corvallis Urban Renewal District • Program to support ST businesses • Support creation of Adair Village Urban Renewal District (Track progress and outcome. How did our actions affect a demonstrable outcome; share stories; which core values this this work underscore?)
Improve regulatory environment	• Champion process, code, and policy improvement – includes semi-annual city project review Cross departmental) (Track and process or policy improvements)
Focus Area #3: Expand Buildings & Infrastructure	
Annex AIP	Annexation of the Airport Industrial Park (AIP) into the city limits, including refining of process for development at AIP^ (Complete annexation)
Support industrial zoning and land use study	Work with CD on the industrial zoning and land-use study
Cultivate manufacturing space: small-scale and potential research industrial park	• Explore through market study the feasibility of a research industrial park^ • Pursue grant and funding opportunities^ • Talk with developers about the creation of possible space^ (Track progress and outcome. How did our actions affect a demonstrable outcome; share stories)
Focus Area #4: Strengthen Outreach and Communication	
Create a marketing plan	• Draft and implement marketing plan to act as a roadmap for outreach to businesses and community at large. (Complete marketing plan)
Collate Information for Businesses	• Develop and launch a centralized online portal that provides all information for all businesses to land or grow in Benton County*^ • Outline continuity of care mapping^ • Work with COG on potential state or local business registry* (Complete portal; # of webpage views?.)
Focus Area #5: Spark Entrepreneurship and Innovation	
Support entrepreneurial	• Oversee the contracts with entrepreneurship partners ○ Refocus efforts on those businesses most negatively impacted

ecosystem by funding partner organizations	• Bring stakeholders together 2x per year to ensure cross collaboration/communication^ • Collate calendar of entrepreneurial events
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Ongoing work

Champion Policies that Create a Pro-Business Environment

- Collaborate internally to improve processes for development and permitting processes
- Ongoing after-action analysis between departments
- Wetlands permitting and processing
 - Continue to staff the regional wetlands consortium meeting
 - Advocate for policy changes at the state level

Strengthen Outreach and Communication

- Translate relevant materials into multiple languages
- Cross promote regional partners
- Increase social media presence and engagement

Benton County Commissioner Xan Augerot, Chair
Benton County Commissioner Nancy Wyse
Benton County Commissioner Pat Malone

4.2 WS

Developmental and other disabilities, Benton County, Oregon
Monday, May 24, 2021

Dear Commissioners:

1) Purpose:

I am submitting written information and context to inform and assist you with decisions affecting people living with developmental disabilities, particularly in their interactions with the justice and health care systems. I believe this is a public health problem profoundly affecting our community. We deeply appreciate your invitation to discuss the ADA Checklist, at your Tuesday, May 25th Commissioner's meeting.

I want to stipulate that this is a criticism of a system, not the people who inherited that system. I want to specifically thank the local founding members of The Arc of Benton County's Disability Resource Team: Corvallis Police Department's Chief Hurley, Captain Goodwin and Lieutenant Duncan, Philomath Police Chief Reubin, Benton County Juvenile Director Abblitt, Benton County Judge Donohue, OSU's SCCS Director Millie and Benton County Commissioner Augerot. Many other justice and health care professionals have contributed in Benton County and in Oregon; Those founders as representatives of the many highly professional and committed people concerned about these issues.

2) Definition of Developmental Disabilities (DD):

Developmental disabilities is defined for our purposes by the Developmental Disabilities Act (Oct. 30, 2000, 42 U.S. Code § 15002 (8), pg. 1683-4). This definition is used by the The Arc of the United States in its *Rights Summary* (FN-1), [linked here](#).

- a. (8) DEVELOPMENTAL DISABILITY.—
 - (A) IN GENERAL.—The term “developmental disability” means a severe, chronic disability of an individual that—
 - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (ii) is manifested before the individual attains age 22;
 - (iii) is likely to continue indefinitely;
 - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - (I) Self-care.
 - (II) Receptive and expressive language.
 - (III) Learning.
 - (IV) Mobility.
 - (V) Self-direction.
 - (VI) Capacity for independent living.
 - (VII) Economic self-sufficiency; and
 - (v) reflects the individual's need for a combination and sequence of special,

interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

Spectrum of conditions: Developmental disabilities encompass over a hundred diagnoses. Specific diagnostic testing, including neuropsychiatric testing is often useful clinically, but is not required for antidiscrimination measures and accommodations.

