

The Big Kahuna: Hawaii's Conditional Release Program: Successes and Challenges

September 18, 2007
Neil Gowensmith, Ph.D.
AMHD Chief of
Forensic Services

Overview of Presentation

- Legal context in Hawaii
- History / Current status
- Challenges
- Response
- Future

Legal context for CR

- Combination of statute and court order

Legal context for CR

- Combination of statute and court order
- **Statute**
 - Chapter 704 of Hawaii Revised Statutes
 - HR§ 704-411 and HR§ 704-413 / 415
 - Specifies that all CRs have a probation officer

Legal context for CR

- HR§ 704-411(1)(b):
- When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court shall, on the basis of the report made pursuant to section 704-404, if uncontested, or the medical or psychological evidence given at the trial or at a separate hearing, make an order as follows:
 - (b) The court shall order the defendant to be released on such conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that the defendant presents a danger to oneself or others, but that the defendant can be controlled adequately and given proper care, supervision, and treatment if the defendant is released on condition.

Legal context for CR

- HR§ 704-415:
- If the court is satisfied by the report filed pursuant to section 704-414, and such testimony of the reporting examiners as the court deems necessary, that the discharge, conditional release, or modification of conditions of release applied for may be granted without danger to the committed or conditionally released person or to the person or property of others, the court shall grant the application and order the relief.

