THE EFFECT OF MENTAL ILLNESS UPON APPEARANCE RATE AT THE ARIZONA SUPERIOR COURT'S PRETRIAL SERVICES

By

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A Thesis Submitted to The Honors College

In Partial Fulfillment of the Bachelors degree
With Honors in

Criminal Justice

THE UNIVERSITY OF ARIZONA

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Acknowledgments

This Honors Thesis and its original research were completed over the course of the Fall 2016-Spring 2017 University of Arizona school year, and is one of my greatest academic achievements. However, this research could never have been completed without the assistance and dedication of several key individuals.

Firstly, I would like to thank my Honors Thesis Advisor Doctor Neil Vance. Dr. Vance is the Kanbay Chair of Ethical Governance at the University of Arizona and has extensive knowledge about the operations of the criminal justice system. He worked extensively with me throughout my entire thesis, offering endless guidance and expertise. Without Dr. Vance's constant pressure to pursue much higher standards than required for my thesis, I never would have strived to research and present something this significant.

The next individual I would like to thank is the Arizona Superior Court's Pretrial Services Director Domingo Corona. Director Corona generously allowed me to not only intern with their Pretrial Services program, but granted me access to all of their raw data. I could never have been in the unique position I am today, an undergraduate student presenting unique and raw data in her Honors Thesis, if not for Director Corona's astounding benevolence and enthusiasm.

Last but not least, I would like to thank the Arizona Superior Court's Pretrial Services Research Analyst Arielle Hendricks. Mrs. Hendricks graciously volunteered a significant amount of her time to not only guide me through how Pretrial Services operated, but also offered critical insight and knowledge about gathering, analyzing, and presenting data. Truly, without Mrs. Hendricks' vast expertise as a research analyst I could never have properly examined this thesis' data.

To each of these three individuals I owe my entire thesis, and yet there will never be enough words to convey the full extent of my gratitude. Thank you so much for all that you have done, and thank you for all the assistance that I know you will continue to provide for students in the future.

Abstract

This study collaborated with the Arizona Superior Court's Pretrial Service program to determine the appearance rate of mentally ill defendants who were arrested for a misdemeanor in Pima County. The hypothesis of this study was that active (currently receiving treatment) mentally ill individuals who were post-released upon a misdemeanor would have an appearance rate relatively similar to the appearance rate of the general population. The primary finding of this study, however, revealed that mentally ill defendants are 21% less likely to appear at their first court date than the general population. This finding suggests that Pretrial Service agencies need to adjust their protocol to help alleviate this disparity. Several proposals were fashioned in conjunction with the Arizona Superior Court's standing Pretrial Services Director, Mr. Domingo Corona. These proposals include, though are not limited to, discontinuing the allowance of treatment orders as a part of a defendant's conditions of release, establishing a pre-booking diversion program, and initiating a hearing review system for detained defendants. Before any of these proposals may be enacted, however, the importance and responsibility of a Pretrial Services agencies' actions needs to be elevated, since many of these programs are not only un-mandated, but also un-funded.

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A Brief Description of Pretrial Services

A Pretrial Services program tends to have two main functions. The first is to gather information from defendants who have been recently arrested. This data includes, though is not limited to, a defendant's identity (e.g. age, birthdate, gender), physical and mental condition (e.g. drug or alcohol abuse, mental illness), criminal history, residence, employment, and community ties; and, if applicable, a defendant's prior record of compliance and conditions of release. Once this data is gathered and its validity is checked, this information is synthesized to assess whether a defendant is either a risk to the safety of the community, and/or a risk for not appearing in court ("Frequently Asked Questions"). Both this assessment and the gathered information is then shared with judicial officers to help them determine if the defendant should be released prior to trial and, if they are released, whether their release should contain any conditions. The second function of Pretrial Services involves two tasks. The first is to monitor defendants who have been granted release before trial upon meeting specialized conditions. Examples of non-financial conditions may include drug and/or alcohol testing, remaining in regular contact with Pretrial Services, curfew, or electronic monitoring. The second task of Pretrial Services involves helping to ensure that defendants appear for their scheduled court dates. This generally tends to involve calling the defendant before their court date to remind them of their hearing, though it may also include things such as sending letters (Mahoney et al. 1).

One of the main reasons Pretrial Services exists today is because it helps prevent the inappropriate jailing of defendants before trial. More specifically, this program assists in protecting defendants who are unable to pay their bonds from remaining in custody. For it has become extremely common for "states to have bail schedules, adopted statewide or locally, that establish a pre-set amount of money that must be deposited at the jail in order for a defendant to

obtain immediate release" (Pepin 3). However, one of the issues with bond payments, especially pre-set bond payments, is that many defendants are unable to pay, and thus remain in jail until their trial "even though they may not necessarily pose risks to the community or a risk of not appearing in court" ("Frequently Asked Questions"). In other words, pretrial release, when dependent upon bond payment, becomes a privilege to individuals in society who are economically advantaged; a realization that set into motion New York's Manhattan Bail Project and, essentially, the creation of Pretrial Services.

The innovative idea of Pretrial Services began with the introduction of two men: Herbert Sturz, a journalist, and Louis Schweitzer, a wealthy businessman. Ironically, these individuals were practically polar opposites. In spite of all their diversities, however, they were able to find the one belief they actually shared: "that the criminal justice system was not living up to the promise of the U.S. Constitution" (Kohler). To better narrow down what the criminal justice system was lacking, Sturz and Schweitzer decided to visit their local Manhattan Jail. By the time they left the facility, they had come to the grim conclusion that too many defendants were being locked up before their trial simply because they could not afford to meet their monetary bail. Finding this unacceptable, Schweitzer offered Sturz a full year's salary to research the problem and come up with a solution (Kohler).

By the end of the year, Sturz had come up with an innovative plan of action: simply release more defendants without the condition of bail. Schweitzer took the proposal to New York's Mayor, Robert Wagner, who liked the idea so much that he approved their project, which came to be famously known as the Manhattan Bail Project. A staff was hired soon after who began looking into defendant's backgrounds to determine whether they were likely to appear at court without being required to pay a money bond. If a defendant was determined to not be a

flight risk, a recommendation was given to the presiding Judge to release the defendant upon his or her own recognizance. And for any defendants that were released, the staff would attempt to call and remind them of their upcoming court date (Kohler).

To help determine the impact and efficiency of the project, the founders decided to run an experiment. In this experiment, two groups of defendants who were deemed eligible for release were brought before a Judge. For the experimental group of defendants, the Judge was given a recommendation to release the defendant without bond. For the control group of defendants absolutely no recommendation was presented. The results of the experiment were jaw dropping: only sixteen percent of the control defendants were released without bond, compared to the release of sixty percent of the experimental defendants (Kohler).

Over time, as the Judges began to trust the recommendations more, the project received even better results: seventy percent of defendants receiving favorable recommendations were being released without bonds. As a result of the program's mounting outstanding effects, in 1963 the service was expanded to include all five of New York's districts. A year later the project had become the focus of so much national attention that the U.S. Department of Justice organized a national conference to be held on bail and criminal justice. The greatest victory, however, came two years later, in 1966, when President Lyndon B. Johnson signed into action the national Bail Reform Act and credited Sturz and Schweitzer for its formation (Kohler).

As many individuals across the nation came to acknowledge, there are many benefits that come from maintaining a Pretrial Services program. Although the incentive that tends to be most recognized is the fact that Judges are better informed, and thus able to make more efficient pretrial release decisions that better predict both a defendant's pretrial misconduct and their risk

posed to the community ("Frequently Asked Questions"). However there are equally important impacts on both the community and the defendant that should be considered as well.

Having an excessive amount of pretrial detention results in unnecessarily high incarceration costs. However, these costs upon the community can be significantly mitigated through Pretrial Services. Take, for example, the incarceration costs of Harris County located in Houston, Texas. "An estimate of net savings and revenue for Fiscal Year 2010 showed that Harris County gained $4,420,976 in avoided detention costs and pretrial services fees collected after deducting for the costs of pretrial services" (Pepin 8). Thus, as one can see, the costs in having a Pretrial Services program can greatly undercut the expenses correlated with excessive detention. Furthermore, having less defendants in jail before trial should help decrease jail overcrowding, and may even help prevent the need of building an additional correctional facility (Mahoney et al. 4).