Spectrum of impairments: People experience developmental disabilities have a spectrum of impairments. Some people require continuous assistance. Some function at a high level and may be independent with proper supports and freedom from discrimination. All are vulnerable and require accommodations, particularly when experiencing stressful or unpredictable situations.

Intellectual disabilities are a subset of developmental disabilities, defined as an I.Q. of less than 70-75. I.Q. testing is not readily available and shows racial discrepancies. I do not find it useful to segregate people based solely on their I.Q. and include intellectual disabilities in the spectrum of developmental disabilities.

Asperger syndrome is also encompassed in autism spectrum disorders and has no clearly defined separate criteria.

3) Disentangling developmental disabilities from mental illness:

Developmental disabilities have been co-mingled and confused by government agencies to the detriment of both groups. The U.S. Department of Justice states, "A cognitive disability is not the same as a mental disorder" (Maruschak LM. Survey of Prison Inmates, 2016, Disabilities Reported by Prisoners, U.S. Department of Justice, March 2021, NCJ 252642, [linked here](#)). People experiencing developmental disabilities, mental illness crises or substance abuse disorder have different risks and need different interventions.

- b. People experiencing disabilities need a safe environment with accommodations.
- c. People experiencing mental illness crises need a safe environment and treatment (talk therapy and/or medications).
- d. People with substance use disorder need a safe environment followed by sobriety.
- e. Dual diagnoses were first described for people experiencing both mental illness and substance abuse disorder. The point was to treat both conditions concurrently. Dual diagnoses were later applied to people experiencing developmental disabilities and mental illnesses, but the point is lost. People with developmental and other disabilities *require accommodations* in order to treat a concurrent mental illness or medical condition. Accommodations are necessary up front. Focusing on treatment instead of inclusion and protection for people living with disabilities is harmful. Moreover, withholding accommodations usually worsens the two most common mental illnesses affecting people living with DD (anxiety and depression) while providing optimal accommodations is likely to reduce the need for mental illness interventions and may be all that person needs in that moment.

4) Prevalence:

The prevalence of developmental and other disabilities is probably higher than you think, in large part because local and State governments have not sought prevalence data outside of IEPs in schools and DD services in health departments. Most adults with DD are hidden from view. The prevalence does not affect the ADA requirement for reasonable accommodations – there is no lower prevalence threshold. Prevalence data does describe the magnitude of this public health issue.

a) Developmental Disabilities:

Zablotsky (2019, [linked here](#)) showed the prevalence of people experiencing developmental disabilities is about 18%. The CDC agrees, noting the prevalence of developmental disabilities is about 1 in every 6 births ([linked here](#)). The prevalence has been rising in serial National Health Interview Surveys. If Oregonians experiencing DD had their own city, it would be larger than Portland proper. If Benton County residents living with DD had their own city, it would be three times as large as Philomath.

b) Other Disabilities:

The prevalence of Benton County, Oregon, residents with any disability is approximately 22.4% ([Oregon Office on Disability and Health, 2013](#)). I suspect that underreports the true prevalence. The prevalence of Oregonians who live with a disability is 25.6%, [according to the CDC \(linked here\)](#).

You may recognize similarities between developmental and other disabilities as you contemplate discrimination, vulnerabilities and accommodations. For example, people with other cognitive disorders (such as Alzheimer's) share some of the same risks and benefit from the same accommodations, as do those with traumatic brain injuries (including our wounded war fighters).

c) Homelessness and other vulnerable groups

Benton County is just beginning to collect prevalence data of those needing accommodations in specific high-risk, high-cost groups, such as those suffering homelessness. In this [snapshot survey from the Corvallis Drop-in Center](#), 76% of people experiencing homelessness. I do not believe you can effectively manage homelessness or any other social safety issue without first providing reasonable and necessary accommodations to people who are experiencing developmental and other disabilities. At the same time, providing those accommodations is likely to reduce the pressure on homelessness services.