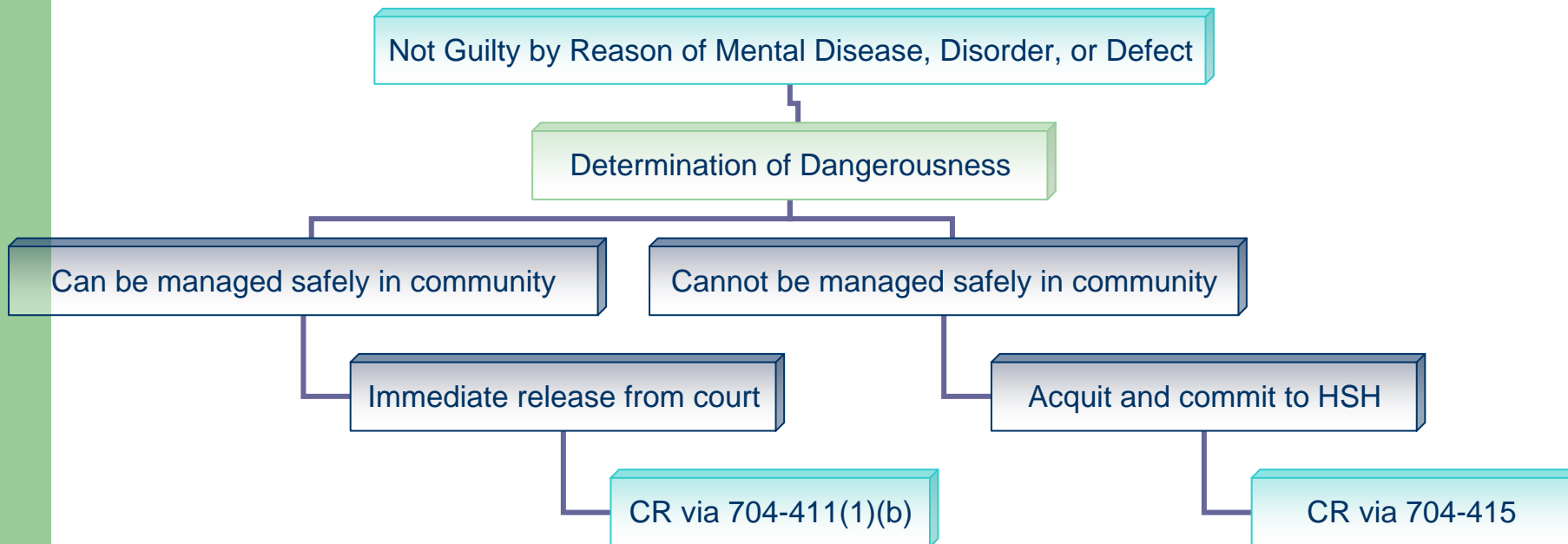
Legal context for CR

- HR§ 704-413(1)
- Any person released on condition pursuant to section 704-411 shall continue to receive mental health or other appropriate treatment and care deemed appropriate by the director of health until discharged from conditional release. The person shall follow all prescribed treatments and take all prescribed medications according to the instructions of the person's treating mental health professional. If any mental health professional treating any conditionally released person believes the person is either not complying with the requirements of this section, or there is other evidence that hospitalization is appropriate, the mental health professional shall report the matter to the probation officer of the conditionally released person. The probation officer may order the conditionally released person to be hospitalized for a period not to exceed seventy-two hours if the probation officer has probable cause to believe the person has violated the requirements of this subsection. No person shall be hospitalized beyond the seventy-two hour period unless a hearing has been held pursuant to subsection (3).

Legal context for CR

- HR§ 704-413(1)
- Any person released on condition pursuant to section 704-411 shall continue to receive mental health or other appropriate treatment and care deemed appropriate by the director of health until discharged from conditional release. **The person shall follow all prescribed treatments and take all prescribed medications according to the instructions of the person's treating mental health professional.** If any mental health professional treating any conditionally released person believes the person is either not complying with the requirements of this section, or there is other evidence that hospitalization is appropriate, the mental health professional shall report the matter to the probation officer of the conditionally released person. **The probation officer may order the conditionally released person to be hospitalized for a period not to exceed seventy-two hours if the probation officer has probable cause to believe the person has violated the requirements of this subsection.** No person shall be hospitalized beyond the seventy-two hour period unless a hearing has been held pursuant to subsection (3).

Statutory context for CR



Legal context for CR

- Combination of statute and court order
- Statute
 - Chapter 704 of Hawaii Revised Statutes
 - HR§ 704-411 and HR§ 704-413 / 415
 - Specifies that all CRs have a probation officer
- **Court orders**
 - Provide general and specific terms of CR
 - 99% of orders specify AMHD oversight

Early years: Smooth sailing

- 190 CR cases known to AMHD
- Each case believed to have some level of case management
- Each case believed to have a probation officer

Trouble ahead?

- U.S. Department of Justice settlement
 - Initially focused on issues at Hawaii State Hospital (HSH)
 - In early 1990's focus broadened to include community issues

Trouble ahead?

- U.S. Department of Justice settlement
 - Initially focused on issues at Hawaii State Hospital (HSH)
 - In early 1990's focus broadened to include community issues
 - Specifically, forensic services

Trouble ahead?

- Forensic focus
 - Major component of the community focus
 - Continuity of care between inpatient and outpatient tx
 - Programs and services for forensic subpopulations

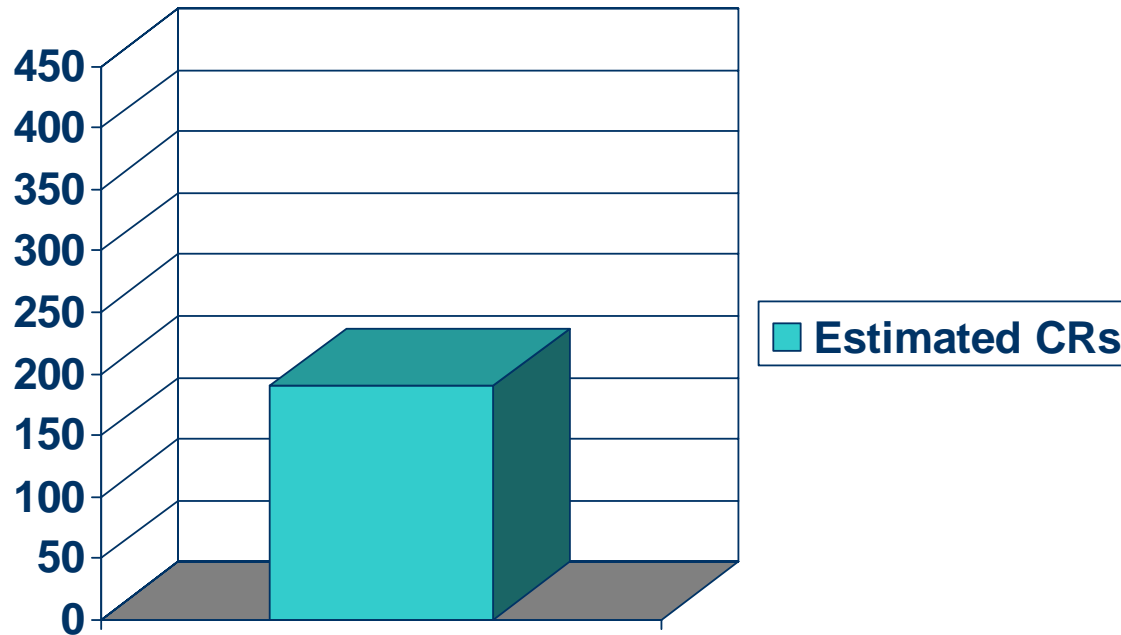
Trouble ahead?

