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REHABILITATIVE IMAGINARIES AND PUNITIVE IMPULSES: HOW DISCOURSE AND IDEOLOGY SHAPE LEGAL AND TREATMENT PRACTICES IN MENTAL HEALTH COURT

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This dissertation is dedicated to the people I love dearly but whose lives were shortened before they could see what I have made of myself. Look, here I am. I know you see me, for I am certain that your spirits continue to circle my presence. To Grandma Dorine, Momma Carmen, Sister Julie, & Brother Lyndon, with love.

"One thousand burpees on the path to my own destruction or success
But what is a mistake without the lesson?
See, the best teacher in life is your own experience
None of us know who we are until we fail
They say every man is defined by his reaction to any given situation
Well, who would you want to define you?
Someone else, or yourself?"

-Nipsey Hussle (Rest in Power)

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Many of us like to think that our ideas and intellectual work are uniquely our own, that what we produce academically is an original—a product of our individual imagination, intelligence, and hard work. I harbor none of those illusions. Kano, the famous Black British rapper popularized for being one of the originators of "grime" hip hop music in the UK and for portraying the protagonist "Sully" in the internationally acclaimed British TV series "Top Boy," said in one of his recent songs, "Every entrance to a door has a footprint left by the ones that came before." Rather than recycle the metaphor of the "village raising me"—which is undoubtedly true—instead I refer to Kano's remark to suggest that the "door" to this dissertation and its contents was largely opened by many others who entered before me. In fact, there are countless footsteps of previous travelers—intellectual giants in my mind—who guided me along the way, showed me a clear path through their work or direct mentorship, and pulled me up when I misstepped or stumbled in my youthful attempt to tread their massive foot prints.

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ABSTRACT

Mental health courts (MHCs) operate at the nexus of legal, medical, and welfare borders, often articulating themselves as rehabilitative alternatives to incarceration by offering supervised treatment in the community. As such, they provide a unique window into the micro-processes and practices of contemporary rehabilitation efforts, especially after forty years of punitive social control. In this dissertation, I ethnographically investigate mental health court practices over the course of two years to understand how therapeutic ideas are imagined and deployed in order to achieve rehabilitative aims. I specifically attend to courtroom discourses, how conceptions of addiction, illness, and criminality are weaponized as sites of intervention for treatment, monitoring, and punishment, and examine the ideological formations that are imbricated with these discourses and their material effects. Findings indicate that MHCs work from what I conceptually term "rehabilitative imaginaries," which are built from real narratives and stigmatizing notions of pathology and criminality that shape how defendants are treated, managed, and sanctioned. These imaginaries are cemented through coercion, paternalism, and personal responsibility practices emblematic of the neoliberal punitive turn, and defendants are typified as risk-prone "criminal addicts" despite having complex and diverse backgrounds, lives, and normative experiences. Even though many defendants obtain sobriety and gain access to scant social services, this typification process has several hidden costs, including deeper criminal legal involvement, removal from their homes and neighborhoods into recovery houses, which may sometimes lead to material precarity (e.g. loss of housing and employment), and intrusive regulation of social and intimate relationships, particularly for women. Paradoxically, the sum effect is that many defendants are placed at psychiatric, emotional, and material vulnerability—all in the name of addiction recovery.

INTRODUCTION

In an era of disproportionate incarceration rates among poor minorities and equally high recidivism rates among released prisoners, America has garnered a notorious reputation for being more punitive than any other post-industrial nation. Of equal importance to many policymakers, scholars, and legal and mental health practitioners is how to account for the dramatic over-representation of persons with a serious mental illness (SMI)[1] in the criminal legal system. It has been estimated that roughly 16% of the criminal legal population have been diagnosed with a serious mental illness (Torrey, Kennard, Eslinger, Lamb, & Pavle, 2010).[2] Similarly, according to a recent BJS report, 44.3% of jail inmates and 36.9% of state prison inmates have been diagnosed with a mental disorder by a professional (Bronson & Berzofsky, 2017), and over 70% of individuals in federal, state, and local correctional facilities have a substance use history (Sarteschi, Vaughn, & Kim, 2011). A common sentiment accompanying these figures today is a well-known refrain that says: "today's jails and prisons are the largest mental hospitals in the country."[3] Such refrain stems from an historical process and ongoing narrative regarding the treatment of people diagnosed with a serious mental illness: that deinstitutionalization, as a failed policy that should have realized community mental health treatment by decarcerating mentally ill patients from state hospitals, inevitably led to an over-incarceration of said population in America's swollen jails and prisons, thus compounding more institutional failure. This refrain

[1]Schizophrenia-spectrum disorders, severe bipolar disorder, and major depression as specifically defined in DSM.

[2] Estimates are for people with serious mental illness. Over 50% is thought to have a mental health issue. See White House Report produced under the Obama administration, "Economic Perspectives on Incarceration and the Criminal Justice System." April, 2016.

[3] For example, Tom Dart, the Sheriff of Cook County, has often spoken out publicly in this manner. See "America's Largest Mental Hospital is a Jail" in *The Atlantic, June 8, 2015.*

has been captured in what is now known as the "criminalization of mental illness hypothesis"[4]—the belief that individuals diagnosed with psychiatric disorders in the criminal legal system are there due to untreated or inadequately treated symptoms—and at its root demonstrates the political discourse and push towards reform of local and state jails and prisons.

Indeed, many state and local criminal legal systems have developed specialized interventions that aim to treat the underlying diagnosis of this subgroup in order to reduce their involvement in the criminal legal system. One such model is mental health courts (MHCs)—a "problem-solving court" that has gained political viability among policymakers, scholars, and legal practitioners, such as judges.[5] At yearend 2013, there were over 400 MHCs in the country and they have been increasing annually (Goodale, Callahan, & Steadman, 2013). Likewise, MHCs in the state of Illinois have increased 133% between 2010 and 2015, moving from nine to twenty-one by yearend and demonstrating a dramatic shift in their emergence and popularity (Lurigio, Staton, Raman, & Rogue, 2015). To date, mental health courts have become one of the primary methods for putatively diverting people diagnosed with serious mental illness from the criminal legal system (Castellano & Anderson, 2012; Goodale, Callahan, & Steadman, 2013; Fisler, 2015).[6]

Unlike conventional criminal courts, the workgroup in these courts include both legal and treatment practitioners (i.e. judge, probation officer, prosecutor and defense attorney, case managers, and sometimes a resource coordinator) who work as a collaborative team in a "non-

[4] The criminalization hypothesis purports that many individuals diagnosed with serious mental illnesses are entangled in the criminal justice system because of untreated psychiatric symptoms. This view drives past and present research (Epperson, Wolf, Morgan, and Fisher, 2014). It also serves as an underlying theme to mental health courts and other diversion programs that are in place to redirect persons with mental health diagnoses from the criminal justice system to community mental health treatment (Hiday, 2011; Epperson et al., 2014).
[5] These problem-solving courts emerge from drug treatment courts and what Nolan (2001) describes as an internal "movement" from within the judiciary on the part of judges.
[6] Despite the growth of these courts, they only impact a small percentage of the criminal legal population overall.

adversarial" form of justice to connect defendants to therapeutic services. Yet general claims advanced by prominent sociologists and criminologists state that rehabilitation is at best ambiguous (Ward & Maruna, 2007), no longer within penal institutions but in formerly incarcerated individuals' communities (Phelps, 2011; Miller, 2014) or, alternatively, infused with neoliberal risk management rationalities that aim to save victims from crime rather than treat the "offender"(Garland, 2001). However, some proponents of mental health courts firmly suggest that these court-based programs are rehabilitative alternatives to the punitive sanctions, such as imprisonment, that characterize America's penal system (Cullen, 2013). Indeed, these debates merely animate the way in which rehabilitation is either pitched as absent in today's penal system or completely antithetical to punishment, thus underscoring a popular belief that neither are bound up together.

In fact, the political rhetoric around reform squarely positions MHCs and other problem-solving courts as central to the reversal of punitive practices and to reimagining rehabilitation in the present and future; as such, MHCs and other problem-solving courts represent the penal state's response to a long-term crisis.[7] As the now well-known and common explanation goes: for the past 40 years, criminal legal policy and practice have increasingly become punishment-oriented. Yet the emergence of problem-solving courts such as MHCs and drugs courts—and other community-based probationary programs—have spawned the belief that rehabilitation as a core principle and feature of the penal state is present and active. This perspective emerges from how rehabilitation is conceived and from several practical features inherent in MHCs. However, there are several problematic assumptions regarding these courts and notions of rehabilitation that accompany this

[7] White House report "Economic Perspectives on Incarceration and the Criminal Justice System." April, 2016.

perspective. These include the following: 1) such thinking discursively marks these models as functioning as "community-based" alternatives to harsher forms of punishment (i.e. incarceration) that "divert people from prison," assuming that "being in the community" minimizes punitive social control and its effects; 2) they attempt to ameliorate, if not remedy, the putative "underlying cause of criminal justice involvement" (i.e. addiction and illness), assuming that such conditions are the primary etiology of crime or that they are properly alleviated through these models; 3) they are supervisory programs that both give defendants "a second chance" and attempt to "reform the offender," assuming that recidivism is the best metric for assessing reformation or that collateral consequences do not result from participating in these programs; and 4) that they are comparatively "cost effective," though this last point has become less clear in recent years, as state cost-benefit analyses in some jurisdictions reveal less than promising cost savings of MHCs.[8]

While the aim of this dissertation is not to fully attend to all of these assumptions but rather to unpack several discursive practices that intersect with them, they are nonetheless important for how MHCs (and other problem-solving courts) currently figure within criminal legal policy and practice. The sum effect of the assumptions mentioned above is that MHCs and most, if not all, alternatives to incarceration are construed as an inherent good, from which proceeds a settled quest to demonstrate their effectiveness (Sarteschi, et al., 2011; Honegger, 2015). As a result, much of the work that happens *within* these criminal legal programs goes unexamined, taken-for-granted, or automatically framed as therapeutic. Perhaps the most

[8] For a relevant accounting in the state of Illinois, see cost-benefit analysis report put out by the Illinois Sentencing Policy Advisory Council here: http://www.icjia.state.il.us/spac/pdf/Illinois_Results_First_Consumer_Reports_072016.pdf; furthermore, this topic was brought up to me during fieldwork by a director of problem-solving courts who was indignant by the findings in the report after learning that I was a member of this state advisory council. Despite the results, he kept reiterating that "these courts help people," but when pressed if he maintained data on various outcomes, he admitted not being able to keep up with the sort of data that would advance his case.

problematic aspect of these assumptions is the fact that this notion of rehabilitation is equated with "treatment in the community," despite whatever complications this idea holds in regards to historical formulations of rehabilitation and current neoliberal forms of governance that have affected penal institutions and therapeutic and social service provision (Nolan, 1998; Soss, Fording, & Scram, 2011; Wacquant, 2009). To be sure, ample evidence shows that a shift towards an ever-increasing politics of austerity and practices of devolution certainly influences what kind of treatment is even available and possible "in the community."

In the case of the former, historically, treatment-based approaches to rehabilitation not only spurred wide criticism in the past but also proved objectifying and coercive despite claims of individualized treatment. And in the case of the latter, much research now demonstrates that neoliberal policy regimes have undoubtedly reshaped human services and have affected both the availability of services in the community and the way in which system failure and resource deprivation are reframed as a problem of individual accountability (Wacquant, 2009; Soss, et al., 2011). As much city and municipal examples reveal, the uneven and locally variegated nature of neoliberalization shapes both the nature of community-based organizations (Goddard, 2012) and the amount of services available in particular local contexts (Brenner, Peck, and Theodore, 2010). The state of Illinois and the city of Chicago are exemplary cases for how state and city policy decisions create and exacerbate the distribution of services when agencies shutter after local and state officials move towards budget cuts.[9] In cases such as this, what a community can

[9] For instance, in the city of Chicago, Mayor Rahm Emanuel closed half of the city's public mental health facilities in 2012, creating strident protests and tensions among residents and community mental health practitioners. These closures further exacerbated the geographic distribution of services in the city and protests for reopening them are still transpiring. See "Rahm Emanuel closed half of Chicago's mental health clinics. What was the impact — and will Lightfoot reopen them?" in the Chicago Tribune, accessed online here on 6/6/2019: https://www.chicagotribune.com/politics/ct-met-lori-lightfoot-chicago-mental-health-clinics-20190524-story.html

provide is constrained and thus influences what an alternative to incarceration, such as mental health court, can practically achieve.

In light of these considerations, along with the central claims and counterclaims surrounding rehabilitation in a neoliberal punitive age, this dissertation seeks to examine how rehabilitative practices are imagined, instantiated, and negotiated in mental health courts. To put this in more specific and concrete terms, this dissertation seeks to answer the following questions:

1. How does rehabilitation operate on the ground in the everyday mechanics of mental health court proceedings and processes vis-à-vis claims of neoliberalism?
    a. How do these practices manifest themselves in courtroom talk and interaction between mental health court staff and defendants?
    b. How, or to what extent, do these court interactions and practices affect the court experience and lives of defendants?

Indeed, as socio-legal and sociolinguistic scholars note, courts are institutional settings that are inherently organized around asymmetrical power relations between court staff and defendants (Conley & O'Barr, 2005), and these settings are ripe sites for examining how courtroom discourses mediate, if not constitute, legal realities (Amsterdam & Bruner, 2002). Beginning from a similar proposition, this dissertation examines how courtroom proceedings mediate therapeutic realities through the discursive and interactive work performed by MHC staff. As an exploratory step towards examining the questions above and unpacking this discursive work, it sheds light on how tensions and contradictions arise and are negotiated in a problem-solving model and highlights the co-extensive entanglement of rehabilitation and punishment that is often thought to be antithetical.

Moreover, where "community" figures prominently in such model like mental health court, it explores the ways in which community and treatment work within a community-based approach that targets criminality, substance use, and serious mental illness. To be sure, rather than answer the frequent question of effectiveness or attempt to serve as an authoritative voice on contemporary rehabilitation, I specifically examine the mechanisms and social practices (Matoesian, 1993; Conley & O'Barr, 2005; Philips, 1998) that shape and influence the treatment process for defendants and the categorization work (Amsterdam & Bruner, 2002) articulated in the court's therapeutic imperatives vis-à-vis the claims of neoliberal penality.

Within the field of MHC research, I offer up a relatively unique methodological approach that deviates from most studies on the topic. I conducted two years of ethnographic observations in two mental health courts in Chicago that serve defendants with co-occurring substance use and serious mental illness and draw on a corpus of court transcripts from these observations to examine the talk and interactions between staff and defendants. I also conducted in-depth interviews with twenty defendants and ethnographic interviews in the court arena with defendants and the people who accompany them, such as friends and family members. Methodologically, the bulk of research on MHCs do not examine this interactive process but instead utilizes in-depth interviews at one time period, observes MHC staff exclusively, or analyzes quantitative data to assess the court's effectiveness. As a result, the methods employed in this dissertation provide a different and potentially unique contribution to how mental health courts are studied.

In Chapter 1, I briefly cover an overview of the history of rehabilitation and give an overview of the development and structure of mental health courts to provide background information about their origin and purpose. I then provide a seemingly contentious review of what has become known as "therapeutic jurisprudence." Built on the notion that the law and

legal practice can operate as a "social force" for therapeutic purposes, therapeutic jurisprudence principally underpins all problem-solving courts and has at its core a set of values and ideals that MHCs seek to enact. Likewise, it is conceived as a central mechanism for producing rehabilitative aims in mental health court. I sketch the arguments and counterarguments for both rehabilitation and therapeutic jurisprudence and argue that they suffer from a lack of empirical data to substantiate many claims and counterclaims made by proponents and opponents of therapeutic jurisprudence. Moving into the MHC literature, I highlight the empirical concerns that influence the questions asked above. Some of these concerns include the high rates of "noncompliance" and non-completion, which both raise important questions about the rehabilitative capacity of MHCs and the practices at play within them. Drawing on socio-legal and sociolinguistic scholars of law, I argue that the centrality of discourse to constituting legal realities in legal contexts is important for understanding why courtroom talk and interactions in MHCs may be a ripe site for examining rehabilitative and therapeutic ideas and practices..

In Chapter 2, I turn to a discussion of the field sites in which I pursue the research questions for this study and from which data were collected. I provide a description and justification for my methodological and analytical decisions, highlighting the process of analysis taken and the way in which I thought through moments of field work to make sense of what I examined and theorized over time.

In Chapter 3, I turn to the main conceptual and theoretical argument of the dissertation by exploring how addiction and recovery discourse figure in the mental health court process. As both a findings chapter and a theoretical argument, I demonstrate how rehabilitative practices are bound up in practices of control, paternalism, and claims of expertise. By examining how court judges and staff talk and interact with defendants, I argue that MHCs deploy what I call

"rehabilitative imaginaries," which are composed of real narratives and ascribed notions of pathology and criminality that shape the way defendants are treated, managed, and sanctioned. These imaginaries emerge from the gap between defendants' lives (i.e. their social reality) and the lens through which those lives are viewed by the court (i.e. the court's ascribed reality), and it is the space where presumptions are made and various ideologies are flexibly and differentially articulated.

By locating within the court's discourse a "people, places, and things" script found in Alcoholics Anonymous, I further argue that the court cements its rehabilitative imaginaries through legal control and paternalistic knowledge claims over defendants. Indeed, as one of the most surprising findings, despite being a mental health court the language used by staff members have very little to do with serious mental illness and more to do with substance use. In a short word, there appears to be very little "mental health" in mental health court. In the end, defendants are collectively typified as risk-prone, uncontrollable "criminal addicts" despite having dual diagnoses and diverse legal backgrounds and normative experiences (i.e. employment, stable housing, family, etc.). This chapter sets the main argument for the dissertation, specifically as it pertains to the rehabilitative imaginaries that are mobilized and enacted in MHCs.

Moving to a more concrete examination of the court's aim of rehabilitation, Chapter 4 empirically builds on chapter 3 by assessing how MHC staff talk and interact with defendants regarding place and risk, a feature of the people, places, and things recovery script. Rather, I examine a key site of intervention that unfolds in MHCs: the idea that place(s) matters in the court's imaginary and that risk is ever-present in the lives of defendants. As a community-based treatment model, I argue that MHCs paradoxically construct community as a site for therapeutic

intervention and as a site of risk and instability. Consequently, it engenders a tension between community living and community treatment for defendants.

More specifically, when MHCs work within the "people, places, and things" discourse, practitioners presumptively enact evaluative methods to assess and often presume risks in defendants' homes, communities, and parts of the city. This, however, is a discursive practice that sets the terms for a possible move to a recovery home, and it operates within the court's rehabilitative imaginary as a form of risk alleviation. By doing so, MHC judges and staff draw on the preconfigured "criminal addict" typification of defendants and interpret community living as unstable and "unstructured." While not necessarily based on drug relapse, defendants are compelled to move from their place of residence—or risk being detained. Paradoxically, given that the court aims to reintegrate defendants into the community, the practice of sending defendants to recovery homes decreases the likelihood of this rehabilitative goal. Some defendants experience temporary relief after a period of housing insecurity, while others experience increased destabilization and material instability. Many have to make tradeoffs between obtaining sobriety and maintaining work, or housing, and in the end, few defendants receive independent and permanent housing after being in a recovery home. I assert, however, that these practices serve several purposes: a form of carceral control through increased monitoring at the recovery home, as sites for routinized addiction-based activities that reconstitute defendants as accountable and recovered individuals, and as gatekeeper to welfare/social service provision for defendants that inhabit extreme structural disadvantage. This chapter reveals how different defendants interpret and come to understand what the court aims to achieve, therapeutically or otherwise.

Chapter 5 picks up on another aspect of the court's rehabilitative imaginaries by examining how discourses of "honesty," truth-telling, and speaking rituals regarding oneself by defendants operate with respect to neoliberal practices of responsibilization by MHC judges. Where courtroom confession would be an obvious therapeutic ritual in MHCs—given that it defines itself along the lines of rehabilitation and pathology—judges and some staff members contrarily make little room for such practice. In fact, discourses of honesty and openness are encouraged by MHC judges not because there is a concern for defendants to uninterruptedly express inner truths—in a confessional monologue—but because the court aims to cull information for enhanced monitoring and to responsibilize them for the purpose of self-governance and moral restoration. This is done through interrogative questioning and bald interruptions during moments when defendants try to utter explanations for unmet court mandates or talk about personal challenges occurring in their lives. Seemingly contradictive to the paternalism exhibited in Chapter 4—wherein defendants are infantilized about pursuing their own treatment needs and living arrangements—the practice of responsibilization is pedagogical in nature and work around conceptions of wrongdoing and poor decision-making on the part of defendants.

The rhetoric of responsibilization, often uttered in the language of "don't make excuses," performs several actions: 1) for defendants, it circumscribes what can be said, when, and how and leaves them voiceless in a setting where having "voice" is theoretically therapeutic and necessary; 2) it abstracts out any alternative explanation that the court presumes to be true about defendants, decontextualizing defendants' actions and imputing a narrative of self-blame; 3) for the court, responsibilization serves as a way to assess motivation and commitment to "recovery" and to selectively cull information that would otherwise go unknown to enhance court

monitoring. This, in turn, also justifies decisions by judges and other staff to enact certain mandates, for when defendants speak from a pathological position, the court's rehabilitative imaginary is validated, confirmed, and reproduced. Speaking, then, is an epistemic contest in a game of "non-adversarial" rules where defendants are left with a set of unpredictable challenges that frustrate their ability to speak for themselves.

The last chapter concludes these findings and provide implications for the mental health court's discourse and treatment of defendants. I argue that MHC is a setting characterized by hybridization—penal, medical, and welfare—and it draws logics and practices from an assemblage of sources and operates as a fragmented and contradictory institutional arena. I briefly revisit the arguments pertaining to rehabilitation and therapeutic jurisprudence and assert the following: rehabilitation within MHC is necessarily and unavoidably bound up in punishment, and at the core it operates within a set of contradictory, neoliberal risk-based practices that help some defendants and hurt others. Not only does it draw on stigmatizing discourses to treat, manage, and sanction defendants, it also discursively circumscribes what defendants can say or do, how they can respond, and what becomes possible for their personal lives and treatment needs and goals. Through responsibilization strategies, the court completely abstracts out any lay sociological understanding of defendants' social reality, personal challenges, or structural position, and in so doing it constitutes non-compliance by framing each unmet mandate in terms of personal failure. This has potential impact on who makes it to completion and who does not, and it certainly shifts the focus from the problems of the program to the blame of defendants. By doing so, court staff, their interactions with defendants and their apt consideration of defendants' needs all go entirely unexamined and unaccounted. MHC and staff are absolved of wrongdoing through the rhetoric and practice of responsibilization.

CHAPTER 1

REHABILITATION, THERAPEUTIC JURISPRUDENCE, & MENTAL HEALTH COURTS

Rehabilitation, Risk, and Criminalization of Mental Illness

Over the course of the past forty years, many scholars have argued that there has been a change in penal governance from a rehabilitative model to a punitive one, particularly after the 1970s. So common is the belief that rehabilitation has been non-existent since the 1970s that much of today's scholarship and thinking analogizes the current moment as a "pendulum" (Goodman, Page, and Phelps, 2017)—suggesting that criminal justice reform efforts and the growth of alternatives to incarceration signal a turning point in mass incarceration and a "return" to the older rehabilitative model (Goodman, Page, and Phelps, 2017). However, as Goodman and colleagues (2017) express, this is partly due to the exaggerative claims made by criminologists, sociologists, and others about the nature and death of "penal welfarism" (Garland, 2001) as well as the birth and extent of the punitive paradigm.

According to Goodman and colleagues (2017), although scholarship that describes a massive shift in penal governance after the 1970s rightly captures the rise in punitive social control, these arguments often mistakenly overestimate the extent to which such shift took hold and gave rise to an entirely new punishment-oriented system absent rehabilitation. Rather, they argue that such drastic shift—that is, the obliteration of rehabilitation to an exclusively punishment-focused model—did not occur wholesale but was subject to constant struggle and adaptation (Goodman, Page, and Phelps, 2017). Nonetheless, it is important to review exactly how rehabilitation was conceived prior to the 1970s.

Emerging during the Progressive Era but maturing after World War II, penal-welfarism was a treatment-oriented approach that prioritized professional expertise in diagnosing the

problem of crime and treating the "criminal" through psychological and social interventions: the aim was to "re-socialize" and "reintegrate" the person back into society in order for him to become a "good citizen" (McNeill, 2014; Goodman, Page, and Phelps, 2017; Raynor and Robinson, 2009). According to Garland (2001), the rehabilitative function of crime control during this era had distinct features that markedly distinguished it from today's punitive model. Penal-welfarism was characterized by a "correctionalist motif" (pp. 34) with an emphasis on rehabilitation over punishment and core components of individualized treatment, indeterminate sentences, criminological research, and specialist and expert practices that supported the entire apparatus of the criminal legal system: probation, parole, policing, juvenile courts, and various treatment programs all working towards a rehabilitative end (Garland, 2001).

During this era of penal-welfarism, professional social workers played a fundamental role in the operations of correctional settings, in the dialogue and debates about delinquency and crime, and in the treatment of "offenders" in various realms of the criminal legal field, including community-based agencies (Garland, 2001; McNeill, 2014; 2019). As Goodman, Page, and Phelps (2017) note, this approach originated in scientific disciplines concerned with deviant human behavior and revolved around a burgeoning medical model. Highlighting the medicalized and professional nature of this penal strategy, Goodman and colleagues (2017) state: "Criminologists and other social scientists believed that they possessed knowledge and technologies to diagnose, treat, and cure criminals, and their use of medical metaphors was deliberate." Similarly, Garland (2001) captures this idea when he states: "In the post-war decades criminal justice became the territory of probation officers, social workers, psychologists, psychiatrists, child-guidance experts, educationalists, and social reformers of all kinds" (pp. 36). Thus, penal-welfarism was characterized by individualized treatment coupled with social service

provision, and "the standard response to most problems of crime and delinquency—indeed the standard response to most social problems—came to be a combination of *social work and social reform, professional treatment and public provision*." (Garland, 2001: 39, original emphasis).

Described as the "rehabilitative ideal," this paradigmatic approach to rehabilitation eventually became synonymous, in the end, with treatment and moral correction (McNeill 2014; 2019). Despite great intentions, such approach was emblematic of what C.S. Lewis called "The Humanitarian Theory of Punishment," as it was not free from coercion or discriminatory practices. Also variously described by other critics as the "authoritarian model of rehabilitation" (Rotman, 1994) or "psychological rehabilitation" (McNeill, 2014), penal-welfarism sought "compliance by means of intimidation and coercion" while aiming to shape "the offender and ensure conformity to a predesigned pattern of thought and behaviour" (Rotman, 1994: 292). Capturing the advent of this logic in 1953, Lewis wrote, "The things done to the criminal, even if they are called cures, will be compulsory as they were in the old days when we called them punishments. If the tendency to steal can be cured by psychotherapy, the thief will no doubt be forced to undergo the treatment" (p.147). Indeed, rehabilitation under the penal-welfarist model had its fair share of critics, and there appears to have been a coercive and potentially punitive aspect to treatment that some contemporary scholars have elided, often resulting in a degree of romanticization of times' past (Goodman, Page, and Phelps, 2017).

Similar critical responses as those above were precisely what partly gave rise to a set of harsh critiques by liberal reform advocates regarding the criminal legal system and rehabilitation in the 1960s (Garland, 2001; American Friends Service Committee, 1971; Raynor and Robinson, 2009; Goodman, Page, and Phelps, 2017). These liberal advocates pushed for a justice-oriented approach to criminal legal practice that emphasized minimal punishment, the elimination of

discrimination (e.g. indeterminate sentencing and judicial discretion), and the maximization of human agency for "offenders" in the system (American Friends Service Committee, 1971; Raynor and Robinson, 2009). While these criticisms and advocacy efforts influenced the discourse of reform at the time, they certainly did not make up the totality of the causes that impacted the rise of punitive crime control.[1] However, it is worth noting that what emerged in the wake of the succeeding punitive turn was a transformation not only in the penal state but also in the economy and welfare state.

Indeed, scholars such as Wacquant (2009) and Soss and colleagues (2011) have aptly noted the centrality of punitive social control in the working of the welfare state and its mutual dependence on and symbiotic relationship with the penal state. Dubbed as neoliberal penality (Harcourt, 2010), the penal state that emerged after the era of penal-welfarism is thought to be organized around neoliberal penal governance that relies on an instrumental use of risk management techniques that aim to protect the public and potential victims from categorically "risky offenders" (Garland, 2001; Feeley and Simon, 1992; O'Malley, 2004; Ward and Maruna, 2007). Risk, according to these arguments, is the organizing principle that forms current criminal legal practice insofar as risk thinking and managerial uses of risk inform how criminal legal practitioners construe and assess needs, predict future behavior, and gauge people's capacity for change (i.e. their criminogenic risks/needs).

Not only have risk assessment tools become core instruments in today's criminal legal system, they also continue to loom large in current criminal legal rhetoric (Ward and Maruna,

[1] The purpose here is not to write an extensive history on what caused mass incarceration, but remark on how penal-welfarism came under fire and was viewed as problematic by some advocates. Many books that explain the cultural, political, economic, and social causes of mass incarceration and punitive crime control have been written. See Garland's Culture of Control, Michelle Alexander's The New Jim Crow, Todd Clear's and Natasha A. Frost's The Punishment Imperative, or Marie Gottschalk's The Prison and the Gallows.

2007) and constitute a discursive order that shapes policy reform.[2] Although some argue that these risk management practices are decoupled from general material and social needs, proponents argue that they nonetheless pervade rehabilitative programs, wherein defendants are narrowly classified for targeted interventions aimed to ensure public safety, minimize cost, and produce individual responsibility (Garland, 1997; 2001; Wacquant, 2010). In lieu of an old welfarist model, these scholars suggest that we now have an actuarial model that eschews some of the welfarist attributes of the past.

However, several scholars across the criminal legal field have remarked how this "new penology" (Feeley and Simon, 1992) is locally variegated and incorporates various assemblages of risk techniques, individualized treatment, and social service provision, for which the latter two are reminiscent of penal-welfarism (Lara-Millan and Van Cleve, 2017; Hannah-Moffat, 2005; Marutto and Hannah-Moffat, 2005; Hannah-Moffat and Marutto, 2012). These two features—individualized treatment and social service provision—also reflect the point of penal adaptation made by Goodman and colleagues (2017). For instance, discussing the emergence of hybrid forms of risk-based penal modes of governance, Hannah-Moffat (2005) argues that transformations in risk techniques through various assemblages has given rise to a "new politics of punishment" wherein "strategic alignment of risk with narrowly defined intervenable needs contributes to the production of a transformative risk subject who, unlike the 'fixed or static risk subject,' is amenable to targeted therapeutic interventions." Cast in a seemingly cautious but optimistic light, in this risk-based model, the targets of therapeutic intervention are the risk and

[2] For an example of where risk-thinking pervades progressive reforms, see the Illinois State Commission on Criminal Justice and Sentencing Reform's Final Report http://www.icjia.org/cjreform2015/pdf/CJSR_Final_Report_Dec_2016.pdf; Also, the recent case of abolishing cash bail in California with the replacement of risk assessments demonstrates this point. It was largely touted as "progressive legislation," though many opponents of risk critiqued this policy for instituting a more biased system.

needs that are identified not by the "offender" but through statistically determined aggregates that correlate with patterns of offending: that is, individual or personal needs, whether material or social, do not make up the metric for determining the criminogenic risk/needs of the individual, but the risks/needs of a class of "offenders" that demonstrate similarity across shared categorical experiences (Marutto and Hannah-Moffat, 2005). For subgroups that have prior arrests and substance use histories, they fall within a risk/need rubric as their criminal legal and substance use histories correlate to certain legal outcomes (Marutto and Hannah-Moffat, 2005).

Indeed, taking Hannah-Moffat's argument into account, problem-solving courts, and specifically MHCs, work directly within this window of "narrowly defined intervenable needs." Where addiction and serious mental illness figure as two pressing "criminogenic" factors that the penal state seeks to address—if not in actuality then at least in theory—these courts are both designed for and aspire to administer therapeutic interventions that facilitate the reduction of criminal legal involvement. Not all individuals who come into contact with the criminal legal system qualify for such interventions, as many, for instance, may have violent felonies that make them ineligible for treatment. Because all individuals do not collectively inhabit the same statistically proven risks for what the intervention targets, problem-solving courts, such as MHCs, select on very specific criteria while excluding those who do not meet this criteria. In turn, rehabilitative efforts are geared towards intervening in these areas that, if gone unchecked, are thought to lead to crime and recidivism.

Accordingly, mental health courts are designed first and foremost for people identified in the criminal legal system as having a serious mental illness. Similar to drug-treatment courts, veterans courts, prostitution courts, or domestic violence courts, the individuals in mental health courts—after being assessed through risk instruments—become "deserving" of rehabilitation.

This is primarily due to what has become known since deinstitutionalization as the "criminalization of mental illness hypothesis."

In 1972, David Abramson, a psychiatrist, coined the term "the criminalization of mentally disordered behavior" after observing an increase in the rates of incarceration of persons diagnosed with a serious mental illness. He pointed to deinstitutionalization and the failure of community mental health to sufficiently provide care for persons with psychiatric symptoms as the cause of this uptick in incarceration rates. Scholars and practitioners have built on this hypothesis, arguing that persons diagnosed with serious mental illnesses are being criminalized as a way to regulate nuisance behaviors, borne of a pathological etiology, that are publically unacceptable or undesirable (Fisher, Silver, & Wolff, 2006; Hiday & Wales, 2003; Hartwell, 2004a, Hiday, 1991). They point to the overrepresentation of this population in America's jails and prisons as proof of failed policy and increased criminalization, and many posit that the criminal legal system is now the primary institution within which people with a psychiatric disorder are housed.

A body of research stretching back to the 1990s provides some empirical support to the argument that people diagnosed with serious mental illnesses are disproportionately coming into contact with the legal system relative to persons not diagnosed with an illness (Steadman, Osher, Clark Robbins, Case, & Samuels, 2009; Teplin, Abram, & McClellan, 1996; Teplin, 1990b). However, more critical takes on the matter indicate otherwise, suggesting that the conceptualization of the problem as one born of deinstitutionalization elides the long history of incarcerating people with psychiatric labels in the country (Ben-Moshe, 2013; Chapman, Carey, and Ben-Moshe, 2014; Harcourt, 2011). Nonetheless, for over thirty years most scholars and practitioners have noted this increased prevalence, and it has continued unabated with most

estimates hovering around 14% (Fazel & Danesk, 2002; Steadman, Osher et al., 2009; Teplin, 1990a; Teplin, Abram, & McClelland, 1996).

Because of the disproportionate impact of incarceration among persons with a serious mental illness and the belief in the criminalization hypothesis, mental health courts have become politically viable options among criminal legal interventions. That is, the development and implementation of these interventions have been influenced by several pieces of federal legislation and subsequent state and local policies. In 2000, America's Law Enforcement and Mental Health Project was signed into law by President Bill Clinton. This act resulted in the establishment of the Mental Health Courts Program in the U.S. Department of Justice, which has provided grants to develop hybrid judicial supervision and mental health service delivery initiatives for persons with serious mental illnesses in the criminal legal system (Litshge & Vaughn, 2009). A second piece of legislation, the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA), was signed by President George W. Bush in 2004. To date, the MIOTCRA has authorized $50 million in grants to develop mental health and criminal legal interventions, and the most common model developed under this act's funding is the mental health court (Council of State Governments Justice Center, 2012). As a result of these pieces of legislation, many state and local governments have created policies and programs that promote the development of mental health courts.

Structure of Mental Health Courts

First introduced in 1997, mental health courts have multiplied rapidly as a result of the political will and government funding supporting them (Council of State Governments Justice Center, 2009). As of 2013, there were an estimated 400 mental health courts in operation (Goodale et al., 2013), and in the state of Illinois, these courts grew 133% between 2010 and

2015 (Lurigio, et al., 2015). The expressed purpose of mental health court is to divert a portion of people with serious mental illnesses from incarceration to community-based mental health treatment. A court team—including a judge, probation officer, case managers and social workers, and attorneys—develops a comprehensive plan for mental health treatment and services while providing ongoing intensive supervision throughout the duration of participation.