5) Developmental Disability Vulnerabilities

People experiencing developmental disabilities are exponentially over-represented in justice entanglements as survivors and suspects for reasons causally related to the definition of DD (see Section 2, above). This pattern of excessive entanglements is compounded by two interacting factors:

- (i) discrimination by professionals (lack of equitable inclusion and protection, including misrepresenting benign disability characteristics as malignant); and
- (ii) particular vulnerabilities caused by disability impairments.

An informed police officer summed it up nicely, "people with DD are the last to leave, the first to be arrested and the first to offer a false confession."

Government's discrimination toward those experiencing disabilities, in turn, reflects society's discrimination toward people living disabilities. People living with developmental and other disabilities are:

- 7-times more likely to be sexually assaulted, usually by people they know ([Shapiro J. The sexual assault epidemic no one talks about. NPR. Jan. 8, 2018](#));
- At least 44% more likely to be arrested by age 28 ([McCauley E. The cumulative probability of arrest by age 28 years in the united states by disability status, race/ethnicity, and gender. Am. J. Public Health. 2017;107](#));
- About 50% more likely to be in prison or jail ([Maruschak 2021](#));
- More likely to face exploitation and abuse in prison ([Sarrett J. US prisons hold more than 550,000 people with intellectual disabilities -- they face exploitation, harsh treatment. The Conversation. May 7, 2021](#)) just as in our community;
- According to the U.S. Dept. of Justice, have a substantially increased risk of prison rape and assault by both inmates and guards ([Prison Rape Elimination Act National Standards, Screening for risk of victimization and abusiveness, 28 U.S. Code § 115.41 \(d\) \(1\), 2015](#)).

- According to the U.S. Congress, “often encounter discrimination in the provision of critical services” and “are at greater risk ... of abuse, neglect, financial and sexual exploitation, and the violation of their legal and human rights” (Developmental Disabilities Act (Developmental Disabilities Act, Oct. 30, 2000, 42 U.S. Code § 15002 (SEC.101)); and are
- More likely to be groomed, scape-goated, false-friended, manipulated, give false-confessions or be denied credibility, be intimidated or unknowingly waive constitutional and human rights.

Intersectional vulnerabilities: Developmental disabilities are common in every demographic group, frequently intersecting with other identities subject to systemic discrimination. A shocking example is described by McCauley (2017) in which the prevalence of arrest for White men with disabilities is an astounding 40%, while the prevalence of arrest among Black men with disabilities is an appalling 66%.

5) Accommodations

Accommodations for people living with developmental and other disabilities are mostly inexpensive and priceless. Inexpensive because they are readily available, common accommodations available to every justice professional:

- a) Include support staff and advocates. In 2020, the Oregon Legislature defined support staff and family members of people experiencing developmental disabilities as essential members of the emergency and hospital care team (SB 1606) because those support people are necessary and reasonable accommodations. Many justice professionals know this, but not all. Philomath Chief Reubin told us that if we can identify a helpful advocate during a justice entanglement involving someone with DD, he would go get them if feasible.
- b) Slow down. Slow is smooth and smooth is more effective. Slowing down is an essential accommodation but a few professionals find it objectional. Slowing down in order to communicate carefully is a Title II accommodation.
- c) Use appropriate language and communication techniques.
- d) Use and ask about sensory sensitivity.
- e) Give the person experiencing DD extra time.
- f) Offer organizational assistance so that people with DD can make and keep important appointments and provide forgiveness when they fail to keep an appointment related to their disability.
- g) Inform people with developmental and other disabilities of their rights to participate with protection from discrimination and offer a reporting and appeal pathway when they feel their ADA rights have been denied.
- h) Maintain medical and therapeutic access.

Universal Design: You will recognize a universal design component to those accommodations, meaning those accommodations may provide better outcomes and satisfaction by participants who do not have an ADA-qualifying disability, just as curb-cuts assist all people pushing shopping carts or baby carriages by providing improved access.