- Initial forensic system
 - 5 forensic examiners (psychologists)
 - Hired first Chief of Forensic Services (2002)
 - Hired first community-based forensic psychologist (2003)
 - “Forensic coordinator”

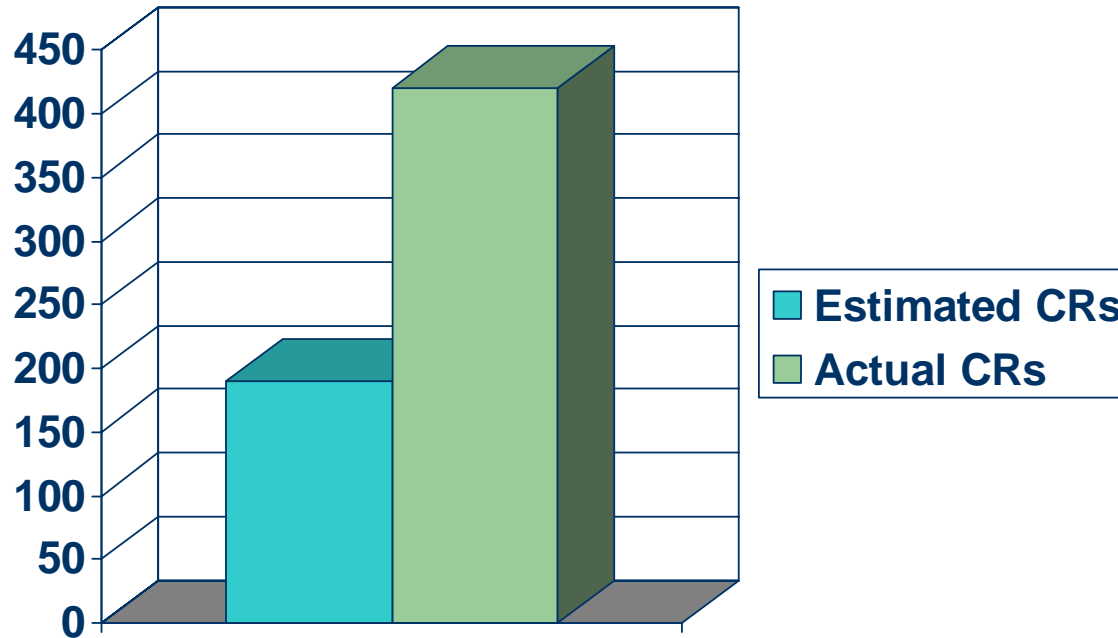
Things that make you go “Hmmm...”

- CRs without any known AMHD case management
- CRs without a probation officer

Things that make you go “Hmmm...”