The effect of Pretrial Services upon the accused, however, is even more stunning. Extensive research has shown that defendants who remain in jail before trial are more likely to receive severer sentences. In addition, they tend to be given less advantageous plea bargains and are more likely to re-enter the system, regardless of their criminal history or charge (Pepin 5). These defendants also tend to have difficulty participating in their defense, since they are unable to search for friendly witnesses and often have trouble communicating and meeting with their defense council. "Statistically, defendants detained prior to trial plead guilty more often, are convicted more often, and are more likely to be sentenced to prison than are defendants who are released prior to trial" (Mahoney et al. 5).

Pretrial Services at the Arizona Superior Court in Pima County

No Pretrial Services program tends to be exactly the same. Thus it is important to have a good understanding of the program in question, which, in regards to this study, will be Arizona's Superior Court in Pima County.

Like most programs, defendants are interviewed after they are arrested for information about their residence, their time spent in Tucson/Arizona, their employment/student status, substance abuse/mental health problems, their criminal history, some references, etc. This information is then verified and ran through a validated risk instrument tool, which helps determine a defendant's likelihood of success if released before trial. A report is then given to the presiding Judge, along with a recommendation from both the Prosecutor and the Defense, who uses all three recommendations to set a defendant's conditions of bail at their hearing.

If a defendant is released to Pretrial Services, an intake interview is conducted. At this interview it is made sure that the defendant fully understands all of their court-ordered conditions of release. In addition, a case plan is developed and a contact determination is made, which essentially establishes how much contact a defendant must have with the program. For example, a low-level defendant may only be required to check in by phone once a week and physically report to Pretrial Services only after a hearing occurs. Whereas a higher level defendant may have to check in by phone call three times a week and physically appear at Pretrial Services once every two weeks.

In addition to the intake and supervision services, there is also an investigations unit. This division examines the cases of defendants who are held on bond, and essentially assess whether any new information could potentially be presented to the court to reassess their release. This unit also responds to motions filed by a defendant's attorney to reconsider their defendant's

conditions of bail. This may occur when perhaps a family member or friend steps forward and agrees to take third party custody of the defendant, if they have found a place to live when they are released, etc.

Some of the main differences of this program compared to others is that they only supervise defendants who have committed a felony. Furthermore, Pretrial Services is not allowed to post-release any defendant who is charged with either a DUI (driving under the influence) or a DV (domestic violence). In addition, currently this program can only post-release defendants who are charged through the Pima County Justice system, Green Valley Justice system, or Ajo Justice system. For they do not hold contracts with the other local courts, such as Marana or Sahuarita, that would authorize them to make such decisions.

Another distinctive trait of this program is that they only regularly provide court reminders to mentally ill defendants released on their own recognizance who have an active or inactive case status, which means that the defendant is either currently receiving mental health treatment at a state-funded facility or has received mental health treatment at a state-funded facility at least once in the past. This means that all other defendants who are released upon their own recognizance do not regularly receive court reminders. For this program does not always have the funding available to have their employees call these defendants.

During this past year, however, the Pima County Justice system was rewarded the MacArthur Grant. To receive this grant, the jurisdiction had to submit specific initiatives they wanted to enact, along with plans upon how they would most likely bring them into action. Although the Pima County Justice system applied for the full amount of the grant, not all of their initiatives were accepted. However, a vast majority of the initiatives were granted, and the Pima County Justice system was given $1.5 million over the course of two years to enact their

approved initiatives, with the potential to receive more money in their third year ("The Challenge Network").

One of the approved initiatives for Pretrial Services in particular was to initiate a robocall. This system would have the ability to call, text, or email a defendant to notify them of their upcoming court date, which would hopefully help increase the number of defendants who appear in court. A second initiative was to add substance abuse and mental health screening at a defendant's initial intake. This information would be provided to a Judge at a defendant's initial appearance to support release decisions to receive treatment rather than remaining in jail ("The Challenge Network").

The Mentally Ill in Jail or Prison

For the longest time the number of mentally ill individuals involved in the criminal justice system was highly debated, since there were no firm statistics at the time in regards to this issue's prevalence. This illusiveness allowed for some members of society to believe that the occurrence of mental illness in inmates was slim to none, whereas other individuals strongly believed that the occurrence of mental illness in inmates was highly prevalent and demanded reform. It was not until Steadman, Osher, Robbins, Case, and Samuels completed a study in 2009 that firm statistics began to emerge. Their study found that "the final, weighted prevalence rates of current serious mental illness for recently booked jail inmates [was] 14.5% for men and 31.0% for women across [their] jail and study phases" (Steadman et al. 764). These prevalence rates provided verification for what many staff members at jails across the country already knew: "the volume of inmates entering jails with serious mental illnesses [was] substantial" (Steadman et al. 764).

Such an astounding statistic helped reinvigorate inquiry concerning criminal justice and mental illness among researchers, which led to many more important discoveries. One such innovation resulted from a study completed in 2011 that researched the correlation between mental disorders and diverse types of crime. This study specifically examined defendants who were in pretrial and found that "the presence of any mental disorder among pretrial forensic patients [was] most strongly associated not only with arson and battery and homicidal attempts or threats but also with sexual crimes and violent crimes" (Vinkers et al. 318); a fact that was congruent with the existing literature at the time, which pointed towards a general relationship between mental disorder and any type of crime. More importantly, however, this study specifically found that psychotic disorders were correlated with all crimes except for rape, developmental disorders were highly correlated with homicide, and that personality disorders were distinctly correlated with both sexual crimes and homicides. Additionally, Vinkers et al. found that defendants with an IQ lower than eighty-five were moderately correlated with crimes of a sexual nature (318).

Not all aspects of crime were found to relate to one's mental disorder however. In fact, some studies began to show gender differences among inmates afflicted by serious mental illness, such as with risk of arrest. In fact, a study completed in Florida found that "men were more likely than women to experience additional arrests even after controlling for all study variables" (Becker et al. 21-22). In a diverse study, gender differences were also found in the symptoms of one's mental illness and their treatment seeking. It was found that "female inmates suffered from symptoms of somatic concerns, anxiety and other anxiety related disorders, at higher rates than males" (Drapalski et al. 201). In addition, symptoms of post-traumatic stress disorder (PTSD) were found to be especially high among female inmates, along with clinically

significant symptoms of borderline personality disorder (BPD). Both of these disorders are generally known to be more prevalent among women, however about one-third of the male inmates also experienced clinically significant symptoms of borderline personality disorder or trauma. This suggests that treatment care and it's marketing for these two disorders should be more gender neutral. Interestingly, this study also found that "alcohol-related problems were twice as prevalent among male inmates" (Drapalski et al. 203). When seeking treatment, however, "men were less likely to seek jail-based substance abuse treatment (28%) than women (51%), despite evidencing similar problems with drug abuse, greater problems with alcohol abuse and greater treatment seeking prior to incarceration" (Drapalski et al. 203-204).

Although some circumstances concerning mental illness do vary depending upon certain circumstances, such as the type of mental illness and one's gender, sometimes the mere state of having a mental illness can impose great risk. For example, "compared with the general population, the rate of physical assault is over 18 times higher for male inmates and 27 times higher for female inmates, compared with assault victimization rates for non-incarcerated men and women, respectively" (Crisanti and Frueh 433). Individuals with serious mental illness were also found to be four times more likely to face a violent victimization than the general population (Crisanti and Frueh 433). In addition, concerning sexual victimization, a diverse study found that "approximately one in 12 male inmates with a mental disorder reported at least one incident of sexual victimization by another inmate over a six-month period, compared with one in 33 male inmates without a mental disorder. Among those with a mental disorder, sexual victimization was three times as high among female inmates (23.4%) as among male inmates (8.3%)" (Wolff et al. 1087).

Increased victimization, however, is not the only amplified threat individuals with serious mental illness face. In fact, serious mental illness itself was found to be an independent predictor of self-harm in jail, which suggests that individuals with a history of mental illness are more susceptible to commit self-harm during instances of solitary confinement (Kaba et al. 446-447). In addition, a separate study, which examined the impact of long-term incarceration upon the psychological states of mentally ill inmates, found that "SMI subjects expressed greater hostility and persecutory ideation, attributing their suffering to external factors, such as the warden's attitude, the administration's policies, the behavior of other inmates, and living conditions" (Yang et al. 302). This strongly suggests that individuals with serious mental illness may have a limited ability in understanding punishment and their intended objectives (Yang et al. 302). This childlike incomprehensibility is particularly devastating when one learns that "[probation or parole] officers were 14.5 times more likely to have threatened a client with jail if they had also attempted psychiatric hospitalization than if they had not. In addition, those officers who reported collaboration with mental health workers regarding a client were 11.7 times more likely to have used a threat of return to jail than those who did not report collaboration with mental health workers" (Draine and Solomon 265-266). In other words, seriously mentally ill individuals are being threatened with the punishment jail, or being given time in actual incarceration, even though they may potentially not even be able to understand why.