Although these programs vary widely by locality, the majority of mental health courts in the U.S. generally share the following common features: (a) they prioritize community mental health treatment over incarceration, such as jail time or prison sentences, (b) they provide continual supervision of defendants through frequent review of their progress in a court hearing and in staff meetings, (c) they mandate that defendants maintain medication compliance and adhere to treatment goals set by the court, (d) they are organized around a team approach with multiple actors involved, including the judge, state attorney and public defender, probation officers, case managers, social workers, and/or other treatment members, and (e) defendants are praised for their progress, sanctioned for not "complying," and ultimately experience a ceremonial graduation after successfully completing the program (Epperson et al. 2011).

The two central eligibility requirements for mental health court participation are a diagnosis of a serious mental illness (i.e. schizophrenia spectrum disorders, bipolar disorder, and major depression) and being charged with a criminal offense. The National Survey of Mental Health Courts found that one-third of mental health courts studied only admitted people with a serious mental illness, fewer than 10% of mental health court participants had a developmental disability, and fewer than 3% had a primary personality disorder (Council of State Governments Justice Center, 2009). Some mental health courts may have additional criteria, such as stipulations that a person's mental illness must have contributed directly to

their current charge or that participation is contingent on the defendant's willingness to take medication (Council of State Governments Justice Center, 2009).

Many of the early mental health courts accepted only defendants with nonviolent misdemeanor charges, whereas newer programs are increasingly accepting defendants with both misdemeanor and felony charges (Erickson et al., 2006; Redlich, 2005). The National Survey of Mental Health Courts reported that about one-fourth of mental health courts admit only participants with misdemeanor charges, fewer than half admit participants with nonviolent misdemeanor or felony charges, and fewer than 3% admit persons with a felony charge only (Council of State Governments Justice Center, 2009). These differences illuminate the wide variation of eligibility criteria of mental health courts and perhaps speak to jurisdictional issues where the structure and practices of mental health courts are concerned, and several critiques both regarding their non-standardized structure and the way in which eligibility criteria vary have resulted in questions about whether the criminalization hypothesis is valid (Fisher, Silver, & Wolff, 2006).

Despite the proliferation of diversion programs and their connection to treatment services, many scholars demonstrate that this subgroup of the criminal legal population continues to recidivate at higher rates than other persons involved in the criminal legal system (Draine, Salzer, Culhane, & Hadley, 2002; Fisher et al., 2006; Hiday & Burns, 2010). Yet in many cases, the persons diagnosed with a serious mental illness largely resemble the non-psychiatric criminal legal population in key areas conducive to criminal legal involvement: race, low socioeconomic status, substance use, poor community and environmental structure, and early deviance and criminal trajectories over the life course (Fisher et al., 2006; Hiday & Burns, 2010; Epperson et al., 2014).

Consequently, these contentions spark concerns about the structure and function of the model, and questions for how MHCs realize their therapeutic or rehabilitative aims remain pertinent. In fact, one aspect of MHCs that seem to work within the realm of theoretical abstraction and empirical paucity is the role that therapeutic jurisprudence plays in the model. Designed as a legal practice that attempts to facilitate therapeutic outcomes, therapeutic jurisprudence and its principles fundamentally undergird all problem-solving courts. To be sure, therapeutic jurisprudence proponents advance a robust dialogue about its value and import but similarly lack empirical data to demonstrate the realization of its ideals. Conceived as a mechanism for producing rehabilitation in mental health courts, I now turn to the claims and counterclaims made by proponents and opponents of therapeutic jurisprudence.

Therapeutic Jurisprudence and Legal Contentions

According to David Wexler and Bruce Winick (1996), therapeutic jurisprudence began as an interdisciplinary approach to studying the effects of mental health law, and it is conceptualized as a way to understand the law as a "social force" that has therapeutic and anti-therapeutic effects (Winick, 2002). Specifically, it "focuses on the law's impact on emotional life and on psychological well-being" (Wexler, 2000). As a theoretical orientation to problem-solving courts, it emphasizes the therapeutic impact of legal rules, procedures, and decisions by legal actors and it uses social science knowledge and evidence to increase the therapeutic potential of the law for all parties involved (Winick, 2002).

Thus, according to proponents of therapeutic jurisprudence, the practices in problem-solving courts supposedly operationalize these principles by focusing on the "integration of treatment services with judicial case processing, ongoing judicial intervention, close monitoring and immediate response to behavior, multidisciplinary involvement, and collaboration with

community-based and governmental organizations" (Winick, 2002; p. 1064). These practices also employ judicial "persuasion" and swift sanctions and rewards to draw on "intrinsic motivation" to promote individual change while aiming to treat each defendant with "respect, dignity, validation, and voice" (Winick, 2002). It is argued by Winick (2002) that these practices should increase offenders' perceptions of fairness (i.e. procedural justice), reduce shame, and decrease perceptions of coercion, thus stimulating motivation, creating compliance, and facilitating the change process. As a result, legal practices centered on a therapeutic jurisprudential model putatively transform adjudicative procedures from a dispute resolution and adversarial process to "problem-solving dispute avoidance and collaboration" (Rothman and Casey, 1999).

However, Johnston (2012) and Slobogin (1995) point out that what constitutes "therapeutic" in therapeutic jurisprudence is vague and subjective. In fact, Wexler (1995) himself encouraged legal practitioners to "roam within the intuitive and commonsense contours of the concept," while emphasizing two broad definitions for understanding what counts as "therapeutic." Wexler (1995) states, "what is ultimately regarded as 'therapeutic'—and the law's role in promoting therapeutic aims—is a sociopolitical decision, decided by legal-political decision makers, with, it is hoped, important input given to consumers or recipients of the law's therapeutic aims" (p.221). Secondly, Wexler recommends that research-scholars work "within the broad intuitive boundaries of the concept, each individual researcher or academician writing about therapeutic jurisprudence must settle on a definition of therapeutic and ought to be fairly explicit about what definition is being used and why" (p. 222). Because of the vagueness of these distinct but general definitions, Johnston (2012) has noted that the creators of therapeutic

jurisprudence have maintained a "steadfast refusal to define 'therapeutic' with precision" (p.531).

Indeed, it is worth noting that the tendency towards a "sociopolitical decision" and the idea of roaming "within the intuitive and commonsense contours of the concept" indicates the potential for therapeutic jurisprudential practices to represent different ideological forms and to manifest as a variegated process marked by differential effects—perhaps even harmful ones. It certainly begs the question of whether the mechanics of its theory—when applied on the ground—could be realized. Though many proponents of therapeutic jurisprudence would reply in the affirmative, a central question remains: precisely how does the enactment of the principles and the practical possibility of moving from theoretical framework to social practice look in courtroom proceedings, talk, and interaction? What does it mean in practice to treat defendants with "respect, dignity, validation, and voice"? How does this correspond to arguments related to rehabilitation more broadly? And, quite frankly, could coercion—delivered within the context of asymmetrical power relations—ever be removed from the process when sanctions and rewards are at play to "motivate" defendants, even if a defendant interprets it as non-coercive? Such questions are yet to be answered and taken seriously in mental health courts vis-à-vis therapeutic jurisprudence, and more importantly, they suggest that whatever is therapeutic about the process relies heavily on arbitrary definitions. Most of the mental health court research accepts this foundational aspect of the model as an automatic given and thus unworthy of investigation. In fact, one can survey the literature and see a cursory nod towards "therapeutic jurisprudence" as fundamental principles to MHCs and a quick step to other empirical and conceptual matters (see below for MHC literature review).

With respect to mental health courts and the question of rehabilitation as central to therapeutic jurisprudence, Johnston (2012) has criticized therapeutic jurisprudence as an unjustifiable theory and practical orientation because of its assumed neglect of traditional criminal justice principles, such as deterrence, retribution, and incapacitation—marked principles associated with the punitive turn in criminal legal policy. He argues that therapeutic jurisprudence operates solely on the principle of rehabilitation and as a consequence serves as an inadequate justification for segregating certain categories of "offenders" (e.g. persons diagnosed with mental illness or drug addiction) for specialized interventions that neglect "moral culpability" (Johnston, 2012). Like many socio-legal scholars writing on the punitive turn, Johnston assumes philosophical coherence in the criminal legal system and pitches rehabilitation as an opposite of retributive justice. To state this another way, his criticism presupposes that therapeutic jurisprudence—and more specifically when applied to mental health courts—operates on the exclusive principle of rehabilitation at the expense of other traditional criminal legal principles. It also pits rehabilitation—as a practice and philosophical aim—as separate and distinct from other criminal legal practices and perhaps as a polarized opposite of punitiveness.

Recent research in other arenas of criminal justice, however, contest this construction (Stuart, 2016; Lara-Millan & Van Cleeve, 2017) and problematize the idea that contemporary rehabilitative approaches are disentangled from punitive logics. As it currently stands, all problem-solving courts involve mandated treatment, an aspect that complicates the notion of rehabilitation and reflect the potential that traditional criminal justice principles may be built into the problem-solving court model (Miller and Johnson, 2009).

Reflective of these arguments, there is wide disagreement about the role and effect of problem-solving courts and whether they are rehabilitative and operate as alternative diversionary programs. These disagreements rest on several points of contention, some of which pertain to the law and defendants' rights to due process and zealous advocacy by legal counsel when agreeing to participate in these specialty courts (Lane; 2003; Castellano, 2011a). As such, because legal counsel operates within a "team," zealous advocacy is forsaken. Mandated treatment also raises concerns for the seemingly contradictory notion that defendants "voluntarily participate" in MHCs when in fact what may be at work is nothing short of constrained choice—i.e. the limited choice between being faced with prison time versus pleading guilty to obtain mental health court probation—and a lack of comprehension of the adjudicative process when opting to take up the supervisory conditions of the court (Redlich, 2005; Redlich, Hoover, Summers, & Steadman, 2010; Stefan and Winick, 2005; Tiger, 2013; Burns and Peyrot, 2003).

Taken together, these concerns animate the legal, medical, social, and practical issues related to therapeutic jurisprudence and problem-solving court models. They also signify a lack of empirical investigation into the mechanisms and social practices of therapeutic jurisprudence and its relation to MHCs. Few of these arguments rest on a rigorous and systematic examination of courtroom practices, behaviors, interactions of problem-solving court staff and the use and implementation of therapeutic jurisprudence principles. Yet legal practitioners and criminal justice scholars continue to cast optimism and promise on one side and pessimism and doom on the other. As noted, to some these interventions are viable alternatives to harsher forms of punishment, but to others they represent a questionable therapeutic endeavor.

Nonetheless, the punitive turn in penal policies and the gross racial inequalities borne of mass incarceration (Garland, 2001; Wacquant, 2009; Alexander, 2012; Western, 2006; Mauer, 1999, 2006) necessitate skepticism of any claim of rehabilitative impact free from punitive control or racialization in any current criminal legal program or intervention. What further complicates these matters is the fact that no one can readily define rehabilitation in this context, and that whatever is "therapeutic" to people diagnosed with a serious mental illness and substance use disorder is largely eclipsed by the equal and persistent failure of the mental health treatment system and the mass closure of state hospitals around the beginning of the incarceration boom (Grob, 1994; Brodwin, 2013). This failure continues to cast a large shadow over today's rates of jail and prison admissions and suggests that larger therapeutic systems are in such crisis that the criminal legal system is drastically constrained in whatever therapeutic efforts it takes on.

In light of these issues, I now turn to the empirical research on mental health courts. My aim is to engage the body of work that drives some of the empirical questions raised in this study and demonstrate why they are important, both for discussions of rehabilitation and contemporary reform efforts that seek to ground problem-solving courts as central to decarceration.

Research on Mental Health Courts

There is an abundance of research on mental health courts. This body of work, however, seems to be preoccupied with a relatively small number of concerns: the effectiveness of MHCs, the perceptions of defendants in these programs, and the extent to which procedural justice is at play (i.e. whether defendants view the process as fair and as if they are treated with dignity). The bulk, nonetheless, concerns itself with the MHC's effectiveness, treating the

likelihood of defendants' completion of the program and their subsequent reduction in recidivism as the most valued outcomes. In both cases, completion and post-completion re-arrest rates within a given time period (usually less than two years, but typically within a post-completion window of one year) demonstrate whether MHCs are effective and, though often implied, rehabilitative (Cullen, 2013). According to this literature, successful graduates of mental health courts are less likely to re-offend than before they entered the program and are less likely to return to jail or prison in comparison to people diagnosed with mental illnesses in traditional criminal courts (Moore & Hiday, 2006; Hiday & Ray, 2010; Hendrickx et al. 2005; McNeil & Binder, 2007; Council of State Governments Justice Center, 2008). Systematic reviews and analyses further back these findings up, suggesting that there is a moderate reduction in recidivism for those who complete MHCs (Sarteschi, Vaughn, and Kim, 2011; Honegger, 2015).

However, though this research offers insights about outcomes important to criminal legal practitioners and policymakers, there are several concerns regarding these studies that demand attention. When these concerns are not taken into account, the results of recidivism-driven research fuel both the rhetoric of unquestionable rehabilitation and the proliferation of problem-solving courts as "effective" alternatives to incarceration.[3] First, a major concern is the way in which reduced recidivism is construed. In assessing the reduction of recidivism, proponents presuppose that a reduction necessarily translates into better defendant outcomes and, by extension, desistance from crime. However, reduced recidivism rates only measure

[3] In Francis Cullen's view, as in many other criminologists, "effectiveness" demonstrates "what works" and proves that rehabilitation is alive and well. This positioning of "what works" is a strident response to the "nothing works" discourse that, though proven inaccurate, framed rehabilitation as a failure in the 1970s and 1980s. To Cullen's point on the matter, if researchers, policymakers, and practitioners declare that "nothing works," then what better to do than to harshly punish? The "nothing works" mantra both constituted criminality as incorrigible and justified punitive policies and practices. From a practical and political standpoint, framing matters in terms of "what works" provides justification for rehabilitative programs (See Cullen, 2007; 2013).

decreased criminal legal contact and nothing more. It says nothing, for instance, about defendants' individual changes, the quality of their lives, or even their actions and behavior post-completion. While certainly an important stat to tout by proponents of mental health courts—and surely important to unreturned defendants who are not, at least, subjected to the misery of jail or prison—the metric of recidivism narrowly defines "success," resulting in an even narrower definition of rehabilitation that is measured by recidivism rates.

Second, there is a certain kind of framing regarding graduation rates and post-completion recidivism reduction that elides the rates of "non-completion" and the conditions under which non-completion occurs. For instance, rates of MHC completion fluctuate between 40 to 50% on average (Hiday, Ray, and Wales, 2016; Hiday et al. 2013; Steadman et al., 2011; Kubiak, et al., 2018), which also means that rates of non-completion swing between 60 to 50%. This means that at least one out of every two people who enter a mental health court will, on average, not complete. Yet, completion is consistently pitched as a success of the program while non-completion as a failure on the part of the defendant. There is something exceptionally curious about this framing, in that it shifts potential pitfalls and shortcomings of the model onto defendants and possibly exclude alternative explanations for why roughly 50% of defendants do not graduate. In so doing, judgements of "noncompliance" by the court become the vehicle through which failure is constructed. In other words, these studies take for granted that what is deemed "noncompliant" and a "non-completion" comes with a context of multiple players (i.e. judges, case managers, probation officers, defendants etc.) and situational factors (e.g. defendants' unique challenges, such as structural disadvantage, parenting responsibilities, unemployment, etc.), and that such context and situational factors serve as potential mechanisms that shape these outcomes. Indeed, as a court-based probationary

program, defendants continually interact with and navigate a legal arena rife with power differentials that provide minimal recourse, and they must simultaneously negotiate and manage their lives outside of this arena while meeting the court's expectations.

Third, most effectiveness studies demonstrate a consistent trend among those who are likely to not complete. That is, there is a group of "usual suspects" who show up as non-completers in these studies (i.e. defendants who are either officially terminated or who opt out of the program after starting). These usual suspects include racial minorities and men (Honegger, 2015; Sarteschi, et al. 2011; Dirks-Linhorst, Kondrat, Linhorst, and Morani, 2013) and individuals diagnosed with co-occurring substance use and psychiatric disorders (Callahan, et al. 2013; Kubiak, et al. 2018). In the case of the latter group, they also experience more jail sanctions and higher rates (i.e. judgments) of noncompliance (Callahan, et al. 2013; Dirks-Linhorst, et al., 2013; Kubiak, et al. 2018). And as inferred from these data, those with higher rates of jail sanctions and judgements of non-compliance are also the most likely to not complete the program (Burns, Hiday, & Ray, 2013). Together, these findings raise important questions about the potential challenges that these individuals face in mental health court, the causes or explanations that make them usual suspects, and the responses and methods employed by MHC staff to treat and manage them.

Lastly, in case the nail needs to be hammered into the coffin, out of all of these studies, there is very little evidence that indicates that a specific kind of treatment (e.g whether inpatient/outpatient treatment, short-term hospitalization, placement into certain kind of facility, etc.) leads to completion and/or reduced recidivism. As Goodale et al (2013) point out, the "active ingredients" are not fully known. The postulation regarding this matter is that perhaps

the type of treatment a defendant receives is less significant than simply being connected to any kind of treatment (Goodale et al., 2013).

Similar to recidivism studies, a growing body of research on procedural justice[4] and its role in promoting mental health recovery and reducing rates of re-arrest in MHCs has gradually grown in the past two decades. This research demonstrates that perceptions of procedural justice is thought to be key for promoting mental health recovery (Kopelovich, Yanos, Pratt, & Koerner, 2013), making defendants feel satisfied with court outcomes, regardless of what the outcomes may be (Poythress, Petrila, McGaha, & Boothroyd, 2002), and for reducing recidivism rates (Wales, Hiday, & Ray, 2010).

However, while these studies generally posit the relationship between the judge and the defendant as the focal point for the establishment of procedural justice—that is, as the means through which perceptions of fairness, voice, and dignity are realized (Tankebe and Bottoms, 2012)—a study by Canada and Watson (2013) suggests that perceptions of procedural justice are more complex than the judge/defendant interaction. Canada and Watson (2013) emphasize the entire team as being crucial in structuring fair and just interactions with defendants and, ultimately, for shaping perceptions of procedural justice. This study points to the complication in mental health court practices and highlights that relational qualities are not uniform among all courtroom practitioners—that is, each relationship that a defendant has with a legal and social service practitioner may influence his or her experience and perceptions of justice. A

[4] Procedural justice has a long institutional life among legal practitioners and legal scholars. While surprisingly understudied by criminologists and socio-legal scholars, the concern is that the procedures of the law and legal practices are administered on the basis of impartiality, fairness, voice, dignity, and transparency. At the heart of it, it is a timeless concern for the legitimacy of the law and the extent to which citizens view authority as legitimate actors, gauged by how or whether legal subjects believe and feel that they are treated fairly. It corresponds to the principles of therapeutic jurisprudence, and while it has been examined both within and outside of legal contexts, the basic argument is that legal subjects will not feel coerced, abused, violated, etc. if they perceive the procedures enacted by legal authorities to embody the qualities of procedural justice. See Tom R. Tyler, (1988) and Anthony Bottoms and Justice Tankebe, (2012) for extended arguments and debates.

recent mixed-methods study comparing three probation programs with mental health caseloads—including MHCs—also picks up on this issue when MHC defendants were asked about the quality of their relationship with probation officers and other staff members (Epperson, Thompson, Kim, & Lurigio, 2017). In this study, defendants in MHC reported experiencing conflicting relationships with some staff members and not with others (Epperson, et al. 2017).

Although this literature sheds light on the relational aspects of the court process, similar to work on therapeutic jurisprudence, this research says very little about the conditions, actions, and interactions in the mental health court process that facilitate procedural justice or, on the opposite end, perceptions of coercion beyond vague notions of treating individuals with "dignity" and giving them "voice". What counts as dignity and voice in the eyes of defendants may differ from what practitioners believe they are doing, and such differences often play out over the course of the legal process rather than at one point in time. Defendants in MHCs and other similar court-based models are enmeshed in ongoing interactions and dialogical exchanges with MHC practitioners and these interactions and communicative exchanges are crucial for enabling or constraining defendant responses and interpretive experiences.

Moreover, with regards to the professional practices and expertise of mental health court practitioners, there is a lacuna of ethnographic research that examines these phenomena (Castellano & Anderson, 2013). Though the qualitative studies above gesture towards conditional and situational components of practice, little is known about the ways in which practitioners enact their expertise, constitute therapeutic ideas, or how they engage and interact with defendants. In reviewing the literature, two studies were found that separately examined the practices of case managers (Castellano, 2011b) and legal practitioners (Kubiak, Tillander,

and Ray, 2013) as they interacted and negotiated behind closed doors among themselves. Castellano's (2011b) ethnographic work on four mental health courts reveals the ways in which case managers inhabit roles as "double agents" and "boundary spanners," often working at the interstices of the criminal legal system and social welfare system and producing both punitive and lenient effects for defendants in MHCs. Having observed MHC practitioners during private staff meetings, Castellano's research shows that case managers have expanded authority to increase the provision of social services or ramp up punitive sanctions for defendants who they deem compliant or noncompliant (2011b).

Indeed, while this work indicates an increase in the social control function of case managers and says a great deal about decision-making processes among MHC practitioners, research by Kubiak and colleagues (2013), on the other hand, suggest a more conventional (i.e. adversarial) model of legal practice for legal practitioners. Conducting observations and interviews with legal staff from eight mental health courts, Kubiak and colleagues (2013) found that judges continually acted as the primary decision-maker, sometimes with or without collaborative input from others, and that prosecutors used their traditional discretionary power to determine the eligibility of defendants to participate in MHC by reducing charges and deciding through a host of other factors (e.g. criminal history, risk and needs assessments, clear links between mental illness and charged offense) whether they were appropriate for the program. In short, the prosecutor acted as the gatekeeper to mental health courts, and the defense attorney often enacted a conventional advocacy role and was tasked with ensuring that defendants received informed consent prior to agreeing to participate in the program. Though MHCs are often conceived as entirely non-adversarial, the work by Kubiak and colleagues (2013) highlight a slightly adversarial process that deviates from the supposedly collaborative

one articulated by many effectiveness researchers. As a result, it opens up questions concerning the extent to which legal practitioners can operate outside of their expertise, inhabited legal positions, and professional roles.

In considering this body of work together, one is left with several empirical puzzles that appear pressing. First, there is the issue of determinations of noncompliance and non-completion that generally operate as taken-for-granted "outcomes" in this literature. This issue also coincides with both the framing of these determinations as individual failings and the usual suspects who are likely to receive jail sanctions, noncompliance judgements, and a non-completion, whether an official termination or an opt-out. If those designated as having co-occurring disorders, racial minorities, and men are likely to experience these results, there is an imperative to interrogate what contributes to these results.

Second, there is the issue of procedural justice (which aligns with principles of therapeutic jurisprudence) that demands attention. If fairness, voice, dignity, and impartiality are to be realized in MHC, then the process by which these occur would lie in courtroom behavior: that is, in courtroom talk and interaction between court practitioners and defendants. To date, there is no research on MHCs that examines this interactional process.

Third, which builds off the latter two points, MHC is a legal context, and in such context, defendants must navigate both formal and informal rules of speaking, rituals of legal procedures, and mandates of therapeutic treatment. Most scholarship on MHCs implicitly recognize these aspects of the process but do not examine them. As many socio-legal and sociolinguistic scholars note, law and legal practices are essentially discursive practices.

To state this more directly, socio-legal and sociolinguistic scholars of law have empirically and theoretically argued that criminal courtrooms are structured along the lines of

general rules for turn-taking and formal sequences of speaking that dramatically differ from ordinary talk, with the judge acting as arbiter and "referee" within a legal hierarchy to oversee who speaks, when, and under what permissible terms to resolve complex issues that arise in court procedures (Coulthard and Johnson, 2007; Conley and O'Barr, 2005; Atkinson and Drew, 1979). Where the prosecutor and the defense attorney act as adversaries in a process of adjudication, each member is situated within a formalized rule structure that requires them to speak in various legal genres (i.e. procedural, cross-examination, trial or pretrial, closing arguments, etc.) and in a manner that coincides with their respective position (Coulthard and Johnson, 2007; Atkinson and Drew, 1979). Key to these courtroom dynamics is the extent to which language use, and the style and structure of speaking, influences the constitution of "truth" and "fact" and the extent of control that these practices exert over witnesses, defendants, and other courtroom actors. That is, courtroom actors engage in question and answer sequences, interrogations, categorizations and narratives and rhetorical devices, and utilize or draw on metaphors and metonyms to frame content and context and shape meaning (Conley and O'Barr, 2005; Matoesian, 1993; Amsterdam and Bruner, 2000; Goodwin, 1994; Coulthard and Johnson, 2007; Gibbons, 1994; Shuy, 2003).

Moreover, in every courtroom drama, defendants are left to the wiles or mercy of the prosecutor or defense attorney, subjected quite easily to legal tactics that operate within an established order of power (Conley and O'Barr, 2005; Gibbons, 1994; Matoesian, 1993). But as many scholars note, courtroom talk is not only important for inscribing hierarchies and exercising authority (Conley and O'Barr, 2005; Coulthard and Johnson, 2007; Gibbons, 1994), it is also a means through which ideologies are discursively reproduced and various legal and social realities constituted (Phillips, 1999; Matoesian, 1993; Conley and O'Barr, 2005).

However, in a putatively non-adversarial model such as mental health court and other problem-solving courts, the formalized structure that regulates turn-taking and ways of speaking is, in theory, intentionally less formal (Freiberg, 2001; Nolan, 2001;2003). As stated above, the court team—judge, prosecutor, defense attorney, probation officer, case manager or other treatment staff—collaboratively work for the "therapeutic betterment" of defendants (Miller and Johnson, 2009; Castellano, 2011a). Judges, though retaining official status, theoretically become "treatment facilitators rather than legal arbiters" (Castellano, 2011a) and take on "multiple roles, including acting as authority, motivator, problem-solver, and monitor" (Petrucci, 2002). In this orientation, judges engage defendants more directly, probation officers and case managers—who are not a part of the conventional courtroom workgroup—participate in these speaking routines, and the prosecutor and defense attorney experience a reduction in their roles (Castellano, 2011a; Nolan, 2001; 2003; Freiberg, 2001). In light of these features, discursive practices by MHC staff not only constitute legal realities but also therapeutic ones. It is within the courtroom proceedings and the interchanges between staff and defendants where rehabilitative practices manifest themselves and are instantiated.

Considering the arguments regarding rehabilitation and therapeutic jurisprudence, along with the latter concerns for mental health courts and how discourse operates within legal contexts, it is with these ideas in mind from which this study derives. In attempting to understand how broad changes of contemporary penal governance and rehabilitation have impacted current alternatives to incarceration, this dissertation focuses on the ways in which these changes (i.e. neoliberal penality) intersect with MHC practices as they unfold through the interactive process of courtroom behavior—namely, talk and interaction that transpires during routine court proceedings. The aim, however, is not to address all of the empirical questions

raised about the research on mental health courts, nor to draw a direct correlation between courtroom talk and long-term outcomes (i.e. recidivism) but to locate within this unique communicative context what gives rise to, shapes, or limits the terms of possibility for defendants' actions and rehabilitation: that is, the possible ways of engaging, reacting, talking or replying, and/or pursing and achieving therapeutic goals.

Courtroom proceedings, then, are a ripe site for examining rehabilitative ideas and practices and for assessing how addiction, illness, and criminality figure within treatment regimens. These proceedings capture the discursive labor performed by its members and demonstrate the rationale, ideologies or taken-for-granted beliefs, and conceptions of defendants. Indeed, analyzing courtroom talk and interactions is crucial because defendants are left to interpret the discourse and decisions advanced by judges and other staff, make sense of what is stated, and then obligated to execute the court's orders regardless of what they may think regarding these matters. By drawing attention to these lines of inquiry, it is possible to better understand how ideas of rehabilitation in a hybrid space materializes, or what practices contribute to how or why the "usual suspects" experience more sanctions and/or rates of non-completion.

In the next chapter, I discuss the field sites in which this study unfolded and the methods and analysis employed to explore and examine the discourses at play in MHC. I also provide an explanation and justification for these decisions.

CHAPTER 2

RESEARCH SITE & METHODS

Field Sites

The two mental health courts selected for this ethnographic study were developed in May of 2004, with each one organized exclusively by gender (i.e. one for men and one for women)[1]. As discussed in the previous chapter, these courts, like others, arose from a "quiet revolution" (Nolan, 2001) among judges in the criminal legal system who grew tired of seeing individuals diagnosed with substance use and serious mental illness enter their courtrooms. Located in the Cook County Court Building on 26th Street and California Avenue in Chicago, Illinois, they are the only two MHCs in the city and two of a total of eight mental health courts in Cook County. Like other courts, these courts fall within the category of "diversion programs" and "alternatives to incarceration," with the goal of diverting defendants to community treatment while under community supervision. Accordingly, these two courts also have similar core features of other mental health courts. These include:

1. A separate docket for MHC defendants, totaling 50 to 60 defendants in each courtroom at any given time.
2. Frequent status hearings for defendants, occurring once per week for each courtroom but on average once every three or four weeks per defendant.

[1] Gender as assigned by the state based on biological sex, i.e. cis-men and cis-women, exclusively, with the exception of several transmen and transwomen who are both placed in the women's court. From my research, I was unable to find out how the decisions to place both transmen and transwomen in the women's courtroom, but I hypothesize the following: 1) to ward against potential harm or violence against the individual, 2) whether a prior record before an individual's gender transition exists (i.e. the record indicates that their gender aligns with their biological sex), or 3) if the defendant's gender transition, including official name change, occurred prior to arrest. Conversations with the probation officer led me to this conclusion, though the proof is rather slim. Also, the only explanation for having the courts separated by gender that I was able to receive was from the probation officer, who had been a part of MHCs since their inception. According to her, the women "had too many issues" that required them to separate the population. She raised her eyebrows and shook her head while saying this. She suggested that the interactions between the women and the men were also challenging for the court to manage. Initially, I assumed it was a gender-responsive model but the PO's response suggested that it was rooted in the need to better manage the populations. Most MHCs are co-ed, so this is a rather unique division.

3. The use of sanctions and rewards as part of the problem-solving model, designed to supposedly stimulate motivation and facilitate behavioral change.
4. The same treatment service organization contracted by the Cook County Department of Corrections to ensure treatment and social service linkage and collaboratively monitor treatment engagement and progress of defendants in the community.

But unlike many MHCs in the country, defendants in these two courtrooms are required, at least according to official policy, to have a co-occurring substance use and serious mental disorder as defined by the DSM. Most mental health courts do not require a dual diagnosis, but most also do not exclude defendants who have been diagnosed with co-occurring substance use and serious mental illness. This latter part is also true for the state of Illinois (Lurigio, Staton, Raman, and Roque, 2015). One primary reason for this is that substance use among individuals diagnosed with serious mental illness in the criminal legal system is upwards of 70% (Sarteschi, et al., 2011) and, from a practical standpoint, exclusionary criteria based on substance use would dramatically lessen the amount of people eligible for MHCs.

Moreover, as outlined in official policy but not necessarily in practice, to participate defendants must have a felony arrest that is neither violent nor sexual in nature. Whereas early mental health courts excluded defendants with felonies from being involved in the program, a growing number of MHCs now admit persons with a felony arrest. An estimated 40% of MHCs work with defendants who have misdemeanor charges, 10% with felony charges only, and 50% with both charges (Lurigio et al., 2015). In the state of Illinois, most MHCs work with both felony and misdemeanor charges but do not require a felony as part of its eligibility criteria (Lurigio, et al., 2015).[2] Given the uniqueness of the two MHCs in this study, one can readily

[2] The Illinois Mental Health Treatment Court Act outlines eligibility criteria and court conditions and procedures for mental health courts in Illinois. Although the structure of courts may differ across jurisdictions, because of this law, many Illinois mental health courts are similar in function, if not in form.

imagine the potential consequences for non-completion: every defendant's arrest, outside of his/her/their prior record, sets the condition to be sentenced to prison in the event that the defendant is terminated or opts out. Indeed, the nature of the offense aligns with the kind of stakes at play for defendants. Another way to see it is that these defendants arrived in mental health court with a higher likelihood of ending up in prison had they not participated. When considering the criminal legal history of many defendants and their low socio-economic status (no doubt relatively extensive and respectively poor), their only two choices were often to enter a plea of guilty to get MHC or face a prison sentence.

Similar to the general population that enters Cook County Jail, the MHC population in this study was 56% Black, 21% Latinx, and 23% White from a total of 109 defendants observed over a two-year period. The gender breakdown of these 109 defendants is: 53 cisgender women, 53 cisgender men, 2 transwomen, and 1 transman. These stats differ from what is commonly reported on defendant characteristics of MHCs. Most studies report that predominantly White women receive MHC, and in some studies those who are evaluated are predominantly White (Callahan et al., 2013; Honegger, 2015). A statewide evaluation of MHCs in Illinois showed that participation rates for MHCS were 48% women, 58% White, 20% Blacks, and "an underrepresentation of Latinx" relative to the general population (Lurigio, et al., 2015). The researchers noted that other studies confirm a higher percentage of White participants in MHCs than racial and ethnic minorities, which is the exact reverse of the jailed and imprisoned population. However, unsurprisingly, this general trend reflects the population that is most frequently sentenced to community supervision versus imprisonment (i.e. Whites make up the largest share of people on community supervision in the country. See Phelps, 2017).

While the time period for participating in mental health courts vary by jurisdiction, defendants in these two courts are required to complete twenty-four months of supervision after

entering a plea of guilty. In this sense, they are "post-plea" models that can result in the arrest charge being vacated in the event that the defendant successfully finishes. Contrarily, in the event that a defendant does not complete the program, the charge and conviction remains on his/her/their record. While vacating the record post-completion is what supposed to happen in theory, in practice it was not until the beginning of 2018, approximately 15 months after I entered the field, that defendants who graduated had their charge and conviction vacated automatically. Several defendants, particularly those who did not have a prior arrest, had to secure legal counsel to get the record vacated. For defendants who did not complete the program prior to 2018 or who did not have the privilege of legal counsel, their criminal record remains both available to the public and to criminal background check entities. The first group of graduating defendants to have their charge vacated occurred in May of 2018 and the second in November of the same year. Nonetheless, research suggests that most MHCs are post-plea models that do "set-asides" (i.e. put the conviction on hold) or vacate charges after completing probation, and this is true for most MHCs in the state of Illinois as well (Lurigio et al., 2015).

These two courts are structured along a multidisciplinary team comprised of traditional courtroom workgroup members, such as a judge, a state attorney, a public defender, and a probation officer, and non-traditional members, such as a case manager. In principle, these members are collectively responsible for collaboratively deciding what is therapeutically most appropriate for defendants. While the probation officer, the state attorney, and the public defender worked in both courtrooms, the judges and case managers did not. Each courtroom therefore had a unique judge and case manager, with the exception of a three month period when the case manager for the women's court also worked in the men's court. While conducting fieldwork, the women's court judge relinquished his role after 11 months and a new judge took over. As a result of this critical change, when the first judge, Judge Taylor, gave up his seat

presiding over the MHC docket for approximately nine years, staff meetings were introduced. Judge Taylor did not conduct staff meetings and instead discussed each defendant's case among staff during official status hearings, but the succeeding judge, Judge Williamson, conducted private staff meetings prior to the status hearing for defendants. This shift was a critical change in the focus of my observations, as it resulted in a number of key issues. Table 1 below shows the staff members in each court and the changes that occurred in ascending order (i.e. which staff member was there first, along with their time, before the succeeding one arrived).

First, changing judges closed off opportunities to consistently observe and document how other staff members engaged in discussions about defendants in the women's MHC and what they thought was an appropriate response. Prior to the judge stepping down, the naturally occurring decision-making process would be available for public observation and I was able to rely on brief field notes and court transcripts to document this dialogical exchange. However, this change also resulted in more public interactions between MHC staff members and defendants after the staff meetings occurred once Judge Williamson took over the women's MHC. Although public interactions with probation officers and case managers transpired in general, the change to holding staff meetings increased this engagement. This was already standard practice in the men's court, and I had already focused my attention on these interactions in that space. I simply wrote more elaborate field notes during these moments and homed in on the dialogical exchanges between defendants and staff.

Similarly, as seen in Table 1, each courtroom experienced a change in case managers three times apiece, with one case manager, Sharon, overlapping in both courtrooms at one point. While Sharon had been in the women's court for the longest during my fieldwork, Kathy had been in the women's for at least a couple of years before leaving for a new job. She moved on 7 months after I started data collection and Sharon succeeded her. After 13 months, Sharon was

reassigned to another program and Alicia replaced her. In the men's court, Barb was the case manager when I began fieldwork. She stayed for 3 months into my research, and Sharon took her place for 3 months until Jeff was hired. He was the case manager in the men's court for the longest, and after 14 months, he was replaced by Elise.

