

# Intersections of the Mental Health Act and the Habeas Corpus Act

A Research Study on Habeas Corpus in cases of Emergency  
Placement and Mandatory Hospitalization in Taiwan

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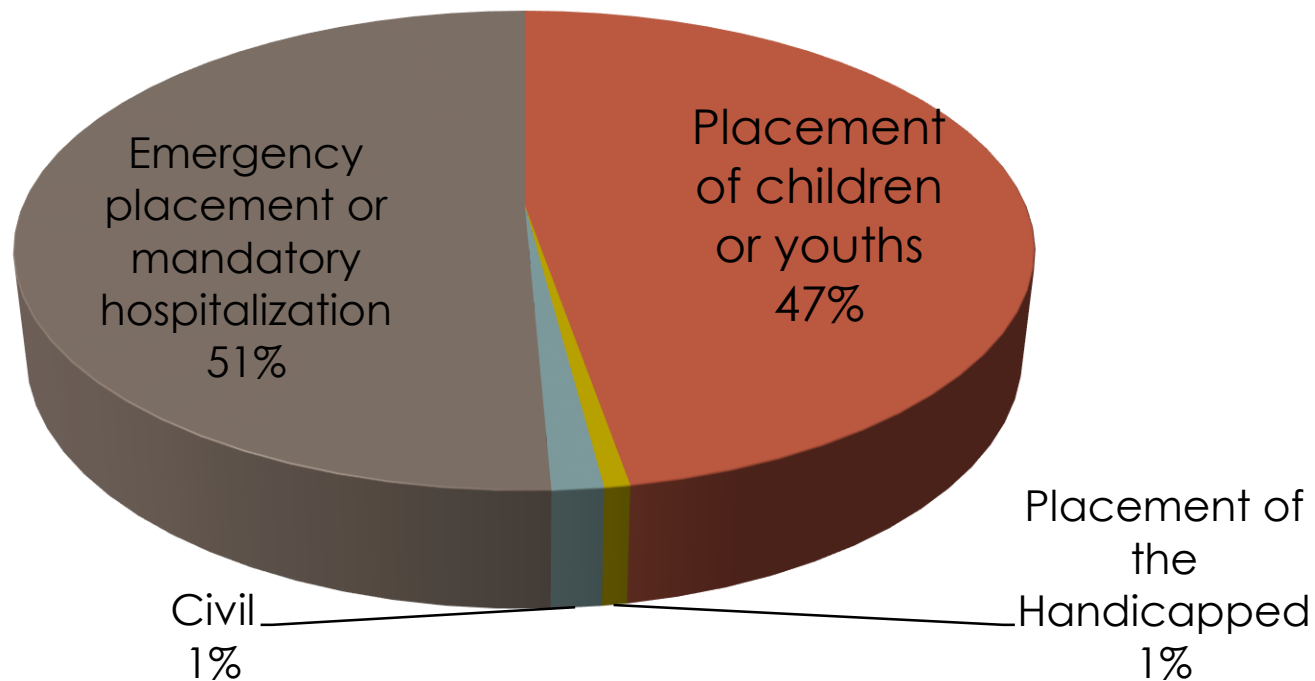
# The Crossroads

- ❑ When a severe mentally ill patient resists emergency placement or mandatory hospitalization, s/he may petition the court for the ruling of ceasing.
- ❑ When a person is arrested or detained by any organ other than a court, s/he may petition the district court for a writ of habeas corpus.
- ❑ The emergency placement or mandatory hospitalization can be interpreted as “being arrested or detained by an organ other than a court”.

# Statistics Resources

- ▣ The amendment of the Habeas Corpus Act took effect on July 8, 2014.
- ▣ It is based on the database of the legal information retrieval by the Judicial Yuan.
- ▣ Containing all uploaded habeas corpus court decisions in the first instance from July 2014 to March 2017.