In some cases, individuals dealing with a serious mental disorder are also plagued by secondary disorders, such as substance abuse. One study in particular examined how an individual's time until incarceration in jail was affected if they were facing either a mental disorder, substance abuse disorder, a combination of both disorders, or no diagnosis. It was found that "people with co-occurring disorders [had] a hazard of returning to jail that [was] over

40% greater than that of people with no diagnosis while people with substance use alone [had] a hazard of returning to jail that is 14% greater than people with no diagnosis" ("Examining the Impact" 297). What was most interesting, however, was that this study found that individuals facing the sole issue of mental illness actually had the lowest rates of recidivism. However, when their mental illness was combined with substance abuse problems, these individuals actually had the highest rate of recidivism. This suggests that mental health facilities need to increase their ability to address co-occurring disorders among patients to better prevent re-arrest and/or return to incarceration ("Examining the Impact").

It appears, however, that treatment facilities that address co-occurring disorders only help so much. For a study by Clark et al. in 1999 found that, even if patients were enrolled in state-of-the-art treatment facilities, legal system encounters were regular occurrences (645). Interestingly, however, "participants [of the study] were almost four times more likely to have an encounter not resulting in arrest than to be arrested" (Clark et al. 644). The study essentially found that patients who had stable housing and were able to decrease or eliminate their issue of substance abuse were able to reduce their involvement with the legal system over time, which also led to an overall decrease in their legal/incarceration costs (Clark et al.)

For treatment to truly be effective, however, some studies show that other factors need to be addressed among patients as well. For example, one study's data showed that "people with mental illness in [their] current jail sample think in ways that lead to attitudes and interactions with the world that support and maintain a criminal lifestyle" ("Criminal Thinking" 598). In other words, their findings show that criminogenic risk and mental illness are two separate challenges that people with mental illness in the criminal justice face. This suggests that "therapeutic programs for justice-involved persons with SMI must develop a multi-prong

treatment approach that integrates interventions for individuals' criminal thinking and antisocial attitudes specifically, and likely criminogenic risk, with treatment for their mental illness and substance abuse issues" ("Criminal Thinking" 599).

Alternatively, other members of society tend to think that researchers need to give more attention to social context when studying mental illness. Social problems are defined as issues that influence a significant number of individuals within a society, and may be difficulties such as unemployment or homelessness. A critical analysis by Draine et al. takes the position that factors of poverty, such as substance abuse, lack of an education, and employment issues, are a significant moderator between social problems and mental illness. Yet, these issues are often associated as problems of those who are mentally ill, and therefore are sheer psychiatric problems, simply because these individuals "live in a world in which these problems are endemic" (Draine et al. 565). Thus, to make true headway in creating effective interventions for individuals with mental illness, these individuals believe that the complexity of social problems must be separately taken into account.

The Mentally Ill in Pima County

At this point in time, very little is being done to assist individuals who are arrested in Pima County with a severe mental illness. At intake, the Emergency Medical Technician is able to access a database that contains information such as whether the arrestee is actively (currently) receiving mental health care at a State funded facility, if they are taking any medications, etc. Individuals who are active in the system have an email sent to their mental health provider containing information about their next court date to help ensure their appearance. In the past, Pretrial Services would send this email to the providers, however HOPE (Helping Ourselves

Pursue Enrichment), a behavioral health and substance abuse Intake and Coordination of Care (ICC), has recently taken up this task. In addition to sending these emails, HOPE will also help set up intake appointments with providers for individuals who are interested in receiving treatment for either substance abuse or mental health issues. These connections to care are all completed upon a voluntary basis, which means that the arrestee themselves must initiate the process and continually choose to participate.

In certain cases the medical staff are able to petition for a Title 36, which deems that a person is a danger to either themselves or others. If this petition is granted, the arrestee may be held involuntarily for up to seventy-two hours before they must either be released or have a petition for extension granted. This Title gives staff the ability to assess the arrestee's current mental state more thoroughly and/or involuntarily place them into treatment.

Involuntary treatment may also be court-ordered by a presiding Judge. In this instance, the defendant would be assigned a case manager, an individual who would ensure that the defendant was taking their medication, attending their appointments for treatment, etc. And if the case manager found the defendant to be in any way non-compliant, the defendant would be brought before a Judge for re-evaluation and possibly graduated sanctions.

Pretrial Services, in particular, does not currently provide many specific services for those who are mentally ill. Pretrial Services is able to refer arrestees to service providers through methods such as pamphlets, however they are not generally involved with procedures for treatment. During their interviews with defendants, Pretrial Services does inquire into an arrestee's mental health history, such as if they are currently or have ever in the past received mental health care. Pretrial Services may then use this information to decide if they want to

recommend to the Judge that the arrestee receive treatment. In general, however, an arrestee's interview answers do not play much of a role in a Judge's bail decision.

In addition to questions about mental illness, Pretrial Services inquires whether an arrestee is currently experiencing any suicidal thoughts or has ever attempted to commit suicide in the past. If the arrestee admits to currently experiencing suicidal thoughts, or has attempted to commit suicide in the past year, a mental health alert is filled out and the mental health staff is notified immediately. A mental health alert may also be completed if a friend or family member believes that the arrestee either has suicidal thoughts, or has attempted to commit suicide in the past year. Once an alert is made the mental health staff interviews the arrestee. These individuals decide whether or not the arrestee may need to be placed under suicide watch, which is where an arrestee is consistently monitored at five-minute intervals. If the staff decides that an arrestee is currently in crisis, they may choose to send the arrestee to the mental health ward. In this ward, arrestees are changed into blue smocks held together by Velcro, placed in their own personal cell, and are monitored extensively.

Although currently Pretrial Services does not offer much assistance to those who are mentally ill, they do have plans to change this in the future. As mentioned previously, Pretrial Services recently received the McArthur grant. With a portion of this grant money, Pretrial Services is going to increase their focus upon defendants who have a mental illness. Specifically, they are planning on hiring a particular case manager who specializes in helping defendants with either mental health or substance abuse problems. The individuals eligible for this new program, called enhanced supervision, would be people with mental health or substance abuse problems who were arrested on a low level felony (4, 5, or 6), but would not, by the jail's current risk score standards, be recommended for release upon their own recognizance. The idea behind this

program is that these individuals being arrested, who would not normally be released, would be identified as being low risk under the jail's PSA risk score and essentially be released upon their own recognizance if they were receiving the proper treatment.

To find individuals who are suffering from substance abuse or a mental health illness a screen for both issues will be implemented. Pretrial Services will add this screen to their current interviews, which means that these screens would be completed only upon a voluntary basis. Though it is important to note that the results of these screens will highly depend upon what specific screen is chosen. For some screens ask questions so vague that many "normal" individuals are rated as having a mental illness. In addition, some screens have questions that, depending upon one's answer, will automatically screen them as being mentally ill. For example, one such question is if the arrestee has ever been hospitalized for a mental health issue. If the arrestee affirms that they have been hospitalized in the past, then they would be automatically marked as being mentally ill. However, this question does not take into account how long ago this individual was hospitalized, since it could have been years in their past. In addition, this question does not take into account whether the arrestee is currently receiving treatment, or if they have received treatment in the past and are currently coping generally well in society. Thus which screen is chosen has a huge impact upon which individuals will be considered mentally ill, and therefore must be selected with extreme care and forethought.

At this point in time, it is uncertain whether the Judge will receive everyone's mental health score or if they will only be presented with the mental health scores of those who meet the qualifications for enhanced supervision. It is possible that a Judge might have a negative bias to individuals who have a high mental health score, but are not high enough to qualify for enhanced supervision. Thus it may be more plausible for the Judge to only see the scores of the individuals

who qualify for enhanced supervision, so that they cannot be biased in other cases. It is important to keep in mind that these mental health scores would only be presented as recommendations. The Judge would be the one officially deciding how these individuals may or may not be released. This means, for example, that someone recommended for enhanced supervision would still able to be released upon his or her own recognizance and vice versa.