The staff changes among case managers were the result of internal changes occurring with the treatment organization contracted by the state. From what I learned during fieldwork and through professional connections to other workers at the treatment organization contracted by the state, the organization was in transition—developing its own set of therapeutic programs and cutting others—and case managers were either being moved to other programs or leaving the organization. This transition certainly caused a stir among defendants, as they either grew accustomed to working with the case managers who stayed the longest or had developed a strained relationship with the new arrivals. There was noticeable differences in how defendants talked about these case managers, specifically, Kathy, Sharon, and Jeff. Among all of these case managers, Sharon was consistently remarked as being the most favorable and helpful—as someone "who cared" about defendants. Jeff and Kathy were generally viewed as unhelpful, and this sentiment was sometimes shared by the probation officer.

To evaluate whether there were noticeable differences in how case managers interacted with defendants or advanced discourses that deviated from what was observed during court hearings, I paid special attention to conversations in the public area of the courtroom when case managers beckoned defendants to discuss their treatment or some other matter. I followed defendants' responses and comments after these interactions, and spoke with them while waiting for their court hearing. While my intention was not to systematically investigate what defendants thought about any of these practitioners, it became apparent that in many instances, case managers enacted similar discourses observed by judges. The chapters that follow highlight some

of these discourses. The primary focus, however, is on the discourse and not on how defendants felt about case managers. I simply state this here to indicate that these things were observed during fieldwork but not what I systematically investigated or sought to understand during fieldwork.

TABLE 1. Mental Health Court Personnel and Focus of Observations

MHC Staff	Gender	Race	Men's MHC	Women's MHC	Time in Courtroom during Fieldwork	Private Staff Meetings	Focus of Observations
Judge Carpenter	Man	White	X		All of field work	Yes	More public interactions with defendants by PO and Case Manager
Judge Taylor	Man	White		X	11 months	No	Public interactions w/defendants, but focused more on court hearings
Judge Williamson	Man	White		X	13 months	Yes	More public interactions with defendants by PO and Case Manager
Director, Lenny	Man	White	X	X	All of field work		
Audrey, probation officer	Woman	Black	X	X	All of field work		
Case Manager, Kathy	Woman	White		X	7 Months		
Case Manager, Sharon	Woman	Black	X	X	3 and 13 months respectively		
Case Manager, Alicia	Woman	Black		X	4 Months		
Case Manager, Barb	Woman	Black	X		3 months		
Case Manager, Jeff	Man	Black	X		14 months		
Case Manager, Elise	Woman	Black	X		4 months		
State Attorney, Evelyn	Woman	White	X	X	20 Months		
State Attorney, Susan	Woman	White	X	X	4 Months		
Public Defender, Henry	Man	White	X	X	16 Months		
Public Defender, Aaron	Man	Asian	X	X	8 months		

Data Collection & Analysis

The data for this dissertation comes from approximately two years of ethnographic research on the two mental health courts discussed above. Data collection occurred from October of 2016 to November of 2018 and comprised the following: 1) court observations on roughly 1200 court hearings, 2) a corpus of court transcripts on these court hearings, which covering a range of hearing types, including plea bargains, violations of probation, program terminations, sentencings, general status hearings, 3) in situ ethnographic interviews with defendants and,

when possible, people who accompanied them, including family members and friends and significant others, and case managers from community treatment organizations when present, 4) in-situ ethnographic interviews with judges, probation officers, and case managers on the mental health court team, 5) offsite in-depth interviews with twenty defendants (11 women and 9 men), and 6) the mental health court manual and other court documents, such as the contract agreement and probation terms, as well as relevant state and national documents used in the state of Illinois to implement and "standardize" problem-solving courts. Lastly, while not directly utilized in the write-up of this dissertation but certainly conducive to the general argument, I compiled legal data from publicly available electronic court files on 109 defendants whose hearings I observed while in the field. These data include: initial charge and location of arrests, prior and new arrests, violations of probation, jail detainments and length of jail stays, terminations, prison sentences, program completions, and relevant sociodemographic information pertaining to each defendant.[3]

While observing these courts for two years, I positioned myself in the public seating area among defendants to both observe the court hearings and to examine defendants' reactions and interactions before, during, and after the hearings and to pose direct questions to them and those who accompanied them during court sessions. This provided a strategic vantage point, as it allowed me to keep track of the courtroom talk during the hearings, see how staff interacted with defendants at different points in time, and observe the actions and reactions of defendants, their moments of disagreement and contestation, and their general interpretation of court proceedings and their individual mandates.

[3] These data will be used later to perform logistic regression analysis to assess the impact of being placed in a recovery home on the likelihood of graduating from the program. Data on recovery home placements were collected through observations and court transcripts were combed for references made regarding a defendant being placed into a recovery home.

I used a Moleskine Smart Pen and Pad to write field notes on court observations and on these conversations and interactions with defendants, MHC staff, and others in the public court area (Emerson, Fretz, and Shaw, 2011). The Moleskine Smart Pen is essentially an electronic pen that records keystrokes written onto a special notebook. These keystrokes are then stored on the pen and synced to a mobile application, which is also linked to Evernote. This method of initially writing field notes allowed me to track and organize different kinds of courtroom talk by categorizing strips of talk through an internal tagging feature. That is, with each field note, I was able to categorize the note under a thematic tag that would be stored in Evernote in the form of a first round "code." I could then explore and analyze these tagged data in greater detail. The mobile app to the Moleskine Smart Pen also provided internal features for highlighting written field notes with various colors (e.g. similar to using several highlighters to color-code paper transcripts line by line), transcribing written notes, and editing or drawing onto the text, which could then be transferred to Evernote and linked to court transcripts or other documents uploaded to the software. In this sense, my analysis of court observations iteratively started in the field, as I would highlight text, tag it, transcribe an electronic version, and further expound on these data in Evernote. The field notes that I recorded with the Smart Pen would be elaborated on by typing additional descriptions or other notes into a text-based window. This provided a streamlined method for storing, organizing, and chunking data into categories and for iteratively analyzing data at the moment of data collection. This served as my initial data organization and coding strategy.

For example, after being in the field for several months, a key observation made was that many of the dialogical exchanges during the court hearings were about drug use, either explicitly stated or implied. When observing court hearings I would write out each defendant's hearing in chronological order with descriptions of the time, date, the actors and their actions, along with

whatever interactions I had prior to the hearing, and then include in the margin of the notebook a brief description that served as the initial category/tag, such as "drug talk" or "recovery talk" or "place/community talk." This was my general categorization strategy for tracking the kind of talk at play. I would then flesh out more details and descriptions on the Moleskine note pad, highlight the field note with a specific color, and create a tag (or several overlapping tags) that categorized the talk with the name "drug talk" or "recovery talk." Having been systematically prearranged and organized in Evernote via tags, these operated similar to the initial codes that one would generate in some other software, such as NVivo, or by hand on a spreadsheet. This process allowed me to examine, at least at the first stage of analysis, the way that different kinds of talk manifested during the hearings and gave me a sense of when and across what contexts it took place. In some cases, I would also type out extended versions of the field notes in the conventional manner (i.e. word document) and upload these to Evernote and link them to the hearings that I observed or the interactions I had with staff members or defendants.

In terms of the court transcripts used as a primary data source, after my court observations I headed directly to the court reporter's office to place an order for court transcripts of interest on the day of the observation. Initially, I began ordering transcripts for every single hearing, but this had proven expensive and, from a systematic standpoint, relatively unnecessary. First, court transcripts cost $4 per page, and regardless of the length of the transcript, two additional pages were mandatorily given with the order. This means that on average, I had to pay $12 for a single hearing for one person on one day, even if the judge only said "hi, glad to see you doing well. Keep up the good work." In total, I spent roughly $6500 on court transcripts, of which $4500 came from a grant funded by the Fahs-Beck Fund for Research and Experimentation. The logic for pulling transcripts, then, became rather important and makes up a large component of what I then focused on during field work.

Accordingly, pulling any court transcript did not necessarily yield data ripe with courtroom dialogue. Nor did it automatically provide insight into the court's norms and expectations. While the courtroom hearings are undoubtedly what Hymes (1974) calls "speech events" (i.e. without speaking, there would be no court hearing, so speaking is a fundamental feature of its operation), it was when defendants were perceived by the court as deviating from the court's expectations that the most dialogical exchanges were produced. In these moments, judges always articulated what they expected from defendants, mandated for them, and what they believed to be an appropriate sanction for their actions. Indeed, these moments were also important because they operated within the rhetoric of "non-compliance." Although I also paid special attention to the seemingly mundane dialogical exchanges between staff and defendants, paying special attention to moments of expressed or implied deviation were particularly helpful for ordering court transcripts and for locating different types of discourses uttered by the judge and other staff.[4]

Over time, I began homing in on these moments of deviation, noting their discursive form, such as the example above (e.g. "drug talk"), and paying closer attention to how this discourse operated in general. This meant that the discourse for which the transcripts were pulled may have taken place across different types of hearings (e.g. plea agreements, terminations, routine status hearing, violations of probation, etc.), across different cases (e.g. a new defendant, a defendant with new arrests, or a defendant with a theft, drug, or assault charge, etc.), and for different reasons (e.g. due to a positive drug test, going "AWOL" from a drug treatment facility,

[4] Perhaps a rudimentary but meaningful way to conceptualize this approach is to analogously compare it to the sociology of deviance, especially captured by the classic argument advanced by Kai Erickson in Wayward Puritans (1966). It is a basic principle that deviance not only says things about the individual who commits a deviant act or the act itself, but also about the community that sanctions the deviant. In short, deviance illuminates the norms and practices of the community or society, the tribe or the group, revealing its customs and beliefs and the way it conceives of a justifiable violation.

or as a warning before entering MHC). Having taken this approach, I sought to comparatively analyze these discourses across these various conditions. While I aimed to tease out the similarities across this variation, at the more general level, I wanted to track courtroom talk in an attempt to test my hunches and theoretically sample on key aspects of the court hearings (Charmaz, 2014). In doing so, when apparent differences emerged with a defendant or a situation, I endeavored to analyze atypical cases that did not accord with what was typically occurring with most defendants—or what qualitative scholars call "deviant" or "negative" case analysis (Molnar, 1967; Lincoln and Guba, 1985). I conducted these analyses to modify, confirm and/or expand my theoretical hunches by looking at key factors that made them atypical (e.g. defendant characteristics, circumstances, diagnosis, criminal charge, race, gender, sexual orientation, etc.) and examined whether the same courtroom discourses applied regardless of its atypical nature.

Analytically, this process was carried out by first scanning court transcripts as searchable PDFs, uploading them into Evernote and then NVivo, and reading them line by line. However, my first review of each transcript was primarily fueled by my field observations and field notes and the categories developed and stored in Evernote. After reading through the transcripts, I focused on teasing out the conditions for which the discourse was produced and how certain terms were used. To do so, I conducted textual searches to analyze how various terms were deployed in relation to other terms. I then coded strips of talk around these terms with the aim of developing a set of conceptual codes that captured MHC's framing practices (e.g. how court practitioners framed various aspects of defendants' experience in relation to the various terms deployed in the court, such as "treatment," "placement," "recovery," "structure," "housing,"etc.). After developing a series of codes related to these terms, I compared these strips of talk with other strips of talk, noting how they were directly or indirectly related and wrote analytical

memos on these differences and similarities. Lastly, having developed a nuanced sense of the different discourses at play, I then recoded sections with action-verbs to capture the practical action performed by the discourse (e.g. "threatened to punish defendant for not finishing treatment," "responsibilized defendant for missing an appointment," etc.). As a result, these descriptions formed the basis of my analysis, illuminating the general way in which practitioners enacted courtroom talk.

Taking these analytical strategies together, I was able to rule out certain explanations regarding judges' or other practitioners' communicative practices. For instance, taking the "drug talk" moments into account, and examining when, why, and how this kind of talk showed up in the courtroom, I was able to arrive at the conclusion that the discourse had nothing to do with a defendant's prior arrest or criminal history, type of drug used, psychiatric diagnosis, history of drug use, race, or other factors that initially seemed as plausible and empirically proven explanations. I posed questions to the data as a guide, such as: if the concern was for drug use, would it not relate to the type of drugs used? Would it relate to the substance use history of the defendant? And how does the specific psychiatric diagnosis or personal characteristics of the defendant affect this, if at all?

A logical assumption here would be that all of these characteristics would matter, particularly given the way in which discussions about serious mental illness and the impact of drugs on psychiatric symptoms appear to be salient in criminal legal and therapeutic literature (see Bronson & Berzofsky, 2017). Ruling these out through this process, it became clear to me that "drug talk" as a courtroom discourse did not revolve around these concerns and that addiction was imagined in particular ways. This conclusion, coupled with the paucity of talk around illness, symptoms, or defendant's psychiatric labels, as a point of comparison proved promising.

However, my investigations for understanding why or how these particular forms of talk took place did not stop there. While a major focus of my observations was on courtroom talk and interaction, I also sought to understand how defendants interpreted MHC discourse and deployed rhetorical responses in their interactions with staff. I followed up with defendants on phenomena observed during the court hearings, posed questions regarding aspects of their interactions in the courtroom, and sometimes facilitated a sort of group-based discussion with defendants in the seating area while the MHC staff privately met. In so doing, I iteratively put these data in dialogue with other data and engaged in an intertextual analysis (using field notes from these observations) to examine how particular ideas and discourses showed up in different contexts (i.e. across both courtrooms) and in the mouths of defendants. What weighed heavily in these moments is when something was not observed in one courtroom but was talked about as a common discursive practice by defendants in the other courtroom. In these cases, I sought to see how defendants in both courtrooms spoke about and responded to these claims, especially when I did not directly observe the said phenomenon in the hearings of both courts.

Indeed, taking this methodological and analytical approach does not and could not offer a "complete picture" of mental health courts. Like all ethnography, it is only a partial view of what I have systematically examined in mental health court practices. Similarly, by generally but not exclusively focusing on the moments of deviation—tensions, conflicts, dilemmas, the stakes at play, and "noncompliance" as determined by court actors—I did not consistently aim to understand the "rationale" of MHC practitioners when judgments were made about these deviations. However, it was clear—as in any discourse project—that what MHC practitioners explained their intention to be compared to what their utterances aimed to achieve in the court hearings were entirely different matters. Simply put, staff may have said that they intended a great deal of things, but what their words performed while interacting with defendants is

altogether a different matter. Given that courtroom discourses include a great deal of *speech acts* (Austin,1962)—that is, words that do things, that shape meaning, that limit what can be said, by whom, and thus what can be done—my goal was to understand how these discourses operated and the way they performed certain practical functions.

This does not mean, however, that I did not pay close attention to the effects of courtroom talk, or in other words, how an order (e.g. a performative, which is a speech act, such as "you must go to recovery XYZ house by tomorrow") may have affected a defendant's social situation and their interpretive experience. I certainly strove to see how these moments shaped defendants' experiences and interpretations, and in particular how staff framed defendants' therapeutic needs and the ways in which defendants responded to this framing. In some cases, a direct outcome was unobserved and unknown, and in other cases it was observed and known. I make note of this in the chapters that follow. But while these particular points matter, what is most important about the approach I take is neither of these: rather, beyond the need to demonstrate observable outcomes, what is most significant is what the courtroom discourse *does in the moment it is enacted*, and how this then constitutes *the terms under which other actions are possible*—including but not limited to verbal or nonverbal responses from defendants to the judge (e.g. rebuttals, agreements, frustrations, contestations, silences, etc.) and what they are required to do afterwards. Because defendants are compelled to participate in various forms of treatment, communicate directly with staff and the judge, and heed the orders and mandates of the court or risk being detained, courtroom talk is quite consequential.

CHAPTER 3

REHABILITATIVE IMAGINARIES: ADDICTION & RECOVERY DISCOURSE IN MENTAL HEALTH COURT

It was a scorching summer day in Chicago when Ryan and I met up. We sat at a blood-orange table in a café in the Austin area, the West side community where he resided. Ryan is a gregarious black man in his late fifties with a bulky frame, a quick wit, and an infectious laugh—a loud and guttural laugh full of gusto. He sat across from me, leaning back in his seat. Against the sounds of customers entering and leaving the café, he told me of his history with the criminal legal system and with the mental health court—and his future, how he envisioned his time and progress in the court and in general. Ryan periodically stopped talking to me in order to banter with people he knew from his neighborhood as they entered. He was smiling and laughing and shooting barbs and greetings; "Everything good?" he'd ask, and they would share how their lives were going.

I had come to learn a great deal about Ryan's criminal legal history over the course of my fieldwork. His rap sheet was extensive by any measure: a criminal record that included several prison stints, several probation sentences, and an enormous amount of arrests and pre-trial detentions. All, primarily, for drugs or drug-related arrests. Ryan was diagnosed with schizophrenia when he was younger and had a 30-year heroin addiction, the main reasons for being on mental health court probation and for his extensive criminal legal record. Although this was his first time in mental health court (MHC henceforth)—where he was mandated to participate in a treatment regime that included substance use counseling, AA meetings, psychotropic medication maintenance, and whatever else the court deemed necessary and sufficient—it certainly was not his first cycle through any of these therapeutic regimens. Ryan

had been on treatment-based probation in the past, but in his words, he was "not ready" before and had returned to using drugs.

I primarily wanted to learn about the interactions among defendants[1] and the MHC staff that I had observed during court hearings. There was one question gnawing at me: why did the MHC judges in Chicago interrogate defendants about their communities? Why this focus on where they used drugs, lived, and got arrested, and in some cases, what occurred and with whom in their homes? These seemed, at first blush, jarringly intrusive. Ryan had witnessed this phenomenon in his courtroom as well, an exclusively men's court, and while he had not been directly asked about his home life he was certainly asked about his neighborhood "[The MHC staff] snatch you!" He laughed loudly in his deep guttural way, leaned forward, smiled, and continued, "they'll snatch you up and put your ass in one of them halfway houses! They don't want you…they don't want your ass over there where, staying anywhere where it's unhealthy for you, you know what I'm saying?" I slowly nodded, reflecting on the kinds of snatching up I had witnessed in the courtroom—the unmistakable kind that included jail detainment *and* placement into various treatment facilities, especially recovery homes, frequently against the will or preference of defendants.

At the time, Ryan suggested that mental health court wanted to "help you," and that placement into halfway houses was an important part of the recovery process. When asked if it was an assumption on the court's part to think that where one lived was unhealthy, he firmly disagreed. He said, "*it's real*" and not an assumption. He looked me squarely in the eyes, flat-

[1] While many studies and mental health court practitioners refer to defendants as "clients" or "participants," I use the term defendant to both invoke the perpetual status of individuals on probation in MHC and to indicate how such status operates in relation to their legal rights and representation during court proceedings. The terms client and participant imply a voluntaristic engagement with the court, when in fact the legal process is driven by coercion, regardless of a court's attempt to produce "procedural justice"--that is, its attempt to make defendants feel that they are treated fairly.

faced and serious, and emphasized, “Yeah. People, places, and things. No doubt. I see the same guys all the time. They don’t do nothing but stand on the corner and do the same shit they been doing every day. All their lives sitting around getting high. Stealing and robbing and all kind of shit.”

Although I had not framed my question in this manner, Ryan articulated this idea of “people, places, and things” in relation to drug relapse and crime, being “snatched up,” and the court’s practice as “real,” using his own observations of *people in his neighborhood doing the same things all of the time*. Asking him why he was able to remain in his home and community and not get “snatched up,” he said he didn’t do drugs or commit crime and stayed away from friends who were still using. At that point, Ryan had been sober for roughly eight months and had been on methadone, something that he wanted to “slowly get off” and that both he and the mental health court generally frowned upon. Because I had some reservations about his response and a hunch about how the snatching up operated in mental health court—particularly regarding those questions about home life and neighborhood—I attempted to challenge his reasoning (i.e. the idea that the court *knew* he was sober, crime free, and not around drugs and thus had allowed him to go unremoved from his community) by saying, with some skepticism in my voice, “but see, you know these things, right? But if the court—sometimes the court doesn’t know exactly what’s going on with the individual. It’s all in the beginning—”

“If you go getting high once you been in that program for a while—” he said, cutting me off with a coarseness in his voice, “—they pretty much gonna put it together that it’s something in that community or where you hanging out at. It’s something that’s causing you to get high. And most likely it’s gonna be people, places, and things. Most likely it always starts with the community you come out of and the peoples you hang out with.” Although Ryan reiterated this point of people, places, and things as central to addiction recovery and pushed back against my

skeptical query concerning the court's knowledge about the social worlds and everyday realities of defendants, in the next breath he said, "you know, the courts can't follow you around, they not gonna do that. So they pretty much leave all the stuff up to you, to stay sober, do what you need to do."

My exchange with Ryan was a revelatory moment. I knew it was practically impossible for staff members to know exactly what defendants were up to and therefore lacked substantial knowledge about who they were beyond the defendant position they inhabited. But what is exceptionally noteworthy about my conversation with him is that it spurred the realization that the script of people, places, and things worked as a significant framing device for predominantly black defendants in addiction recovery who face real social and ecological threats to their sobriety, and more importantly, that this script intersects with the court's rationale for "snatching" people up. I had initially written this off as a trite saying used among Americans in addiction treatment, but Ryan's explanation suggested that it's both a folk understanding of addiction recovery and a notion that MHC naturalizes and enacts, if contingently and differentially with varying effects.

A core argument of this project is that mental health courts use the construct of people, places, and things to interpret, understand, treat, control, monitor, and punish defendants. I argue that such a script provides an analytical window into the legal and therapeutic processes of mental health courts. By attending to the court's utilization and deployment of the construct, this chapter reveals the relevant epistemological and ideological underpinnings of MHC and simultaneously lay the conceptual groundwork upon which each chapter of the dissertation is erected. In this chapter I demonstrate how the mental health court's framework constitutes and mobilizes a diverse array of discourses that ideologically and epistemically mark defendants as a "criminal type" (Fox, 1999a)—that is, as "criminal addicts" at perpetual risk of relapse and

consequently crime (Moore, 2007; Gowan and Whetstone, 2012), regardless of their dual status as individuals diagnosed with co-occurring substance use and serious mental illness.[2] By focusing on the case of Anita Simmons, a defendant in the women's court, I argue that MHC operates from a set of rehabilitative imaginaries. These rehabilitative imaginaries are assembled from real and ascribed cultural and individual narratives of pathology and criminality. Before sketching this theoretical terrain, I first explicate how the native script of people, places, and things resonates across time and space and forms a discourse of addiction recovery for MHC defendants like Ryan.

"People, Places, and Things" as Addiction Recovery Discourse

Surely, many men and women in mental health court share Ryan's view that people, places, and things can lead to relapse. In their version, places serve as an analog for "community," "home," "setting," or "environment" and the extent to which defendants believe relapse triggers are proximate to their *immediate* surroundings. For instance, Anita Simmons, a forty-eight-year-old black woman from the South Side of Chicago who was diagnosed with bipolar disorder and twenty-two years of cocaine use, deployed the same script to explain a series of relapses that occurred within a two-month period after 13 months of sobriety. Sitting in a small but busy and boisterous fast food restaurant in the very same community that she referenced as the place in which her relapses occurred—Roseland, the same place where she initially resided before MHC, where she got arrested for selling drugs, and where she presently rented an apartment—Anita munched on a fresh batch of French fries and a chicken sandwich as I sat across the table attentively listening to her story of relapse. Between bites of fries and her

[2] Schizophrenia-spectrum disorders, severe bipolar disorder, and major depression as specifically defined in DSM.

chicken sandwich she described the social and ecological threats to her recovery, gesturing with her hand towards the glass pane—implying that her drug use took place right in the neighborhood outside the window. “I had a cousin down the street that does drugs and I was back in the same neighborhood where I got caught up at,” she said. “Is that the reason why you relapsed?” I asked. Nodding her head while chewing on her fries, she calmly replied, “that was the reason, yeah. Because as long as I wasn’t in the neighborhood around the people, I didn’t do nothing. So when they say ‘people, places, and things’ it’s really true. We have to change our whole setting.”

Anita was, indeed, “snatched up” twice and stayed in Cook County jail for two weeks apiece. After being “kicked out” of the first recovery home at which she was mandated to live per MHC (for interpersonal conflict), and then again when the second recovery home she was ordered to stay at had closed down, she had moved back to her old neighborhood to live with a family member and, according to her, had “stopped everything,” including taking her medications, going to AA meetings, and seeing her sponsor. She also became proximate to the cousin who used drugs.

Two months prior to my interview with Anita, she had defiantly refused to heed the judge’s order that she not rent an apartment in this very same neighborhood. When she says, “we have to change our whole setting,” she seems to mean community. But clearly, it does not hold the same significance now that she lived in her own apartment and was *not in close proximity to her cousin who used drugs down the street.* This interpretive construction is important, for Anita did not feel the same level of social and ecological threat when staying in the community in her own apartment as when she was homeless, living with a family member, proximate to her cousin, and consequently relapsing. Her deployment of the people, places, and things script aligns with

Ryan's, despite being in different courtrooms, in different parts of the city, and having completely different criminal legal, substance use, and psychiatric histories. This was Anita's first arrest and thus her first probation sentence, whereas Ryan had repeatedly been arrested, convicted, and given a probation or prison sentence. Both, however, had participated in drug treatment before. The fact that these defendants and many others from the exclusive men's and exclusive women's courtrooms expressed the same script even when displaying significant differences in sociodemographic, legal, and psychiatric characteristics indicates a broader discourse at play.

Indeed, social scientists locate the people, places, and things script in the institutionalized practices of Alcoholics Anonymous. Neuroscientists working within the biomedical model similarly, though not exactly, interpret the "cues" of addiction as part of the environment (Raikhel, 2015; Campbell, 2013). Where the AA model considers "triggers" within the people, places, and things script as situational "risks" to recovery, according to the brain disease model of addiction advanced by neuroscientists, "cues" go beyond normative conceptions of risk and instead serve as stimuli associated with neurochemical processes of addiction to which individuals unconsciously and unknowingly respond (Childress et al., 2008; Campbell, 2013). That is to say, the biomedical model positions the addict as lacking willful control by neurochemically responding to "cravings" primed by "cues" associated with drug use. While these two representations appear to relate, they construe agency in different ways. The former indicates an active agent engaged in his or her addiction recovery process by making intentional decisions about avoiding proximate social and ecological triggers. The latter constructs addicts as wholly lacking control and thus incapable of exercising "free will" regarding drugs and their environmental "cues." Yet in both models, there is a unified construction of individuals who habitually use substances and their relation to the people, places, and things associated with their

use: both espouse the centrality of context in inducing relapse, which makes the people, places, and things discourse applicable across time and space and capable of being activated through various institutional settings regardless of the actual epistemology that undergirds it.

For instance, in her study on formerly incarcerated women tasked with navigating the reentry and recovery process, Leverentz (2010) noted that informants expressed the same script to make sense of their addiction, recovery, and the structural realities of living in poor, racially segregated communities in Chicago. Although the script was inculcated in self-help recovery programs, the women who tended to use it as a strict avoidance strategy were new to addiction treatment and recovery rhetoric. The bulk of women, however, who had longer histories of habitual drug use were less likely to adopt a strict avoidant strategy that abstracted their sense of self-control from dealing with pervasive relapse threats in their poor neighborhoods. Rather, Leverentz argues that these poor black women faced racialized and gendered constraints of living in these poor neighborhoods where crime and drugs were unavoidable. Having to simultaneously contend with the marginalizing realities of having a criminal record, and the structural constraints that certainly precluded residential mobility, they used the people, places, and things script to both acknowledge the social and ecological threats of relapse and to emphasize the strengths of their communities to advance neighborhood change.

In regards to the sense of agency demonstrated by Ryan and Anita, both framed their experiences in a manner that suggested the crime and drugs in their neighborhoods were not deterrents to recovery. In their version, addiction recovery is not entirely about lacking control but about locating the threats in the environment and distancing themselves, where possible, from those proximate and immediate threats. This interpretive frame maps onto but also deviates from the way in which mental health court conceives of addiction recovery and agentic behavior. The court, rather, paradoxically incorporates both conceptions of addiction and agency that posit,

on one hand, a lack of control and, on the other, willful choice. Although this rationale extends to illness as well, the court primarily enacts it in relation to addiction, and this seeming contradiction creates a set of impracticalities that can be difficult for defendants to manage and negotiate. In the following section, I will explicate the epistemological foundations of this contradiction and identify the origins of its paradox.

Knowledge Regimes and Paradoxes of Agency and Accountability

[Field Note: Graduation Ceremony]

Graduation had ended and defendants with their families stood around chewing on chocolate cupcakes and drinking soda, smiling and laughing and showing bright faces stretched upwards with relief. Relief that mental health court probation was over. Curious to hear the judges' thoughts on defendants in mental health court, I asked in feigned naïveté, "So, what about the entire process for people in the program, how does that work?" Judge Williamson replied in a quiet but quick manner while leaning towards me, "It's like talking to my kids," he said. He had a slight grin on his face, eyes wide and eyebrows arched upward. "I have to keep repeating myself…don't go here, don't do this, don't hang out with those people, make better choices. You know, the same thing I say to my kids." As he spoke, he emphasized each point slowly, making clear that he tried to hammer home the point to his defendants the message about ***not going to certain places, doing certain things, and being around certain people.*** *He laughed quietly and looked around, seemingly scanning the area to see if any defendants were in earshot. I quickly turned around as well, feeling uneasy about his statement and my relationship to the defendants, and then cracked a half-smile in return when I realized no one was nearby. I shifted my attention to Judge Carpenter, and he stood next to us slowly nodding his head in agreement. Holding a can of Sprite in his right hand, he emphasized through a wide smile and big teeth, "It* ***really*** *is like talking to my children."*

The graduation scene above is noteworthy for many reasons. First, as an empirical observation, it discursively serves as the critical glue that melds together the addiction recovery script evinced by Ryan, Anita, and other defendants. Second, as simple as it appears, it elucidates the practices of mental health court—that is, at the least, the rationale embedded in courtroom proceedings and at most, the ideological work at play in the relations of power between MHC personnel and defendants. Judge Williamson's paternalistic analogization, "it's like talking to my kids," along with Judge Carpenter's assent, invokes the power dynamic present in their

interactions with defendants and an explicit claim of knowledge over them and their attendant adolescent irresponsible decisions. It is worth noting, however, that although in this exchange the paternalistic analogy indexes *experiential knowledge* (i.e. parents know from experience what they're children do not), the courtroom discourse is also bound up in claims of *expert knowledge*, enacted through the discursive labor performed by court staff (Carr, 2010b).

More importantly, though in a different order, Judge Williamson's articulation, "I have to keep repeating myself…don't go here, don't do this, don't hang out with those people, make better choices," explicitly illuminates the commonsensical native-cum-MHC script and simultaneously portrays the aims of the court's intervention: increasing defendants' ability to "make better choices," a process that is as much about cultivating a reflexive, self-monitoring agency and recalibrating behavior as it is reconstituting the defendant to someone developmentally and rationally more responsible (Kaye, 2013). Wherein the ability to make better choices is located within defendants' control, this indicates the court's imperative for defendants to develop and exercise accountable agentive behaviors. This, however, merely corroborates Ryan's point: "they pretty much leave all the stuff up to you, to stay sober, do what you need to do," which equally implies the enactment of legal sanctions should defendants not do what they "need to do." While such sanctions are functionally framed within problem-solving courts as mechanisms for "motivating" defendants (Miller and Johnson, 2009; Nolan, 2001; Winick, 2002; Castellano, 2011a), it is not unusual that a rhetoric of accountability is present and prevalent in the criminal legal system. Criminal legal practice has generally operated on the basis of this tenet, especially regarding practices of reformation and redemption for non-psychiatric "offenders," and under neoliberal penal transformation, it takes on a heightened tone (Rose, 2000). As Maruna (2004) incisively notes, at the center of the past and present rehabilitative

ideal, the criminal legal system has a long-standing focus on "responsibilization" techniques, especially in relation to narratives of wrongdoing, self-blame, and self-correction.

But as unsurprising as that may be, what is undoubtedly remarkable about such practice is the fact that it is replicated in a court that presupposes by its very existence a certain degree of irrationality (i.e. impaired judgement) on the part of defendants—that is, an irrationality that stems from their pathological incapacity and untreated symptomology. To be clear, it is a legally defined irrationality that does not excuse moral culpability (Morse, 2011; 2018; Johnston, 2012) but is merely acknowledged as a mitigating factor to criminality. To put it differently, legally speaking, where illness and addiction are the putative explanatory conditions for being in mental health court—a site where both, at least in theory, are constructed as uncontrollable conditions—defendants are first penalized for the crimes that supposedly proceed from these conditions and then responsibilized to therapeutically attend to them—to become, interestingly, more rational decision-makers who act in far more judicious and accountable ways. In the end, the aim is to alleviate the nexus between crime and the very conditions for which control is thought to be lost. When defendants do not responsibly tend to their uncontrollable therapeutic needs, they are sanctioned with consequences until they learn to responsibly do so. This paradoxical construction of defendants as pathologically uncontrollable yet morally culpable and therapeutically and legally accountable is exceptionally noteworthy.[3]

Indeed, this is not unique to the courtroom setting where judges and other staff members express and advance these modes of practice; in fact, they form and operate across a broader field of knowledge production related to problem solving courts—and more generally where criminal law and illness and addiction intersect—as well as their legal and procedural

[3] Similarly, this paradoxical idea is central to drug courts. See Judging Addicts by Tiger (2013); Reinventing Justice by Nolan (2001), and "Tough Love" by Burns and Peyrot (2003).

components. Take, for instance, the self-proclaimed nonpartisan organization the Council for State Governments Justice Center (CSG henceforth). As a nonprofit organization that "serves policymakers at the local, state, and federal levels," CSG—along with other entities such as the National Center for State Courts—works closely with problem-solving court advocates to advance trainings, guides, reports, evaluations, program implementation, and policy recommendations for practitioners and policymakers interested in starting and/or doing work on problem-solving courts. In 2015, at the behest of the Supreme Court of Illinois, the Administrative Office of Illinois Courts and the Special Supreme Court Advisory Committee for Justice and Mental Health Planning created uniform standards for all problem-solving courts in the state, which in part was developed by the consultation manuals and policy recommendations of the CSG. Hence, the organization, like several others, can be considered to be a part of what Campbell and Pedersen (2015) call a "knowledge regime" regarding criminal legal policy reform and practice, for their active engagement in policymaking within the field is highly influential.

In 2008, on behalf of the Bureau of Justice Assistance, CSG created and disseminated a widely circulated and consulted report entitled, "Mental Health Courts: A Primer for Policymakers and Practitioners." In said report, when noting the differences between "addictive and nonaddictive mental disorders" and the challenges in understanding their interrelation among people in the criminal legal system, as well as their need to be dually treated in mental health courts, the report states the following:[4]

> "The prevailing belief in the scientific community is that mental disorders, both addictive and nonaddictive, are neurobiological diseases of the brain, outside the willful control of individuals. People with mental illnesses cannot simply decide to change the functioning of their brain. As with physical illnesses, it is believed that mental disorders are caused by the interplay of biological, psychological, and social factors. This acknowledged lack of control contributes to the belief that mental health courts, which rely on treatment and flexible terms of participation rather than the traditional adversarial system, represent a

[4] Accessed on 6/1/16 from https://csgjusticecenter.org/mental-health-court-project/

> more just way for courts to adjudicate cases involving people with mental illnesses. Nevertheless, entering a mental health court does not negate individuals' responsibility for their actions. Mental health courts promote accountability by helping participants understand their public duties and by connecting them to their communities." (p.5)

Note that the highly medicalized language in the first few sentences positions defendants with "both addictive and nonaddictive disorders" as having "neurobiological diseases of the brain" who, as a result, naturally lack "willful control." Although this language reflects the current dominance of biomedical explanations of illness and addiction, as indicated earlier, and for which wide criticism have been made (Hart, 2017; Kaye, 2012; Raikhel, 2015; Campbell, 2013) that extend beyond the purpose of this writing, it does not deviate from what is generally expected in a supervisory program that selects on these categories for intervention. At the very least, MHCs were developed within this biomedical understanding of psychopathology. What is most important, however, for the discussion at hand is the discursive construction of defendants as lacking control due to their putative brain diseases and the accountability they must face for behaviors for which control is thought to be absent. In this sense, the above quote exemplifies the paradoxical construction of defendants as pathologically uncontrollable yet morally culpable and therapeutically and legally accountable.