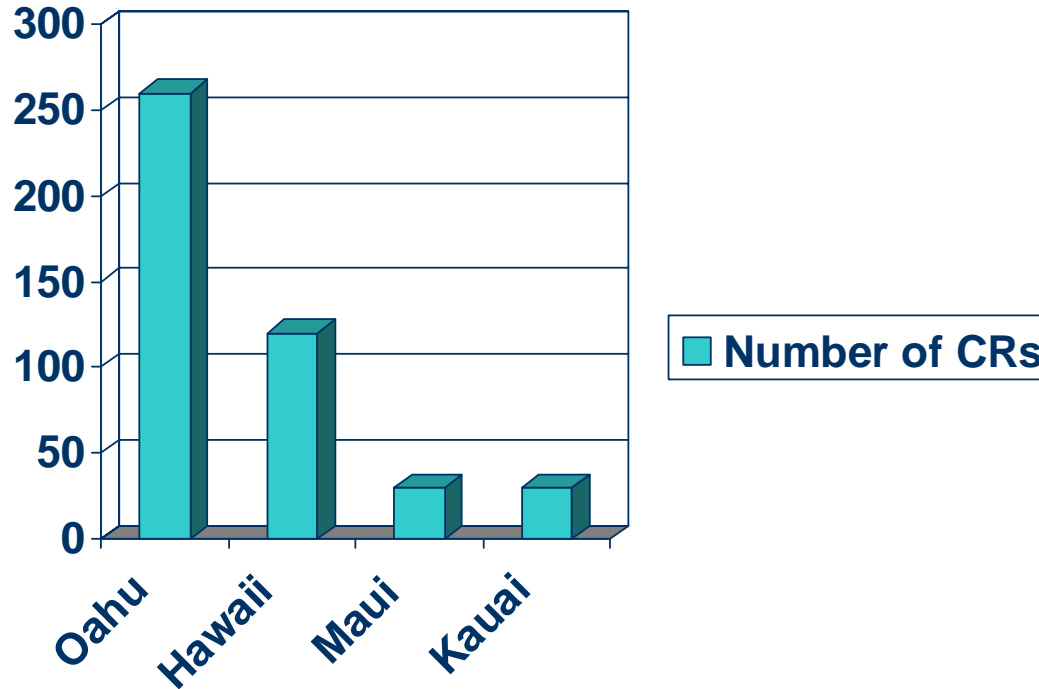
Things that make you go “Hmmm...”



Reality: Current CR demographics

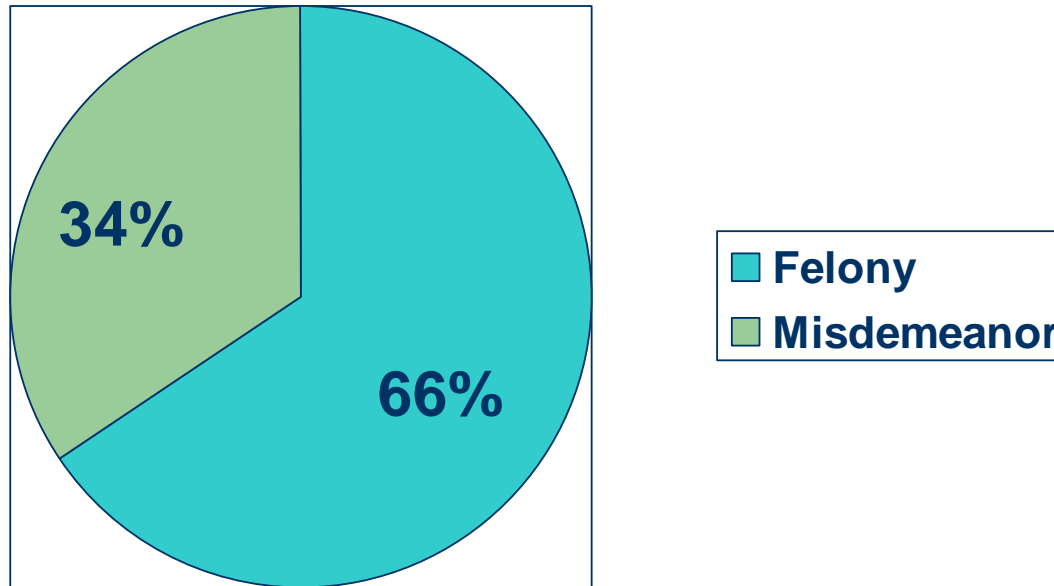
- Demographics of CR program since 2003
 - Relatively stable
 - 420 in 2003
 - 440 in 2007