In general, when Judges are presented with options they tend to use these options more than recommended. This means that Judges might initially assign more individuals to enhanced supervision than is necessary. This supervision is enhanced, however, due to its low caseload. In general, case managers are assigned about one hundred and fifty cases at a time, whereas an enhanced supervision case manager would only have a caseload of about sixty so that they can ensure that their defendants are going to their intake meetings, attending treatment, etc. However, if a Judge assigns someone to enhanced supervision they cannot be turned away. Thus a caseload meant to be relatively small can easily become too large to supervise efficiently. One way to potentially counteract this over-usage would be to inform the Judges, before the program begins, about the benefits and downfalls of enhanced supervision, and in what circumstances it would most likely make the biggest impact.

A second potential problem with this program is the fact that defendants may not qualify for mental health treatment after an assessment with a provider. Before this program was created, Judges had the ability to order rehab as a condition of a defendant's release. However this meant that the defendant must either attend these rehab sessions or return to custody. Yet a treatment provider, upon assessing the defendant, could decide that treatment was unnecessary for their current mental state and turn them away. Thus, although they did not need treatment, the defendant could still be returned to custody for violating their release condition of attending

rehab. If a defendant were assigned to enhanced supervision, however, there would be more discretion available among case managers to respond to special circumstances such as these. At the moment it is uncertain how a case manager would specifically proceed if a provider diagnosed their defendant as being unnecessary for treatment. Though, more importantly, these individuals would not be immediately returned to custody for their violation. These exceptional cases could potentially be brought before a Judge for re-evaluation, but, at the moment, an exact procedure is still undecided.

Research Question

The data used in this study is quite unique compared to most other undergraduate theses. In general, undergraduate theses that involve the collection of data tend to do so through surveys of their fellow students. In general, surveys are a useful method of gathering information. When used by undergraduates, however, this method has difficulty resulting in substantive research. For it is quite a formidable task to get the approval of the Institutional Review Board (IRB) on a study involving human subjects. This undertaking, however, becomes even more intimidating and arduous when it is one's first interaction with the IRB. Thus, many undergraduate studies, if they involve human subjects, tend to delve no deeper than surface level findings. The research in this study, however, uses raw and real data collected by Pima County Superior Court's Pretrial Service program. The Pretrial Services program collects this information as a part of their everyday operations, and even analyzes some of the data they gather to create statistics about their appearance rates, recidivism rates, etc. This data, however, has thus far not been used to examine the precise appearance rate of mentally ill defendants, nor how this appearance rate compares to those of the general population. Thanks to the grace and kindness of both the

Pretrial Service's Director Domingo Corona and research analyst Arielle Hendricks, however, this study will be a substantive addition to this field.

The hypothesis of this study is that active (currently receiving treatment) mentally ill individuals who have been arrested for a misdemeanor and are post-released will have an appearance rate relatively similar to the appearance rate of the general population, who are arrested for a misdemeanor, in Pima County. This research is critical to defendants who are mentally ill, since employees and personnel in the Criminal Justice system tend to detain people that they assume or know are afflicted by a mental illness rather than release them (Vance).

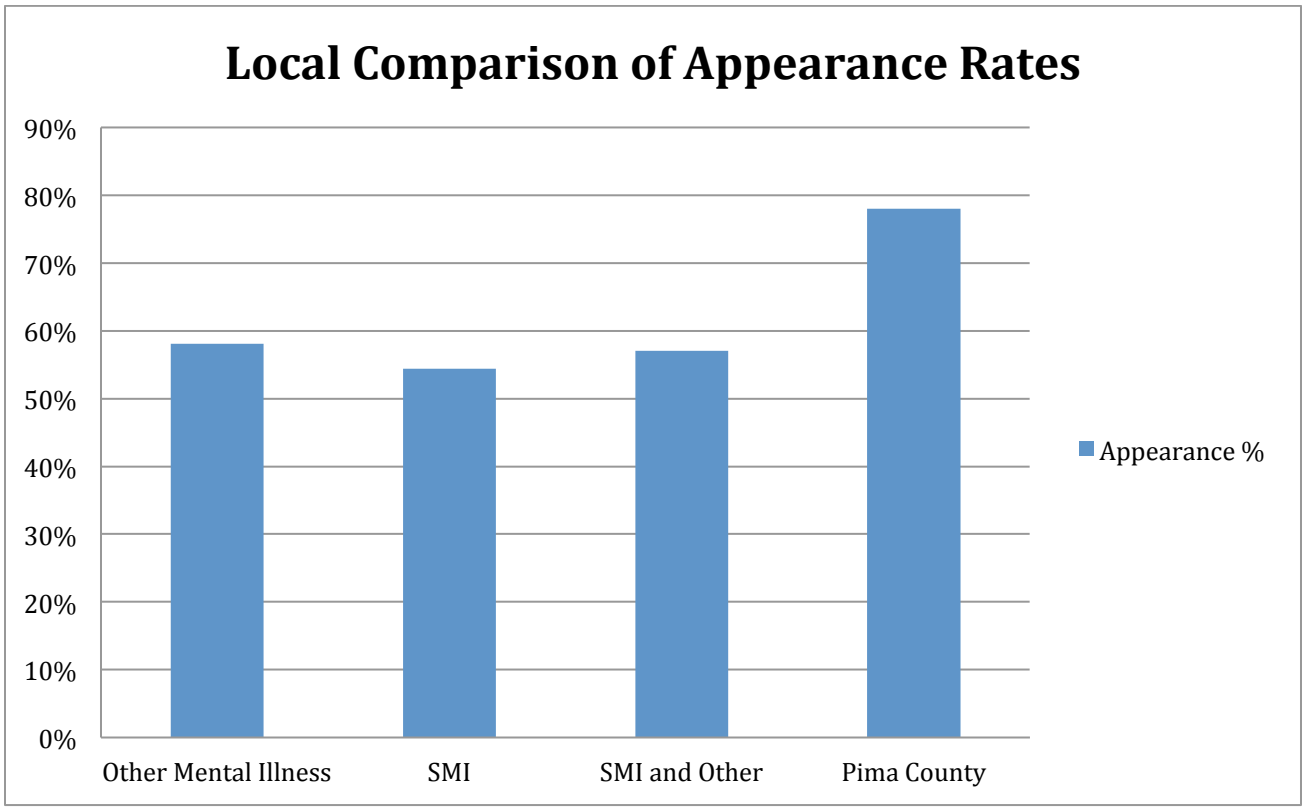
Discussion of Data Sample and Research Methods

An initial sample of about six hundred active mentally ill defendants was gathered through Pima County's Pretrial Services. A defendant was determined to be active if their Care Consent sheet was marked as active, meaning that the defendant was currently receiving mental health treatment in a state-funded facility. These sheets are filled out at booking by Cenpatico Integrated Care, a behavioral and physical healthcare provider in Arizona, and are placed in the defendant's file. However, these sheets are not consistently being provided to Pretrial Services, since the Emergency Medical Technicians (EMTs) who fill out the form are not required to do so and are thus completed at their discretion. However, many of these technicians do not fully understand how this sheet might be beneficial to the defendant, and therefore do not generally go out of their way to complete these forms. As a result, these forms are often not completed for every arrestee brought to the Pima County Jail. In fact, there have even been periods in the past where these forms have not been filled out for any of the arrestees who were brought into the Pima County Jail. A further data impediment stems from the fact that these forms may only be