In light of this construction, when Judge Williamson articulated his version of the "people, places, and things" script in relation to defendants making "better choices," he did so not in reference to both illness and addiction but in reference to the latter. As stated earlier, in the court's model, addiction is both an uncontrollable pathology *and a matter of willful choice,* even when biomedicalization posits the absence of willful control. This is largely due to deeply rooted principles of American liberalism that undergird criminal law (Ford, 1994) and broader conceptions of addiction as articulated through Alcoholics Anonymous, where the latter espouses a Twelve Step model that conceives of the addict as having power over her addiction by

undertaking "moral inventory" and a process of "surrendering to a higher power" (Garcia, 2008). In this regard, whereas liberalism conceives of individuals as rational actors with free will making autonomous decisions (O'Malley and Valverde, 2004), criminal law and procedures incorporate liberal principles through notions of volition and moral culpability (Ford, 1994). Thus, penal institutions, particularly in an era of punitive social control, conceptualize addiction as a "crime problem" (e.g. the War on Drugs) and imagines the addict as both "the cause of and cure for crime" (Moore, 2007).

Moreover, addiction, generally, has a discursive salience that draws on tropes of danger and blame (Link et al., 1999; Phelan et al., 2000; Garcia, 2008) for which legal regulation and personal accountability are thought to be necessary (Formiatii, Moore, and Fraser, 2017; Gowan and Whetstone, 2012). Though notions of dangerousness also pervade perceptions of people with serious mental illness (Link et al., 1999; Phelan et al. 2000), in current discussions of the conventional psychiatric patient in relation to mass incarceration, the discourse primarily centers on the failure of a system (i.e. deinstitutionalization), whereas the criminalized addict is marked as a failed individual prone to crime. That is, at the heart of contemporary discourses on the drug-crime nexus, there are few other figures in more need of treatment and legal control than the addict who poses harm to public safety, affects the lives of people around her from drug addiction (i.e. family and especially children and the unborn), and is in a state of "denial" about said drug problem (Carr, 2010a; Garriott, 2011; Reinarman, 2011; Roberts, 1991; Moore, 2007; Kaye, 2013; Whetstone and Gowan, 2012; 2017; Gowan and Whetstone, 2012; Garcia, 2008). Although addiction and illness are common co-occurrences among people with criminal legal involvement (Hartwell, 2004a; Hartwell, 2004b; National Center on Addiction and Substance Abuse at Columbia University, 2010), having a dual diagnosis does not militate against this construction.

As Whetstone and Gowan (2017) note, "addiction represents a collapse of control, a devastating disease of the will that ideally requires confinement and intensive rehabilitation to reinstate full humanity"—it requires, in other words, being "snatched up." This reinstatement process is seen as the very mechanism for producing sobriety and bringing the otherwise uncontrollable addict under control. When imbricated with serious mental illness, drug use is discursively positioned as a form of "self-medication" for coping with and alleviating psychiatric symptoms,[5] wherein sobriety under "confinement and intensive rehabilitation" must be achieved so that the "real" illness can be treated.

Arising from all of this fuzziness among the discursive categories of illness, addiction, and criminality, AA recovery scripts, Twelve Step rationalities, paradoxical constructions of agency, and responsibilization techniques are a set of contradictions and impracticalities at the heart of the mental health court's operation. The mental health court, however, has a way of folding in and flexibly managing, sometimes eliding, these contradictions and impracticalities by selectively incorporating narratives and experiences of pathology and criminality by defendants and, in turn, eschewing additional narratives that either align with defendants' experiential knowledge (i.e. as valid representatives of their own experiences) or that implicate structural inequalities and broader forces that lay outside of their control and accountability. It is precisely in this manner where the native script of people, places, and things deviates from the MHC's

[5] This idea has been framed as the "self-medication hypothesis" (SMH) advanced by psychiatrist Edward J. Khantzian in an article published in 1985, drawing a connection between cocaine and heroin use with "painful affect states and related psychiatric disorders." Since then, the SMH has been an empirically contested hypothesis, and researchers continue to both prove and disprove its significance, forcing Khantzian to take account of the limitations, critiques, and counter evidence by reconsidering—though not abandoning—the hypothesis in 1997. The short version to this body of work is that in some cases there is an association between specific drugs and specific psychiatric symptoms, but not in all cases, and not in a significantly clear causal manner. Consequently, Dr. Anna Lembke (2012) has argued that SMH should be abandoned for its inconclusive evidence and it's pervasively, taken-for-granted cultural belief which has affected the treatment of people who habitually use drugs.

version. Central to this process is a form of epistemic and legal control exercised over defendants and their actions, experiential accounts, and personal responses.

In the section that follows, I empirically demonstrate the structure and form of these discursive practices and explicate the way in which they take shape in the micro-politics of courtroom talk and interactions. I turn to the court scene by revisiting several of Anita Simmons's proceedings, the aforementioned black woman who deployed the "people, places, and things" script to describe a series of relapses that took place in the very neighborhood that she rented an apartment against the court's approval. My primary aim is to demonstrate how the mechanics of courtroom talk and interaction serve as a site for locating a set of imaginaries that form a general process in mental health court—or, as Bourdieu and Wacquant (1992) argue, how the particularities of Anita's case inform a set of generalities beyond the case under examination.

Scenes and Sequences of Discourse in Mental Health Court

I arrived in the courtroom somewhat late, rushing through the oak door with a red folder and notebook in hand and scanning the three rows of wooden benches that aligned each side of the small room—six total, with each one undoubtedly decrepit and splattered with old hard gum underneath. Faces of women sitting outside the glass barrier that encased the interior of the courtroom turned towards me as I frantically scurried toward a bench. Steven Bogira, author of Courtroom 302, described these courtrooms as "fishbowls" because of how the thick glass extending from each side of the cream wall closed the interior of the courtroom off from the public seating area, separating the officially authorized personnel of the court from us onlookers. Several men and women beyond the glass hovered around the judge's walnut bench, apparently all members of the mental health court team. Judge Taylor, the mental health court judge for the women's court, sat in his black robe and rectangular glasses, leaning forward as he peered

downward at his team, inaudibly talking. Absent Kathy—the short white woman with a medium build and straight black hair who was the case manager for the treatment organization contracted by the state of Illinois—these team members included the state's attorney, Evelyn, a white petite woman with a narrow face and auburn hair; the public defender, Henry, a stumpy white man dressed in a loose-fitting black suit; and the probation officer who also doubled as a licensed clinical social worker, Audrey, a slender black woman with long straight hair that dropped to her back.

Outside, defendants and those who accompanied them looked through the glass at the internal community of the fishbowl, chatting and observing the silent activity of the staff members while waiting on Judge Taylor to cut on a microphone that is supposed to broadcast the court proceedings. Typically, when the judge or the courtroom workgroup wished to be "off the record," Judge Taylor—and other judges—would cut the microphone off, leaving everyone clueless about the conversations that were occurring inside the fishbowl. But sometimes judges would forget to turn off the microphone and the public onlookers would hear all the bantering and joke telling, the personal stories and informal conversations, the gossip and bad reports about defendants that the court team so casually and sometimes laughingly discussed as they intermittently checked cell phones that everyone else, besides jurors, was prohibited from carrying inside the courthouse.

But just like the unique culture that occurred within the fishbowl where the suit-wearing and cell-phone-carrying staff stood, in a Goffmanian "frontstage and backstage" dramaturgical orientation (Goffman, 1959; Miller and Johnson, 2009), defendants—closed off from the earshot of those in designated authority—maintained a robust, albeit scattered and supposedly unwelcomed dialogue among themselves. A dialogue that was just as interesting and revealing

about mental health court as the one broadcasted through the small speakers lodged in the acoustical ceiling controlled by a mic turned on or off by Judge Taylor. It was a theatrical construction where that glass partition created its own version of a backstage/frontstage orientation and the microphone inside the fishbowl reassembled that orientation with the flip of a switch.

Unlike many other problem-solving courts where staff meetings occur in the quietude of the judge's chamber (Miller and Johnson, 2009)—far in the back beyond the eyes and ears of defendants where staff meet to hammer out decisions about each defendant prior to their respective hearing—in this particular courtroom there were no staff meetings to discuss defendants' cases before the court call. No predetermine decisions negotiated on or hammered out about each defendant's status or treatment or drug test or recovery or punishment. In general, it was a mental health court that decided on cases as each defendant was called up, giving way to what can be considered a naturally occurring decision-making process. Except, of course, for when the staff would quickly huddle up close to the bench, as in this occasion, to briefly remark on a particular defendant to arrive at decisions right before that specific defendant's case was called. In these moments the judge would undoubtedly turn off that microphone to exclude everyone from hearing the discussion. These instances, however, were not hard to decode. They were conspicuous telltale signs that something unfavorable was afoot.

So as I took a seat to the absent sounds of staff voices, shuffled papers, jingling keys, giggles and laughter, fingers beating against a keyboard, or some other noise echoing through the speaker, I figured something unfavorable was afoot. Shortly thereafter, the microphone buzzed on and the name "Anita Simmons" reverberated through the speaker. Dressed in blue jeans, a pink coat, and tennis shoes, Anita slowly walked into the interior of the fishbowl and stopped in

front of the bench. She stood sandwiched between Henry, the public defender, on her left and Audrey, the probation officer, on her right, as the judge began talking:

1. Judge Taylor: As I understand it, you were told that you needed a more structured environment, that you weren't doing well, you weren't staying in touch, you used on February 29th—
2. Anita: I was staying in touch, your Honor.
3. Judge Taylor: You were positive for cocaine—
4. Audrey [Probation Officer]: She was positive for cocaine, your Honor, on February 29th—
5. Judge Taylor: And you were told by Audrey that you needed a more structured environment. You were told to see Kathy [the case manager]. You never saw Kathy.
6. Anita: I was just there when I was last here [referring to her last court date].
7. Audrey: I contacted you and told you you need to contact Kathy from treatment because you have been actively using and we need to find a more structured environment to help you out.
8. Anita: I understand that. Kathy didn't answer her phone. She usually calls me, but she hasn't called me.
9. Judge Taylor: Well, Kathy is not here. But your response to all the things that people have been telling you is to go out and find an apartment, *bad idea*. Have you put any money down on this apartment?
10. Anita: Yes. I can't get it back, though.
11. Judge Taylor: *Get it back. Get it back real quick because you aren't ready for an apartment*. Are you going to see Kathy today [asking Audrey]?
12. Audrey: I sent her an email, but she just sent me an email about her whereabouts.
13. Judge Taylor: Let's set this. Come back next week, come back next week. *Get your money back. It's not going to work.*

As Anita walked towards the glass door of the fishbowl to enter into the public seating area, the judge boomed once more in a firm voice, "get your money back!" While exiting the door, Anita grumbled, "ugh, I'm sick of these people!" Her face was curled up with anger. She sat down in front of a black woman in the row behind her and started inaudibly mumbling something to her. Anita and the other black woman stood up after several others were called for their hearing and quietly talked while waiting for Audrey to exit the fishbowl. They both had to take a random drug test. I overheard Anita saying "it's her fault" and "she did that" about the

probation officer, as she motioned towards Audrey with a slight head nod. After asking if she was alright, she explained to me that the court was treating her "like someone who has been in and out of jail." She angrily said, "this is my first time. I've *never* been in a situation like this. I'm not a criminal." As I silently looked at her, not knowing what to say, she continued, "I can't stand these people. I can't wait til this is over with." Her eyebrows wrinkled up, lips pierced. When Audrey finally exited the interior of the courtroom, she told Anita that she would have to take a drug test, to which Anita admitted would likely come back positive because of the last time she used cocaine. To this, with a grin on her face, Audrey replied, "You lucky it's the Judge's birthday because I'd haul your butt back in there to go to jail."

*

The court proceeding above, along with the courtroom interactions described after the hearing, demonstrate several key points made thus far. First, wherein "places" within the "people, places, and things" script differentially figure as a discursive analog for "apartment" for Anita, on one hand, and as a "more structured environment" for the court on the other, the disjuncture between the two elucidates the divergent conceptions of how recovery and stability are imagined. That is, where Anita's relapse represents incapacity (i.e. lack of control) and an absence of behavioral checks in an unstructured, risk-strewn environment, the judge and the probation officer demand "a more structured environment" (Line 1, 5, and 6) because confinement to a treatment facility is imagined as the ideal *place* (i.e. where routines, activities, and recovery-oriented groups occur alongside recovering addicts) for remedying Anita's "active" drug use. Contrarily, where Anita's need for material stability after being homeless due to her last recovery home's closure (as mentioned earlier) an apartment, even in her old neighborhood where she was formerly proximate to a cousin who used drugs, represents the key *place* for

reducing the likelihood of subsequent drug use and for establishing stability. The discursive struggle over the meaning of these two sites index the way in which place(s) serve different representations of recovery for Anita and the court.

Second, when taken into account with the judge's disapproving statement and direct order that she needed to "get your money back" and was not "ready" (Line 11)—despite being a forty-eight-year-old woman with a history of normative conditions of stability (i.e. employment, children and grandchildren, no prior arrests, etc.)—the judge established ultimate knowledge over and about Anita, typifying her and conveying the idea that she is an uncontrollable addict prone to risk and incapable of maintaining responsibilities while drug use is involved. As a result, the judge's and the probation officer's consensus illustrates the court's epistemic and legal control, as well as their paternalism, which in effect erases Anita's agency at the very moment when she is trying to exercise it by obtaining housing. Yet, she is held responsible for her putatively irresponsible "bad idea" and so-called uncontrollable drug use, demonstrating the paradoxical construction that lies at the heart of addiction and criminalization as discussed earlier.

Lastly, Anita's voice within the mental health court process—as a general measure of her own experiential knowledge and legitimacy—is truncated, wherein her ability to speak as a valid representative of her own experience and interest is relegated to a discredited and defenseless position. The conspicuous silence on the part of the public defender is telling, for at no point does he willingly represent her concerns, thus raising critical questions about the extent to which a defendant is both legally protected and fairly represented in a supposedly non-adversarial, collaborative model. The sum effect is that Anita is left feeling like a "criminal." As we will see,

these three themes play out repeatedly in court proceedings and throughout the mental health court process.

*

Having anticipated the following week's "snatching up," I came to court and sat with Anita until her hearing, talking with her about her case, about her employment, housing stability, family, and other matters. She sat next to me bouncing her knee up and down, admittedly nervous about what would happen. She showed me a money order for which she placed $550 down on an apartment, saying that she needed it both for herself and for her daughter and granddaughter, and then mentioned that she didn't have money to go into treatment. I inquired about this, and asked if it was a recovery home. She confirmed that it was but that the recovery home wanted "$300 a month just to live there," a problem that she was not sure she could resolve if she maintained the apartment that she could not relinquish. After mentioning her record of sobriety, she said that she had not had any "dirty drops until the last ones." She made it clear that she felt the judge's order was unjustified and reiterated something that she said before: "this is my first time coming to jail. I'm not a criminal." As she talked, she began to grow anxious, her body rocking back and forth, hands clasped and laughing nervously as she spoke to me. "I'm so scared," she admitted.

As we waited for her to be called, several other defendants bantered, joked, and disparagingly talked about some of the court staff. Anita got up and walked across the courtroom to sit next to a woman she knew and began chatting with her. As she stood up, I noticed her cap, which read "SEXY" in all white rhinestones. Short with a medium build, she wore that same pink coat but with boots and jeans, not sneakers. Anita was called last for court. And prior to calling her, the judge turned off that microphone as staff members assembled around the bench,

discussing her case. She was then called inside the fishbowl, walking up to the bench and the judge saying, “Why don’t you take off that hat. Your hair looks lovely. I prefer your hair than a hat.” Hair disheveled, Anita stood with her hat in one hand and the other in her coat pocket.

As the proceedings went on, it was apparent that she was going into custody. She tested positive for cocaine again, as she anticipated the week prior. The case manager, Miranda—a substitute social work intern for Kathy who was absent again—relayed information *from* Kathy *about* Anita, clearly advocating for Anita’s detainment and subsequent placement into a recovery home, saying:

> “My colleague had spoken with her this morning, and she had given her the referral to Alpine Recovery House. She said she didn’t want it. She needed to get her own place, and she needed to live with her daughter who is 21 years old. And she stated she didn’t get the money back from her apartment and thus she couldn’t afford it.”

In this statement to the judge, the case manager invoked the age of Anita’s daughter seemingly to invalidate the importance of Anita’s sense of responsibility to provide shelter for her daughter as well as herself, while leaving out, if known, the fact that her daughter also had a daughter—Anita’s granddaughter. Equally, Miranda stated that Anita “didn’t get the money back from her apartment and thus couldn’t afford it [recovery home]” to construct an act of non-compliance for which the judge would sanction. This re-presentation of second hand information by a case manager, presumably someone who would theoretically advocate for Anita in a conventional therapeutic setting, demonstrates, again, Anita’s defenselessness and voicelessness in the courtroom. As a result, Anita attempted to interject:

1. Anita: They told me to call them after court so they could give me an assessment. I called Alpine Recovery House this morning.
2. Judge Taylor: All right.
3. Anita: I did call.
4. Judge Taylor: Did she tell your colleague that she didn’t want to go to Alpine Recovery House?

5. Miranda: Yes
6. Judge Taylor: Did your colleague relay that to you?
7. Miranda: Yes
8. Judge Taylor: Leave to file a VOP [violation of probation] is granted. How long is it going to take to find her a placement?
9. Miranda: We can put her on in one week or two weeks.
10. Judge Taylor: Two. Defendant is remanded to the Cook County Department of Corrections. No bail.
11. Anita: I called them this morning. I was going to call them after court.

Anita tried to plead with the Judge and counter the accusation that she had not made contact with the recovery home that she was supposed to contact (Lines 1, 3, and 11) but was silenced by the judge's privileging of the substitute intern (Line 4 and 6) as an expert within the hierarchy of the court, which reinforced Anita's discredited status and rendered her statement invalid. The defense attorney was silent through it all, except for when the judge later asked (as a subtle threat of punishment), "excuse me. Mr. Franklin? Would you like Miranda to spend two weeks looking for a placement for your client or would you like to set this down for hearing?" In response, the public defender quietly said, "I would prefer that treatment look for placement for my client." The public defender, rather than initiating dialogue on record, leaned next to Anita to whisper in her ear, presumably explaining the judge's decision rather than officially demonstrating advocacy of the defendant.[6] Anita's labored breathes, gasps, and cracking voice was heard through the speaker as she pleaded with the judge. The judge ignored her and she disappeared among the dialogue with the judge, case manager, and state's attorney. Ultimately, the judge opted for "two" weeks in jail detention just for the sake of punishment when, realistically, he could have opted for a one-week continuance (line 9-10), a fact that could have

[6] I suggest this as a hypothesis based on numerous observations where the public defender remains officially silent on record but continually leans into a defendant to whisper in his/her ear, sometimes inaudibly but sometimes audibly. In cases where they are heard, it is usually an explanation to help clarify legal points made by the judge and others. This, however, has resulted in several contentious moments in the courtroom between defendants and public defenders, wherein the latter was accused of "not speaking for me."

potentially placed Anita at greater precarity. When the decision was final, I heard Anita whimpering. She sniffled and said, "I called, please judge. Judge, please, please. I honestly have been compliant. I've been compliant since I've been in the program. Ooooohhh (crying)."[7] Her hands were clasped behind her back, holding the hat that read "SEXY" that the judge ordered her to take off as she was hauled off through a door that led to the lock up area. She had never been arrested, had only spent one day at the police station, and had never spent a single day in Cook County Jail. I was anxious and afraid for what she might experience.

*

Returning to court two weeks later, Anita entered the courtroom on the other side of the fishbowl dressed in blue Cook County Department of Corrections clothing, with "DOC" in bold black letters running down the right pant leg and across the back of the V-neck shirt. Her hair, with tints of red at the ends, puffed outward. Judge Taylor's voice echoed through the speaker, asking in a concerned tone, "Anita Simmons. What are you looking at me like that for?" Anita responded:

1. Anita: Because you put me in jail.
2. Judge Taylor: I didn't put you in jail. You put you in jail.
3. Anita: No. Excuse me, Mister, can I say something?
4. Judge: Sure. You can say whatever you want. That's the beauty of this America that we live in.
5. Anita: I actually have been doing everything that I was supposed to do. Because a couple times, I relapsed. Okay? I do understand I relapsed. I was actually going to put myself back into treatment myself. But at the time, I was having trouble with a place to live and I didn't have no place to put myself, so I kind of just said, okay, forget it. But I was trying to contact Kathy [Case Manager], which I couldn't contact. I need to talk to her. I didn't -- never told Ms. Audrey [Probation Officer] anything about it or nothing like that. But, yeah, then I figured if I can keep myself straight -- which I felt it was just the environment I had really moved back into. Because as long as I wasn't in that environment, I

[7] Court records do not capture these nuances and the emotive quality of speakers, so where possible, I've relied on field notes to flesh these moments out and place them in dialogue with court records. Naturally, not all exchanges make it into the record, either. Observing these proceedings and taking field notes was therefore a crucial methodological step.

stayed sober. And after the incident happened with the Oxford House closing, that was a lot. And then I had lost my job. And it was, like, everything had fell down on me, and that was the first thing I knew to do was go get high, but then I stopped. Then by that time, it was too late. Here I am.

6. Judge Taylor: Well, here's the problem with all of that -- and I understand exactly what you're saying, but from December 31st until this –
7. Anita: I stayed clean up until – I stayed clean the whole 12, 13 months.
8. Judge Taylor: Okay.
9. Anita: The whole time up until recently.
10. Judge Taylor: Anita, nobody is trying to put you in the penitentiary. All right? We're trying to get you back to that place. So, no, I didn't put you in jail. You put yourself in jail. And the fact that you accomplished what you've accomplished is being acknowledged. We understand that. All we're trying to do is get something in place to try to get you back to where you were. What's the plan?

In the exchange above, Anita and Judge Taylor go back and forth in a dialogue that centers on accountability claims and the cause of Anita's jail detainment as well as her record of drug use. As shown, Anita placed blame on the judge, who then shifted that blame back onto her (line 1-2). Anita's tone became serious when she asked in defense of herself, "No. Excuse me, Mister, can I say something?" and the judge's tone grew sarcastic, "Sure…that's the beauty of this America we live in," delegitimizing her position and voice before hearing her speak (line 4). Anita gave her version of the "people, places, and things" script in line 5, offering a social and ecological analysis of what led up to her drug use ("I felt it was just the environment I had moved back into," which was similar to the very story told to me during the interview as described earlier) and couched it within a broader context of the closure of the recovery home and failed communication with court staff. The judge, however, invoked her record of positive drug tests in response (Line 6) in an attempt to mobilize a discourse of uncontrollable addiction to which Anita swiftly anticipated and immediately challenged (Line 7-9), making the judge concede and pursue a topical shift and re-categorization to reframe the court's decision as a form of therapeutic care (Line, 10). By reading her contestation as a concern for going to prison and

doubling down on the accountability claim, the judge advanced the notion that what he and the staff were doing was not punishment, wherein the "penitentiary" is conveyed as punishment's synonym and addiction recovery as its rehabilitative opposite (Line, 10: "Anita, nobody is trying to put you in the penitentiary. All right? We're trying to get you back to that place"). This minimization of jail detention as a form of non-punishment, however, is purely rhetorical, as it elides the effects of jail and repackages its purpose as therapeutic, even though Anita's time at Cook County could have resulted in greater material instability. By then pursuing a topical shift and re-categorization, the judge was able to reestablish epistemic control and subsequently build consensus from staff in the form of an elicitation ("what's the plan?" Line, 10). Kathy, the case manager responded, "inpatient treatment starting on Thursday [two days away]." In an attempt to highlight the very material precarity at stake in her jail detainment, Anita listened and then replied in her own topical shift, "I mean, I do have a job, but ya'll did -- never said anything about it. It's third shift. I'm not going to have a job by that time." The public defender, Jeremy, who worked in another problem-solving court and was substituting for Henry, periodically leaned in to whisper something to Anita as usual, but up until this point had officially (on record) stood quietly, not interjecting or stepping in to speak on her behalf. Anita's comment about employment reignited the discursive construction of the uncontrollable addict (Line 11) and then a consensus from staff (lines 15-20) as seen below:

11. Judge Taylor: Anita, you're not going to have a job at all if you don't stop getting high.
12. Anita: I'm not getting high anymore. Even if I go into treatment, how am I going to go to work? Because I do have a job.
13. Judge Taylor: Okay.
14. Anita: I definitely do, and you know I have a job. I've shown you proof.
15. Audrey [Probation Officer]: You told me that you no longer have that employment. So probation is sticking with the plan that Kathy stated, which is inpatient treatment.
16. Judge Taylor: So am I.
17. Evelyn [State Attorney]: Yes, Judge.
18. Judge Taylor: So is the State.

19. Evelyn [State Attorney]: Yes.
20. Judge Taylor: It turns out, it's our way or the highway. Okay?

Anita, discursively walled off by a consensus of authority (line 15-19), relinquished to the probation officer's dispute and was placed back into the discredited position from which she sought escape. Whether she had a job at the moment or had already loss the job could not be validated, but what is important is that her claim is so readily dismissed.[8] However, having given her the opportunity to talk because "that's the beauty of this America that we live in," the judge found himself unable to sustain the proposition and maintain his legitimacy and claim of knowledge over her. As seen above, when defendants contest judges and court staff and directly counter their utterances and discursive constructions, judges labor to regain control and reestablish the hierarchical order by building staff consensus, invoking expert and experiential knowledge over defendants, and utilizing threats of punishment, resulting in a re-inscription of the power relations in the courtroom and a relegation of defendants to an untrustworthy and voiceless status. Anita yielded to the consensus set in motion by Kathy, the case manager and then Audrey, the probation officer, and finally to the subtle threat lodged in Judge Taylor's statement ("It's our way or the highway" Line 20). However, savvy and perhaps driven by a sense of indignation from being put in jail, Anita did not completely let up. She shifted topics again, seeking new territory to contest and new spaces in the court's logic to perforate when she asked, "Is it possible that I can be out until Thursday to straighten out my business, like give my daughter my card and stuff to take care—" At this, the judge cut her off and firmly said, "it's not

[8] Although during this exchange Anita's contention of having a job is disputed by the probation officer, prior to Anita getting detained, she informed me that she was working, which was later confirmed by her sponsor who sat in court chatting with me about Anita. Unbeknownst to Anita, who was detained at the time, the sponsor spoke to the judge saying that she "needed to sit in jail" so that she can "learn" to prioritize her recovery. Apparently on board with the court's judgement, when I asked him "what about her job? She'll lose it, no?" he casually responded "oh it isn't that great of a job. She went through a temp agency. She can find another one." This is the only outside evidence that suggest that Anita's account of having a job was valid.

possible." The judge then invoked the very expert and experiential knowledge claim used to paternalistically determine what is best for defendants:

21. Judge Taylor: What we're doing is based on our experience, and we didn't just start doing this yesterday. I've been doing it for almost nine years. Most of these people have been with me. Audrey has been with me all nine years. Kathy has been with me now for almost two years, right?
22. Kathy [Case Manager]: Yes.
23. Judge Taylor: Jeremy [Public Defender] is Henry's relief. Evelyn [State Attorney] has been at this for a long time. We don't just make things up as we go along. What happened to you and the way it happened -- and you just kicked it off yourself. You don't have to take my word for it. You said it: "This happened to me, this happened to me, this happened to me, so I decided that I needed to start using."

These experiential and expert knowledge claims over defendants often occur in less obvious terms, but the manner in which the Judge articulated this explicit version indicated that staff members decidedly know what is best for defendants despite being removed from their everyday realities. As a mix of practical knowledge and legitimized authority, claims of knowledge over defendants free staff from accusations and admissions of wrongdoing and thus accountability for error. Judge Taylor demonstrates this in Line 21-23. Moreover, exceptionally noteworthy here is the final incorporation of Anita's courtroom admission made in Line 5 earlier, which is selectively culled from all of the other information reported and divulged to the court by Anita during these exchanges, into the decision of Judge Taylor when he said, "You don't have to take my word for it. You said it: This happened to me, this happened to me, this happened to me, so I decided that I needed to start using" (Line 23). In this selective incorporation of what appeared on the surface to be a pathological narrative of drug relapse, the judge's rendition completely abstracts context and a series of situational factors from Anita's version and reduces it to a series of seemingly controllable events that culminated in to a *willful choice to use drugs* ("you kicked it off yourself" and "so I decided that I needed to start using"). Here, the judge draws on the *real* (i.e. Anita's story) to merely *ascribe* back onto her the court's construction of

her as a criminal addict despite her narrative being couched in a broader structural context (i.e. the "environment" of her cousin as a result of the recovery home's closure, Line 5). He projects her as an autonomous moral agent, yet goes on to paternalistically treat her as lacking moral agency. The distinction between Anita's version of reality and the court's is clear: by incorporating *real* and *ascriptive* elements of addiction and criminality into his discourse, the judge cogently reasserted epistemic control and, again, rendered Anita inescapably accountable for her rational, though pathological, drug use (Line 23). In the end, Anita lost ground after going back and forth in what appeared to be a discursive game of so-called non-adversarial courtroom maneuvers, especially when, in her last attempt at resting a modicum of control from the court, she re-categorized the judge's "no support" (implied here as support in the form of treatment, Line 25) into "family" (her son, Line 26) as seen below:

24. Anita: Yeah, but what I'm saying is, do I have to stay until Thursday? It's only, like, two days away. It's not like I'm skipping town or anything. I'm always compliant with everything. I don't see the problem.
25. Judge Taylor: I do. The problem is, you'll be out there for two days with no support.
26. Anita: I do have support. I have a son.
27. Judge Taylor: Jeremy [public defender], would you like me to continue this case until next Tuesday, even though we don't have a mental health call, so Henry and Evelyn can work out a plea and she can go?
28. Anita: No, I don't have a problem with it.
29. Judge Taylor: No. I'm asking your lawyer whether or not I should hold it on until next Tuesday so we can dispose of the case.
30. Jeremy: Judge –
31. Evelyn: It's a Class II and she has no felony convictions.
32. Jeremy: Judge, there's one other matter.

Exasperated by Anita's discursive challenges and attempts at redefining meaningful aspects of her life on her terms, Judge Taylor delivered an overt threat of punishment (Line 27 and 29), re-inscribed ultimate authority over her, and in turn implied that she would not have any chance at freedom if she sat in pre-trial detention should the court choose to "dispose of the

case." As a low-income Black woman who would likely sit longer than two days in jail, it appeared remarkably clear that Anita would yield. Whether theatrical or not, the message conveyed shut Anita down and resonated as a sign of complete power, which served as an effective method for generating the very fear that the judge supposedly attempted to placate when he said earlier, "nobody is trying to put you in the penitentiary." The rhetorical play around what is therapeutic and what is punitive is most evident in this contradiction, a contradiction that is invoked whenever defendants challenge the court's discursive categorizations and representations. Having elicited the formalized structure of adversarial adjudicative procedures, Evelyn, the prosecutor, immediately responded from her authorized position: "It's a Class II and she has no felony convictions" (Line 30), ready to proceed with the business of prosecuting, thereby reinforcing the judge's definitive threat and authority. Jeremy, on the other hand, did not exactly take up the call and response sequence elicited by the judge. What followed, instead, was a topical shift introduced by the public defender regarding an unrelated legal matter for which Anita needed to appear in court at a later date: she was subpoenaed as a witness on a case that was going to trial the following week. While not included here but certainly observed in the proceedings, the public defender only responded when prompted, and when prompted, he did not address the judge's inquiry but instead introduced a topic that became another source of justification for detaining Anita for two extra days and sending her to inpatient treatment. What was not discussed in the proceedings, however, was the fact that she would then proceed to the recovery home to which she was originally sanctioned. This would happen after twenty-eight days in inpatient treatment.

Typification, Ideology, and the Case of Anita

Mental health courts rely on "collaborative" connections with third-party entities to relay information. The information the court can access about defendants and their treatment progress is sometimes second- or third-hand. They utilize randomly administered drug tests by probation officers or one of these third-party treatment facilities and demand, though questionably, courtroom "honesty" from defendants in order to make decisions about their lives and treatment.[9] All of these information gathering strategies with third-party agencies are legally permissible, as the court requires defendants to consent to these releases of information as a condition of their probation, extending their reach far beyond the courtroom. In many cases, these very collaborative facets of problem-solving courts are widely taken for granted.

Thus, the mental health court's version of the people, places, and things script draws heavily on broader contours, covering more terrain and cobbling together various pieces of data about defendants. Through all of these practices, the court discursively preconfigures defendants as known and already knowable objects of pathology and criminality. What results from this preconfiguring is a process of typification and essentialization, wherein all defendants are epistemically marked as translatable criminal addicts across time and space. It is no wonder why Anita was not seen as a valid representative or credible source of her own social reality and experience. This is especially true for when the court assesses the extent to which "risk" to a defendant's recovery is present and when, in response, defendants challenge this reading of risk as it relates to their identity and material and social worlds.

[9] I place here in quotes the word honesty because I examine in another chapter the many uses and consequences of it in the courtroom context, especially how it is deployed and confined within discourses about addiction and illness, self-blame, accountability, and increased monitoring.

Indeed, this risk-based practice is a hallmark feature of neoliberal penal governance (O'Malley, 2009) and is not ideologically neutral. Deeply imbricated with ideologies of neoliberalism, class, and gender, mental health court discursively enacts these ideologies in courtroom talk and interaction in a manner that is both flexible and contingent with differential impacts on defendants. Anita exemplifies how this works. By focusing on the particularity of her case, we begin to understand the general processes and practices at play in mental health court.

First, Anita's case demonstrates the extent to which "atypical" defendants garner the same pattern of discourses as "typical" cases. Where the legal, psychiatric, and structural characteristics of Anita deviated from many other defendants (i.e. lack of prior arrests and criminal legal involvement, history of normative conditions of stability), she was nonetheless treated quite typically. Meaning, Anita experienced the same forms of legal control, responsibilization, criminal addict typification, prescriptive orders, and jail sanctions that many poor women defendants with longer criminal legal histories and more material instability experienced. However, this rests on one primary fact and one major caveat, respectively: 1) where individual characteristics of defendants would otherwise determine, ideally, individualized responses by a court with a therapeutic imperative,[10] these individual characteristics did not produce such individualized responses, thus enmeshing Anita (and many others) into a process of typification and essentialization (i.e. criminal addict); however, 2) though this typification process coheres across the women's and men's court, women are differentially impacted than men and thus experience legal control and its consequences differently. This is largely due to the

[10] The court, as all problem-solving courts in the state of Illinois, uses the Level of Service Inventory-Revised (LSI-R) to determine eligibility of who enters and who does not. For an expanded discussion on these instruments, see Ward and Maruna (2007) and Maurutto and Hannah-Moffat (2006).

way in which gender ideology is mobilized and enacted at different moments, though not universally.

Second, following this line of argumentation, Anita was not initially placed into a recovery home *after* a positive drug test occurred or once she violated the court's expectations—recalling the explanation that Ryan advanced when he stated that "If you go getting high once you been in that program for a while, they pretty much gonna put it together that it's something in that community or where you hanging out at." Contrary to Ryan who was snatched up for contestations over methadone compliance and allegations of drug use, Anita, like many other black and Latinx women, was sent into inpatient treatment and then a recovery home long before her first relapse occurred. In fact, she was placed immediately after pleading guilty and accepting the terms of mental health court probation—where, as noted early, she was later kicked out for an interpersonal conflict that led to her being placed at another recovery home that closed a month later. While there is no doubt that gendered pathways to incarceration land some women into MHC (Ritchie, 1996), and these pathways may account for how the court responds to women defendants, not all fall within these pathways but most are nonetheless treated equally the same. Variation, then, is irrelevant by the court's standards.[11] How the mental health court handles women's cases is through gendered dynamics that center on questions of women's intimate and social relationships and home life, indexing the court's patriarchal order and construction of women as inherently vulnerable, lacking autonomy, and doubly "dependent" (McKim, 2013; 2017; Campbell, 2000; Matoesian, 1993). In Ryan's case, as generally in the

[11] The exception to this standard practice is when women have class privilege to get initial legal representation (i.e. a private attorney) to contests these decisions and opt out. This, however, is imbricated with race, where the people I observed having this privilege were white defendants. However, in general, women frequently cycle through treatment facilities until the court deemed them "ready" for living on their own and pursing normative roles and responsibilities.

case of the men's court, there was a presumption of autonomy regarding drug use and his social relationships and home life up until questions concerning relapse were raised, which consequently catalyzed the removal from his community into a round of treatment facilities; hence, Ryan and other men experience surveillance and punishment in different ways.