Reality: Current CR demographics



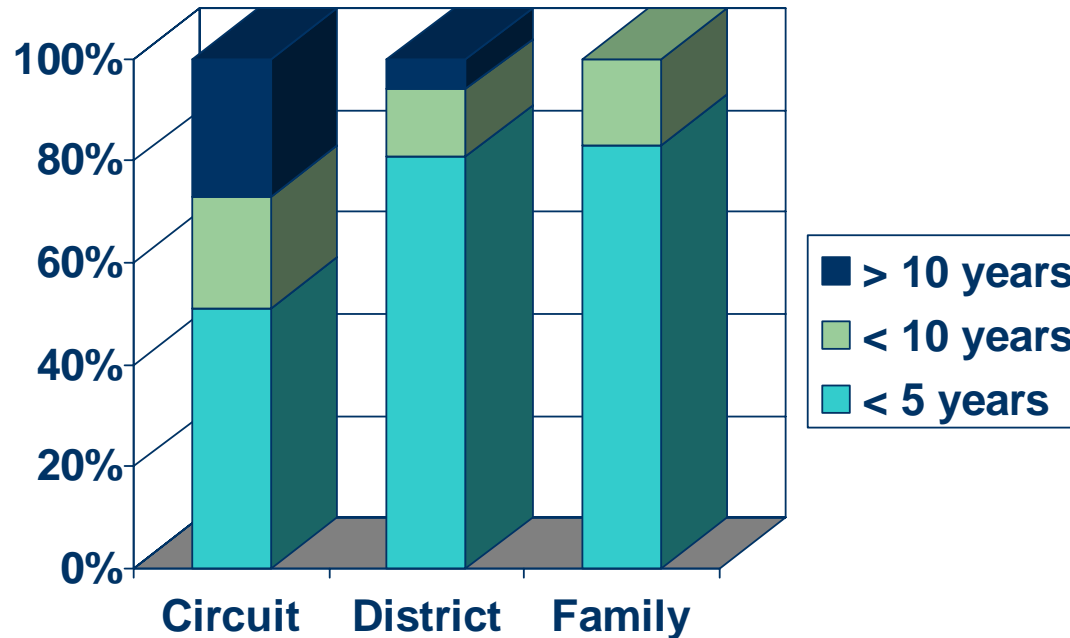
Reality: Current CR demographics

Percentage by level of offense



Reality: Current CR demographics

Length of CR commitment by court



Challenges

- Sheer numbers
 - Largest per capita CR program I know of
 - 420 CRs out of 1.2 million state population

Challenges

- Sheer numbers
 - Largest per capita CR program I know of
 - 420 CRs out of 1.2 million state population

Why so many?

Challenges: Sheer numbers ges

- Why so many?
 - No ineligible charges: felony, misdemeanor, and petty misdemeanors all eligible for CR

Challenges: Sheer numbers

- Why so many?
 - No ineligible charges: felony, misdemeanor, and petty misdemeanors eligible for CR
 - **No time limit on CRs: indefinite length of commitment**

Challenges: Sheer numbers

- Why so many?
 - No ineligible charges: felony, misdemeanor, and petty misdemeanors eligible for CR
 - No time limit on CRs: indefinite length of commitment
 - **No regular mechanism for dismissal of CR**

Challenges: Sheer numbers

- Why so many?
 - No ineligible charges: felony, misdemeanor, and petty misdemeanors eligible for CR
 - No time limit on CRs: indefinite length of commitment
 - No regular mechanism for dismissal of CR
 - **No GBMI defense in Hawaii statute**

Challenges: Sheer numbers

- Why so many?
 - No ineligible charges: felony, misdemeanor, and petty misdemeanors eligible for CR
 - No time limit on CRs: indefinite length of commitment
 - No regular mechanism for dismissal of CR
 - No GBMI defense in Hawaii statute
 - **Increasing frequency of NGRI acquittals in Hawaii**
 - **Already slightly above national averages**
 - **Increasing rates in recent years**

Challenges: Other issues

- Lack of forensic training for tx teams
- Lack of information transfer, especially regarding risk for violence / recidivism
- No overall oversight of forensic cases

- As a result, some cases fell through cracks
 - Sentinel events, high-profile cases