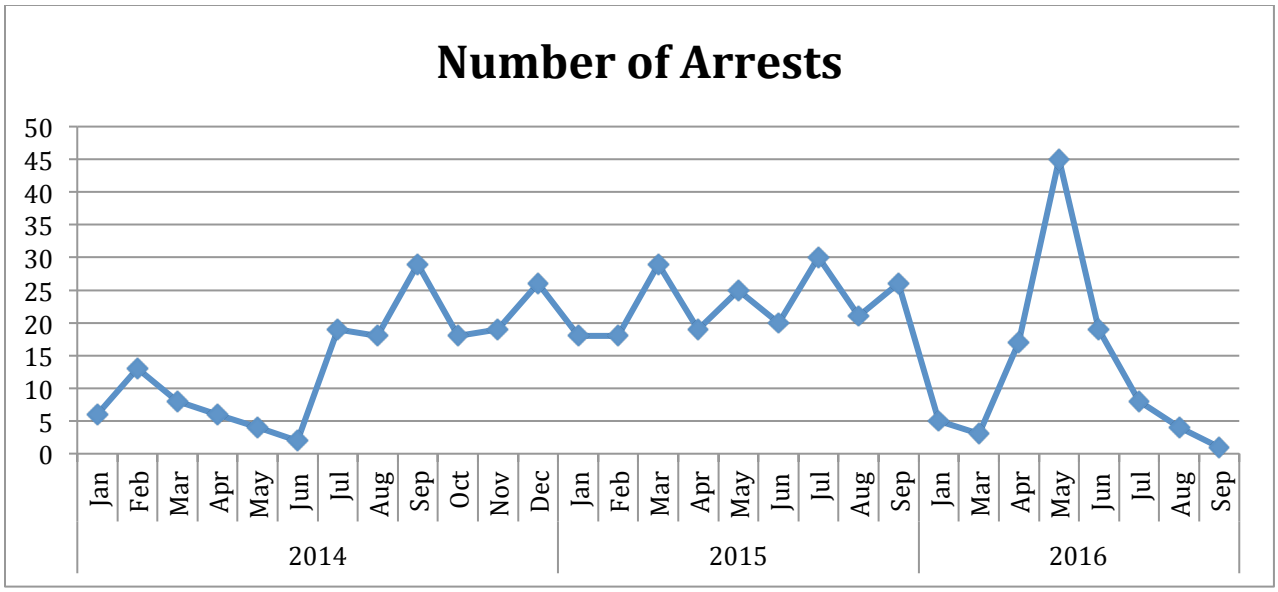
filled out and provided to Pretrial Services if the defendant agrees to release the information. Thus it should be noted that the data gathered in this research is not a full depiction of the mentally ill community involved in the Criminal Justice system in Pima County.

With help from the Pretrial Services' staff, the sheets of about six hundred active mentally ill defendants was gathered from between the years of 2014 and 2016. During this time period the Care Consent sheets were filled out relatively consistently. There are, however, still two time intervals of missing data: the first is from October 2015 to December 2015, and the second is for the month of February 2016. Not all of the defendants during this overall time period, however, met the criteria for the study. For instance, some defendants were held in custody on other charges and thus not released back into the community. On other occasions, defendants may have been released upon their own recognizance but were rearrested upon other charges and were in custody at the time of their first court appearance. To determine whether a defendant appeared in court, their court records had to be examined. However, whether or not the defendant appeared in court was sometimes indistinguishable from the information provided in the records. Lastly, a few of the Care Consent sheets had a defendant who was marked as active, but had none of the other pertinent information filled out. In each of these cases, the applicable defendants were excluded from the data sample. After all exclusions were made, the sample included exactly four hundred and seventy-six defendants.

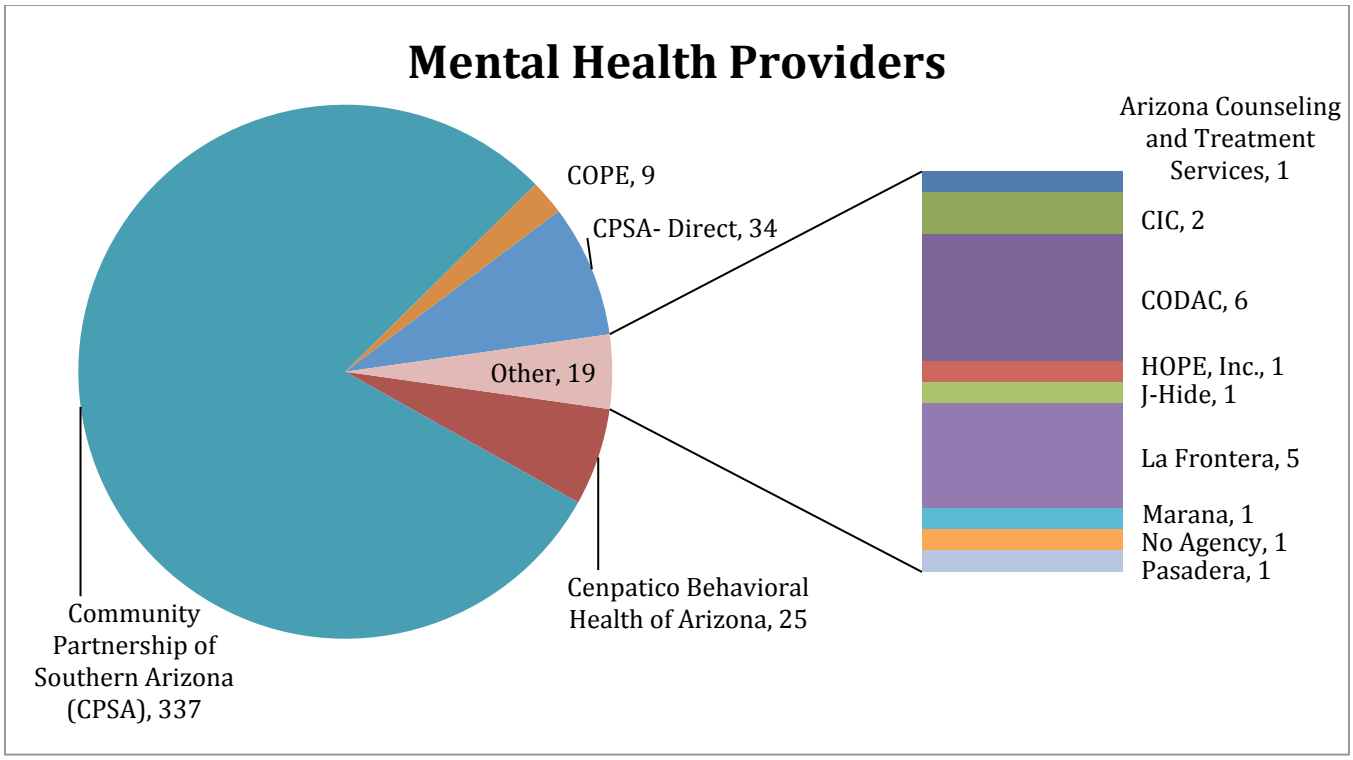
Discussion of Graphs



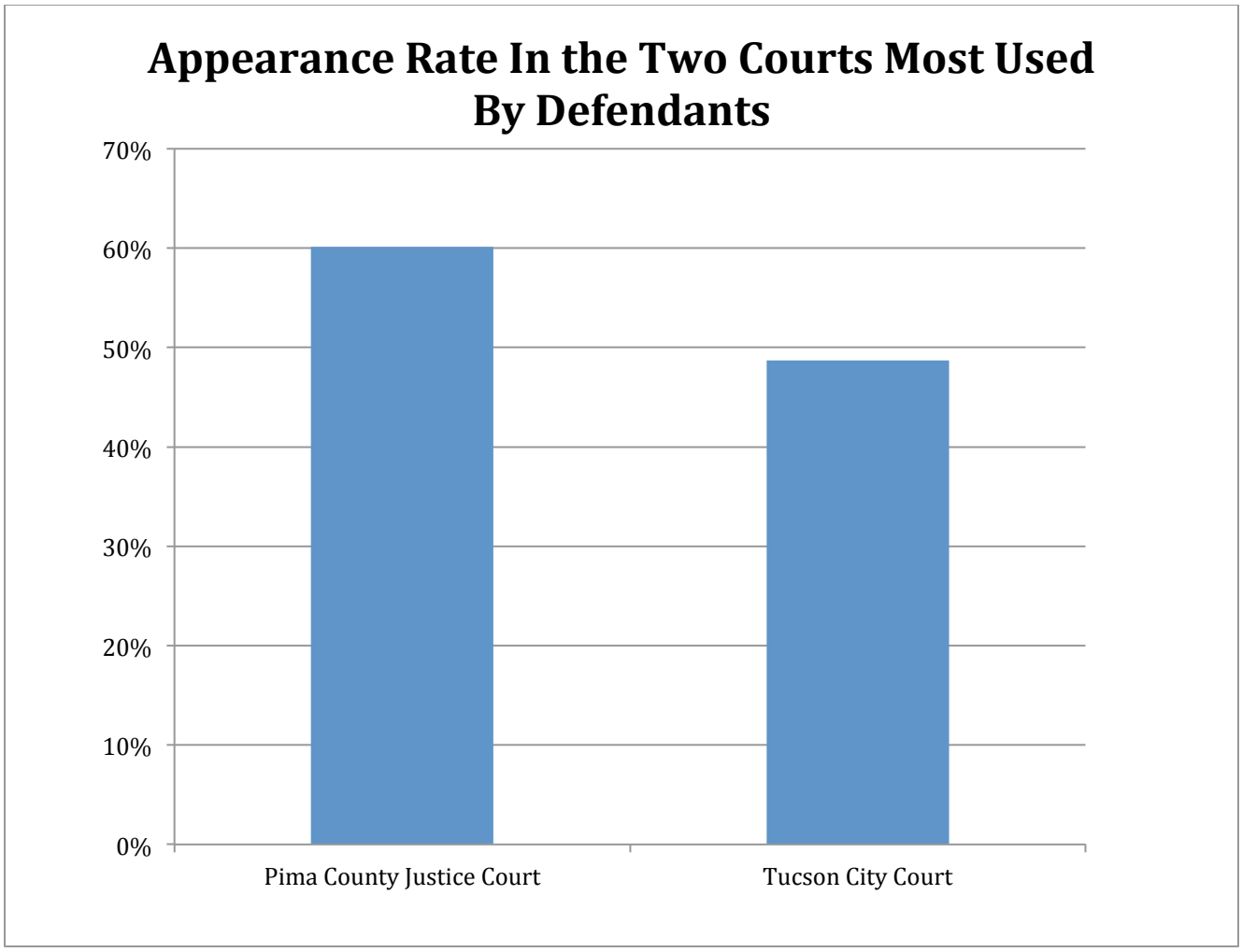
This graph compares the appearance rate of defendants with a mental illness to the Pima County appearance rate for the general population. The general population's appearance rate is 78%, whereas the appearance rate for all of the mentally ill defendants (SMI and Other) is 57%. When narrowed down further by the type of mental illness, the "other" mentally ill defendants have an appearance rate of 58%, and the severely mentally ill defendants have an appearance rate of 54%. As one can see, the appearance rate of the severely mentally ill defendants is especially low, however even the appearance rate for all of the mentally ill defendants is unsatisfactory.