These gendered differences, though masked in seemingly neutral courtroom language, are important factors for why the case manager (Miranda), in the second-hand information reported to the judge, emphasized Anita's daughter's age, invoking questions about Anita's parental responsibilities to a 21-year-old—a remark that would not have made it into the men's court proceedings. Both as a result of women having to care for their children and the stigmatization they experience as poor mothers with an addiction—undoubtedly, racialized practices that equally draw on tropes of failed and immoral motherhood (Campbell, 2000; Roberts, 1991)—women in the mental health court find themselves and their families at greater vulnerability of being negatively impacted by the court's coercive and intrusive regulation. Many women, when placed in recovery homes, cannot take their children with them or adequately care for them, which results in the enlistment of other family members into the court process, thus widening the court's carceral control.

Conceptualizing Rehabilitative Imaginaries

Taking these points into account, mental health courts harness what can be best understood as "rehabilitative imaginaries." Drawing on the work of Carlen (2008) and her idea of "imaginary penalities," rehabilitative imaginaries are closed conceptions of pathologically criminalized populations for whom justifications for coercive treatment are used to transform these individuals into highly reflexive, self-monitoring agents who demonstrate self-control and personal accountability. To the extent that Anita was repeatedly rendered voiceless and her

relapse experience was selectively culled to validate the court's decision, defendant knowledge is simultaneously subjugated (Foucault, 1983) and "incorporative" (Carlen, 2008). Where Anita is concerned, we see how this plays out in the micro-politics of courtroom talk and interaction. By utilizing the people, places, and things script as a discursive construct to locate rehabilitative imaginaries within and beyond MHCs, it is my argument that the difference between a defendant's everyday life (e.g. Anita's version of social reality) and the one viewed through the lens of the court is the space from which specific kinds of rehabilitative imaginaries emerge—that is, the space where a racialized or gendered figure, "master status" (Goffman, 1963), criminal addict typification, and all sorts of ascriptive "kinds of people" are "made up" (Hacking, 2006; Hacking, 1999). Somewhere between the known and the unknowable, this gap is filled with elements of the real—those seeming pathological narratives of addiction, illness, and criminality reflective of Anita's courtroom admission—and the ascriptive—those wild assumptions, "status degradation ceremonies" (Garfinkel, 1956), and relegations about those same "real" discursive categories and narratives that, inevitably, usurp all other dimensions of a person (Goffman, 1963; 1961). Primarily as a product of the spatiotemporal limitations of the court (Cooper, 2018) and the reliance on its third-party arrangements, this gap is the space where pre-configuration occurs.

Therefore, for analytical and argumentation purposes, I provide the following definition of rehabilitative imaginaries:

> They are a set of discursive, pre-suppositional frames that are contingently and flexibly "filled" with various ideologies that are cemented through epistemic and legal control, wherein an entire social world of a pre-configured subject group is constructed in the mobilization of an array of putatively therapeutic prescriptions.

These imaginaries are thus organized around conditions of accepted contradiction and impracticality, from which a host of constraints beyond the control of the individual are

collapsed directly onto the individual. Carlen (2008) incisively describes imaginary penalities, which shapes and gives context to the way in which I define rehabilitative imaginaries:

> "Imaginary penalities is about one set of contemporary epistemic contests: ideological and political battles over the manufacture and policy-harnessing of crime, risk, and security knowledges. But, more specifically, its focus is upon the micro-politics of selected dimensions and sites of the many imaginary penalities presently dominating local, national, and international responses to criminal threat" (p. xvi)

Carlen notes that such imaginary penalities are pervaded by "risk-crazed" rationalities, indicating both the dominance of actuarial instruments in criminal legal practice and the widespread discursive implementation of risk techniques. But whereas Carlen emphasizes "penalities" in the imaginary, I argue that the fields from which MHC constructs rehabilitative imaginaries move beyond the penal. They operate at the interstices of the medical and welfare, drawing on various ideological formations and devolving onto a wide range of non-penal entities (e.g. third-party behavioral health treatment, human service agencies, halfway houses, homeless shelters, etc.) with a discursive focus on the therapeutic (Miller, 2014; Stuart, 2016; Lara-Millan and Van Cleve, 2016). Although such focus does not position penality as the antithesis to rehabilitation, it nonetheless discursively elides and subsumes penality and its significance under an ethos of therapeutic care and necessity, as best captured in Judge Taylor's attempt to recast the court's aim as therapeutic and not punitive when telling Anita, "nobody is trying to put you in the penitentiary. All right? We're trying to get you back to that place," even though she was already "snatched up" and told she could not move into her own apartment.

To a large degree, then, rehabilitative imaginaries correspond to present-day reform rhetoric that centers risk management rationalities (Ward and Maruna, 2007; Phelps, 2011; Hannah-Moffat, 2005; Garland, 2001; O'Malley, 2004;), privilege emergent forms of penal governance that operate at the nexus of various welfare and medical assemblages (Maurutto and Hannah-Moffat, 2006; Lara-Millan and Van Cleve, 2016), and revolve around putative claims of

therapeutically "treating" deviant populations rather than subjecting them to punitive social control (see Stuart, 2016; McKim, 2017; Gowan and Whetstone, 2012; Miller, 2014; Hannah-Moffat and Maurutto, 2012). These differences between Carlen's imaginary penalities and rehabilitative imaginaries that I advance may be minor but important to note. The latter has implications for particular ideologies at play, the way they are mobilized and purposively weaponized, and the extent to which MHC instantiates particular discourses related to illness, addiction, crime, punishment, and rehabilitation.

In light of this argument, the question about whether the court "helps," as Ryan initially stated, centers on the following: at what cost, to what extent, and for whom? As we see with Anita, the price of her sobriety came with a great degree of sanctions that, had she not been shrewd, could have cost her housing and, for all we know, her job. These are costs that were irrelevant to the court. Defendants must pay a high price by muscling through court mandates or receive legal sanctions that severely cost them when they fail to meet the terms of the court. Thus, the "sanctions and rewards" enacted can hurt defendants and have an impact on their material stability and legal trajectory, even if they successfully complete the program or get sober. Moreover, defendants are frequently rendered voiceless, or can only speak in relation to their ascribed status and not as full human beings with complex identities, problems, and lives, as evidenced by Anita. By predetermining and constraining what can be said, when, and by whom, rehabilitative imaginaries in MHC are sustained and given legitimacy.

The rest of this dissertation will demonstrate how these processes discursively work in courtroom talk and interaction. What will become clear is how rehabilitative imaginaries are flexible enough to contingently and differentially fold in ideologies of neoliberalism, class, and gender that allow it to achieve its practical ends. In the next chapter, I examine in greater detail the way that place and risk figure in the mental health court, building on the arguments outlined

here. I posit that, as a community-based program, MHCs paradoxically construct community as a site of therapeutic care and risk and instability and prefer that defendants live in recovery homes. Because MHC staff, and particularly judges, have an anxious preoccupation with the presumed risks (to relapse) in defendants' environment, they discursively enact evaluative methods regarding place that sets the conditions for possible movement from one setting to another, thus immersing defendants into a cycle of placements that potentially upends the court's goal of long-term reintegration. Judges have a peculiar and quite presumptuous concern for community living. The community connotatively functions as a negative arena rife with risk from which defendants must be removed.

CHAPTER 4

THE MICROPOLITICS OF COMMUNITY LIVING & COMMUNITY TREATMENT

Sitting in the public seating area of the courtroom can often feel like an entirely different space than the interior where practitioners and those authorized or invited to speak mingle and carry out the routine business of legal practice. It is, in some ways, its own cultural milieu and, to a large degree, the defendants' backstage—the demarcated arena that allows for a different kind of role enactment that is no less "real" than the one performed on stage of the interior of the courtroom. Verbalizations regarding court practices become manifest in this arena, and defendants seemingly freely express themselves in ways that, if not for fear or trepidation of the judge, they would do so more forthrightly during court hearings. They bond with each other, laugh about experiences shared, denigrate or praise staff, utter agreements on rulings or decisions made by the judge, and offer up disputations and nuanced interpretations regarding the mental health court process.

On one occasion, I sat among three black women who chatted about the experience of being in MHC and the contingencies of being removed from one's own home by Judge Williamson. While MHC staff convened, these women expressed their anxieties and frustrations with this process, their agreement and individualized interpretations. However, one woman was the daughter of a defendant who, according to her, was in custody and awaiting a decision by MHC staff to possibly be removed from her home after officially pleading guilty and accepting the program. She was there waiting to see the outcome of her incarcerated mother. The other two women, Raven and Erica, were defendants in MHC. Raven was a twenty-nine year old black woman who had entered MHC roughly 8 months prior, and Erica was a repeat MHC participant who, for the second time around, was looking to graduate from the program after nearly two

years. Gray hair pulled back into a curly ponytail, Erica was a black woman in her mid-50s who had cycled in and out of prison and treatment facilities and psychiatric hospitals for half of her life.

The women's conversation initially revolved around the departure of a case manager who was working in MHC for a short period of time, and who, according to Raven, had left "to drive Uber." While this dialogue created a rather humorous exchange, it gave way to questions about whose role it was to carry out the therapeutic functions of MHC—who, essentially, was responsible for securing housing for defendants or placing them in recovery homes or following through on treatment referrals. While Raven and Erica disagreed on whether the case manager was solely tasked with saddling all of these responsibilities, the black woman who was present for her mother, curiously asked in relation to the potential removal of her mom from her own apartment, "So in the cases where the person had their own place and all like that—"

"They don't care," Raven said, cutting her off. "Not here. They still want you to live where they want you to live at, because yeah, that's how they did me because I had my own spot."

Erica chimed in, saying to Raven, "If you...if you violated—but you was still getting high, right?"

"I was never getting high," Raven replied. "That's not my problem. I sell drugs and I got a lot of drug cases in my background so that's what it was."

"I do too," Erica responded, referring to the numerous drug cases on her criminal record. Having been in a recovery home for over a year, she was hoping to receive permanent housing but was waitlisted by the psychiatric residential facility from which she received some of her services. Having interviewed her ten months prior, she was still waiting for housing, and

admittedly, felt that she desperately needed both the recovery home and the permanent housing. Unlike Raven, Erica did not have her own place to live when she entered MHC, and having been in the program before, she welcomed the opportunity to temporarily reside in a recovery home and was expressed gratitude for having been given another opportunity to participate in mental health court. Erica distinctly stated, "I needed it. I needed it."

Because I was curious about Raven's scenario, I asked her, "And they wanted you to do what, move out of your place?" Raven, dressed in distressed blue jeans and a blue bomber jacket with white sneakers, turned towards me and said, "They don't care about your place! They wanted me to live where they wanted me to live. In recovery homes and all that stuff…And do this and do that." Within eight months, she had already lived in three different recovery homes, and according to her, the judge kept telling her "you're not ready…you're not ready for your own place," despite already having lived on her own.

"That's crazy," replied the black women in court for her mother. "That's what I don't understand. I'm listening to your story and it's like, my mom's story don't match with this. Like, she was in her own place."

The conversation among them continued, and at one point Erica suggested that the woman's mother for whom she came to court may be "trying to get this [MHC]." In her response, the woman asked, "just to get out [of jail]?"

Leaning towards the woman in court for her mother, Raven whispered while smirking, "She shouldn't take it." She laughed afterwards, and said, "Tell her don't do it. On the real, because if I would've knew that this is what it was then I wouldn't have took it."

Erica responded by emphasizing that "everybody story is different" and that "everybody do different things," thus suggesting that it is an individualized process. The woman,

unconvinced, suggested that the court intentionally wanted to make defendants become materially unstable. She said, "It sounds like they aim for you to lose everything that you have," to which Erica firmly disagreed, reiterating her point about the individualized nature of the court's practices.

Indeed, the dialogue among these women illuminate one of the major fault lines within the mental health court, and it highlights the way in which placement into recovery homes serve as the antithesis to community living. In this sense, "living in the community" signifies an unstructured, risk-strewn environment that stimulates ongoing anxiety over defendants using drugs and a lack of control of defendants on the part of MHC staff. In other words, there is at play both the preconfiguration of defendants as uncontrollable criminal addicts, as discussed in the previous chapter, and a need to control their actions and behaviors by controlling the type of places they live and navigate, the people with whom they regularly interact, and the activities they engage in. Take, for instance, an exchange between Judge Williamson and Raven after she was called into court, wherein it was reported by a case manager from the recovery home that Raven had "lied" about having an unauthorized cell phone. Judge Williamson first interrogatively probed her for honesty on the matter (see Chapter 5) and then proceeded to tell her that she tried to "pull one over" on the case manager. After Raven responded in the affirmative, Judge Williamson said:

1. Judge Williamson: Okay. So, I think part of the problem—and you know we talked about you before and we talked with Ms. Bowman [case manager from the recovery home]—and part of the problem is that, you know, I think you're still going back to places where you shouldn't go and maybe hanging out with people you shouldn't hang out with. Um, you need to get to a point where you don't do that. You know, there has to be a consequence for this, right? Right?
2. Raven: Yeah [low voice].

In the judge's concern for Raven's unauthorized use of a cell phone—indeed, a significant representation of the recovery home's restrictive orientation—he presumptively articulates the cause of the cell phone use by wedding it to a concern for "people, places, and things" (Line 1, "I think you're still going back to places where you shouldn't go and maybe hanging out with people you shouldn't hang out with") and then enacts a directive about quitting this risky behavior ("you need to get to a point where you don't do that"). In his utterance, he harnesses a wide set of presuppositions regarding the social reality of Raven and ascribes it onto her. The resulting "consequence" was a 45-day restriction at the recovery home (i.e. no passes out for the weekend and no freedom for daily outings). In such case, the recovery home represents a measure of control over defendants' actions and their environment and the restructuring of behaviors deemed risky. While already in the recovery home, this idea remains central to the court's rehabilitative imaginary.

Contrary to the belief by defendants that there is a diversity of causes for being placed into a recovery home—as evidenced by the divergent perspectives expressed by Erica and Raven—MHCs generally prefer recovery homes not because these differences are unimportant or irrelevant but primarily because these facilities serve several important functions: they 1) serve as a method for risk alleviation, 2) as a mechanism for heightened control and monitoring, and 3) as place for restructuring defendants through routine "structured" activities related to addiction treatment (see Kaye, 2013; McKim, 2017; Whetstone and Gowan, 2017). Indeed, I confirmed that just over two-thirds of defendants in the women's MHC and approximately half of the defendants in men's MHC were placed into recovery homes.[1] The practice overall

[1] These figures are just confirmed cases. It is possible that these numbers are higher, and though the conditions under which these placements vary, most women were placed into recovery homes immediately after entering into MHC and many men were done so at the first sign of risk.

appeared to disproportionately impact women, and for those with children, it extended the effect into the lives of their families and others who had to care for the children while they were in a recovery home. While many of the defendants in both courts arrived in precarious circumstances at the point of arrest, a substantial portion either had their own apartment (e.g. Raven) or lived with a relative or significant other. Some attempted to secure apartments and were ordered not to do so (Anita, in previous chapter). All, however, regardless of these differences, were placed into recovery homes with different incidental effects: for the criminalized poor with a history of material precarity, the recovery home was a form of temporary relief (Erica, above) but with no guarantee for permanent housing, while for others, going into recovery homes frequently jeopardized their living arrangements, employment, and general sense of stability.

I take up these arguments in this chapter and demonstrate both how MHCs engage in evaluative methods for assessing risk in relation to "places" (i.e. analogous for defendants' neighborhood, community, and/or home) and paradoxically construct "community" as a site for therapeutic care and pervasive risk and instability—all the while to justify placement into recovery homes. MHC judges do so by discursively scaling down its focus to defendants' micro-environments and the people with whom defendants associate in those environments, and by scaling its focus upward to more general areas that are contextually specific to Chicago. It also relies on the language of inevitable "failure" to discursively construct community as risk-strewn. In short, these evaluative methods breakdown when the practical limitations of recovery homes come into play: there are only so many available and accessible, and practitioners inevitably place defendants in recovery homes that may or may not be in the community they imagine as risk-strewn.

Interestingly, as a supposedly community-based program that is built on notions of community living, community treatment, and community reintegration—concepts that were also historically pivotal to the aim of deinstitutionalization and the subsequent arguments about its failures (Grob, 1994; Brodwin, 2013)—MHCs curiously assign a *negative* connotation to living in the community.

In short, this process raises important questions about the mental health court's aim to reintegrate a psychiatric population "into the community" and move them towards "stability." Below, I start with a brief review of MHC's stated aim to ultimately reintegrate defendants into the community and a "stable environment," followed by a discussion of the practices that MHCs enact to evaluate risk in defendants' environments. I then highlight instances of rupture and conflict over forced placement into recovery homes and the interpretations that defendants articulate about the residual effects of the court's coercive practice.

My argument here, however, is not that place has no significant impact on individual outcomes; surely, empirical studies demonstrate a range of micro-environmental and macrostructural effects on mental health, substance use, and other individual-level outcomes (Rhodes, 2002; 2009; Sampson, 2012). Rather, my argument is that court practices are frequently rooted in presumptions of things occurring in individuals' environments and selectively culled information from the real and ascribed narratives of drug use by some defendants regarding risk and relapse. This often transpires with little specificity concerning the actual factors at play, evidence of those factors, knowledge of the specific context, or a thorough investigation of things occurring in a neighborhood, home, or among people associated with the defendant. In this sense, court practice involves a great deal of generalization about place; in doing so, it relies on cultural tropes of addiction that align with the way defendants are preconfigured. Thus, it

enacts rehabilitative imaginaries that on the surface, appear to be therapeutic and impactful, but once peeled back, are imbricated with deep and troubling practices of control that can have, if not in actuality then in potentiality, severe consequences for defendants.

Community Living, Community Treatment, and Community Reintegration

Mental health court, at least in theory, aspires to some version of community reintegration. Though the concept suffers from definitional ambiguity (Fields, 2011), it nonetheless revolves around normative ideas of being anchored in a community and engaging in its social, civic, cultural, and institutional life and the relational networks therein, both contributing to and benefiting from these aspects of community living (see Grob, 1994 regarding deinstitutionalization; see Western, 2018 and Travis, 2005 for prisoner reentry; Padgette, et al. 2011; Tsai, Mares, and Rosenheck, 2012; Fields, 2011). In the idealized version of community reintegration as imagined since deinstitutionalization, the aim has been to provide comprehensive care within the community to facilitate and establish a normative life for the decarcerated patient rather than supplant the mental hospital with another kind of custodial facility (Grob, 1994; Brodwin, 2013). Though not fully realized, this process was construed as having "aftercare" and "linked and coordinated" services in place for the seriously mentally ill, including but not limited to housing, vocational training and employment, family support services, ongoing case management, and other supportive resources (Grob, 1994).

However, what emerged in the wake of this imagined ideal was service fragmentation and a rise in the use of transitional housing and supportive services that operated along a continuum of care with a gradual process to full reintegration (e.g. including independent housing). With co-occurring mental illness and substance use rates running rather high among homeless populations, these transitional housing models were thought to be critical for this

particular population as well as for those being released from various state institutions (White, 1998; Grob, 1994; Brodwin, 2013).

Known as the "Treatment First" model, MHC's orientation to reintegration comparably figures along these lines, which emphasizes "readiness" for housing, employment, and other important supports and normative roles over the progression of service utilization and compliance with court mandates. As scholars note, the "treatment first" model presumes necessary transitions to housing and normative responsibilities after sufficient behavioral "evidence" demonstrates that a person is capable of taking on substantial responsibilities (Padgette, 2007; Padgette, Stanhope, Henwood, and Stefanic, 2011). This approach aligns with the "housing readiness" for persons diagnosed with a psychiatric disorder and substance use who experience chronic homelessness, which also prescribes service recipients to show proof of compliance over a certain time period before receiving permanent housing, whether supported or independent. In this model, transitional housing (i.e. halfway houses, recovery homes, temporary shelters, etc.) serves as a liminal or intermediary stage, and the evidence that individuals must demonstrate includes: sobriety or abstinence from substance use, conforming to behavioral expectations, medication adherence, and a set of other criteria (White, 1998; Padgette et al., 2011; Stanhope and Dunn, 2011).

In such approach, the readiness of the individual is deemed by some authorized figure or therapeutic agent who essentially serves as a gatekeeper. However, while it is still a relatively dominant model (in place for over three decades), it has received sufficient criticism and empirical studies demonstrate that, contrary to its historic usefulness post-deinstitutionalization, a "Housing First" approach yields better outcomes for persons dually diagnosed (Stanhope and Dunn, 2011; Padgette, et al., 2011; Padgette, 2007).

Indeed, MHC enacts practices reminiscent of a "treatment first" approach. As the mental health court manual states, in defendants' "last phase" of probation, defendants "transition" and achieve "community reintegration" into a "stable environment." Additionally, in terms of facilitating a process of stability within defendants' living arrangements, its statement of purpose reads:

> The first goal of MHC is to identify potential participants at the earliest possible point of involvement in the criminal justice system. After a participant is identified, the next goal is to determine the person's eligibility for admission to MHC, identify risk and needs factors, and develop a comprehensive treatment and case management plan. After admission to MHC, the ultimate goal is to help the participant reach an optimal level of psychiatric stability by remaining arrest-free, living in a stable environment, enrolling in appropriate psychiatric treatment services, and complying with prescribed medication.

The stated goal of reaching "an optimal level of psychiatric stability" and "living in a stable environment" connects psychiatric well-being to the idea of community reintegration. However, how a stable environment is imagined and defined is, in practice, quite contested. In a conventional sense, a stable environment may mean having constant housing accompanied by a sense of "home life" and/or being free from disruptions that create material instability or a sense of precarity (Padgette, 2007). In practice, however, these have very complicated meanings in MHC and defendants may in fact find themselves and their circumstances at odds with the court's model. As we've seen with Anita, becoming homeless and returning to her old neighborhood may have created a sense of instability, but after obtaining her own apartment against the order of the court, she did not articulate the same degree of precarity despite being in the same neighborhood.

Yet the contention over where and under what terms defendants are able to live in a setting of their choosing—their own home, a specific neighborhood or community, a relative's or significant other's residence, on one side of the city over another—raises important questions

regarding what counts as a "stable environment" and whether community reintegration is a feasible goal at all. What kind of place is more or less stable? And how do definitions of stability shift when drugs or drug use is involved or, at least, was once involved? Moreover, what forms of stability are imagined as ideal within the context of Chicago's racialized geography? Is the concern geared towards the neighborhood context, the home and home life, people within the home, all of these, or something entirely different? Below, I explore some of these questions by turning to the way MHC judges utter sites of risk and stability through presumptive statements and question and answer sequences regarding home, people, and neighborhood.

The Productive Work of "Failure"

First, discursively, MHC practitioners often rely on the language of "community" to signify the threats that defendants face in a supposedly unstructured, risk-strewn environment and their lack of control to withstand what they presume to be rampant relapse threats within that environment. Place, articulated through discourses of community, index notions of dependency and compulsory behavior on the part of defendants regardless of their individual histories with substance use and social circumstances. Though many defendants certainly enter into court with a history of material precarity and active drug use, MHC builds on these cases to make decisions about controlling all defendants' environments as a means of controlling defendants' drug-using behaviors—real or imagined. As a result, recovery homes are idealized as the perfect places for both managing defendants and providing the "structure" thought to be absent "in the community." More importantly, as part of its imaginary, it is both the presumed and admitted or actual failure (i.e. drug relapse) of defendants who "live in the community" that propels and sustains the court's insistence that recovery homes militate against defendants' uncontrollable compulsions. Both before and after moments of relapse, court staff enact the language of

community and a need for a “structured environment” and “placement” to reference defendants’ uncontrollable tendencies and the necessity of having the built-in behavioral checks provided by recovery homes.

For instance, Cassandra, a thirty-two-year old Latina, relapsed after leaving a recovery home and returned to her old place of residence. She was subsequently taken into custody and then placed into an inpatient treatment facility. Appearing in court after spending time in the inpatient treatment facility, Judge Williamson expressed the following:

1. Judge Williamson: You have to stay at Harmony [inpatient treatment facility] until they find placement.
2. Cassandra: That's fine.
3. Judge Williamson: Because you went back into the community. It didn't work out so well.
4. Cassandra: Right.
5. Judge Williamson: But you obviously learned from that, right?
6. Cassandra: Yes.

As evidenced by Judge Williamson’s utterance, “placement” represents something more than inpatient treatment, a somewhat temporary stay that cannot provide the sort of behavioral checks on Cassandra once concluded. When taken into consideration with his utterance “because you went back into the community. It didn’t work out so well” (Line 3), the solution to resolving Cassandra’s failure ‘in the community’ is a recovery home; implied here that, though still in the community, does not represent independence or autonomy. Her pedagogical statement (Line 5), though uttered as a question that has already been answered, provides ample reinforcement to the idea that community is a site of risk and instability, particularly after Cassandra agrees and admits to the Judge’s rationale (Lines 2, 4, and 6). Indeed, in the absence of a strong counterargument or substantial evidence to the contrary, Judges and other court staff firmly stand by the notion that failure in the community is inevitable, whether proven or not—or whether proof of drug use is present or not.

Take, for instance, a case that deviates from the typical defendant who enters MHC. Debbie was an older white woman whose private attorney zealously advocated to have several serious charges (i.e. assault on a police officer) dropped to qualify her for MHC. He also prevented her from going into drug treatment, which resulted in her not being taken out of "the community." Because she had resources to not remain in pretrial detention and hire an attorney who had the rhetorical sophistication to upend the court's discursive construction of her as a habitual drug user, she was allowed to continue living in her place of residence (with her son) and forego drug treatment.

Interjecting the discourse about moving her from her son's place of residence, the attorney astutely stated:

1. Private Attorney: Well, I think—and for what it's worth, respectfully—I think that is an aberration. She's not a drug user, a habitual drug user. So I know there's a fine line there. Somebody gets charged with purchasing drugs, then it's, you know, by definition, they're a drug user. But I don't think that she's -- she's not an addict in the sense of somebody whose daily struggles are combatting drug use. This is more a psychological issue that she has and I think that's the root of everything here and she'll receive the -- continue to receive the treatment that she needs under the program that she's involved in currently.
2. Evelyn [Prosecutor]: I don't do the assessments and I don't talk to the clients. So that was just my first instinct when I saw what the recommendations were.

In the direct challenge by the private attorney against the court's typification practices regarding drug use (Line 1 "she's not an addict in the sense of somebody whose daily struggles are combatting drug use."), he effectively reframed what it typically does and provided an opportunity for Debbie to not be taken out of the community. In his rhetorical demarcation between a user and a buyer—the former having a problem and the latter not—the private attorney, through the enactment of his legal expertise and the discursive deployment of an alternative construction of Debbie, upends the mental health court's epistemological and

ontological claims of addiction/addicts while forcing the prosecutor to defensively relinquish her responsibility in the decision (Line 2) and causing a complete shift in the court's discourse.

However, three weeks later, in the next hearing after her lawyer was relieved and she had officially started MHC, she returned to court for a status hearing. The probation officer, Audrey, and the case manager, Sharon, began the hearing with discussions about her negative urinalysis (i.e. drug test) and her psychiatric services. Debbie stood in front of the walnut bench, hands to her side, silently listening as they expressed their plan to transfer all of her mental health services under one umbrella for better coordination and control. Judge Taylor sat back as they talked, looked down at a piece of paper in his hand, and then suddenly leaned forward. He began with a bit of irritation in his voice:

1. Judge Taylor: My concern is for somebody who's been in the program for three weeks and she is living in the community. It's a recipe for disaster.
2. Sharon [Case Manager]: We talked about that before she pled.
3. Judge Taylor: I hope and pray that you are successful, but statistically the odds are against you.
4. Debbie: Well, your Honor, I haven't used drugs since 2009. I was caught going to purchase. I haven't used since 2009. I've been clean for all that time.
5. Judge Taylor: You just got to be on deck. We haven't had good experiences with someone who is as new in the program as you and out there. There's no regimen.

While Debbie's case is a deviation from the norm, it illuminates the general discourse advanced by Judge Taylor, the anxieties that living in the community create, and the urge to remove defendants from these settings. Despite not having any first-hand knowledge or specific details of Debbie's home life or community, the judge presumed knowledge about her and advanced the idea that she should not be living in a supposedly risk-strewn environment, referencing an unknown confluence of causal risk factors (e.g. "recipe") beyond the court's control that would inevitably result in a damaging outcome (Line 1 "disaster"). Though Sharon, the case manager, pointed out the decision for Debbie to remain in her son's home three weeks prior (Line 2 "we talked about that before she pled"), Judge Taylor harnessed the language of

science as a rhetorical device to constitute failure as a probable fact when defendants "live in the community" (Line 3 "statistically the odds are against you"). Constructing failure in terms of drug use, the judge's discourse attempts to mask his presumptions with the cloak of objectivity while simultaneously eliding the origin of his concern: perhaps practice wisdom and generalizations about defendants who have "failed," by the court's terms, in the past (Line 5 "We haven't had good experiences with someone who is as new in the program as you and out there. There's no regimen"). In so doing, Judge Taylor illuminates the way in which "community" operates as a site of risk and instability within the court's rehabilitative imaginary and the contention over the meaning of place and its relevance to defendant's recovery.

While his construal of Debbie's time in MHC without removal from her son's home suggests that the locus of his concerns are in the environment, his message concomitantly conveys a great deal about what he imagines to be true about Debbie and other defendants (i.e. as criminal addicts prone to relapse and incapable of maintaining normative responsibilities). Interestingly, Debbie not only astutely interprets Judge Taylor's talk about statistical odds in terms of failing because of drug use, but also draws on a similar rhetorical strategy previously enacted by her private attorney: she positions herself as someone who has been sober, not prone to uncontrollable drug use, and who simply got caught buying drugs (Line 4). In her response, she discursively draws a clear distinction between a "buyer" and a "user" and reframes the meaning of purchasing as an act wholly unrelated to having a drug problem.

Here, a gap is opened up between the defendant and the judge regarding the meaning of places—community, neighborhood or home—and its relation to risk and drug use. This gap is the outcome of the presuppositional frame advanced by Judge Taylor, the proof of previous cases that give life to the frame, and Debbie's rhetorical disputation of the meaning advanced by the

courts frame. But when the presuppositional frame renders a defendant's own interpretation mute and ineffective, defendants become victims to the criminal addict "frame trap" (Goffman, 1974).[2] The result is being placed into a recovery home, which can lead to a series of paradoxical contingencies that both facilitate sobriety for some defendants and complicate, if not preclude, their social, psychological, and material stability. As a result, a great deal of defendants are forced to make unsustainable trade-offs: a sense of security for sobriety, joblessness for temporary shelter, responsibility for intimate others for recovery-oriented networks. The links are not always clear, but defendants articulate them at various stages and in some cases these manifest more directly in contentions with the judge or some other court staff.

Spatializing Risk through Racialized Narratives of Place

One way that judges advance a rehabilitative imaginary regarding place and its relation to risk is by seemingly innocently questioning defendants about where they reside or the people with whom they live. This interrogative technique draws on both racialized narratives of Chicago and articulate the general anxiety that "living in the community" invokes. In brief, the language used is scalar, enacted to expand or contract assessments in broad or specific terms—from swaths of the city, to neighborhood context, to the home front. This evaluative practice typically occurs when defendants initially enter MHC or are being released to a particular context. An example below best demonstrates this idea when a defendant, Emma, a thirty-two year old white woman whose initial probation plea was to a drug treatment court in the South Suburbs of

[2] Goffman suggests that it is far more likely that individuals in informal interactions are vulnerable to a "frame trap," wherein "incorrect views, however induced, are confirmed by each bit of new evidence or each effort to correct matters, so that, indeed, the individual finds that he is trapped and nothing can get through" (p. 480). However, I argue that it is precisely in the context where one has little power or authority to challenge the "misframe" that leads to the frame trap because rules of engagement are rather hierarchized and there are consequences for direct attempts to correct the frame.

Chicago, was in the process of being transferred to the MHC in Chicago. After drug court received knowledge that she was also diagnosed with major depression, her public defender sought to move her, given that she was also from the city and grew up on the South Side. These details emerged in a previous hearing, but Judge Taylor revisited questions about her place of residence in the city during the follow-up hearing:

1. Judge: We talked about this. You live in Morgan Park [neighborhood on South Side] right now, right?
2. Emma: Well, actually, I'll be on the north side.
3. Judge: I thought you said Morgan Park.
4. Emma: Yeah. I'm not going back there.
5. Judge: Okay. Is that where you used to use?
6. Emma: Yes.
7. Judge: Then you're not going back there.
8. Director of MHC: She's much better off here [Chicago's MHC].
9. Judge: So we'll take care of you here, but it's going to take two more weeks. By agreement, John?
10. John (Attorney): Yes.

Emma, having already been questioned about where she lives, anticipatorily responds to the judge's interrogation about Morgan Park and highlights the underlying risk-thinking in the Judge's question regarding her neighborhood (Lines 1-2). Located on the South Side of Chicago, Morgan Park is a community area that has the highest percentage of white residents in any predominantly Black neighborhood in the city. Emma's admission that she will not return because, as implied by the judge, it is an ecological context rife with threats to her recovery, animates how the meaning of living in the community shifts from concerns of autonomous and unstructured living to geographically bounded neighborhoods of risk. Central to the remaking of this meaning is the idea that drugs and drug use render the defendant exceptionally vulnerable to the admitted and presumed, though clearly unstated, threats in the physical community. Without much evidence of the area, the reasoning is that Emma's place of use needs to be changed for her

to participate in MHC. The judge states firmly, as a directive, that moving back to Morgan Park was off the table (Line 7). While Emma was yet to demonstrate a relapse or test positive for a urinalysis, by agreeing to the judge's rationale (Lines 5-6), she unknowingly consented to the practice of having her living arrangements altered. Interestingly, in her response to the judge's query about Morgan Park, it is she who scales up the place of residence from specific neighborhood to a broader and vaguer context (Line 2 "I'll be on the north side"). What follows is an *absence* of questions regarding the specific neighborhood on the north side and an uncontested response with her decision once the judge confirmed that Morgan Park is where she will not be returning. Emma was moving with a family friend on the North side, and the assumption regarding this change of context/environment was quite clear: not only is it better in Chicago's courtroom, it is also better on the north side.

In a later date after Emma officially transferred into the program, the question of where she lived arose again. Emma had not tested positive on any drug tests and had fulfilled the court's mandates up until this point. However, when interrogated about her place of residence, the judge scaled his concerns from the general (i.e. geographic location) down to the more private domain of Emma's life (i.e. home and the people inside). Judge Taylor proceeded with the following:

1. Judge Taylor: So, you don't live out South?
2. Emma: No, I was going over there but I decided not to go.
3. Judge Taylor: Because that's where you were using.
4. Emma: Yes, exactly. But I have another option, and it's the best option for me. It's the North Side.
5. Judge Taylor: What is the other option, who does it involve, what kind?
6. Emma: It's a family friend. My mother and him have talked. My mother is in Arkansas.
7. Judge Taylor: Has this family friend ever used?
8. Emma: No, never. Doesn't smoke cigarettes, drink alcohol, anything.

9. Judge Taylor: What area of the city?
10. Audrey (Probation Officer): Northwest Side.

As we see here, similar to the previous hearing, the judge asks Emma about where she lives, invoking concerns about drug use, risk, and place. But unlike the previous hearing, the judge gets more specific about Emma's "other option" (line 5), asking "who does it involve, what kind?" Despite implicitly admitting that she had not moved since the last hearing (Line 4), after Emma states that it's a family friend (line 6), the judge forwardly articulate how proximal threats to her recovery—in the form of social relationships (i.e. people)—become crucial for rendering home as a site for risk alleviation and environmental restructuring (Line 7 "Has this family friend ever used?"). He then rescales his questions upward to the broader ecological context when the home front is free from risk, invoking ideas about the North side (line 9) to which a definitive answer is given by the probation officer that stops the questions about place (Line 10 "Northwest Side"). The judge ceases his interrogation of Emma's home life and neighborhood and implicitly accepts Emma's and Audrey's responses as satisfactory. In so doing, he renders the North side and, more specifically, the Northwest Side as unproblematic locations within the risk calculus.