Likewise, the efforts and lessons learned from providing the antidiscrimination measures of equitable access and equitable protection for people with disabilities will apply to other groups suffering systemic inequities. Disability bias is akin to racial bias is akin to gender bias is akin to other identity biases. A rising equity tides must lift all equity boats.

Priceless because withholding accommodations:

- i) causes harm to participants, their advocates and our community;
- j) increases the need for additional services in a system already unable to fully meet its service demands;

- k) increases the total cost of government programs and activities;
- l) causes moral injuries to frontline workers; and
- m) violates Title II of the ADA and Section 504 of the Rehabilitation Act.

6) Voters

Just as you may have been surprised that you are governing so many Benton County residents with developmental and other disabilities, you may be surprised by how many voters are members of the extended disability community. This [linked fact sheet](#), describes the size and characteristics of the extended disability community extrapolating from national data. The extended disability community in Oregon is likely a super-majority of voters given the benefits of Oregon's Vote by Mail laws for people living with disabilities and their advocates.

7) Justice System Improvement Project: changing outcomes

"Every system is perfectly designed to get the results it gets ... like magic" ([Institute for Healthcare Improvement, August 2015](#)). Best practices, optimal outcomes and effective facilities are Benton County's desired justice system outcomes. Improving systems takes collaborative work, process changes and leadership to achieve the results we want, rather than the results we are getting. Thank you for your leadership during these challenging times.

Respectfully submitted,

John Gotchall, MD

The Arc of Benton County, board member

Disability Equity Center, board member

The Arc of Oregon, Public Policy Committee, member

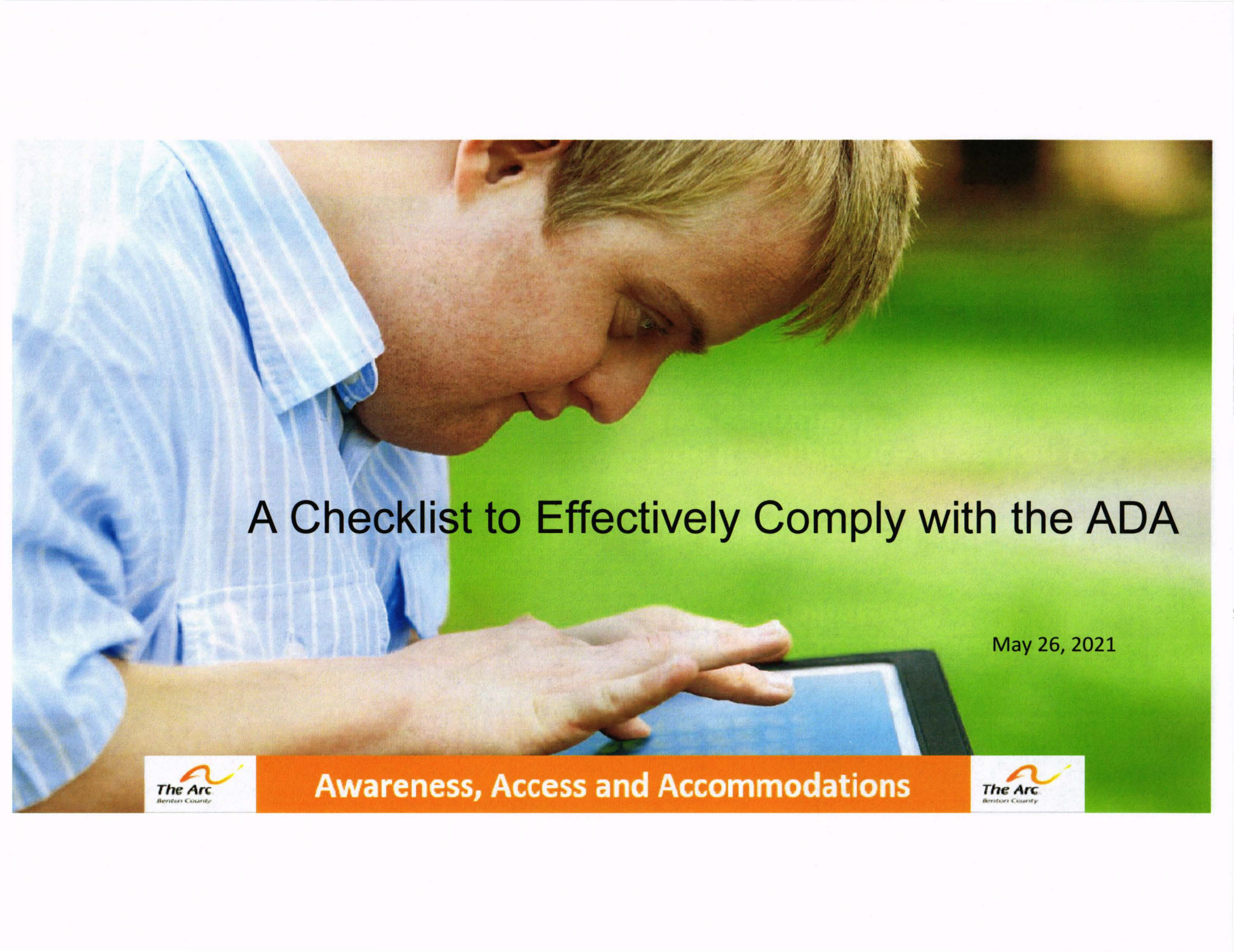
Benton County Mental Health, Addiction and Developmental Disability Advisory Committee, member