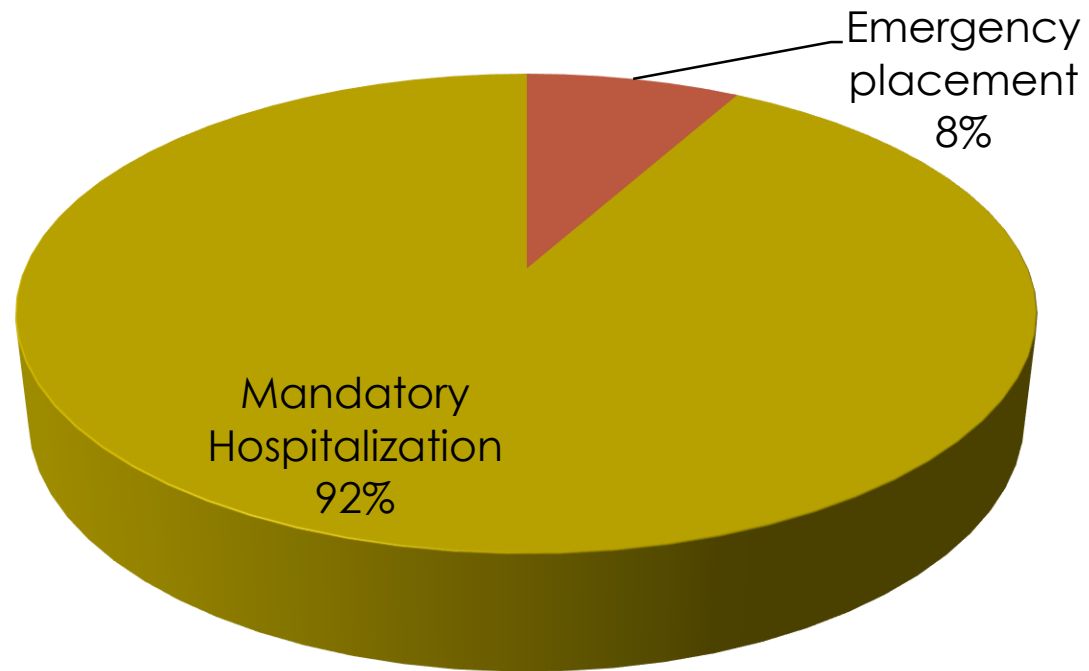
# Types



# Rate of Dismissal

- ▣ 100%.

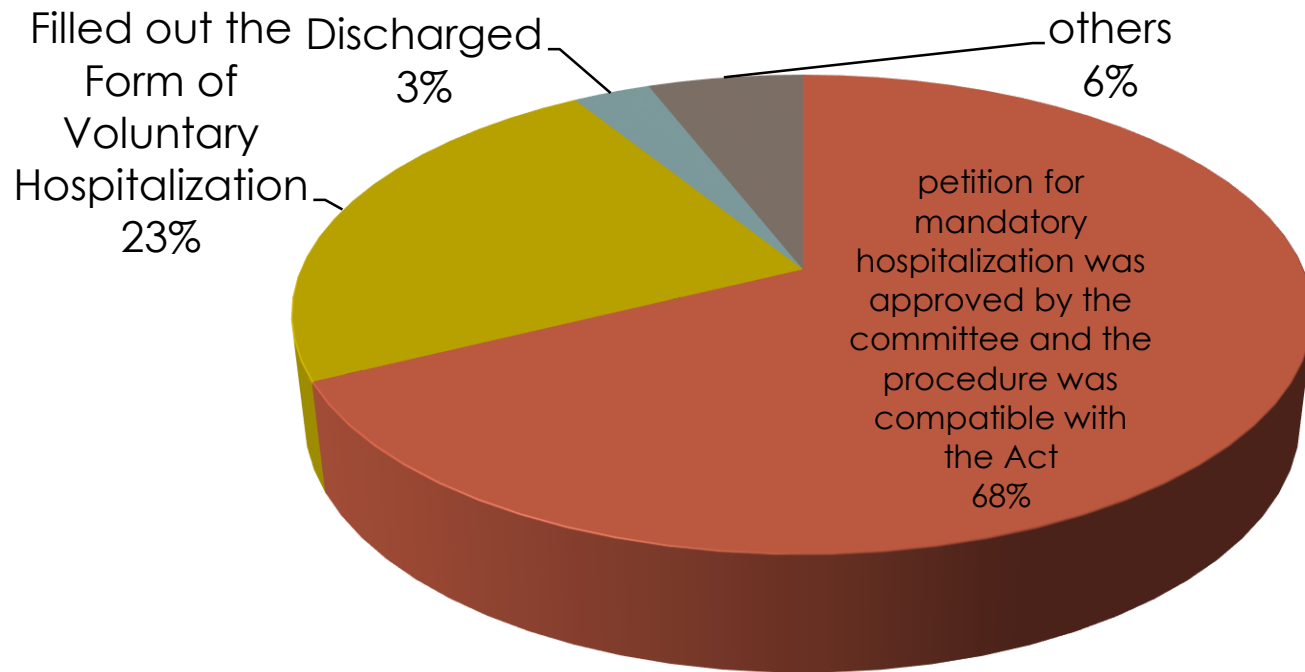
# Rate of Emergency Placement and Mandatory Hospitalization



# Reasons for Dismissal of Petitions for Habeas Corpus in Emergency Placement

- Within six petitions, five decisions indicate that the reasons for and proceedings of emergency placement complied with the Act, and applying for mandatory hospitalization would proceed.
- The other decision indicates that emergency placement is not compatible with the prerequisites for the petition for habeas corpus.