This interrogation method is a common practice in MHCs in Chicago, frequently indexing how the city operates in the imaginary of the court and how conceptions of risk and instability manifest in discourses about home life and living arrangements, neighborhood context, and large swaths of the city. Moreover, the interrogation about *community* both meld with the preconfigured risk subject and with racialized spaces contextually specific to Chicago and its racialized history. To put it another way, all defendants are seen as perpetually prone to drug use, which is the primary discursive category at work. But when the South and West sides come up in a judge's questions about where defendants live at, entire sections of the city get

marked off as *undifferentiated sites of risk*, thus reinforcing racialized narratives about the West and South sides of Chicago and ascribing essentialist notions of danger onto the very people who inhabit those parts of the city. In many instances, the North side is either rendered as uncontested risk-free zones or very selectively risk-strewn. In the case of the latter, as we see in Emma's situation, only a specific geographic section of the North side warranted interrogation. While this may appear to be tethered to the race or ethnicity of the person--where racialization often operates within the context of one's phenotypical traits—the court's practice, however, emerges from racialized ideas of risk associated with places where Black and Latinx residents live.

On another occasion, a black woman in her mid-40s named Rose, was placed in a recovery home within the first month of being in the program. She had been in MHC for two months at the time of the hearing and was complying with all of her mandates. After pleasantries were traded between her and Judge Taylor, he peered down at a document in his hand, reading, and then began talking as he intermittently looked up at Rose. As the dialogue between Judge Taylor and Rose proceeded, he advanced a racialized pre-suppositional frame about place (Line 3 to 5):

1. Judge: What is the length of your stay at Secure Homes?
2. Rose: As long as I can be there.
3. Judge: I hope it's a long time because it's a great place. When you were using, you were using on the south side, west side?
4. Rose: West side
5. Judge: Stay on the north side. Anything else, Audrey?
6. Audrey [Probation Officer]: No.

While Rose admittedly stated that she had been using on the West side (Line 4) and the judge was accurate in that assumption (Line 3), it is exceptionally noteworthy how race and place get melded into the underlying risk rubric in this exchange: that is, how the "West side" and "South side" figure in the court's imaginary and in the historical and contemporary narrative of

Chicago as areas that are predominantly Black and Latinx. Though seemingly innocent and race-neutral, this line of questioning is rather imbued with ascriptions about race and the communities in these parts of the city. Like many rust belt cities where Blacks relocated during the great migration, the history of Chicago is rife with experiences of housing discrimination, residential segregation, ghettoization of Blacks, community disinvestment, and state retrenchment (Hirsch, 1983; Drake & Cayton, 1945), along with ongoing media narratives of crime and criminality in predominantly Black and Latinx neighborhoods that accompany perceptions of dangerousness, vice, and violence (Wacquant, 2006; 2008). By invoking seemingly race-neutral questions about an entire swath of the city, the judge reproduces racialized representations of poor Black and Latinx life and reinforces stereotypes of pervasive criminality. The West side, as well as the South side, become code for what Loic Wacquant (2006) calls "territories of relegation," or territorially stigmatized communities of pathology—a process whereby structural dispossession produces external and internal forms of stigma that, in turn, through an imaginary reinforces the very state of dispossession.

Embedded in these exchanges is an essentialist construction that links risk with illicit drugs and criminality to these areas and to the people who reside in them. Although crime may in fact be a concern for some of the neighborhoods on the West and South sides (Sampson, 2012)—indeed, neighborhoods marked by extreme marginality, high poverty and unemployment, things that, for good reason, give many residents of the city pause, including many defendants who are policed, arrested, and find themselves in MHC—what makes this exceptionally problematic is that it advances an undifferentiated view of both parts of the city by generalizing risk across all of these neighborhoods. There are nine community areas on the West side and thirty on the South side, and despite the tendency to homogenize and categorize all of these communities as equally the same—in negative terms—heterogeneity and variation surely exists in each of them. More

importantly, it equally implies that drugs and crime do not exist on the North side, or that the people residing in the neighborhoods in that part of the city are essentially harmless and drug-free. Though Rose is residing in a recovery home on the North side at the time (Line 1, "Secure Homes"), at no point does the judge assume that her surrounding community is in fact a place of danger, nor is there concern for the North side as a site of risk in more general terms. Given that Chicago's tripartite geography is anchored to racial segregation, and the North side is predominantly white (See IRRPP report, 2017), Judge Taylor discursively enacts a racial ideology that dichotomizes predominant White space (i.e. whiteness) as normatively "better" and predominant non-white space as non-normatively (i.e. Other) "worse." As a result, the courtroom discourse partly spatializes risk through pathologized constructions of Black and Latinx communities.

Evaluating the Home Front

Similar to spatializing risk in broad geographic terms, MHC also enacts evaluative discourses that revolve around direct interrogations of home life. That is, judges question defendants about who they live with and attempt to assess risk within the home environment and presumptively make decisions about removal into some other context. However, sometimes defendants come to learn what to expect of the court's tendency to remove them from their place of residence and/or intrude on their home life and social relationships. Jason, a white transman who was placed in the women's mental health court despite being a transman, had gone through several rounds of relapses and placements into various treatment facilities, including inpatient treatment.

Having completed mandated treatment at an inpatient facility, Jason's hearing proceeded and the case manager fumbled on gender pronouns[3] but was swiftly corrected by Jason. After apologizing, the case manager reported that Jason would be transitioning out of a residential program and would receive methadone from one of their frequently used treatment facilities. They then began talking about his place of residence and how he had previously performed while "living in the community." After his residential address was stated, which was on the North side of Chicago, a question was raised by the judge regarding whose place to which Jason was "transitioning." Below is the exchange that proceeded:

1. Alicia [Case manager]: That is his fiancee's house. Partner.
2. Judge Williamson: Do you know what it is? It's your partner's place?
3. Jason: My partner's house, yes.
4. Evelyn (State Attorney]: My only concern is every time he goes back there, a VOP is filed.
5. Jason: It's only one time. It was only one time. It had nothing to do with the environment. It is my bad decisions.
6. Judge: I see very well what you've done. The last time out, got a job, the whole thing, and the whole thing went to hell in a hand basket. Right?
7. Jason: That was my fault, and I know what I did wrong. I know my pattern, and I know what's at stake.
8. Judge: Did you ever stay on the north side before?
9. Jason: I grew up a—well, a little far south, but it's a nice area. I don't use up north. I use out west.
10. Judge: Okay.

As we see, after questions regarding whose apartment Jason would be staying at are raised, the state's attorney, Evelyn, raises a concern about a history of violations of probation (line 4, "VOP") and Jason, suspecting and anticipating that the court would not allow him to return to his home with his partner, counters the idea that his home life and relationship was rife

[3] Every time I observed Jason in court, someone incorrectly used she, her, hers pronouns for Jason. In fact, the court reporter even mistakenly filed the transcripts under Jason's feminine birth name, which required me to contact the reporter directly and explain the correct name and pronoun in order to obtain the transcripts. For this analysis, I lump Jason (as a transman) in the group of women because the logic of the women's MHC extends to him by way of him simply being in that courtroom. There's much to study, which I don't here, about how MHCs treat trans folks in general.

with risk, taking full responsibility for making "bad decisions" (Line 5) and reframing the locus of the cause ("it had nothing to do with the environment"). In so doing, he illuminates the court's risk calculus and how it discursively evaluates place. Jason's quick reply and the admission of guilt, along with the strategic minimization of the environment as being a key role in his past VOPs, incites the case manager to respond in his defense, but the judge cuts her off and mobilizes the language of failure to animate his concern regarding Jason's future actions (Line 6). Jason responds with a convincing and self-blaming narrative about knowing his "pattern" and what's "at stake" (Line 7), indicating that he is ready to take full ownership of his past mistakes, understands how and why he relapses, and is willing to deal with whatever consequence(s) that may occur should he not meet the court's expectations going forward. The accountability factor in this discursive exchange is important for how judges and court staff interpret defendant's experiences, as it meshes perfectly with the aim of punishment: defendants need to shoulder all of the blame for their drug use, understand that they need to make "better choices," fully reflect on past behaviors for future change, and demonstrate personal responsibility moving forward (see Chapter 5 for discussion on responsibilization and self-blame).

The judge then asks whether Jason ever lived on the North side, eliciting a predicted response (with a brief pause and topical focus on Line 10, "I grew up a—well, a little far South") from Jason. This response is important, for the judge asked in line 9, "did you ever stay on the north side before?" but instead of answering in a yes/no fashion, Jason gives an anticipatory reply that gets at the heart of the judge's questions regarding where he once used drugs. In this instance, the questions stop, given that Jason framed his use as being "on the west side" and "growing up on the south side." Given his completion of the treatment that the court mandated and his deployment of self-blaming discourse, he was able to return to his girlfriend's home. At least for the time being.

The questions about the context of a defendant's home isn't always purely evaluative, whereby judges just assess risk but make no determination as to whether a defendant should be moved from his or her environment. Rather, there are cases when the mental health court directly instruct defendants to move into recovery homes even when they have their own independent housing. Sometimes if risk is construed in a defendant's home—or ascribed to a defendant's home environment—the court would initiate a process of removal. For example, in a case that involved no clear sign of "non-compliance" based on drug use or psychiatric instability, a defendant, Judy, was compelled to leave her home to go into a recovery home because the case manager and probation officer claimed that she "was not doing well" at home with her boyfriend. A conversation had supposedly occurred between a staff member and the boyfriend about a disagreement in their relationship, and this became a source of monitoring and assessment of Judy's home environment. Judy had pointed out to the court that she had not used drugs and had abided by the court's rules and expectations, which was acknowledged by the judge but was nonetheless irrelevant for his decisions. Stating that she and her boyfriend had been in a relationship "for about 5 or 6 years, cohabitating, and we share a dog," she had emphasized that they loved each other and that it was not an unstable relationship, that they "just had a disagreement, like most people." After frustratingly contending with the judge and the rest of the team—who all wanted her removed from her place of residence— the judge said, "you're not doing well." To this, Judy sighed and then asked, "so what do you want me to do to show you that I am?" The judge responded accordingly:

1. Judge: I would like you to get into a residential setting and get out of the house for a while and work on yourself. And forget about your dog, forget the boyfriend, concentrate on Judy.
2. Judy: I would really like to stay in my own home. It's not even about –
3. Judge: And I'd like to be wealthy, but I'm not. I'm never going to be.

In this exchange, the judge not only presumed—based on a report from a staff member—that Judy's living arrangements constituted a risky environment and that, as a result, she was prone to relapse but also that the appropriate solution for intervening was for her to go into a recovery home despite having her own housing. He does so through a paternalistic disregard for other responsibilities ("forget your dog, forget the boyfriend"), sarcastically dismisses her preference to stay in her own home (Line 3), and conveys the message that she is incapable of healthily resolving intimate conflicts on her own. The intrusive nature of this exchange is exceptionally gendered, insofar as it revolves around the construction of Judy as lacking autonomy and necessarily vulnerable, which thus invites a certain degree of intrusiveness into the most intimate aspects of Judy's life—her romantic relationships (Wyse, 2013; Richie, 2012). Though it was her first time arrested and her first time experiencing drug treatment, Judy was forced to move out of her home and live in a recovery home for over five months. In her description of the experience, she described it as making her feel a sense of "terror" that was "crippling." She was in her mid-30s, white, and college educated with a long history of employment. Prior to being placed into a recovery home, her goal was to return to work, possibly writing. Later on in my conversations with her, she expressed that having gone through so much treatment that she "started to feel disabled" and the judge keeps "encouraging me to apply for SSDI and I have 18 years of education and a lot of work experience." Her interpretation of having to live in a recovery home and endure whatever came along with it, including a brief psych hospitalization, was that she had been "over-psychiatrized."

Engendering (In)Stability: Home, Housing, and Places of Recovery

It would be quite easy to assume that all of these courtroom discourses about community living and risk have no effect on defendants' lives. That, however, would be entirely misleading. While the evaluative methods for assessing risk discussed above do not always result in a one-to-one outcome (i.e. someone being moved immediately after discovering where they live), what these practices achieve is the establishment of the terms under which movement to recovery homes is made possible and a way of presumptively gauging whether defendants are risk-prone. This justification is advanced as unproblematic and necessary when failure, as construed by the court, is a part of the circumstances for these determinations (e.g. a relapse, someone going "AWOL" from treatment, a new arrest). In turn, these instances simply feed the reasoning of MHC staff, acting as confirmation to what was already strongly believed to be true.

Indeed, the legal and epistemic control exercised by MHC practitioners result in a high degree of coerced movement, and defendants frequently find themselves at odds with these practices. As stated before, for those whose circumstances provide a modicum of stability, the contention and tension around moving and getting "snatched up" is quite strong; likewise, for defendants whose material circumstances are dire, being placed in a recovery home or being moved around is less problematic. In fact, in the case of the latter, recovery homes provide a form of temporary relief for the defendants entrenched in extreme marginality. However, it does not guarantee long-term or permanent housing—supported or independent. Invariably, in either case, both groups of defendants strive for and push for obtaining and/or maintaining stable housing. But if community reintegration is taken remotely seriously in MHC, practitioners drastically preclude this objective by cycling defendants through facility after facility and removing them from their own place of residence, directing them to leave their homes, and failing to secure permanent housing for most defendants. Recall Anita's case in the previous

chapter and the impulse of the court to take Debbie out of her son's home, as well as Raven's situation mentioned above.

When housing stability is brought into question and defendants are coerced out of their homes, shuffled around or ordered to not live at one place or another, they are most vocal and, on occasion, emotionally expressive. This is most significant when other sources of support and responsibilities are on the line, including employment or their responsibility to care for their children or some other loved one. When recovery home directives are made by the court, they often accompany threats of punishment or actual jail detainment, as the waiting period to enter a facility can be a week or more, and in these cases, placement into a facility is merely a practical matter: the court can only place defendants in sites that have open space.

Lewis, a sixty-three year old Black man from the Austin neighborhood on the West side of Chicago, cycled through a series of inpatient treatment facilities, recovery homes, shelters, jail detentions, and a nursing home. On one occasion, he was told to check himself into detox on the far North side, in the Lakeview neighborhood, but was unable to be admitted because, according to him, "I was detoxing already." The plan was to have him go into detox and then into a recovery home, but instead Lewis found himself without a place to go during that weekend. He contacted the mental health court case manager and informed her of the problem, at which point she instructed him to "ride the train over the weekend" until she could find some place for him to go the following week. But because it was during the middle of winter, Lewis went to an abandoned building in the Austin area where he once stayed while he was homeless. In recalling the incident, he said, "I thought it was crazy, it's wild, I mean of course financially I went back to the house [abandoned building] you know… and had to make due there… sleeping under three or four covers, and coats and stuff like that, you know? That was one of the coldest weekends as it was."

Soon afterwards he appeared in court and was instructed by Judge Carpenter that he would be going to a recovery home on the far South side, where he would be required to pay a portion of his early retirement to stay. Concerns were raised both about the distance, being far away from where Lewis's supports and resources were located, and the cost. Judge Carpenter raised these concerns and stated:

1. Judge Carpenter: Here's the thing. I know you brought up an issue about it being too far from some of the things you're doing, some of your services.
2. Lewis: Uh-huh.
3. Judge Carpenter: That's a valid concern. I get why you're concerned about that. You have to go to Guardian. You have to go there. It's not a permanent thing.
4. Lewis: As long as I can afford it.
5. Judge Carpenter: That's the thing, the team's talked and they made arrangements with Guardian for this to be doable. It's not permanent, but the thing is you have to go. The moving date is on Saturday.
6. Lewis: Okay.
7. Henry (Public Defender): I think they have a reduction in rent there, too. All right?
8. Lewis: I only got a certain amount. If I can do it, I'll definitely do it.
9. Henry: He's saying it's a requirement.
10. Judge Carpenter: So we're clear, it's not a "if I can do it, if I can fit it in."

While Judge Carpenter acknowledged Lewis's concerns for being far from resources and services (Line 1), he nonetheless dismissed them and ordered Lewis to enter into Guardian with the knowledge that it was not permanent housing (Line 3). When Lewis raised an additional concern regarding its affordability, given that he would have to pay his money to stay at the recovery home, Judge Carpenter implied that a pre-determined negotiation had occurred between the court staff ("the team") and the recovery home (Line 5) in order for Lewis to be able to afford it. This is reinforced by Henry, his public defender, though in the form of hedging (i.e. "I think") suggesting uncertainty (Line 7). Yet Lewis continued to emphasize the cost and what his monthly check provided (Line 8). Though unstated here, his total income was $534, which amounts to less than $6500 a year. Given Lewis's insistence on framing the Judge's order as a financial contingency (Line 8 "If I can do it, I'll definitely do it"), both Henry and the judge

correspondingly removed the last bit of doubt from the equation that Lewis had to go to Guardian, leaving him with no say in the matter (Lines 9-10).

Lewis followed through on what Judge Carpenter ordered, only to discover that he would be paying 90% of his income ($481 a month) and would be walking long stretches to and from service organizations and AA meetings and other places out of reach. In return for 90% of his income, he received "a bed in a room with two or three other guys" and had to figure out how to buy his own food. In Lewis's estimation, the person who ran it was a fraud. He stated: "nah, nah. He phony. You know he [the man who runs Guardian] have meetings because he once used, but…it's not a treatment facility. Everybody I know hate to be there and I got people even in the court told me that they had left there, telling me how to do it and where to go…and the roof was leaking in there and everything else messed up…Crazy." Having little money for anything outside of rent and food, and certainly not public transportation, Lewis was wholly dissatisfied with being at the recovery home, saying "it is not a home. And I get all of my treatment for free, through my insurance. So why am I paying to be there?" Several months later he was hospitalized for having a stroke, the result of two blood clots in his throat. What allowed him to move from Guardian is the fact that the hospital strongly recommended that he go into a nursing home post-release. The court agreed. Yet for Lewis, even this was insufficient. According to him, as a point of comparison and a way to assess the quality of the nursing home, he remarked that when the case manager visited, she told him that the nursing home "was worse than being on the street." He chuckled and shook his head.

My ongoing conversations with Lewis prior to and after our official interview revealed the insidious and complicated process in which some defendants were immersed, particularly when they tried to obtain housing stability; MHC's practices frequently stymied this goal or

destabilized some defendants in an attempt to control their environments and the risk construed as part of their behaviors. Even for Lewis, whose social circumstances were quite precarious before MHC, placing him in a recovery home did not ensure stability or integration or relieve psychological stress. Lewis was detached from his neighborhood and had been compelled to live in a poorly run and therapeutically questionable residential facility that demanded most of his already insufficient income in exchange for inadequate housing. Over the course of his time in MHC—punctured by relapses, jail detainments, and several placements in different custodial facilities—Lewis experienced routine cycles of instability and, in the end, still had no stable form of housing. When recalling his experience, he even interpreted some of these coercive movements by MHC through the lens of race and place, stating:

1. Lewis: I tell you one time they had it in for me being on the West Side, because, you know, they figure—because they associate it with drugs. But if I'm gonna get drugs, I don't care what side of town I'm on. Come on! That's everywhere! So why are you trying to take me out my environment? You know, that ain't got nothing to do with it! At all. Zero.
2. Julian: So you think that that is their thinking…that they move people because they think that somehow they gonna be—
3. Lewis: Yeah. Right. Right. They associate it with drugs. But, you know, if I'm out here and I ain't happy, what else I'm gonna do? You know? And this is where my support is at. My family…friends. People who can help me.

Like Lewis, other defendants articulate similar sentiments regarding recovery homes and MHC practices, expressing a disruption in social ties, strain, and a sense of instability as a result of the court's attempt to facilitate a so-called process of living "in a stable environment." By upending the court's discourse about risk and place (Line 1 "But if I'm gonna get drugs, I don't care what side of town I'm on"), Lewis reveals the limitations of the court's imaginary, implying a simple statement on the matter: drugs can be bought and consumed anywhere if one wanted them.

On one occasion, I sat in the men's mental health court with several defendants waiting for court personnel to finish their staff meeting and initiate hearings. Three men—two black and one Latino—chatted periodically about various subjects. I was perched in the back row closest to the entranceway with my notebook in hand looking towards the glass fishbowl but listening attentively as they talked. Two of them, Rodney and Carlos, had apparently known each other from jail. They had been housed together in the same unit before accepting mental health court probation. They chatted about being in Cook County Jail, the conditions inside the unit, and their shared stress and fear of returning. It appeared that Carlos had received MHC shortly after Rodney, and was out living in a residential treatment facility. Rodney, however, was living with a family member.

As they talked, it struck me that the idea of being placed in a setting that they may or may not have liked or desired was a part of the discussion. Recalling that I had observed Rodney, while he was in custody, being told by Judge Carpenter that "I don't think it's a good idea for you to be returning home to your family" during one hearing, I asked if either of them had to go into a recovery home and if so, how they felt about it. Rodney replied, "man shit, I fought like hell against them. I wasn't trying to go to another recovery house!" He went on to talk about his experiences with living in various recovery homes in the past, saying that the facilities varied and that some of them "just want your damn money." As he went on, he noted that the ones where he had resided had attempted to both control his mobility with "curfews" and "weekend passes" and had monitored his every actions, which were then reported to the probation officer. I asked, "so why do you all think the court makes people go to recovery homes?" Rodney said, "sometimes people don't have nowhere to stay, or they don't want you with anyone who they think is using.

Like, if someone in your family is using, then they want you in a different environment. People be relapsing so they try to make sure you don't be around anything that will make you use."

To this, Carlos, leaning forward with his elbows on his knees, nodded while looking at me and said, "yeah, that's what happened to me. I was around family and used—"

Rodney cut in, "But really, that don't make no sense though, because at the end of the day, that's your family! Where you gonna go when you leave? Right back to your family. So it don't make no sense. And, to be honest, if you want drugs you can just go find it anywhere."

Carlos slowly nodded. "That's true," he said.

The third man who sat just to my left on the same bench, grumbled a few words under his breath at the idea of having to be in a recovery home. He said, "that's what they did to me," referring to the fact that he had been placed in a recovery home. He described it as a problem that has been impinging on and hampering his marriage and obstructing his ability to "take care of my responsibilities." He went on: "this shit they be doing don't help. I have a home and a wife, but this shit is messing up my marriage. It's causing problems between me and my wife." His face sagged with frustration, his scruffy beard giving him a tired look that amplified his apparent anger. "A lot of individuals choose to use, so that's why they be doing what they do to people. But I haven't been using and I have a wife and home to go to." I asked if he had to pay for his recovery home, and he said that he did. I turned to Rodney and asked the same question, and he mentioned that some of them are paid for by the government, through his insurance, and others are not. In his experience, most had been paid through his insurance.

In all of my conversations with defendants, very few stated that being in a recovery home guaranteed permanent housing. In fact, most did not receive permanent housing after leaving a recovery home, unless it already existed prior. Indeed, the probation officer, Audrey, understood

this problem exceptionally well, yet the court continued to engage in practices that complicated, if not prevented, ensuring stable living for defendants and their community reintegration. In a conversation with her about Jason (mentioned above) who had been forced to live in a recovery home up until his graduation—whereupon he immediately left the recovery home and found himself rearrested and back incarcerated one week later—Audrey admitted, "we can't let people finish up and leave without full supports in place and in better circumstances, or we set them up to fail. I keep telling the judge this. I just knew Jason would leave that place the moment he was done."

As noted earlier, Jason had cycled through inpatient treatment facilities, jail, and a few recovery homes. He was a 31-year-old white transman diagnosed with bipolar disorder who had been in and out of carceral institutions since the age of 17. However, he had managed to find employment and was cohabiting with a partner on the North side of Chicago (neighborhood unknown), where he shared responsibility for paying rent, when things started to go awry.

On one occasion, I sat in court observing his hearing when Judge Taylor grumbled at him, "you look a mess" and implied that he had been spiraling out of control from drug use because he had left an inpatient treatment facility (described as going "AWOL"). Despite Jason's alerting the probation officer and the case manager to the reasons why he left and updating them on his whereabouts, Judge Taylor decided to take him into custody for two weeks. The assumption was that he had been relapsing, though a urinalysis proved otherwise, and Jason argued against the judge's accusations. Jason pleaded with the judge through trembling lips and a cracked voice, saying, although he had left the program, he was "doing everything else and keeping in touch with everyone," emphasizing that he had not absconded from probation for which a violation would seem more sensible and appropriate. Judge Taylor stated that he had to

go into custody because Jason needed to "get stabilized," to which Jason shot back in a frustrated and angry tone, "how is going to jail going to make me stable? I'm going to lose everything. That won't help me!" Referencing his job and stable home with his partner, Jason said for the second time, "how will jail make me stable? I'm going to lose everything." The judge, however, reiterated himself, "you need to get stabilized, Jason." He was hauled off to lock up by the sheriff with tears streaming down his face. Two weeks later, he was released and placed into another recovery home, undoubtedly losing his job. Later, after a round in a recovery home and back to jail detainment, he lost his partner and their shared apartment.

Jason later settled in at another recovery home, obtained another job, got sober, and successfully completed probation. However, as Audrey stated, he left the recovery home soon thereafter, only to find himself rearrested in another city in Illinois. While the circumstances or motivation for why Jason left the recovery home and got rearrested are unknown, his leaving the facility immediately after finishing mental health court raises important questions about the extent to which he viewed it as a source of stability—or even a route to permanent, stable housing—and whether he was only there because of the court's control.

Indeed, sometimes contentions over home, housing, and being placed in a recovery home culminate into extremely emotionally charged exchanges between defendants and Judges. Recall Emma from the previous section who was questioned about living in Morgan Park by Judge Taylor. Roughly a year after being in MHC, she had been taken into custody for two months and subsequently placed into a recovery home due to a relapse. While at the recovery home, she experienced ongoing conflict with a staff member and had decided to leave. She was working and had been doing relatively well, by all accounts, and had not tested positive on a urinalysis since her arrival. Yet having returned to the South side and wanting to obtain an SRO in the

Auburn Gresham neighborhood, questions again emerged about her being in the wrong part of the city and living in the community.

I hadn't seen her in close to three months when we sat in the courtroom catching up and chatting about her time in MHC. She was frustrated and angry about the court not only remanding her to jail for two months but also for trying to move her into another recovery home, which would have very likely interfered with her job and preclude the housing stability she was trying to secure. As we waited for the hearings to start, she was fuming with anger, her face knotted up. "This is really getting on my nerves," she said. "I'm ready to say fuck it and go to prison. I'm really tired of this shit." I looked at her and shook my head. "I feel like a child," she went on. "I have bills to pay. I work. I got a promotion and I'm trying to get an apartment and they keep saying 'your job is not your priority, your recovery is.' What the fuck they think I'm supposed to do?" After asking what part of the city she was from, she said "South. I've been on the South side all my life…And they said they need to 'visit' my apartment." She curled her face up, showing disbelief. "Like, I know they think because I'm white, they may think I shouldn't live there. Like, what the fuck does that have to do with anything? They may not want to live there, but if it doesn't bother me, what should it matter?"

Interpreting the court's concern for her obtaining an apartment through the lens of race and place, while noting the extent of control and paternalism disrupting her priorities, Emma was aware that the court thought negatively about the South side and possibly viewed her as out of place because she was white. Ultimately, Emma framed her concern primarily for possibly being hauled to the lock-up area and remanded to jail for leaving the last recovery home and, as a result, losing her job. She said, "I don't get what they think is best. *They don't know what's best for me!* [her emphasis]. I have to work. And with my extensive background, I'm lucky to even

have a job. But they think that 'my recovery' is most important. My housing and employment are important to me!"

Shortly after this statement, she was called into the courtroom for her hearing. The legal exchange between Judge Williamson and Emma became contentious; Emma was repeatedly cut off from talking, told to "stop making excuses," and instructed to "listen or go to jail" (see Chapter 5). The judge interrogated her about using drugs, asking, "did you leave because you used drugs?" to which Emma responded, "No. No I did not." Emma explained that it was from ongoing conflict with a staff member who "abused her authority," though the reason for the conflict was unstated. "It was events that built up to that moment. I was there for a month and a half. It was very stressful," she said. The judge forcefully proceeded as follows:

1. Judge Williamson: Okay, listen. This is treatment, not on *your* terms but treatment based upon what you need, whether you think you need it or not. You either participate or don't, and when I say participate you participate one hundred and ten percent. Not based on what you think you need, but what the team thinks you need, and what the treatment providers think you need…I'm not going to let you live in an SRO. That's a flat out no. What we are going to do, Sharon [case manager] is going to look for another recovery home for you. We think that's the best place for you to live for now because you did not complete your time at [recovery home] you just did not."
2. Emma: So losing my job would be what, that would be good for my life right now? I have to take care of myself. Nobody supports me but me.
3. Judge Williamson: You're just coming up with excuses and you're trying to play—
4. Emma: No, I'm not.
5. Judge Williamson: Listen. You're trying to play on the sympathy of the Court. It's not going to work. You're not the first person that I've heard this from. You're on two years -- Just listen. You're on two years of mental health court probation. You have to comply with all of the terms and conditions and if you don't, you go to the penitentiary. So if you continue down this path, you're going to the penitentiary and then you will lose your job.

When Emma grew louder and began to cry, trying to defend herself and state that she needed to work and did not want to be moved to another recovery home, the judge said "you're giving me attitude right now" and commanded her to "take a seat and wait until I decide what to do with you." Emma sat in the jury box crying as I watched from the seating area wondering if

Judge Williamson would detain her. At the end of all the hearings, the judge called Emma back up to the bench and began speaking to her in a comforting tone, attempting to display empathy, saying "I understand what you are saying, and I know it's difficult…we are trying to help you."

Emma stood in front of the bench wiping tears from her eyes, but in the end, the judge ruled that she had to go back into a recovery home. When Emma walked out and exited into the hallway, I jumped up from my seat, heart racing and feeling a sense of indignation at what I witnessed. I followed her into the hallway, along with a case manager from a community mental health agency in the area. Emma began cursing and disputing the claims of the judge and saying that she just felt like saying "fuck this shit!" The case manager and I encouraged her to not allow the judge to break her, to keep doing what she was doing and not give up—the only platitudinous response I could personally muster. But Emma kept saying "fuck him! Fuck him!" When her next court date rolled around the following week, I was there waiting to see her to catch up and see how things had gone regarding her job and the recovery home. She did not show up. They issued a warrant for her arrest. Afterwards, every time I went to court to see if she had been taken into custody, she had not. The electronic case records revealed that after seven months of absconding, she was picked up on a charge of driving on a suspended license in a neighboring county. I attended her court hearing, and she was both terminated from the program and sentenced to 18 months in prison.

Conclusion

In this chapter, I discussed how evaluative practices for assessing risk in relation to place form a core fault line in MHCs, and how judges use these methods for justification to place defendants into recovery homes. By presupposing that defendants' living environments are risk-strewn and that they are incapable of navigating these contexts, the court mobilizes and enacts a rehabilitative imaginary that paradoxically constructs community as a site for therapeutic care

and risk and instability. The presumptive nature of the court's evaluations of place reveals both its anxieties regarding drug use among defendants and the preconfiguration of defendants as uncontrollable criminal addicts. While some defendants certainly face enormous challenges in various environments, and "place" may in fact be conducive to defendants' relapsing, the court's decisions do not proceed from precise knowledge of defendants' living arrangements or local community. Rather, the court's decisions emerge from defining relapse overtime as a sign of failure with living in the community and thus proceeds to treat every case in this manner. Community living, instead of construed as a positive, is paradoxically construed in negative terms.

Nonetheless, most defendants are placed into a recovery home immediately after entering into the court, having sat in pretrial detention prior. In these cases, MHC has more control over these sorts of moves. However, in cases when defendants enter by some other means or leave facilities to "go back into the community," judges engage in evaluative methods for assessing risk.

Defendants, however, are quite aware of these assessments. They try to anticipate the questions and respond accordingly. As evidenced by Jason, they also learn what sorts of narratives correspond to the court's expectations. Emma was someone who was also keenly aware of what the court aimed to do, and she had tried to circumvent the practice of moving her from one place to another. On one occasion, she was clear about the costs of speaking to the court about details involving her life and circumstances: "everything isn't hunky dory. I don't tell them everything. You can't tell them everything, otherwise you'll go to jail. Life isn't as sweet as it seems, but I tell them what I need to tell them so that I can get out of this place." In the end, she was unable to escape the brunt of the court's control, and found herself unable to speak. As we will see in the next chapter, this inability to speak for oneself has a host of consequences.

For many defendants, the idea of "home" and remaining in their community is viewed as a route to stability and a basis of support, even if or when there are pervasive threats to their recovery in the environment. However, these same sites (home, neighborhood/community, and sometimes the personal relationships within these contexts) are places and people that the mental health court view as sources of risk from which defendants need be removed. This gives way to seemingly unresolvable tensions between different defendants and the mental health court. In cases where defendants have stable housing, being placed into a recovery home can put them in a seemingly unstable situation. This can also be true for more defendants who are poor and inhabit extreme marginality, such as Lewis. However, for many of defendants who do inhabit extreme marginality, being placed into a recovery home functions as a form of temporary relief and thus serves as a mechanism through which other necessary social services are accessed, but without the surety of permanent housing.

Recovery homes thus serve several purposes: as a means for assuaging anxious preoccupation with drug use, as a form of risk alleviation, a place for heightened control and monitoring, and a site for restructuring the defendant through routine "structured" activities related to addiction treatment (see Kaye, 2013; McKim, 2017; Whetstone and Gowan, 2017). A contradictory outcome of all of this is that some defendants get sober but do not obtain housing, some experience instability from having cycled through several recovery homes but do not resort to illicit behavior. Others tradeoff their sense of peace and closeness with relatives and partners in lieu of living in recovery home. Not noted here but perhaps a major finding is the fact that at least 15% of the women in MHC had to use their family to help support their children while they were living in recovery homes. Indeed, the movement from facility to facility places a greater strain and longer lasting effects on women with children in MHC, and on many occasions, I sat in the public area watching mothers or grandmothers coddle toddlers and care for infants,

mothers walk into the courtroom with their children in tow while judges attempt niceness and cordiality—or, in some cases, the judge instruct women to not have brought their children with them because he knew prior to the hearing that the defendant would be going to jail.

In the next chapter, I examine how discourses of "honesty" and "openness", along with directives to "not make excuses" similar to the examples seen with Emma and Raven, function within the context of interrogative practices that serve as a form of responsibilization. Because defendants are required to speak with court officials (not speaking may in fact be quite consequential), they are urged to "tell the truth" for why they did not meet the court's expectations and then made to shoulder full blame. This discourse maintains a strict and unshakable hierarchy of power and control and ranks different sources of information/knowledge that affect how defendants ultimately speak, whether they speak, and under what terms they are capable of speaking. Responsibilization not only circumscribes their capacity to voice themselves in a legitimate and valid manner but also abstracts any alternative explanation for their personal challenges that do not accord with self-blame, pathology, or personal responsibility.

CHAPTER 5

SPEAKING FOR ONESELF: "HONESTY," "NO EXCUSES," & PRACTICES OF RESPONSIBILIZATION

The first time I had met Ryan was in the men's mental health courtroom just a week after he pleaded guilty and agreed to accept mental health court probation for two years. He had a positive drug test and was concerned about what Judge Carpenter was going to do: what sanction he would level against him. Another defendant, Lewis, was in the same situation as Ryan, both having entered a week prior and both having tested positive on their urinalysis. Both men were African-American and had resided in the Austin neighborhood of Chicago at the time. I queried Ryan about what he thought was best, which generated interest and input from various defendants. Ryan stated that he would "own up" to his relapse and stressed that he had been clean for a long time and thought that being "honest" was important for how the judge would respond to him. "I can't blame anyone for my mistake," he said, and described his relapse as a result of the drugs "still being there at my place."

According to him, he had been engaged in some illicit drug sales and was waiting on someone to pick up the drugs. It was in his presence all day long, and by nightfall, had become challenging to not use. "I was waiting for this nigga and by the time eight o'clock came, I started using it up," he said while shaking his head. The words poured from his lips in a slightly upbeat, amusing tone. Ramon, a thickset Latino defendant with salt and pepper hair sitting in the wooden bench directly in front of me, spoke about his past relapses and encouraged Ryan to not tell the truth about his relapse and, instead, "lie." "That's what I would do," he whispered in a raspy voice. With a smirk on his face, he continued, "I call them little white lies. They just have to find

out." I looked over my shoulder to see Ryan's reaction but he did not seem interested in telling "little white lies" at the moment. He shook his head and turned away from Ramon.