Specifically, the data sample includes active mentally ill defendants who were arrested between January of 2014 and September of 2016. As noted earlier, there is missing data for two time intervals: the first is from October 2015 to December 2015, and the second is for the month of February 2016. These missing time periods were excluded from the graph to represent a more accurate depiction of the data. The number of mentally ill arrests is particularly low between January 2014 to June 2014, January 2016 to March 2016, and July 2016 to September 2016. Though it is important to note that the data for September 2016 only consists of the first few days of this month, meaning that there may have been more active mentally ill defendants during this time who merely did not make it into the time period of the study. The number of arrested active mentally ill defendants is fairly consistent between July 2014 to September 2015, the month of April 2016, and the month of June 2016. Interestingly, there is rather large peak of arrestees for the month of May 2016.

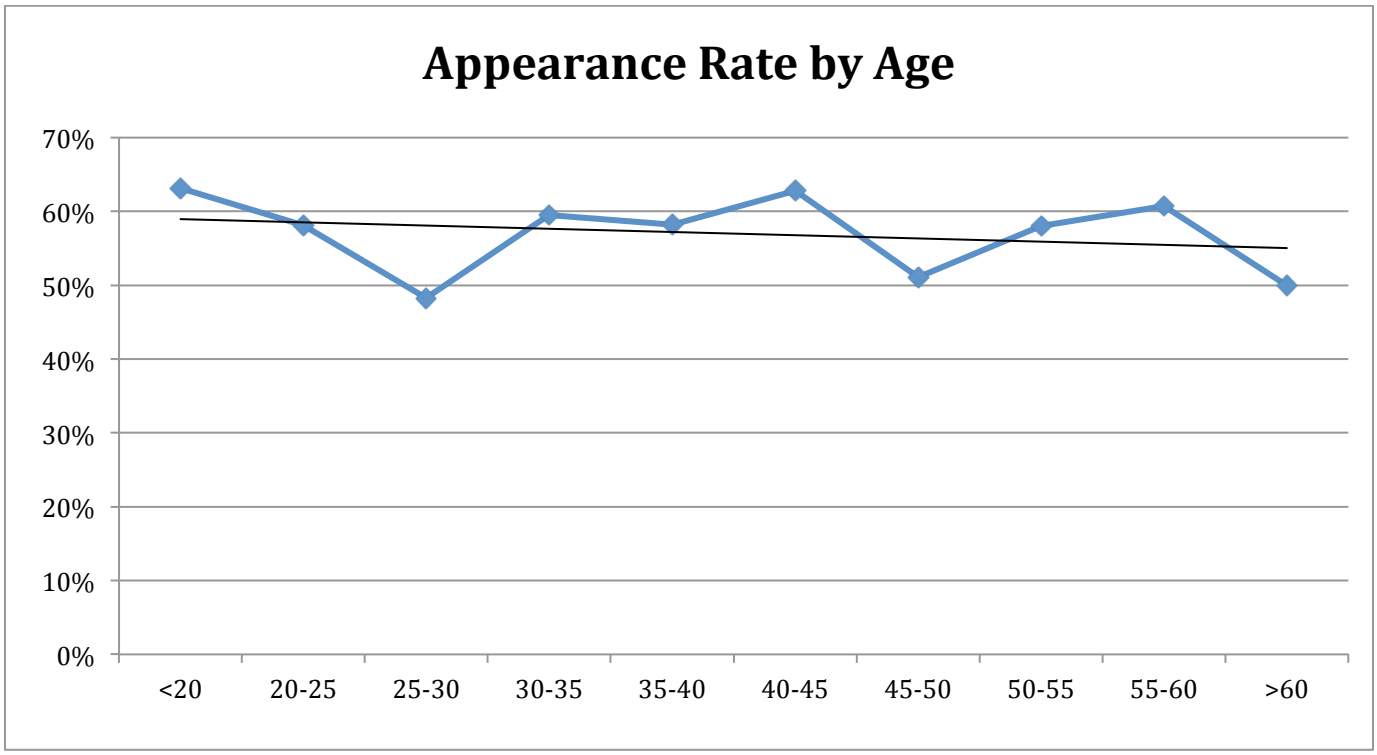


This graph shows where each defendant is currently receiving their mental health care, as indicated on their Care Consent sheets. For some defendants this portion of the sheet was left blank, therefore only four hundred and twenty-four members of the sample are represented here. The graph shows that a vast majority of the defendants (79.5%) are receiving their mental health care with Community Partnership of Southern Arizona (CPSA). Disregarding CPSA-Direct for the moment, the next most used mental health provider is Cenpatico Behavioral Health of Arizona (8%).