# Reasons for Dismissal of Petitions for Habeas Corpus in Mandatory Hospitalization

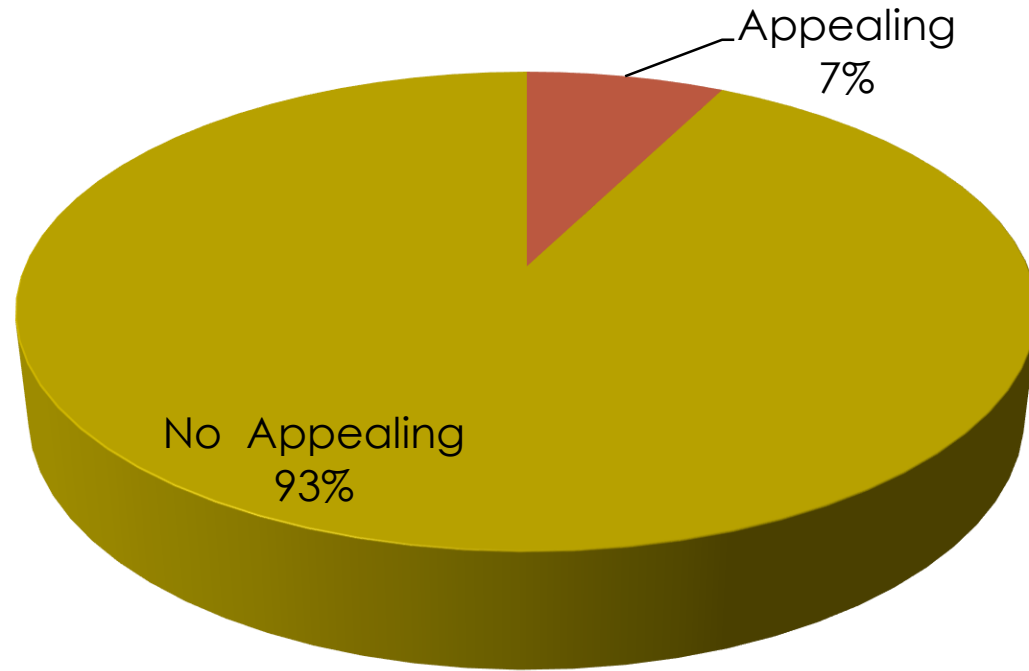




# Rate of Appealing Emergency Placement

- ▣ Zero.

# Rate of Appealing Mandatory Hospitalization



# Findings

- The majority of petitions for habeas corpus are related to the Mental Health Act's emergency placements and mandatory hospitalizations.
- Petitions for habeas corpus in emergency placement and mandatory hospitalization are all dismissed.
- No appeals for dismissal on petitions for habeas corpus in emergency placement were found.
- More than 90% of dismissals on petitions for habeas corpus in mandatory hospitalization were not appealed.

- ❑ All reasons for dismissal on these petitions were proceedings of emergency placement complied with the Act, and applying for mandatory hospitalization would proceed.
- ❑ All reasons for dismissal on these petitions were that petition for mandatory hospitalization had been approved by the committee and the procedure was compatible with the Act.

## ❑ Inconsistency in court decisions

- ❑ The majority of courts allow patients in emergency placement and mandatory hospitalization to petition for habeas corpus.
- ❑ The majority of courts regard the panel of three district court judges as the appealing courts for writs of habeas corpus.
- ❑ While some decisions list hospitals as the opposing party, some decisions do not.

- ▣ Some decisions explain why the court did not order the return of the person in question to the organ for using remote examination, and some do not.
- ▣ Most courts do not consult doctors' opinions about the circumstances of mandatory hospitalization approved by the committee.
- ▣ Not all decisions are uploaded.

# Question

- Can petitions for ceasing emergency placement or mandatory hospitalization, and for habeas corpus be concurrent?
- Who has jurisdiction on appeals of habeas corpus cases, a panel of three judges in the district court or the high court?

- ▣ According to the reasons for dismissing petitions for habeas corpus:
  - ▣ What room does the court have to review habeas corpus case after the committee has approved mandatory hospitalization?
  - ▣ Can patient's hospitalization become involuntary after they sign an agreement?
  - ▣ Is there no need to review the legality of arrest when the court dismisses the petition for habeas corpus due to patient's discharge from the hospital?



# Recommendation

- ❑ The inconsistency of court procedural issues should be resolved.
- ❑ Court decisions should be uploaded completed to comply with the Freedom of the Government Information Act.
- ❑ Third parties petitioning for habeas corpus should be reasonably limited.
- ❑ Applying restorative justice to emergency placement or mandatory hospitalization.

# Conclusion

- ❑ There are inconsistencies in procedural issues in Habeas Corpus cases.
- ❑ The qualification of third parties petitioning for the release on another is required.
- ❑ There is little room for court review in a case with a committee's approval.