At some point, the conversation shifted and a White male defendant, presumably under 30 years old, walked in the courtroom. He carried a black book bag over his shoulder, was dressed in black jeans and a dark blue sweater and wore a thin dark brown beard. Heads turned as he walked to the first bench closest to the block of glass that separated everyone from the interior of the courtroom. Eventually, a conversation about Judge Carpenter and his decision-making about being "honest" re-emerged. Ryan and Lewis sat behind me cackling and jibing with each other. "Nigga I ain't going nowhere with you! This nigga crazy," said Ryan while laughing, indicating that he would escape the judge's decision to send him to jail while suggesting the opposite would happen to Lewis. They shot playful responses back and forth. According to them, they both had not received court-mandated treatment yet, but were both on methadone and had reports from their respective treatment facility showing that they had been drug-free until this recent relapse. Ryan was convinced that he was in a different boat, however.

The White man with the dark brown beard and black book bag described to another male defendant his experience with having a positive drug test after being in MHC for 90 days. Judge Carpenter had taken him into custody for 28 days, he explained, as Ryan and I listened. "It was my first positive drug test," he said. I turned around to inquire about Ryan's thoughts regarding this matter. "Oh, well, he fucking knew better," Ryan said. "He was in the program for three months." He shrugged. "I mean, after 90 days you know what the hell you're supposed to do."

"So you think that's what it was?" I asked Ryan.

"Yeah. He lied about his use, too. You gotta be honest with the judge. That's what this is about. You can't lie to these people and think they not gonna punish you." He then proceeded to

make a comparison to a mother who expects the truth from her son and, when given a chance to be honest, the son lies and she "spanks the mess out of him." I find the analogy ironically interesting, given that Judge Carpenter and Judge Williamson had previously characterized defendants in paternalistic terms, suggesting that they were like "kids" who made bad choices (see Chapter 3 for discussion on this matter). Ryan had appeared to inculcate and recycle this paternalistic discourse, articulating how not admitting so-called wrongs to an authoritative figure warranted punishment. "That's what the hell I'd do, you know what I'm saying?" I nod my head. He turned to the white defendant with the dark brown beard, asking, "did you lie to the judge?"

"No, I was honest. I told him. I told my probation officer before I even took the test, too." I turned back around to see Ryan's face. I couldn't read his expression. But he looked around and then at me and said plainly, "he knew better."

When the proceedings began and Ryan was called for his hearing, Ryan admitted to relapsing and Judge Carpenter gave him a pass, but with a contingency: he had to return the following week to see what the results for a drug test for that specific day would yield. Lewis, his bantering buddy, received the same outcome. In both cases, the admission of a court-defined wrong (i.e. drug use) appeared to work in their favor, though they were both very new to MHC and had not been instructed on what they would need to do regarding treatment just yet. More importantly, the judge made it clear that he was interested in seeing if another test would come back positive before he administered a sanction. Neither were completely out of the court's crosshairs. But to Ryan, "honesty" was the currency at play: it allowed him to purchase an escape from punishment.

In this chapter, I explore the extent of these situated forms of talk (i.e. telling the "truth" and being "honest") and the way in which they manifest in courtroom proceedings and

interaction. I chart the peculiar manner in which these acts of so-called honesty by defendants function within the context of interrogation, employed by judges, to elicit admissions about wrongdoing that are presumed and/or known. Similar to police interrogations that aim to yield confessions from alleged criminal suspects, the court's interrogative practices center on matters known and unknown and involve direct orders from judges to be "honest and open" about things already thought to be "true." In so doing, I argue that these practices are methods for responsibilizing defendants, for justifying decisions about mandates, and for gleaning information that enhance/expand the court's control. As a result, defendants find speaking specifically about putative wrongdoings and in general terms about their lives in relation to MHC ensnares them into a rather complicated and unpredictably consequential process: that is, by engaging in ritualistic practices of speaking about oneself and admitting wrongs, defendants, paradoxically, find themselves relatively voiceless and incapable of fully representing their social reality.

Below, I briefly discuss Foucault's concept of confession in relation to MHC's interrogative practice and provide a cursory overview of the tenor and purpose of responsibilization. Surprisingly, in an institutional setting where uninterrupted confessional monologues by defendants would be expected to transpire—particularly in a manner reflective of Foucault's version of confession—MHC judges, to the contrary, do not provide space or opportunity for this otherwise common practice (Carr, 2013). Rather, judges are less interested in defendants' monologues as a technique of care than they are in ensuring that defendants take full responsibility for their actions, no matter the circumstances. Thus, my aims are to examine how speaking so-called "truths" by defendants—and about their personal life—takes shape in MHC

and demonstrate how these are discursively demanded, encouraged, and utilized by staff and subsequently negotiated by defendants.

Confession, Interrogation, and Responsibilization

There is a long history in the criminal legal system of expecting and demanding (and certainly coercing, even torturing) confessions from persons prosecuted for alleged wrongdoing. There is an even longer history of constructing confession as the medium through which truth can be apprehended and evaluated (Foucault, 1978; 1988; Carr, 2013). Indeed, Foucault notes the pervasive reliance on confession and the subjectifying practices that proceed from them. Whether in therapeutic encounters (e.g. talk therapy), drug treatment (e.g. AA and NA), religious contexts (e.g. Christian confessionals), criminal legal settings, or in the form of an autobiography, confession is a salient practice that pervades the everyday. Nonetheless, confessions are inherently ritualistic discourses and have been instrumental for how Western societies came to understand the "nature" of various objects of concern: sin and the sinner, sex and sexuality, crime and the criminal. Confessions are not free from power relations, however, nor are they representations of pre-existing "inner truths," despite the common belief that they represent outward manifestations of one's interiority (Carr, 2013). Rather, according to Foucault (1988), these are discursive formations that have developed through Christianity over the sweep of history, reconstituted in the 18th century through the human sciences, and *naturalized* as objective mechanisms of truth. Foucault (1978) states:

> "The confession is a ritual of discourse in which the speaking subject is also the subject of the statement; it is also a ritual that unfolds within a power relationship, for one does not confess without the presence (or virtual presence) of a partner who is not simply the

interlocutor but the authority who requires the confession, prescribes and appreciates it, and intervenes in order to judge, punish, forgive, console, and reconcile" (p. 61).

Hence, confessions are always situated practices, formed in a matrix of power, and subject to modification through methods of external evaluation and authentication. In the history of the penal field, confessions are shaped by the co-participants engaged in producing its "truth" (Hepworth and Turner, 1979) and thus are plausible or implausible linguistic performances that confirm or disconfirm pre-established notions of criminal responsibility and moral culpability (Hepworth and Turner, 1979).

Yet despite this reality, criminal legal procedures—and the general populace more broadly—continue to view confessions as factual evidence of moral failings and as a necessary route to absolution, transformation, and redemption. There is, supposedly, a therapeutic function to the confession, and an "offender," in other words, is incapable of being redeemed if she does not admit contrition and accept responsibility for her wrongdoing (Maruna, 2004; Hepworth and Turner, 1979). When voluntarily and spontaneously performed—that is, when not physically or unduly coerced—the confession's "truth-value" increases and the ontological status of the confessant—their interiority, their private secrets, their true nature—is revealed and, supposedly, transformed (Hepworth and Turner, 1979; Maruna, 2004). Indeed, these ritualistic practices of confession are a part of what Foucault conceptualizes as "technologies of domination" and "technologies of the self" (Foucault, 1988b), modes of practice that are, respectively, subject forming from above and below—from external forces and instruments and by way of enlistment in one's own subjectification. But as Carr (2013) aptly notes, contemporary confession "obscures the intensive interaction of confessor and confessant, funneling their dialogue into what appears a monological report derived from the depths of the sinner" (p.38). In so doing, contemporary

confessional practice elides the "master" who elicits and evaluates the confession while simultaneously renders the monologue a truthful representation of the confessant's "reflexively realized inwardness" (Carr, 2013, p. 35).

While this Foucauldian conception of confession seems to operate at the general level of rehabilitative programming for criminal legal subjects (Maruna, 2004), the form of confession produced through interrogative methods in MHC is quite the opposite. That is, in an institutional setting that claims an explicit therapeutic imperative and theoretically aims to give "voice" and "dignity" to its participants for rehabilitative purposes, MHCs appear to engage defendants in routine interrogations that is less in line with a Foucauldian model of confession and more in line with the version of confessions that are secured in police interrogations (Shuy, 1998). Indeed, Shuy (1998) demonstrates that confessions obtained through interrogation differ from the therapeutic and spiritually redemptive kind emblematic of Foucault's version in several important ways, including but not limited to the following: 1) interrogations presume guilt and thus operate as a means to secure information that confirms and details the act of wrongdoing; 2) they occur under obvious conditions of asymmetrical power relations, where the interviewee /suspect is subjected to constant questioning, probing, and interruption by the interrogator; 3) interrogations cannot and do not necessarily lend themselves to detections of "lies" on the part of the confessant; and 4) there is no surety, guarantee, or clear route to absolution for giving a confession.

Similarly, interrogations in MHC produce confessions in the form of an admission that falls in line with Shuy's argument. These admissions, unlike a Foucauldian form of confession, do not operate as therapeutic engagements that produce a "truthful" account of defendants' inner states, which would be an expectation of a therapeutic court. Rather, admissions produced

through interrogation in MHC primarily aim to responsibilize defendants by ordering them to be "honest and open" regarding presumed wrongdoings and other matters related to their treatment mandates. To be sure, in reviewing the dialogue among Ryan, Lewis, Ramon, and others in the opening scene, it may appear, at least on the surface, that what is at work is a process of absolution via admission of drug use. That is, in Ryan's estimation, being "honest" about his drug use literally and figuratively would "set him free," as the commonplace aphorism goes, from being punished (i.e. metaphorically, from being "spanked"). While his words seemed to resonate with a Foucauldian understanding of confession and, perhaps, reflect the discourse of "denial" that mark contemporary drug addiction treatment (i.e. by being "honest," he militates against the notion of being in "denial." See Carr, 2011), his language of honesty in the context of MHC does not open up a space for either of these phenomena to take place.

Rather, unlike an addiction treatment facility which mobilizes, though not exclusively, imaginaries that revolve around teaching clients how to talk about their addiction (i.e. a language ideology as explained by Carr, 2011), MHC is a criminal legal context that is marked by hybridity, via penal, medical, and welfare assemblages (Moffat-Kelley, 2005), and it retains a strong legal imperative that reflects broader transformations in the penal state—transformations that center efforts to produce self-governance and self-control among criminal subjects (Garland, 1996; Rose, 2000). As a result, confessions secured through interrogation, and speaking in general terms about oneself, have a specific pedagogical focus on responsibilization that aim for "moral reformation" (Rose, 2000). To be sure, while defendants are urged to be "honest" and "open," they are interrogated to do so and, in turn, told that the cause of their errors, so-called failures, mishaps, and relapses are a direct result of their poor choices. This responsibilization practice entails a high degree of stripping out the context under which defendants actions occur

and discursively rendering any alternative explanation for their circumstances impertinent. In effect, the discourse of responsibilization frames the cause of a problem in ways that dramatically circumscribes what can be said, how, and at what moment.

For example, Andre, an African-American man in his early thirties with a bald head and portly frame, received a positive drug test for marijuana. Having discovered that his drug test yielded such result, he explained to the probation officer, Audrey, that the cause of it was due to his being in the presence of friends who smoked marijuana. After the MHC staff's meeting, the court proceedings began and Andre was called into the fishbowl. Standing with his hand joined behind his back, he proceeded to answer Judge Carpenter after being prompted to "tell me what's going on." He responded:

1. Andre: Yeah, like I told the probation officer, I apologize because I was around people—
2. Judge Carpenter: I'm going to stop you right there, because if the sentence continues with "I'm being around people" and something else follows that, that's a bigger problem. Okay? I understand you had a positive drop, but the important thing here is that you're open and honest. Remember, we were talking about that, you got to be open and honest. If you take a step back, you take a step back, and we go from there. But being around people and saying "I was around people and somehow it got through my skin," you know I don't buy it, you know nobody buys that, right?
3. Andre: Right.
4. Judge Carpenter: You don't buy it, right?
5. Andre: Right.

As seen in this exchange, Andre attempts to explain to Judge Carpenter a similar story about his positive drug test that he told Audrey. However, his storyline ends with an abrupt interjection by the judge (Lines 1-2), which directly invalidates it before it is even uttered. Judge Carpenter both anticipates and makes possible only two explanations: the story of smoking around others and the admission of honest drug use. In the case of the former, the judge immediately invalidates; and in the case of the latter, he instructs Andre on how he has to be

honest yet prevents him from even speaking or, in this case, admitting that he smoked marijuana. In doing so, he abstracts everything away from the act of smoking except Andre himself, placing the cause directly onto Andre himself. Noteworthy here is the contradictive nature of this abstraction given the court's practice of instituting the social and ecological script of people, places, and things for risk alleviation (See Chapter 4). In this moment, the defendants' claim is contested, and by incorporating the reported speech from the probation officer in his response, the judge validates that information as a form of first-hand knowledge and renders Andre's anticipated story as unbelievable and outright implausible ("I'm around people" and something else follows that, that's a bigger problem"). At the same token, Judge Carpenter's demand that Andre "got to be open and honest" both indicates that such practice reflects the value of accountability and the expectation that future confessions must happen in a manner conducive to the court's rationale. In implying this expectation, Judge Carpenter instructs Andre on *how* he needs to proceed with future admissions.

Indeed, there is a lesson to be learned by Andre in this moment: he is expected to change, to accept and demonstrate responsibility, and to be forthright when he takes "a step back." As such, defendants are constantly evaluated by how they perform during these interactions, how they demonstrate their commitment to the program and recovery in general, how they communicate their errors, and whether they sufficiently meet the performative expectations of MHC.

On one hand, by uttering one-word affirmatives in response to judges' reprimands, defendants such as Andre imply admission in the eyes of the court and thus legitimizes the discourse advanced by judges. These responses represent alignment with the court's expectation, and the result of the drug test certainly plays a role in validating and enhancing the legitimacy of

judges' discourse. On the other hand, should defendants speak more profusely, directly, or elaborately, they would potentially challenge judges' discourses but also run the risk of having the content of their utterances wielded against them or, more severely, used as justification to punish. Speaking in this manner, then, requires the authoritative listener (e.g. judge) to take seriously the defendants' explanations (even if sociological), or for the defendant to have a certain degree of rhetorical sophistication to contextualize their use, disrupt the discourse at play, and challenge the court's responsibilization practice.

To be sure, as Rose (2000) notes, responsibilization techniques are concomitant features of neoliberal regimes (i.e. "advanced liberalism") which fuse market rationalities into penal contexts, where problem populations (i.e. those "excluded from civility" such as criminals, addicts, the poor and welfare-dependent, the "underclass," psych patients, etc.) are in need of "ethical reconstruction" for incorporation into a moral community. Rose states: "Autonomy is now represented in terms of personal power and the capacity to accept responsibility—not to blame others but to recognize your own collusion in that which prevents you from being yourself, and in doing so, overcome it and achieve responsible autonomy and personal power" (p. 334). As a way to govern the excluded, responsibilization is one adaptive strategy used by the penal state to align the actions and behaviors of criminalized populations with expectations and aims of governing authorities (Garland, 1997). Such practice takes on the discursive features of self-blame and dramatically minimizes the role that structural arrangements play in the life and outcomes of defendants. Fox (1999) aptly notes that this practice operates as "an ideology of moral autonomy" by presupposing that all actions derive from rational choices of the agent.

Courtroom confession, then, is one method in MHC for responsibilizing defendants. And while the confession is produced by interrogative methods and is rooted in ongoing individual

acts of speaking to the judge or MHC staff, the structure and organization of the courtroom facilitates a socialization process whereby defendants learn all about these techniques through direct observation. Moreover, as a mode of inquiry that legitimizes and expands legal control of MHC and a means for inscribing self-governance, confessions span the full spectrum of concerns: from the mundane aspects of defendants' lives to the extent to which a defendant remains in a treatment setting to the discursive categories of addiction and criminality that form the primary target of the court's intervention.

The MHC "Contract"

In a fundamentally legal sense, Ryan, Andre, and everyone in MHC have already submitted formal pleas that symbolically represent an admission of guilt: they entered a plea, accepted MHC probation, and signed a MHC contract that articulate the expectations and conditions of being on MHC probation. But as a deviation from standard criminal legal court where a plea results in a sentence that has a definite end with clear conditions, MHC's contractual agreement necessitates and demands ongoing dialogical engagement from defendants and provides the basis for an ever-shifting set of contingencies that *compel* defendants to talk and divulge information about themselves. In simple terms, the MHC contract legally subjects defendants to ongoing interrogation, evaluation, monitoring, and judgement. Two central lines of the contract capture this idea:

1. I agree to sign any and all releases of information consenting to the disclosure of information to the Mental Health Court Team. I understand that if I refuse to comply with signing a release when requested, it may be grounds for my termination from Mental Health Court.
2. I agree to be truthful, cooperative, and respectful with the Mental Health Court Team.

In agreeing to these terms, in the eyes of the court, defendants relinquish full control over their private and personal lives and grant staff the right to arbitrarily determine what is or is not a legitimate source of information as well as define the terms and meaning of "truthful, cooperative, and respectful" actions. This fact alone raises important questions about what it means to be in a court-based program where communication about oneself is a requirement—an incessant feature of its process—and simultaneously a threat to one's own physical freedom, mobility, and well-being. In the same vein, all of this occurs in a context that not only relies on the results of the drug test but also harnesses and deploys second- and third-hand information from third parties to evaluate and correct defendants' behavior. Organized around a hierarchy of credibility, information—otherwise read as evidence and signs of pathology and wrongdoing—is thus ranked as follows:

1. Positive results from drug tests
2. Reports, either written or verbal, from authorized treatment facilities
3. Confessions, particularly those that accord with notions of self-blame, personal responsibility, or pathology
4. Other ratified speakers or sources of information (i.e. someone recognized as legal, medical, or therapeutic expert/professional)

These, however, are not mutually exclusive and can often be imbricated with each other. They can occur in a single strip of talk, either as real-time verbalizations or as reported speech (i.e. information from another source outside of the present interaction). In any event, they provide the conditions under which ritualistic dialogical exchanges occur and the means by which judges interrogate defendants about matters already presumed to be true.

Drug Testing, Honesty, and Responsibilization

Given these contingencies, in a setting like MHC, defendants' communicative and/or self-representational capacity is drastically circumscribed: speaking becomes a high-stakes game laden with power, fear, submission, emotive intensity, and occasionally rhetorical sophistication. Indeed, Ryan as well as Ramon in the opening vignette tacitly knew this during their interaction. Their conversation illuminates both the tactical nature of courtroom talk by defendants and the stakes that "telling the truth" entails. Lurking beneath their diametrical positions on honesty is the fear that such truth-telling generates. To be clear, divulging private secrets and personal details about oneself, in general, has the potential of landing one in custody or having one's entire circumstances rearranged. Because of this, there is a general sense of fear among defendants that admission to relapse and speaking, more generally, can result in either of these outcomes. This is especially true when faced with positive results of a drug test—a seemingly uncontestable kind of evidence. During these moments, the authenticity of a defendant's commitment to the mental health court is measured through the admission of wrongdoing, particularly when it proceeds without a demand from the judge. However, in moments when the admission is not voluntarily performed, judges urge defendants to be "open and honest" and "don't make excuses," as evidenced by Andre.

While being pedagogical in nature and intended to persuade, responsibilization teaches defendants about the value of accountability and moral autonomy. Responsibilization is meant to reconstitute defendants' disposition to a more responsible, self-governing, morally autonomous subject. In terms of their structure, these pedagogical practices unfold as 1) confirmatory question-and-answer sequences emblematic of interrogation, 2) confrontational statements that invalidate defendants' alternative, especially lay sociological, explanations, and 3) rhetorical utterances of encouragement that seek to train defendants on how to confess in the future (see

Andre above). Each of these operate in tandem and are methods for both validating MHC discourse and increasing access to information (i.e. future confessions). In either case, subtle or overt threats of punishment sometimes accompany these practices and thus betray what seems to be an inviting and welcoming discourse—which certainly reinforces defendants' fear.

Similar to Andre, Beatriz, a 26 year old Latinx transwoman, had tested positive for marijuana. Sitting in the in the Woman's courtroom with several people, presumably friends that accompanied her, she laughed and joked and bantered with them as we waited for the court hearing to start. Otherwise known as an outgoing and sociable person, when the MHC hearings started she became noticeably silent. After being called inside the fishbowl, the judge proceeded:

1. Judge Williamson: Tell me what's going on, you know I know.
2. Beatriz: I had an incident. It was because my insurance, me and Sharon [case manager] were working on signing—
3. Judge Williamson: Stop, stop, stop. If you don't know anything about me, the first thing you should know is I don't take excuses. It had nothing to do with your insurance, you smoking weed, right?
4. Beatriz: Right.
5. Judge Williamson: That had to do with you.
6. Beatriz: Right.
7. Judge Williams: So don't start making excuses, okay? And you didn't tell probation that you had smoked weed and you tested positive, and instead of talking to probation, instead of talking to Audrey about it, you waited until after you were tested and then you called [Sharon] instead, right?
8. Beatriz: Right.
9. Judge Williamson: You got to be up front. People have slip-ups, that happens, but you got to be honest about it and step up and take responsibility for it. No excuses, okay?
10. Beatriz: Okay.

In this exchange, it is apparent that Judge Williamson's aim is to *extract* an admission of wrongdoing from Beatriz, as he starts with a demand ("tell me what's going on") coupled with a declarative statement ("you know I know"). This opening line examines Beatriz's commitment to MHC by seeking answers to an error already known. When Beatriz attempts to contextualize

and frame her experience as "an accident" in relation to a health insurance matter (Line 2), Judge Williamson cuts off the imminent narrative with an abrupt command ("stop, stop, stop"), thus invalidating whatever Beatriz was going to say and circumscribing what could possibly be uttered while asserting ultimate authority over *what* Beatriz *should* say (Line 3). The judge does this by positioning himself as someone intolerant of explanations that deviate from his expectations ("I don't take excuses") and by asking a confirmatory question with a tag ("you smoking weed, right?"), thus producing an account that corresponds to what was already believed to be true. Beatriz's affirmative response (Line 6 "Right") provides the grounds for the judge to proceed with the pedagogical practice of responsibilizing her ("So don't start making excuses, okay?") and implicitly training her on how to proceed with truth-telling (Line 7). In what follows, Judge Williamson enacts the rhetoric of persuasion by uttering encouraging statements regarding admitting truths ("People have slip ups, that happens") and then reinforces the responsibilization discourse ("you got to be honest about it and step up and take responsibility for it. No excuses, okay?").

Indeed, talk of "no excuses" serves as a method for invalidating what criminologists have historically characterized as "techniques of neutralization" (Sykes and Matza, 1957), which are commonly believed to be strategies deployed by people who commit moral wrongs (i.e. crime) to "rationalize" their actions and quiet internal moral imperatives (Sykes and Matza; Maruna, 2004)[1]. In so doing, the "no excuses" talk equally inhibits what can be uttered by defendants and received by the court as a valid or legitimate explanation. The sequence of talk in the extract

[1] There is a long history of figuring deviant populations in this manner, and though this concept and the scholarship on "neutralizations" have been amply critiqued, there is a common belief inside and outside of expert criminological circles that criminals justify their actions through rationalizing and explaining away—not accepting blame—their behaviors. One simply watches any TV show on crime or incarceration or listen to popular discussions around celebrity foils and this message will resonate.

above both demonstrates the court's ritualistic command for admission—despite not allowing defendants to speak—and the use of this command to enact a pedagogy of responsibilization. This practice, as discussed, is grounded in deviant constructions of defendants, and is used to reconstitute them as responsible, self-governing, morally autonomous subjects.

When Telling the Truth Goes Wrong

Admitting one's relapses and other wrongs without a judge's order to do so are unpredictable ritualistic practices that, in many cases, only lead defendants to unfavorable circumstances. In some cases, defendants escape the sanction that they most fear: jail detainment. In other instances, they are sanctioned with jail even for "telling the truth." How they speak their faults into existence and the circumstances surrounding the content of the "honest" utterances is likely more important than simply admitting wrongdoing. In either case, by speaking in the manner prescribed by the court, defendants self-enlist in the divulging of information which 1) justifies the predetermined decision hammered out in a staff meeting and 2) confirms the court's view that defendants are plagued by pathology and criminality. There is, therefore, a point at which saying too about oneself is counterproductive: defendants run the risk of giving information that the court uses against them, putting their freedom, well-being, and personal circumstances at stake. Likewise, in cases where they do "say too much," the court's rehabilitative imaginaries are reinforced: what is presumed to already be known become known and subsequently validates the MHC staff's presumptions. Nonetheless, defendants are generally hard-pressed to know exactly what balance to strike in speaking about the details of their private lives, wrongdoings, and personal circumstances, for talking about oneself from a position that is perpetually devalued makes it rather difficult to know how much to say and when.

Take, for instance, a scenario in which the admission of using drugs follows the logic of self-blame and responsibilization without the directive or instruction of the judge. Lilly, a fifty-year-old African-American woman from the North Lawndale community on the West side of Chicago, sat in the courtroom awaiting her hearing while talking to several other women about her time in a recovery home and having recently relapsed. The conversation centered on the potential consequences of her drug use and the anticipation of having a positive drug test earlier that day. She met with the probation officer prior to court, told her that she had relapsed, and was administered a drug test. According to her, it was her first time relapsing after entering MHC, thirteen months prior. She had concluded, as well as the other women, that honesty was not only the best approach to take but the most practically favorable. In her words, "I don't think they'll take me to jail. It's my first time." Later, staff exited the chamber from their meeting, filed out and took their respective positions within the fishbowl, and the hearings began. After several defendants were called up for their status hearing, Lilly was summoned, and the proceeding went as follows:

1. Judge Williamson: All right. How are you today?
2. Lilly: I know you're disappointed in me.
3. Judge Williamson: Well, you know, it's not a matter of me being disappointed in you, but how do you feel about yourself?
4. Lilly: I feel disappointed in myself because I was doing so good.
5. Judge Williamson: What happened?
6. Lilly: When they moved me to Tala House [recovery home], I wasn't making it -- I wasn't making enough meetings. I'm praying that this struggle will get me to H-Care [another recovery home], so I can get my life back on track because I just don't feel good. My spirit is lost.
7. Judge Williamson: Okay. I know that—do you know you tested positive today?
8. Lilly: Yes, ma'am.
9. Judge Williamson: Were you expecting to test positive today?
10. Lilly: Yes.
11. Judge Williamson: The one positive is that when you were discharged from Tala House [recovery home], you relapsed, but you went into detox on your own.

In this exchange between Lilly and Judge Williamson, we see that Lilly initiates the admission of her relapse by framing it as a personal failure that does not live up to the expectations of the court ("I know you're disappointed in me"). Judge Williamson astutely shifts the focus onto Lilly and her sense of wrongdoing, prompting Lilly to demonstrate and articulate pangs of guilt for having relapsed (Line, 2). This move responsibilizes her in a less direct manner by positing the source and resolution of the "disappointment" within Lilly's personal feelings. By describing a sense of responsibility for her actions (Line 3-4), Lilly discursively enacts a self-blame and self-pathologizing discourse that paints a picture of dejection ("I just don't feel good. My spirit is lost"). Judge Williamson secures an explicit admission of drug use by asking two confirmatory yes-no questions (Line 7 and 9) reminiscent of interrogations (Shuy, 1998), and speaks in a persuasive and encouraging manner to reinforce the notion of personal responsibility by highlighting how Lilly decided to go into detox after leaving the recovery home and relapsing. Conveying the message that he understands, Judge Williamson positions himself as supportive of Lilly's actions.

Yet what is surprising about this moment is that, right when the Judge begins speaking in a therapeutic register—asking Lilly to focus on the "positive" of going to detox on her own, telling her to "give yourself credit for that," and inviting Lilly to tell her what is making her "spirit low"—the dialogue takes a dramatic turn. Lilly explained in a thoroughly self-blaming narrative that she was not making her AA meetings after not being able to stay at the recovery home [Tala House] and that she felt "so stupid" for her mistakes. Judge Williamson, who up until this moment spoke in an inviting, caring, and reassuring tone, switched into a legal register, saying the following:

> 12. Judge Williamson: Okay. What I'm going to do – one thing I want you to know, though, is you can't dictate your own treatment. Because I was told that you went

into detox, but you said, "I'm just going to go there for detox," and then you were going to just do treatment on your own. You can't do that. You have to go on the terms that the team decides. It's a whole process. And we know what you need and what's best for you. You might not agree with it all the time, but you have to trust the process. You have to trust the team. You have to trust that we're going to put you where we think you're going to get the most out of it, and do the best, and be the strongest when you get out. You have to trust that. Okay? I think you can see it didn't work out so well for you, right, on your terms, right?

13. Lilly: Yes.

Paradoxically, what initially seemed to be a "positive" decision on the part of Lilly (Line 11) turned out to be just another bad choice, one where she could not "dictate" her "own treatment" (Line 12). At the very moment of responsibilization, Judge Williamson equally infantilizes Lilly about taking responsibility for her own therapeutic care, centers the authority, knowledge, and expertise of the court team ("you have to trust the team. You have to trust that we're going to put you where we think you're going to get the most out of it"), harnesses reported information, and delegitimizes Lilly's therapeutic decisions by noting its "failure" ("it didn't work out so well for you, right, on your terms"). By initially presenting an empathetic and supportive demeanor, Judge Williamson effectively controlled the turns and content of her and Lilly's exchange and curtailed any opportunity for Lilly to utter self-knowledge beyond the pathological frame within which she discussed her relapse. The judge's question regarding Lilly's "failure" set the stage for Lilly's agreement to have the court decide, ultimately, what would be "best" for her.

Lilly went on to comment on the specific social and ecological context of Tala House by discussing how drugs was being used there and how "evil spirits" were present, which then allowed the judge to further elicit her agreement (via interrogation) for total court control over her treatment. The judge then invoked questions about "needing more structure" (See Chapter 4 for this phenomenon) and comparing the "structure" of a previous recovery home where Lilly

resided to Tala House. Though Lilly did not explicitly confirm or agree with the Judge's assessment about "needing more structure," she also did not explicitly disagree. The Judge's interpretation and the court's decision on the matter proceeded as follows:

14. Judge Williamson: Okay. Well, we're going to work on – Sharon [case manager] is going to work on getting you a referral to another place. But for today, State [prosecutor]?
15. Evelyn [State Attorney]: Judge, we are asking the warrant be executed. Unfortunately, there's not a placement for her today…Just in the safety of everybody involved, and, most importantly, the defendant's health, we'd ask that the warrant be executed until we can find her a secure placement, somewhere safe and amenable to her treatment.
16. Judge Williamson: So I am going to execute the warrant. Warrant executed. Defendant remanded to Cook County Department of Corrections.
17. Lilly: I have to go into custody? [surprised voice, rising intonation]
18. Judge Williamson: You're going to go into custody today, but I'm going to have you come back next week. Sharon [case manager] is going to work on trying to get you placement somewhere else. We're going to work with you, as long as you're still willing to work for yourself and work toward sobriety. Okay?
19. Lilly: Okay.

What is striking about this final exchange is 1) how Judge Williamson incorporates Lilly's explanation of a previous recovery home's environment (Tala House and people who use drugs there) in his decision to be placed in another recovery home (Line, 14 "referral to another place") and 2) how Evelyn, the State's Attorney, invokes concerns over Lilly's health, safety, and well-being as justification for the issuance of a warrant (i.e. violation) and the decision to detain and place her in another recovery home (Line 15). Both of these statements draw on Lilly's self-pathologizing discourse as a person ailed from her relapse and her depiction of Tala House as a place where she lacked sufficient controls on her behavior. Having expected that her honesty of relapse would allow her to evade jail detainment, Lilly shows surprise that she is being taken into custody (Line 17). The judge frames this decision in helpful and forgiving terms that require the willing participation of Lilly ("we're going to work with you, as long as you're

still willing to work for yourself and work toward sobriety"), thus projecting a therapeutic interpretation of detainment.

Interestingly, the judge's statement is finalized with a tag question, which further circumscribes Lilly's ability to expound on what she may believe what her own self-interests are. As Shuy (1998) remarks about tag questions, they merely state that "this is the correct answer" (p. 131) and seek agreement from the person on the receiving end. The judge, thus, positioned himself as the ultimate authority over this decision and only invited Lilly to assent. As evidenced from the dialogical exchange between Judge Williamson and Lilly, the judge utilized tag questions rather frequently, controlled the turn-taking and content of the dialogue, elicited agreement from Lilly, and ultimately used her utterances against her to justify the court's decision. Despite the admitted wrongdoing and self-blame shouldered by Lilly, speaking "truth," in this case, did not set her free.

Reported Information and "Others" Speaking for Defendants

MHC personnel cannot and do not always have the results of a drug test to elicit admissions of wrongdoing or details of defendant's mishaps and personal circumstances. In fact, reports from third parties make up a great deal of the court's information stock. But if the results of a drug test serve as concrete evidence of wrongdoing, which consequently make it difficult for defendants to construct alternative explanations for their actions, then reports from outside entities engender a space of slippage: it opens up a gap between what court practitioners can firmly state they know and what is reported as fact, giving way to a degree of uncertainty in which defendants find room to challenge. Put another way, when faced with information from third parties, such as recovery homes or a treatment facility, there lies potential to contest the reported information and the expectation to "be honest." In some cases, defendants readily

become embroiled in heightened contestations with MHC staff, and in others, undergo similar forms of direct responsibilization practices enabled by the results of a drug test. These contestations over evidentiary claims made by MHC staff on the basis of reported information from third parties also reveal how staff legitimize authority, inscribe and reinforce a hierarchy of expertise, and invalidate defendants' knowledge, experience, and personal circumstances.

For instance, Daria, an African-American woman in her early 50s, sat in court one day awaiting her hearing while talking with her boyfriend about the probation officer saying she was "not paying her rent." According to her, it was communicated to the probation officer, Audrey, from her recovery home that she had not paid her rent. Daria detested this, saying that the person who communicated this information to Audrey falsely accused her and that she "always pay my rent." When she was called for her hearing, the proceeding began as follows, with the judge assuming an authoritative tone:

1. Judge Williamson: Tell me what is going on.
2. Daria: I'm still at Better Behavior [recovery home]. I'm doing good there. I do like it there.
3. Judge Williamson: What do you think I'm going to talk to you about today?
4. Daria: I'm not sure.
5. Judge Williamson: You are not?
6. Daria: No, ma'am.
7. Judge Williamson: What is the one thing that you are not doing that Audrey keeps talking to you about doing?
8. Daria: Not paying attention.
9. Judge Williamson: No, rent, paying rent.
10. Daria: I pay my rent.
11. Judge Williamson: You paid your rent because you knew you were coming to see me. Stop it.
12. Daria: No, ma'am.
13. Judge Williamson: I wasn't born yesterday. Stop it. I don't take excuses. I know what you are doing. You are trying to play the system, and I'm not going to have it.
14. Daria: Yes, ma'am.

In this exchange between Judge Williamson and Daria, the judge advances a sequence of confirmatory questions (Lines 3-7) to elicit what he already believes to be true regarding Daria not paying her rent, specifically after commanding Daria to "tell me what is going on." However, Daria does not respond as expected, and instead attempts to construct a favorable impression of her time at her recovery home (Line 2) and denies the accusation of not paying her rent (Line 10). After accusing Daria for paying because she "knew" she was coming to court (Line, 11), the judge circumscribes what can then be said by Daria by telling her to "stop it," to "don't take excuses," and that Daria is "trying to play the system." In so doing, the judge draws on a problematic trope of dependency and abuse in her effort to responsibilize Daria—a trope that conjures racialized, classist, and gendered images of someone taking advantage of public provisions. While such accusation can be read as a micro-aggression (Sue, 2010), given the broader racialized and gendered discourse of dependency associated with black women (Fraser and Gordon, 1994), it nonetheless achieves a similar purpose of responsibilization that "I don't take excuses" achieves. That is, one who does not play the system and make excuses is morally upstanding.

As a result, Judge Williamson determines that Daria's payee (i.e. her daughter) needs to be changed. He declares: "I'm changing who your payee is, and it's going to be changed this week. It is going to be [name of facility]. It is not going to be your daughter anymore, and that way we don't have any games about you paying rent when you are going to court, things of that nature." Daria was unable to verbalize contestation and remained rather verbally submissive throughout the exchange, uttering "yes, ma'am" for each of her responses after the judge told her to "stop it."