Benton County Justice System Improvement Project, Community Advisory Committee, member

IHN-CCO Health Equity Workgroup, member

Oregon Center for Behavioral Health and Justice Integration Steering Committee, member

National Center on Criminal Justice and Disability, Community of Practice, member



A Checklist to Effectively Comply with the ADA

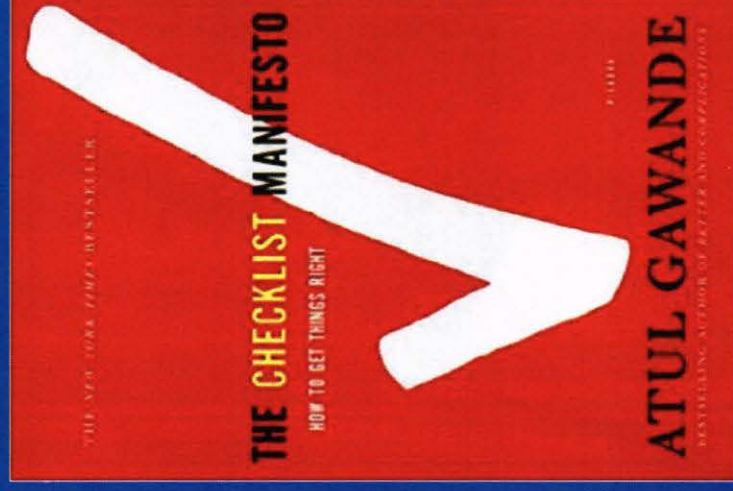
May 26, 2021



Awareness, Access and Accommodations



Introductions



- Preview: developmental and other disabilities
- The Road to Title II of the ADA
- Title II compliance in Benton Co. (two examples)
- Use the ADA Checklist to get Title II right.

TITLE II OF THE ADA

- **ALL STATE AND LOCAL GOVERNMENT ENTITIES**
- **PROTECTS PEOPLE WITH DISABILITIES FROM DISCRIMINATION BASED ON DISABILITY**
- **SERVICES, PROGRAMS, AND ACTIVITIES**

THE QUADRUPLE AIM

1. IMPROVED EXPERIENCE BY THE GOVERNED (QUALITY AND SATISFACTION)
2. IMPROVED HEALTH AND SAFETY OF POPULATIONS
3. REDUCED PER CAPITA TOTAL COSTS OF SERVICES
4. IMPROVED WORKER SATISFACTION, RESILIENCY AND JOY