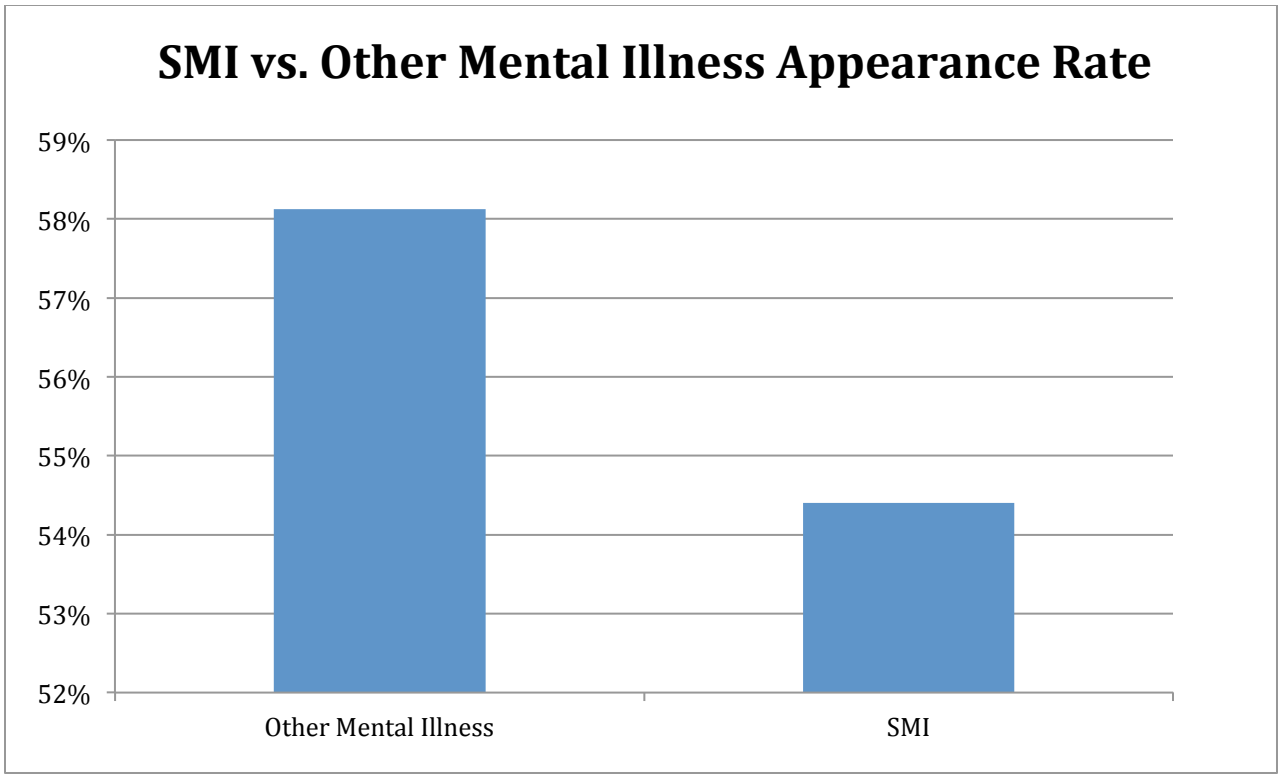


This graph shows the appearance rate of the mentally ill defendants in the two most used courts: the Pima County Justice Court and the Tucson City Court. The Pima County Justice Court serviced the highest number of participants (336 defendants), and had an appearance rate of 60%. The Tucson City Court serviced the second highest number of defendants (117 defendants) and had an appearance rate of 49%. It should be noted that only two courts are depicted in this graph, however seven courts in total provided services for mentally ill defendants. The Pima County Justice Court and the Tucson City Court account for 95.2% of the total participants (476). The other five courts that provided services for the mentally ill defendants in this study are the Marana Municipal Court (7 defendants), the Oro Valley Court (1

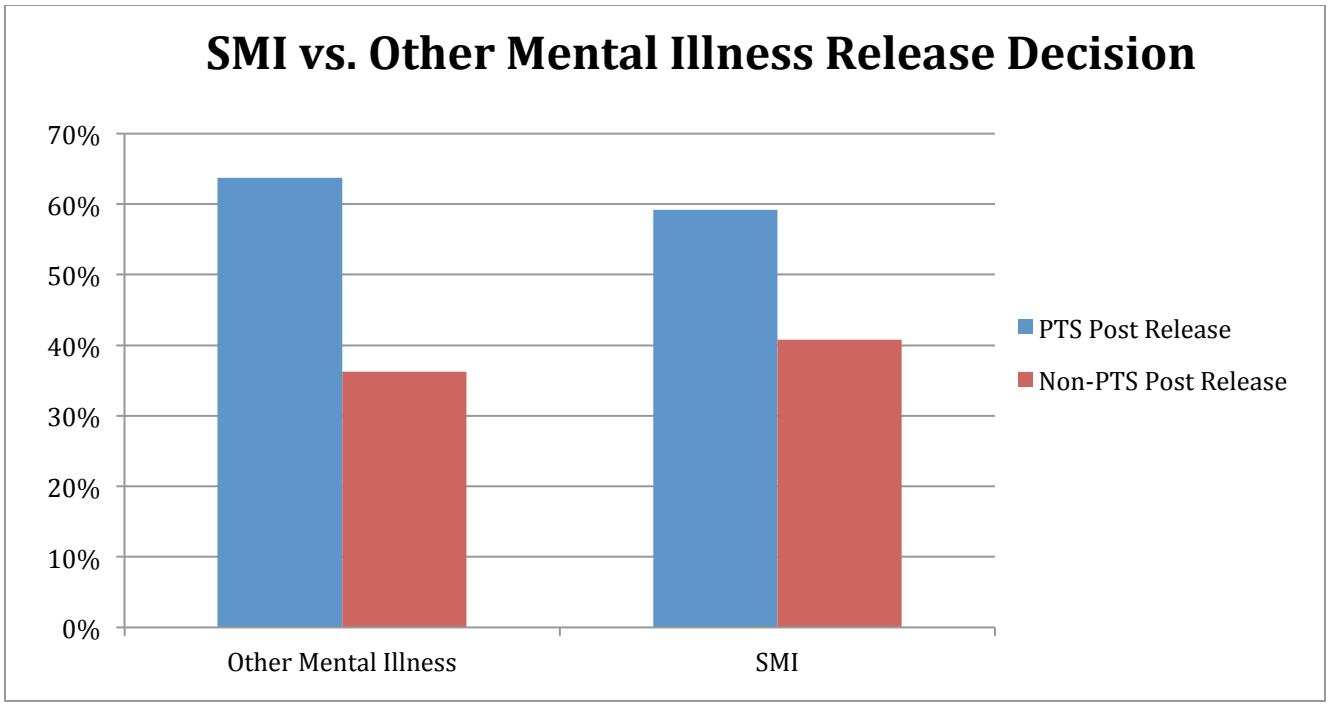
defendant), the Pima County Justice Court- Green Valley (8 defendants), the Sahuarita Court (3 defendants), and the South Tucson Court (4 defendants).



This graph represents a breakdown of the appearance rate of the mentally ill defendants by their age at the time of their arrest. In essence, the graph shows two time periods (25-30, and 45-50) in which the appearance rate of the defendants vastly decreases. The appearance rate for the 25-30 age group is a mere 48.3%, with the 45-50 age group appearing 51.1% of the time. There does appear to be a third dip in the chart occurring in the >60 age group (50% appearance rate), however there are only eight defendants who fall within this age group. The second lowest count occurs in the <20 age group, and accounts for only nineteen of the four hundred and seventy-six defendants. All other age groups include a minimum of at least twenty-eight defendants. The two largest age groups were ages 20-25 (86 defendants) and 25-30 (87 defendants).



This graph compares the appearance rate of defendants who were indicated to be severely mentally ill (SMI) and defendants who were afflicted by a diverse degree/form of mental illness (Other Mental Illness). This graph includes only four hundred and forty-five of the total study participants, since this category was not filled out on all of their Care Consent sheets. The appearance rate of those afflicted with a diverse mental illness is 58%, whereas the appearance rate of the severely mentally ill defendants is 54%.



This graph compares the Pretrial Services' release decision for defendants with an "other" mental illness and defendants with a severe mental illness. This graph, once again, contains only four hundred and forty-five of the overall study participants, with three hundred and twenty of the participants having an indication on their Care Consent sheets of being afflicted by an "other" mental illness and one hundred and twenty-five of the participants having an indication on their sheets of being severely mentally ill. Defendants with an "other" mental illness were post-released by Pretrial Services 64% of the time, meaning that they were not post-released by Pretrial Services 36% of the time. On the other hand, defendants with a severe mental illness were post-released by Pretrial Services only 59% of the time, which means that this group of individuals was not post-released by Pretrial Services 41% of the time.

Findings

The primary result of this study is presented in the "Local Comparison of Appearance Rates" graph, which shows that mentally ill defendants who are arrested for a misdemeanor and are post-released are 21% less likely than the general population to appear at their first court date. As a result, the hypothesis of this study, that active mentally ill individuals who are post-released upon a misdemeanor will have an appearance rate relatively similar to the appearance rate of the general population, was not confirmed by the data. This finding is relatively shocking, since the mentally ill defendants were not only actively receiving treatment, but also were receiving phone call reminders of their upcoming court dates (an amenity that the general population does not receive on a regular basis). It is possible that although these individuals are considered active in the treatment system they may not be receiving their treatment or taking their medications on a regular basis. As a result, these defendants may still not be stable enough to attend court through their own resources alone, and therefore may require someone to remind them several times of their upcoming court date and provide them transportation and guidance to the courtroom. This gap in appearance rates could also possibly stem from the treatment providers themselves. For these providers may not be effectively providing the services these individuals need. However this gap could also be a consequence of these individuals' socio-economic status, whether they have basic essentials like stable housing and food, the mental disorder they are afflicted with and much more. Although it is currently unknown why this gap is present, now that society knows this problem exists further research can be conducted to better these individuals' futures.