Instances like this leave defendants particularly voiceless, and out of frustration for not being able to verbalize their concerns, some defendants seek alternative methods for communicating, such as relying on a ratified speaker to represent their claims, such as the voice of an external case manager or some other entity. A great number of defendants adopt a "paperwork" (i.e. using official documentation) strategy to harness the legitimacy of some recognizable authority/entity to do the "speaking" for them. This was the case for Ryan (as it was for Lewis and Ramon as well).

Ryan, who staunchly believed early on during his time on probation that being honest would "help," realized overtime that there were greater stakes at play. His position on the matter changed after he was placed into custody, admitted into several treatment facilities, and de-legitimized as a credible representative of his own experience. After being sober for close to eight months, questions concerning his methadone treatment were raised and there was suspicion that he had relapsed. This resulted in him having to attend inpatient treatment. Shortly afterwards, he was then arrested for driving on a suspended license and sat in custody for roughly a month. Having been ordered to go to another residential program, Ryan's view on MHC started to shift. Overtime, he had developed a response to interacting with court staff when questions about his treatment participation emerged: instead of trying to continually "tell the truth," he relied on "paperwork" from treatment facilities and other "professionals" to both document his actions and to legitimize his claims.

On one occasion, as I sat observing court hearings, his name was called but he was not present. The judge issued a warrant for his arrest, and right as court session was ending, Ryan burst into the courtroom with beads of sweat on his forehead and a thin stack of papers tucked in a tan folder clenched in his hand. He surveyed the room with a worried face and slowly walked

towards the entrance of the fishbowl. The MHC staff noticed him and instructed him to take a seat, at which point he began to rifle through the papers in the folder. I noticed an array of documents, many formal, and an obituary. He was called into the courtroom, whereupon he began speaking in a rushed and apologetic tone while pulling out the various papers and holding them up for the judge to see. Judge Carpenter looked on with a dry expression but nodded as if he understood. Ryan explained to him that he was late because "my uncle passed away and I haven't been doing well." He had been dealing with some "health issues." He showed the judge the documents and explained that he had been participating in intensive outpatient treatment but had to disrupt it. As Ryan explained to me later, he took this tack because on one occasion, a previous case manager had not informed the judge about all of his efforts with fulfilling his court mandates. As we walked out the courtroom towards the entranceway, Ryan explained that, "Miss Sharon [previous case manager], prior to Jeff being my case worker, I did all of my work myself, getting myself into programs…everything. She [Sharon] was telling the judge the whole time something different…had the judge believing that I had ran off [from IOP]. Just so happened I had all the paperwork." According to him, that is the only thing that saved him from going to jail that day.

Later, Ryan would begin to say "you can't tell these chumps nothing," alluding to the fact that whatever information divulged would or could lead to an unfavorable outcome. In what appeared to be a full turnaround after 13 months, Ryan was "honest" less and started exclusively relying on "paperwork" to do his bidding. During his second-to-last court date, I sat in the courtroom next to Ryan's wife chatting about him and the disruptions and sacrifices she experienced as a result of his being in MHC. She expressed anger and felt that the case manager, Jeff, was "worthless." Having previously witnessed her curse him for "not doing your job," her

statement about the case manager was particularly significant. A retired school teacher and the main source of support that Ryan had—routinely showing up on his court dates and communicating with MHC staff in place of Ryan—she informed me that the judge wanted Ryan to go to a hospital for intensive outpatient treatment. However, she explained that he could not follow the order because he was dealing with a serious back injury and other health issues. According to her, she had faxed in documents from a doctor showing that Ryan needed time to recover, that he should not be compelled to go anywhere besides home, and had expected that the case manager, Jeff, would show the judge this proof in hopes of Ryan not being compelled to enter another program. In her estimation, the court just "labeled people as bad people just because they use drugs" and felt that using drugs "does not mean he's a bad person or lack intelligence."

Shortly thereafter, Ryan came hobbling into the courtroom, slightly hunched over to one side, moving much slower than he typically does. "Hey, what's up!" he said to me. I greeted him back and we chatted about his current situation in MHC. He explained that he was recently in intensive outpatient treatment but had started to experience some "serious back pain," which made him leave for medical care. This resulted in reported information from the intensive outpatient treatment facility which claimed he had "just left and never came back to IOP." He said, "but I told those chumps I got this nerve pain in my back and arm. I sent them papers from the doctor, but they still lied to these people [MHC staff]." Ryan's framing of the IOP having "lied" indicated that the reported information was inaccurate and contestable in his view. I asked if he felt like the court personnel would believe him or the IOP case managers. He replied, "they take their word first. But…that's why you need that paperwork, otherwise you'd be shit out of luck."

After the staff meeting ended and MHC personnel filed out the judge's chamber, court session began, and Jeff, a bespectacled heavyset African-American case manager, exited the fishbowl. He walked towards Ryan and his wife. As he approached, he raised his hands in the air in a surrendering gesture, looked at Ryan's wife, and began explaining: "I tried to tell them what you all told me about the doctor saying Ryan needed to rest and be home…but…they didn't listen. Just want you to know it's not my fault." In what appeared to be an attempt to shift responsibility onto the unnamed staff members, Jeff abstracted himself from the pending decision regarding Ryan's case and demonstrated that he wanted to make sure Ryan's wife would not blame him for whatever happened in Ryan's hearing. But Ryan's wife was unconvinced. She cut her eyes at Jeff, huffed, and turned away. Ryan fumed, "the documents from the doctor have all the damn information they need. Name. Number, everything. They can just fucking call if they want, if they don't believe me." He shook his head.

Walking behind the case manager was the probation officer, Audrey, with a short stack of folders pressed up against her chest with one arm. As she exited, she looked at Lewis and then at Ryan and said with a grin on her face, "smooth move you two. Smooth move." Lewis, who had an outside case manager from a community mental health agency present with him, smirked and replied, "what you mean?" Audrey retorted, "you know what you did. You weaseled your way out of trouble." She looked at Ryan and said, "you too."[2] Ryan simply looked at her with a blank expression.

[2] While the focus here is on Ryan, it is worth noting that Lewis had supposedly left a residential facility that he was commanded to stay at, but Lewis leveraged the expertise of his outside social worker/case manager from a reputable treatment organization where he received services, and she "spoke" for him and, according to the probation officer, allowed him to escape custody. Her comment to both were in reference to the fact that they were likely headed into custody per conversations in the staff meeting but evaded that decision because of how they utilized the legitimacy of two forms of credible information: the legitimacy of the case manager for Lewis and the "voice" of a doctor via fax. Thus, the reason for her comment "smooth move" and "you know what you did." Neither spoke about what happened, and neither was going to attempt to explain, in "honest" terms, why they did not fulfill a mandate.

After roughly a handful of defendants had their status hearing, Ryan was called up. Dressed in blue jeans and a grey hoodie, his slight afro speckled with gray, he slowly hobbled towards the fishbowl, hunched over as if he was in severe pain. The hearing proceeded as follows:

1. Judge Carpenter: I know you've got some medical issues, but that doesn't—doesn't mean you don't do treatment. You are going to start over and you are going to start on Monday, that's the 18th. Do you have any questions?
2. Ryan: No.
3. Judge Carpenter: Do you have any questions where you need to go?
4. Ryan: Lyden Hospital?
5. Judge Carpenter: Mm-hmm.
6. Ryan: Yeah. When -- you say the 18th?
7. Judge Carpenter: Yes.
8. Ryan: Okay.
9. Judge Carpenter: That's Monday. Monday, September 18th.
10. Ryan: Yeah. But I'm under doctor's care.
11. Judge Carpenter: I know the doctor's note, but I'm telling you --okay, you need to do the treatment. You've got to get there. I know the note is the 20th, but you have an appointment on Monday, so that means you have to go on Monday.
12. Ryan: All right.

Despite Judge Carpenter's acknowledgement of Ryan's "medical issues," he still ordered him to both return to his IOP [Intensive Outpatient Treatment] and start over (Line 1) at a time that conflicted with Ryan's "doctor's note" for rest (Line 10). By deploying the doctor's note via fax, Ryan (and his wife) attempted to utilize the expertise and legitimacy of the doctor to explain, in Ryan's stead, why he had stopped going to IOP. Coupled with Ryan's statement prior to the hearing (i.e. "the documents from the doctor have all the damn information they need"), Ryan implied the real challenge for speaking "honestly" in the face of presumed error, highlights his unwillingness to attempt to speak for himself, and demonstrates an awareness of the stakes at play had he not faxed in "paperwork." While Ryan's physical state suggested that his "medical issues" were serious, and a doctor's note reinforced it, Judge Taylor ranked the importance of his health as secondary to his treatment mandate (Line 1"doesn't mean you don't do treatment" and

Line 10 “I'm telling you --okay, you need to do the treatment. You've got to get there”). Thus, he effectively relegated Ryan’s need for physical care to an irrelevant concern while responsibilizing him in a manner that abstracted any explanation for not being able to attend IOP. Even Ryan’s attempt to channel the doctor’s voice (“But I’m under doctor’s care”) did not circumvent the judge’s order.

When Ryan hobbled back out of the courtroom, his wife stood up and shook her head. Ryan paused briefly in front of me and said, “I guess they just don’t give a fuck about my health. They just said fuck me.” He slowly left the courtroom with his wife as I stayed behind to wait for the probation officer, Audrey. I worried about his condition and what would happen to him in the event that he did not follow through on Judge Carpenter’s orders. When Audrey exited the interior of the courtroom, we walked out together and snaked our way through the wide hallway, down the elevator, and towards the lobby of the courthouse. We talked about various defendants, including Ryan. She told me that he had gotten “lucky,” as he was going to be taken into custody for not finishing up his IOP. Concerned about him, I asked “so what about his health?” To this, Audrey looked up at me and shot back while in a frustrated tone: “Ryan needs to stop with his cockamamie excuses and do what he’s supposed to do, before he finds himself somewhere where he doesn’t want to be at.”

On Ryan’s following court date, I showed up in hopes that things turned out fine. They did not. Ryan had decided that he had had enough. He opted out, received a termination, and decided that going to the penitentiary was better than having to deal with MHC. At the time of his termination, he was just over 13 months in on mental health court, having been required to do 24 months, and thus had 11 months left to complete. By self-terminating, and taking a prison sentence of one year, he would be out in 61 days and have one year of mandatory supervision,

Illinois' form of "parole." In total, the quantitative difference was 11 months, but the qualitative difference in Ryan's view would be rather incalculable.

Conclusion

In this chapter, I examined a central discursive practice in MHC, a practice that revolves around admissions of "honesty" and speaking about oneself by defendants. I argued that judges engage defendants in an interrogative manner regarding putative wrongdoings, urging them to be "honest" and "open," while simultaneously restricting them from voicing their personal challenges and social circumstances or any alternative explanation that departs from self-blame. Emerging from neoliberal ideology, this practice of responsibilization abstracts out context, reduces unmet court mandates to individual failure, and a host of factors that may contribute to defendants' challenges in meeting mandates, including their marginalized status, their structural realities, and potentially, the challenges defendants may face as a result of their psychiatric diagnoses, physical health, familial life, and more. This is evidenced by how judges routinely interrupt defendants when speaking and order them to "stop" talking. By instituting a pedagogy of responsibilization, defendants are instructed to "not make excuses," which paradoxically leaves them voiceless precisely in a space that defines itself in therapeutic terms and in relation to giving "voice."

To be sure, responsibilization bleeds into other aspects of defendants' speaking routines, and they adapt to the context by attempting to harness ratified and otherwise seemingly legitimate sources to speak for them. Moreover, ranked within a hierarchy of credibility, the court privileges only certain kinds of information, including results from drug tests, reported information from authorized treatment facilities, "honest" confessions that accord with self-blame, personal responsibility, and pathology, and lastly, ratified speakers or sources of

information that defendants believe can help alleviate the disbelief and subsequent sanctions of the court.

Leaving defendants with an inability to verbalize concerns important to their lives, the practice of responsibilization gives way to a set of contradictory conditions. These contradictions include: while defendants are responsibilized to fulfill mandates, they are also told that they cannot pursue their own therapeutic needs; where defendants are instructed to be open and honest, the court only allows them to speak in a manner that accords with an expected and demanded explanation; in speaking within the pathological and self-blaming frame advanced by the court, defendants find the content of their speech used against them to justify the court's increased control. A central question emerges from these contradictions that pivot on the psychiatric life of defendants and the extent to which they are left to cope with the potential stress and stressors of these practices. There appears to be no consideration regarding these matters, at least not in the court hearings when judges articulate self-blaming discourses.

Furthermore, these contradictions not only constrain the possible actions of defendants but also the potential treatment effectiveness and support efforts of the court. A provocative question worth entertaining is: what would it look like in MHC to listen to defendants, take seriously their personal and situational challenges, and treat the whole individual in a manner that prioritizes their health and well-being, material stability, and autonomy? Because MHC practitioners do just the opposite and, rather, prescribe what is imagined as best for defendants, it enacts a presuppositional frame about the social reality of defendants and anchor this frame in practices of legal and epistemic control. Essentially, it enacts a rehabilitative imaginary regarding the capacity, character, and moral worth of defendants, inscribing and reinforcing a hierarchy of expertise that ranks defendants' personal knowledge and interest at the very bottom. As I have

demonstrated, this rehabilitative imaginary elides a host of important needs that may, in fact, benefit defendants in the short and long run.

CHAPTER 6

CONCLUSION & IMPLICATIONS FOR RESEARCH

Rehabilitation is perhaps one of the most ambiguous and poorly defined concepts related to criminal legal policy and practice to date (Ward & Maruna, 2007). As Ward and Maruna (2007) note, "the whole idea of rehabilitation, let alone the word itself, has a musty, anachronistic quality to it, belonging to another era when society shared a sense of the 'right' way to live (and, indeed, a 'wrong' way as well)" (p. 2). To be sure, both in the public imagination and in policy contexts, the term conjures up static conceptions of "criminals" in need of a drastic, internally defined personal transformation—usually from a status of "deviant" to the status of "productive citizen"—that warrants the penal state to provide the means and methods by which this transformation occurs (Ward and Maruna, 2007). Likewise, in many academic and political discussions, the rhetoric of rehabilitation is often couched in a pendulum metaphor, which articulates a polarization between a current neoliberal *punitive* approach to crime control and an older, overly romanticized *therapeutic* one to which we should swiftly return, if not already underway (Goodman, Page, and Phelps, 2017). Moreover, in many criminal legal contexts, the notion of rehabilitation frequently takes on a set of unstated practices, served in the context of an institutional or community-based setting, that offer the "offender" an opportunity to save himself *from himself* through his engagement in routine, obligatory programs (Miller, 2014; Fox, 1999a). Yet in a fairly recent iteration of this version of rehabilitation—currently pitched as an "alternative to incarceration"—the concept takes on a more targeted meaning, one centered on the specific "risk factors" of a subpopulation or group that requires special treatment services to ameliorate the risks thought to lead to criminal legal involvement.

As this dissertation demonstrates, mental health courts and other problem-solving courts fit squarely into this latter strand and overlap with these other conceptualizations, and it is precisely the discrepant, ambiguous, and conflicting arguments surrounding rehabilitation as a whole that motivates this study. With many quantitative studies conducted on these criminal legal interventions that make implicit assumptions about rehabilitation, this study departs dramatically from this research by ethnographically examining how MHC practitioners engage in and deploy rehabilitative ideas in their discursive exchanges with defendants. It also examines how defendants interpret and respond to these exchanges. Rather than presuppose that rehabilitation is automatically at play, this study sought a textured and contextually specifically understanding of how ideas of rehabilitation are materialized and negotiated in the routine practices of mental health court proceedings. Methodologically, this dissertation contributes something relatively different to the conversation: a unique view into the court hearings and speaking routines of staff and defendants, and a close examination of the embedded and asymmetrical power relations manifested through courtroom talk. In so doing, it analyzes the dynamics that accord with and deviate from principles of therapeutic jurisprudence and highlight the complicated process by which these principles operate "on the ground." With these principles putatively working as the bedrock from which rehabilitative ideas in MHC operate, I lay out both a theoretical and empirical argument for how MHC staff speak into existence therapeutic imperatives and realize rehabilitative aims.

In an age of mass incarceration and punitive social control, arguments on rehabilitation tend to be binary, centering on either an absence or presence of rehabilitation and discussed in terms of an antithesis to punishment. Instead of treading this track, I argue that discourses of rehabilitation in MHC endeavor to elide punishment and erase the punitive impulse of

practitioners by deploying the language of help and therapeutic necessity. In this sense, my thesis is that punishment and rehabilitation are mutually constitutive practices, bound up in each other, that manifest as a hybridized relationship in what I conceptually term "rehabilitative imaginaries." This, indeed, corresponds to longstanding tensions between care and control when dealing with welfare, criminalized, and pathologized populations (Brodwin, 2013; 2014; Stuart, 2016; Grob, 1994; Goffman, 1961; Cohen, 1979; Ben Moshe, 2013).

As a central argument to this dissertation, I posit that mental health court enacts these rehabilitative imaginaries in an effort to not only make claims of therapeutic help but also manage, control, and punish defendants when mandates go unmet in a context where the notion of compliance is forever shifting and redefined in relation to what court staff deem therapeutically appropriate. Subsumed within a hierarchy of authority and legitimacy, defendants face epistemic and legal control at the slightest moment of disruption or deviation. Neither old nor entirely different from rehabilitation in past eras, rehabilitative imaginaries are developed through the assemblage of competing and contradictory logics and practices, integrated and fragmented in a neoliberal risk-based program that seeks to treat and reform defendants diagnosed with co-occurring substance use and serious mental illness. This assemblage, in truth, works at the interstices of the legal, medical, and welfare border, bringing together strategies and resources from each sphere to constitute what Hannah-Moffat (2005) calls "penal hybridity." Conceptualizing the MHC arena in these terms point to a set of practical and programmatic features of MHC, including but not limited to its emphasis on risk, treatment, and—though marginally—service provision.

Yet rehabilitative imaginaries in MHC retain an infantilizing tendency emblematic of an older paradigm, and certainly elevate the claimed expertise of court staff to the top of a treatment

hierarchy. In effect, defendants lack control over the defining and addressing of their own needs and goals: material, therapeutic, or otherwise. Though at its core MHC is constructed from the politically liberal criminalization hypothesis—wherein people diagnosed with a serious mental illness are unfairly criminalized because of unmet treatment needs—it nonetheless preconfigures defendants along the lines of addiction. That the mental health courts in this study discursively prioritize addiction and secondarily emphasize serious mental illness is perhaps one of the most surprising and convincing findings. This finding raises a host of concerns for the psychiatric wellbeing of defendants and their mental health needs. Yet it may be partly due to the very structure of the program and its uniqueness: by requiring defendants to have a co-occurring substance use and serious mental illness, these courts necessarily incorporate an intentional drug-related discourse and practice for its defendants.

While these defendants may face a host of individual challenges that are radically different from individuals who only have a serious mental illness, the punitive and controlling approach to substance use still invoke serious concerns for the court's approach: if in fact they do face more difficult challenges, does it justify more coercion or less? More focus on addiction or less? Or, alternatively, mutual and equal focus on illness and addiction? That answers to these are not readily apparent seems to point to an underlying, though unarticulated, philosophy at play: addiction represents an uncontrollable condition and necessarily requires a strict behavioral response for its resolution—or at least it appears that this is the philosophy undergirding the court.

Here, I not only draw on literature from critical addiction scholars and sociologists who note the "criminal addict" as a subject of carceral control (Moore, 2007; Gowan and Whetstone, 2012), but I also examine how this preconfigured subject is imagined, treated, monitored, and

sanctioned in the court's imaginaries. In this sense, this dissertation advances the concept of rehabilitative imaginaries as a framework to think through MHC discourses and understand defendants' interpretive experiences. In so doing, I define rehabilitative imaginaries as such:

> They are a set of discursive, pre-suppositional frames that are contingently and flexibly "filled" with various ideologies that are cemented through epistemic and legal control, wherein an entire social world of a pre-configured subject group is constructed in the mobilization of an array of putatively therapeutic prescriptions.

As I have argued, rehabilitative imaginaries are composed of both *real* and *ascribed* narratives of pathology and criminality and emerge in response to the gap between the authorized staff members who claim therapeutic expertise over defendants and the social reality of defendants, whose knowledge and personal experiences are relegated to a non-expert and delegitimized status. This means that defendants, once preconfigured as criminal addicts, fall within a hierarchy of knowledge, authority, and legitimacy and are frequently acted upon coercively in the name of rehabilitation.

In Chapter 3, I chart the curious and seemingly paradoxical epistemological and legal discourses that underpin MHC and objectify defendants as criminal addicts, noting the contradictions that arise when judges deem defendants pathologically uncontrollable but legally and therapeutically responsible. I demonstrated how a "people, places, and things" script—institutionalized in Alcoholics Anonymous—forms a fundamental practice in the treatment logic of MHC and illustrate how Anita's case exemplifies these points. By closely focusing in on the discursive exchanges between Anita and MHC staff, I illuminate how she is preconfigured and examine the extent to which she is delegitimized and rendered powerless and voiceless. As a conceptually and empirically driven argument, I build a case for rehabilitative imaginaries and establish the central arguments in the dissertation.

Here, we begin to see how therapeutic jurisprudence and notions of rehabilitation take shape. We learn that the idea of being treated with "voice" and "dignity" is rather complicated, if not altogether unrealized. Where therapeutic jurisprudence theoretically imagines the site of law and legal practice as fertile territory for producing "therapeutic effects," it underestimates the extent to which judges and other court staff enact power, wield it practically and ideologically, and erase the agency and autonomy of defendants. Indeed, we see the extent of control—both legal and epistemic—in the life of many defendants' cases and the paternalism exercised against them regarding their need for secure, independent housing. By harnessing the language of help, the court presupposed that defendants are "not ready" for their own place and repeatedly doled out directives about treatment choices, indicating a claim of knowledge, authority, and expertise over them.

The implications for preconfiguring defendants as criminal addicts and treating them accordingly are manifold, not the least stigmatization and the subjectivization of a devalued and discredited identity. There is also the bald neglect of other aspects of a defendant's life and humanity that may require supportive and encouraging cultivation (e.g. one's identity as a parent, employee, student, etc.). When cast within the narrow frame of the criminal addict, these other parts of a defendant's life is stripped away and read as either irrelevant, unimportant, or necessarily risky. When considering a wide range of psychiatric, material, and social needs, discursively marking defendants as criminal addicts problematically reduces the likelihood that these aspects of a defendant would be improved.

Taking this argument a step further, I take up these concerns in Chapter 4 by closely examining how 1) within a community based program, community is paradoxically seen as a site of risk and care, 2) how notions of place and community figure within the court's imaginary, and

3) how judges utter a risk-based evaluative method for assessing defendants' living contexts. In the case of the latter, this practice emerges both from how defendants are preconfigured and how the court defines "failure" (e.g. drug use/relapse), thus giving way to an anxious preoccupation with the perceived and presumed risk in the environments of defendants. This anxious preoccupation is evidenced by the court's negative framing of "living in the community" and the judges' evaluative questions regarding defendants' home, living arrangements, and large swaths of the city.

Though much detail about these contexts is often unknown and unspecified—functioning in general terms that, in some cases, flexibly deploy racialized narratives of Chicago—the evaluative methods for assessing risk is illuminated by the pure number of individuals placed into recovery homes. With just over two-thirds of women and roughly half of men confirmed to have been ordered into one of these facilities, recovery homes symbolize constraint, community control, and structured recovery, and these facilities are consequently imagined and idealized as rehabilitation par excellence.

Indeed, this finding further supports ethnographic research by several sociologists who have studied the centrality of recovery homes in criminal legal practice and the routine use of these facilities as form of "strong arm" or "carceral" rehab (Whetstone and Gowan, 2018; Gowan and Whetsone, 2012; McKim, 2017; Kaye, 2013). These scholars have examined the diverse gendered, classed, and racialized settings of recovery homes and the surveillance and subjectivization processes embedded in them. There appears to be a similar connection with MHCs, and whereas these researchers do not reveal the coercive hand that places residents in those facilities, this study contributes to this work by showing precisely the hand at work and the discourses deployed that make possible the penal state's reliance on these facilities.

Accordingly, since the 1980s, criminal legal populations have grown in their overrepresentation in many drug treatment centers (McKim, 2017; Nolan, 1998; Fairbanks, 2009), and similar to the racialized, gendered, and classed patterns of mass incarceration, drug treatment has taken on many of these demographic markers with various drug programs illustrating how intersectional differences transmute into institutionalized and embodied experiences (Gunn, Sacks, and Jemal, 2016; McKim, 2017; McKim, 2013; Kaye, 2013; Whetstone and Gowan, 2011). From an institutional standpoint, the criminal addict cycles through jails and prisons, hospitals, rehab and treatment facilities, halfway houses, and back—creating an apparatus of carceral treatment programs that have given rise to new logics and treatment rationalities (McKim, 2017; Nolan, 1998).

In this vein, a new mode of governance has emerged, one that Allison McKim (2017) describes as a "governing through addiction" modality. Similar to Jonathan Simon's (2006) postulation that mass incarceration and punitive social control (as the result of the War on Crime) gave rise to a pervasive reliance on "governing through crime" logics—deployed in politics and the political sphere, in school settings, the workplace, gated communities, and many other social arenas—"governing through addiction" has had a parallel course and impact (McKim, 2017). That is, governing through addiction and governing through crime have been mutually constitutive phenomena (McKim, 2017).

Interestingly, by engaging in the practice of sending defendants to recovery homes, a contradiction arises in the court's aim to "reintegrate" and ensure that defendants live in "a stable environment." This contradiction revolves around the coerced move itself, in which some defendants are ordered to leave their own place of residence, to not move into their own apartments, or placed in recovery homes beyond post-completion in hopes of receiving

permanent housing. As I have argued, a rehabilitative imaginary around place and risk manifest itself in moments where the court presupposes, in general terms and without specific contextual factors at play, that defendants cannot live "in the community" lest they become victims to their own compulsions. The court surveys various contexts to determine if the environment is risk-strewn, enacting presumptive evaluative methods of assessment that set the terms under which a movement is possible.

Here, the implications vary. While being coerced to live in a recovery home functions as a form of temporary relief for defendants experiencing extreme marginality—for the urban poor who have likely cycled through various institutions prior to their time in MHC—for others it is a source of destabilization and a disruption to their daily lives. This latter group must make tradeoffs between sobriety and losing a job or not obtaining their apartment, living at home with relatives and significant others, and experiencing some degree of stress. Sobriety simply comes with a cost, and though many of these defendants get sober, the process may not be as harmless and painless as imagined by those on the outside of the court's strictures. It is important to emphasize here that defendants can both experience a favorable court-valued "outcome" (e.g. sobriety, graduation, compliance, avoidance of future incarceration, etc.) and still have an entirely *unfavorable* process and experience. The means by which the favored outcome is obtained may not be worth navigating and negotiating if it exacerbates one's social conditions, life, and general sense of stability. It is no wonder, then, why some people opt out.

Moreover, with costs in mind, worth noting is the wide variation in the types of recovery homes that exists (Whetstone and Gowan, 2018; McKim, 2017) and the extent to which defendants had to pay to live in one. Likewise, there are a number of defendants who were also compelled to leave one of these facilities because of a reported conflict with a staff member.

These differences appear to be less of a concern to MHC practitioners, as several defendants paid even while having their own homes to live (e.g. Jason, Judy, Ryan, Raven, unnamed married man in the men's courtroom—to name a few), or desired to live in an affordable place of their choosing (e.g. Lewis, Anita, and Sarah). Bifurcated as private and public facilities, the court's evaluative methods break down when faced with the practical limitation in the availability of recovery homes to send defendants. There are only a certain amount of sites available and accessible at any given time, and MHC staff typically make defendants sit in jail until a place is open. In the end, even jail detainment becomes costly and consequential, as defendants potentially lose meaningful and supportive resources and connections, including employment.

Further compounding these issues is the fact that some defendants are cycled through different recovery homes and facilities, while others remain in one recovery home for an extended period of time. These differences are tied to the defendants' structural realities and material circumstances, but these considerations are less significant to the court than the fact that staff can monitor defendant actions from a distance once in a recovery home. MHC staff rely on these third-party connections, receive reported information, make decisions about defendants' progress, and depend on the recovery homes to institute "structure." Opposite to living in the community, these sites become satellite control facilities that serve as a risk management strategy that expands carceral control.

Surely, if reintegration is the end goal of rehabilitation, the court only partially, if not remotely, manages to achieve this goal. Perhaps a noteworthy page and recommendation can be taken from research conducted among homeless groups who are diagnosed with co-occurring substance use and serious mental illness. As much of this scholarship demonstrates, the "treatment first" model is far less promising or helpful than the "housing first" model—the

former operating within the language of "readiness" and treatment "compliance" and the latter functioning in non-coercive terms that prioritizes housing without mandates or compliance expectations (Tsemberis, 2004; Padgett and Stanhope, 2011; Padgett, 2007). According to this literature, housing should be and is treated as a fundamental right and a necessary step towards community reintegration, and no incentives or disincentives regarding the security of housing are utilized, even if the person is actively using drugs.

It is worth considering how MHC could adopt a framework where it prioritized individuals' housing and intentionally strove to ensure that defendants were not moved out of their home or, alternatively, ensured permanent housing. Although this population is not universally chronically homeless, they share similar characteristics (e.g. co-occurring substance use and serious mental illness) and they certainly prioritize and desire to maintain or obtain secure housing. That process or goal is sometimes disrupted by MHC. That is, housing instability is created in an attempt to engender sobriety. It's rather regressive and seemingly contradictory. As Padgett (2007) argues, the surety of housing often leads to a sense of "ontological security," which is the "feeling of well-being that arises from a sense of constancy in one's social and material environment which, in turn, provides a secure platform for identity development and self-actualization" (p. 1926). This process aids in reintegration and the building of a life within a community. In cases where defendants already have stable housing, MHCs could simply support those individuals as best as possible for them to become anchored in their place of residence.

Lastly, further accounting for how defendants are preconfigured as criminal addicts—as a collective group in need of moral rectification within the court's imaginary—I turn to the practices of blame and responsibilization that operate within the context of an "honesty" discourse. In a space that defines itself therapeutically and along the lines of pathology, the

practical and theoretical expectation would be that speaking rituals would include a great deal of confession—precisely because confession has been institutionalized and naturalized as a therapeutic mode of self-care and a representation of a confessant's plagued interiority (Carr, 2011; 2013). However, just the opposite is discovered in MHC, and the discourse of "honesty" and "openness" gives way to a neoliberal ideology of self-governance.

Articulating larger patterns in the political economy (Shamir, 2008), welfare state (Soss et al., 2011), child welfare and juvenile justice (Franzen, 2015), and the penal field (Garland, 1997; Rose, 2000), responsibilization has an intimate relationship with risk management within criminal legal practice, and it aims to treat all outcomes of the individual as a product of autonomous choice. For so-called problem populations, responsibilization is a form of moral reformation, a putative preparation for the restoration into a normatively defined "moral community" (Rose, 2000). It demands that individuals display the self-governing behaviors that align with the expectations of governing authorities, and in so doing, it strips out from the frame the structural realities, the racism, sexism, ableism, and classism endemic in U.S. society, the personal challenges defendants face, and other unique circumstances that contingently impinge on, hamper, or inhibit the so-called choices of individuals who are predominantly marginalized.

In what seems to be an inherent contradiction here is the discursive construction of defendants as child-like irresponsible individuals who are both paradoxically infantilized and responsibilized. Not only can defendants not pursue their own therapeutic needs, including their treatment regimen and living arrangements, but they are blamed for the unmet mandates imposed by the court and instructed to not "make excuses." Moreover, any consideration for the psychiatric aspect of this practice seems strikingly minimal, if not entirely absent, in the court's rhetoric and treatment of defendants. What might emerge from this process of responsibilization?

What might be its effects, beyond the discursive circumscription of defendants' ability to verbalize matters important to them or alternative explanations to their presumed failings?

Indeed, it appears that one potential and undoubtedly significant implication is that responsibilization prevents the court from fully engaging defendants in a supportive manner, and from treating them as fully complex human beings with complex lives and needs. That is, responsibilization narrows, limits, and stymies the court's efforts to institute meaningful and helpful responses to defendants who may in fact face dire circumstances. From a rehabilitative standpoint, this merely animates another facet of the court's rehabilitative imaginaries, for responsibilization not only silences defendants but also presumes knowledge and expertise over them in ways elide and erase their humanity.

Another crucial implication here is that, while speaking in an uninterrupted, monological confessional is problematic in its own right (Carr, 2011; 2013), being interrogated about court-defined wrongs, interrupted from talking by judges, and instructed to "stop" talking all expressly demonstrate power and domination in a confrontational manner that runs counter to how therapeutic jurisprudence is theoretically imagined. This, however, may be ameliorated or resolved if defendants actually had decision-making power over their lives, their treatment, and their needs; and if, of course, they were viewed as full humans to begin with. But understanding how so-called problem populations experience demonization and categorical devaluation is less an inherent problem to be overcome in MHC and more a result of a long history of liberal notions of worthiness, merit, and good citizenship. Psychiatric, poor, criminalized, and generally stigmatized groups have rarely met the threshold of these ideals, and have differentially received quite harsh responses from governing authorities since institutions were designed to sequester

them from their nominal betters (Grob, 1994; Rothman, 1971; Katz, 1986; Ben Moshe, 2013; Goffman, 1961; Foucault, 1975).

Lastly, if there is one implication that arises from responsibilization in MHC that demands critical attention it is the way in which responsibilization constructs non-compliance. Here, if we take seriously what responsibilization achieves, then we can see that it not only blames defendants for not meeting the court's expectations but also *constitutes* failure: that is, by mobilizing a discourse of self-blame, responsibilization defines and makes possible strict definitions of "non-compliance." By rendering defendants voiceless, dismissing lay sociological and individual explanations as "excuses," MHC staff frame, form, and mobilize the language and conditions of non-compliance, constituting each act sequentially over time as deviations marked by unmet mandates for which defendants carry sole responsibility. This is one of the primary means of abstraction and methods for defining what are acceptable or unacceptable responses from defendants.

As a mechanism for producing judgments of non-compliance, responsibilization, then, has long-term effects that potentially influences the rate of termination and opting out of defendants. When denuded from its moral trappings, responsibilization is a technique that *shifts the view from program to individual and abstracts the responsibility and role of MHC actors in the production of defendants' negative outcomes.* While this postulation may appear rather provocative, it is nonetheless a plausible and certainly practical implication for how MHC makes sense of itself and its work. Defendants who do not shoulder full blame and align themselves with the strict expectations of the court, find themselves less amenable to the favor of the court. Perhaps the best articulation of this came in the rhetoric of the probation officer, Audrey, regarding Ryan's health: "Ryan needs to stop with his cockamamie excuses and do what he's

supposed to do, before he finds himself somewhere where he doesn't want to be at." To be sure, Ryan opted out, as many others who find themselves frustrated by MHC practices.

In the end, what MHC offers is a complex array of discourses that articulate themselves as rehabilitative but work in contradictory and seemingly unhelpful ways to some defendants. On the other hand, there are those whose lives are fractured by deep marginality, precarity, and scarcity and who find the services administered through MHC temporarily helpful. Some of these defendants express the need for recovery homes, inculcate the personal responsibility discourse, and utter alliance with MHC staff. These defendants tend to be older and have more experience with criminal legal involvement, longer histories of substance use, and have seemingly reached a point of "being tired."

If insight is to be gleaned from this subgroup, then there is something to be said about who the court targets, how it selects defendants for the program, and how it assesses and incorporates the knowledge and experience of defendants into its process. The most immediate recommendation here is to evaluate defendants not solely on the bases of risk and who is likely to graduate but who would most likely benefit from the intense services and treatment regimen offered. If any change is possible, then on a practical level, having defendants who materially and not simply psychiatrically need the relief of MHC services may be ideal candidates for the program. Yet a word of caution: this must be coupled with the elimination of the instrumental use of, and discursive reliance on, risk, coercion, and confrontation.

As I have demonstrated, defendants undergo these experiences frequently, and both risk techniques and coercion work to dehumanize, devalue, and demoralize them. In so doing, risk, coercion, and confrontation are deleterious elements in a program that claims to be therapeutic. If rehabilitation is to be realized, it has to purposefully and meaningfully focus on the treatment of

the whole person and not just a single facet—and certainly not a demeaning preconfigured facet. Because defendants must currently work through a "frame trap" (Goffman, 1974)—making it seemingly impossible to escape because they are also nested within institutionalized relations of power—therapeutically treating the whole person is exceptionally important. This may, however, require a radical society-wide change in how we think about, practice, and navigate habitual drug use, crime, and rehabilitation.

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