The DD Iceberg



LONG STRANGE TRIP TO THE TITLE II

- **IN THE BEGINNING, THE GOLDEN RULE -- WAS INSUFFICIENT**
- THE DECLARATION OF INDEPENDENCE: WE HOLD THESE TRUTHS TO BE SELF-EVIDENT, THAT ALL MEN ARE CREATED EQUAL ... UNALIENABLE RIGHTS ... LIFE, LIBERTY AND THE PURSUIT OF HAPPINESS (1776) -- INSUFFICIENT
- FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION (1868) -- INSUFFICIENT
 - SECTION 1: EQUAL ACCESS AND EQUAL PROTECTION
 - SECTION 5: CONGRESS SHALL HAVE THE POWER TO ENFORCE BY APPROPRIATE LEGISLATION, THE PROVISIONS OF THIS LAW
- REHABILITATION ACT (1973). SECTION 504 PROHIBITS DISABILITY DISCRIMINATION CONTINGENT ON FEDERAL FUNDING -- INSUFFICIENT
- AMERICANS WITH DISABILITIES ACT (1990)
PROHIBITS DISCRIMINATION "AGAINST QUALIFIED PEOPLE WITH DISABILITIES."

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Awareness, Access and Accommodations



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- **AMERICANS WITH DISABILITIES ACT (1990)**

PROHIBITS DISCRIMINATION “AGAINST QUALIFIED PEOPLE WITH DISABILITIES.”

ADA: WORK IN PROGRESS

AMERICANS WITH DISABILITIES ACT (1990), PROHIBITS DISCRIMINATION “AGAINST QUALIFIED PEOPLE WITH DISABILITIES.”

- “THE DIFFICULT AND INTRACTABLE PROBLEM OF DISABILITY DISCRIMINATION WARRANTED ADDED PROPHYLACTIC MEASURES”
- “FAILURE TO ACCOMMODATE PERSONS WITH DISABILITIES WILL OFTEN HAVE THE SAME PRACTICAL EFFECT AS OUTRIGHT EXCLUSION.”
- “A RECORD DEMONSTRATING A PUBLIC ENTITY’S FAILURE TO ACCOMMODATE THE NEEDS OF QUALIFIED PERSONS WITH DISABILITIES MAY RESULT DIRECTLY FROM UNCONSTITUTIONAL ANIMUS AND IMPERMISSIBLE STEREOTYPES.”

Blind Spot 2019



BLIND SPOT 2020

- **“AUTOMON” PRETRIAL SOFTWARE \$\$\$**
 - **NO DISABILITY OR ACCOMMODATIONS TRACKING**
- **BRIGHT SPOTS:**
 - **SOFTWARE TEAM AT AUTOMON WILLING TO WORK ON UPGRADES AND PILOT PROJECTS**
 - **BCSO INTERESTED IN CAPTURE AND TRACK ACCOMMODATIONS, ACCURATE RISK ASSESSMENT.**

ADA CHECKLIST

- **[] Our services, programs and activities include people living with developmental and other disabilities**
- **For a more detailed checklist, [go here](#)**
- **For ADA coordinator checklist, [go here](#)**
- **For references and resources, [go here](#)**

PROPOSAL

- [] Our services, programs and activities include people living with developmental and other disabilities
- 3-month pilot of checklist
 - Outcome measurements w/ JoeHahn
- Refinement of checklist
- Title II becomes a “Benton-Best” practice

Disability Checklist (detailed)

March 11, 2021
The Arc of Benton County

PURPOSE: Title II of the Americans with Disabilities Act (ADA), [linked here](#), prohibits discrimination on the basis of disabilities by all State and local entities. This checklist is a first step in helping agencies implement best-practices and achieve better outcomes for people and families living with developmental (and other) disabilities.

Prototype: Developmental Disability Inclusion Checklist

1. ☐ Do services, programs or activities, in place or under consideration, affect any individuals living with developmental disabilities ([defined here](#))?

☐ Yes. How do you measure Title II compliance? Proceed to A and B.

☐ No. Go to 2.