In addition to the primary finding, several secondary findings were also gathered from this research. The first secondary finding can be seen in the "Number of Arrests" graph. As one

can see, there is a fairly large peak in the number of mentally ill individuals who are arrested on a misdemeanor in May 2016. After further research, it was found that May actually represents a more accurate depiction of the number of Care Consent sheets Pretrial Services should be receiving on a regular basis. For Pretrial Services had noted a significant decrease in the number of Care Consent sheets in the months before and had reminded the EMTs of their responsibility to complete these sheets in March 2016. As a result, the number of Care Consent sheets increases over the month of April 2016 and peaks during the month of May 2016. For, during these two months, the EMTs were filling out Care Consent sheets for most, if not all, of the defendants who were arrested and brought through intake at the Pima County Jail. Thus, the relatively stable intake of Care Consent sheets between July 2014 and September 2015 is essentially the average number of Care Consent sheets that are collected when the Care Consent sheets are not being filled out on a regular basis. Furthermore, in comparison to the month of May 2016, it appears that the Care Consent sheets collected during this stable intake are only representative of about half of the mentally ill population.

The next secondary finding can be found in the "Mental Health Providers" graph. As noted before, a vast majority of the mentally ill defendants received their treatment through the Community Partnership of Southern Arizona (CPSA). This is due to the fact that Pretrial Services has a contract with CPSA so that any individual under the Arizona Health Care Cost Containment System (AHCCS) insurance program gets sent to CPSA, who then may redirect these defendants to other state treatment facilities or continue their care in house. The second largest defendant provider is CPSA- Direct, which consists of the defendants who continued their treatment through CPSA and were not redirected to a secondary facility. The third largest defendant provider is Cenpatico Behavioral Health of Arizona. Although only twenty-five

defendants received their care through this facility at the time of this study, this provider will eventually come to overtake CPSA. For Pretrial Services changed their contract in October of 2015 so that they are now partnered with Cenpatico, which shall initiate starting as of June 2016. Therefore all defendants arrested with AHCCS insurance after June 2016 will be sent to Cenpatico for initial processing and will then be redirected to other state treatment facilities from there, for this provider will not be offering any services directly. All the other agencies presented on this graph (excluding "No Agency") are providers that the defendant sought out personally for treatment with either private insurance or no insurance. However, as one can see, very few of the mentally ill defendants (28 out of 424) have this amenity.

Another secondary finding stems from the "Appearance Rate in the Two Courts Most Used by Defendants" graph. As noted before, only the two most used courts were depicted in this graph. For the other five courts serviced less than ten defendants each, which is too low of a number to calculate a relatively accurate appearance rate for the court as a whole. The Pima County Justice Court has an appearance rate of 60% for their mentally ill defendants, which is 18% less than the general population of Pima County. The Tucson City Court, however, has even worse results, with an appearance rate for their mentally ill defendants being at only 49%; a vast 29% difference from the general population of Pima County. Admittedly, only 117 of this study's defendants were provided services through Tucson City Court, whereas 336 defendants received services through the Pima County Justice Court. Thus, the difference in the appearance rate of defendants afflicted by mental illness in these two courts may simply be a result of not having enough Tucson City Court defendants in this study. Further research on this aspect should be conducted in the future however to ensure that this difference in appearance rates is not a product of another variable.

The next secondary finding stems from the "Appearance Rate by Age" graph. As noted before, there are two dips well below the trend line: ages twenty-five to thirty and ages forty-five to fifty. From their past data, Pretrial Services had noted an age demographical shift in appearance rates. Thus, upon further inquiry, it was found that the twenty-five to thirty age group decline in appearance rates matched the age demographical shift Pretrial Services noted during this time period. This suggests that the twenty-five to thirty age group's disparity from the trend is not a result of their mental illness. The forty-five to fifty age group decline, however, was not represented in Pretrial Services' data. This suggests that this age group's discrepancy from the trend in court appearance may potentially result from these defendants' mental affliction. However, further research would be necessary to confirm this hypothesis.

A fourth secondary finding is presented in the "SMI vs. Other Mental Illness Appearance Rate" graph. This comparison shows that individuals who were marked as having an "other" mental illness on the Care Consent Sheets were 4% more likely to appear at their initial court date than defendants who were marked as having a severe mental illness (SMI). Although this is not an extreme difference, this might suggest that individuals with a severe mental illness may require more intensive monitoring and assistance to ensure courtroom appearance and compliance with release conditions.

The final secondary finding of this study stems from the "SMI vs. Other Mental Illness Release Decision" graph. This comparison demonstrates that defendants suffering from an "other" mental illness are 5% more likely to be post-released by Pretrial Services than defendants who are suffering from a severe mental illness. This may be partially due to the fact that if the defendant was already previously released on this same matter by Pretrial Services and was arrested again upon this matter for not appearing in court, Pretrial Services is unable to release

the defendant on this matter a second time. In addition, it is possible that a previous Judge put a hand code in the system for the defendant. Placing a hand code on a defendant means that the individual cannot be released from jail until they are presented before a Judge. This is more likely to occur with defendants who are severely mentally ill since these individuals are more likely to be involved in the specialized Mental Illness Court. Of course more research, however, would be necessary to confirm whether these premises actually account for this difference in post-release decisions by Pretrial Services.

Conclusions and Proposals

Although the hypothesis was not confirmed by the data, the findings are conducive to change in Pretrial Services' protocol for the mentally ill. For the data shows that the mentally ill population, when arrested and post-released upon a misdemeanor, is 21% less likely than the general population to appear at their first court date. Although this study only confirms this appearance rate gap specifically in the Arizona Superior Court's Pretrial Service program, it is believed that this gap will be present in most, if not all, Pretrial Service programs across the United States. As a result, several proposals have been fashioned that may be applied to all Pretrial Service programs. These proposals were created in correspondence with the Arizona Superior Court's standing Director of Pretrial Services, Mr. Domingo Corona.

The first proposal is to discontinue the allowance of treatment orders as a part of a defendant's conditions of release. For even if a defendant were determined to not need mental health treatment by a qualified mental health provider, they would still be violating their release conditions since they are not currently receiving mental health treatment. Furthermore, the requirement of receiving mental health treatment as a part of one's release conditions makes the

treatment punitive rather than supportive, which can vastly undermine the program's credibility and purpose.

The second proposal is to establish a pre-booking diversion program for those who are mentally ill. In most places, law enforcement's only option is to book a mentally ill defendant, even if court may not be the most appropriate course of action. One potential diversion alternative is a Crisis Response Center (CRC), which is a facility that provides care and/or resources to individuals who are currently experiencing a behavioral health crisis. For Crisis Response Centers to truly be an efficient diversion, however, facilities need to be readily available across all areas of a city, since law enforcement officers may not always have the time to take an arrestee to a facility that is out of the way. Thus, a second option for pre-booking diversion is a 24-hour facility that would offer services similar to a CRC that would be ran by the jail itself. This would ensure that every mentally ill defendant would have an equal opportunity to not only receive diversion, but also care and/or treatment.

The third proposal is to institute a hearing review system for mentally ill defendants who are detained before trial. Two reasons why a defendant may be detained before trial is if they have failed to appear at court repeatedly in the past, or if they are currently in crisis. If a hearing review system were established, defendants who do not meet the requirements necessary to be released will be scheduled for a second hearing sometime within the next five days. At this secondary hearing, non-monetary conditions would be established that the defendant may choose to complete if they desire to be released prior to trial. The idea of this program is to help post-release defendants who otherwise may not have initially been eligible for release due to being in crisis, being unstable from lack of medication, etc.

The fourth proposal is to establish a way to share pertinent data between mental health providers and the court system. Although some data may be shared between these two organizations if a partnership is established, a vast majority of information about mentally ill defendants is unable to be provided due to certain legalities. Knowledge about a defendant's condition, current medications, treatment plan, and much more would be extremely useful in the court system, however, to make sure that these individuals are treated in a way that appropriately addresses their situation.

The fifth proposal is to provide adequate training to criminal justice employees on not only how to deal with an individual who is currently in crisis, but also what types of resources are available within the community that can assist someone who is dealing with behavioral health issues. For individuals who cannot afford treatment, it is also important to train staff on how defendants may apply to receive state insurance/funding. These trainings should not only be held on a regular basis, but they should also be updated as resources and information changes.

Before any of these proposals may even be initiated, however, the importance and responsibility of Pretrial Service agencies needs to be elevated. For many Pretrial Service agencies are not only un-funded, but un-mandated. This means that Pretrial Service agencies are not always available in every jurisdiction, and, if they are available, they do not always receive the funding that is necessary to adequately provide their services. And if the program itself is struggling to endure, it is highly unlikely that they will have the resources to spare to assist struggling demographics.

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