A. ☐ Are we providing optimal accommodations in order to include individuals living with developmental disabilities in our services, programs and activities?

☐ Yes. Review item 1-B.

☐ No. How can we effectively modify the services, programs and activities with skills, training and teamwork? Go to 2.

B. ☐ Are non-discrimination measures in place so that people experiencing developmental disabilities are not subject to identity-based animus and stereotypes, including misrepresentation of disability diagnoses and characteristics?

☐ Yes. Go to 2.

☐ No. How can we modify the service, programs, activities, training and/or professional standards with training, skills and teamwork? Go to 2.

2. ☐ Invite participants and their advocates to report perceived discrimination for review by the entity and the Benton County Equity, Diversity and Inclusion Coordinator.[1] The purposes of this step are accountability, trust, and effective means of analyzing errors, adverse events and near misses to avoid future harm.

For references and resources, [go here](#).

****You may be able to comment within this document.****

[1] RCA² means [Root Cause Analysis and Action](#), a safety review process developed by the Institute for Health Care Improvement. If Benton County has a better equity and safety review process, use it.

DD-ADA Checklist Resources and References

Feb. 1, 2021

The Arc of Benton County

Whereas, people experiencing intellectual, developmental (DD) and other disabilities, their families and their advocates are too often relegated to a blindspot in government entities,¹ this checklist will assist government employees, contractors and leadership in routinely providing ADA-compliant awareness, access, inclusion, equity and accommodations as required by law and community expectations. If you have questions, wish to have a presentation to your group, are willing to measure outcomes or have questions, contact john.gotchall@gmail.com

Endorsements: This checklist has endorsements from:

- The Arc of Benton County
- The Arc of Oregon
- Leigh Ann Davis, Director of Criminal Justice Initiatives at The Arc of the U.S
- Disability Equity Center of Corvallis
- Angel Harris (NAACP Corvallis/Albany Branch, Past-President)
- Andrew Abblitt (Juvenile Services Department, Supervisor)

This checklist supports our community public policy goals including (linked):

- Benton County's [2040 Thriving Communities Initiative](#);
- Benton County County's [Equity, Diversity and Inclusion \(EDI\) Program](#);
- Benton County's [Developmental Diversity Program](#);
- The Oregon Legislature's [State Policy on Persons with Disabilities \(ORS 410.710\)](#);
- The [Oregon Judicial Branch Strategic Campaign 2020-2021](#), Commitment 1, Initiative 1.1 (and others);
- The [Oregon Center on Behavioral Health and Justice Integration](#);
- [The Americans with Disabilities Act \(Title II, 2010 Amendments\)](#);
- [Section 504 of the 1973 Rehabilitation Act](#) (requiring accommodations from entities receiving Federal funding); and

¹ The CJS-DD blindspot is provable upon request

May 25, 2021

Benton County
Board of Commissioners

Dear Commissioners,

I am a seven year member of MHADDAC advocating for the I/DD population in Benton County and the state. I am writing in support of Dr. John Gotchall's presentation today. John is a newer MHADDAC member who also advocates for the I/DD population in Benton County. As a long time advocate, I feel that John's work will hugely benefit not only the county but probably the state and possibly the nation. He is a dedicated and knowledgeable person with a passion to improve services, accountability, accommodations and otherwise assist people in the I/DD community.

I thank you for listening to John as he advocates for the Justice System for Developmental and Other Disabilities and ADA Checklist.

I have rarely run across a more passionate and compelling advocate in my 20 plus years of involvement with the I/DD system in Oregon. John's work on the CommCard project speaks for itself. As a parent, I have always been concerned with the possibility of law enforcement contact with my son. His issues are not visible nor does he speedily follow directions, both issues could cause distress during an already stressful situation.

Benton County has a well run developmental diversity office under the purview of Jasper Smith. My family moved here 10 years ago after hearing numerous recommendations for this office and after interviewing my son's current provider. I think our decision was the right one. Of course, any system can use improvement, this one particularly in client employment and staff retention.

Thank you for all you do for the citizens of Benton County.

Tom Giles
tbgiles@gmail.com