Challenges: Other issues

- Changing terms and conditions of CR a cumbersome process
 - At times the CR limited a person's housing or treatment options that were otherwise clinically appropriate
- Dismissal of CR very infrequent
 - Keeping people on CR longer than necessary
 - Some District Court CRs 25+ years

Challenges: Other issues

- Hawaii State Hospital
 - Only state-operated psychiatric facility
 - Designed as rehab hospital for civil patients
 - Now 95% forensic
 - Nearly 90 inpatient beds (40%) filled by CR population
 - Those nearing discharge on CR
 - Those rehospitalized after CR granted

Challenges: Overview

- Twice as many CRs as we had anticipated
- No staff
- No CR programs or services
- No working relationships with other agencies
- Therefore:
 - No oversight or risk management for CR cases
 - Resultant hospitalizations and costs which may have been avoided

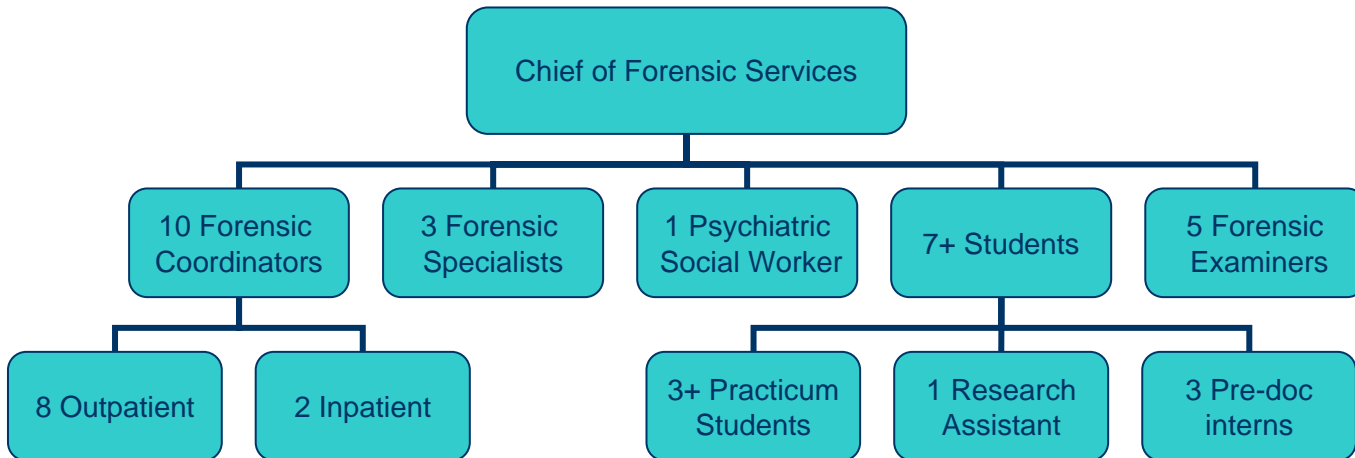
Response

- Create staff
- Create formal CR program
- Create inter-agency relationships

Response: Creation of staff

- Chief of Forensic Services
- 8 Community forensic coordinators
- 2 Hospital forensic coordinators
- 3 Forensic specialists
- 1 Psychiatric social worker
- Forensic student training
 - Practicum, research assts, and pre-doc interns

Response: Creation of staff



Response: Creation of staff

- Community Forensic Coordinators
 - Psychology positions
 - Placed at each community mental health center
 - Primary roles and responsibilities
 - Track and monitor everyone on CR
 - Provide crisis and hospitalization assistance to tx teams
 - Provide risk assessment, mgmt, and reduction trainings
 - Ensure implementation of risk-based recovery planning
 - Advise court as appropriate

Response: Creation of staff

- Community Forensic Coordinators
 - Consultants to tx teams (not tx team members)
 - No direct service with caseload
 - Provide assessments to the court
 - Consult and train on risk for violence
 - HCR-20 and other methodologies
 - No switching of cases
 - Caseloads determined by referral court
 - FC brochure is on website

Response: Creation of staff

- Hospital Forensic Coordinators
 - Psychology positions analogous to community FC
 - Monitor every forensic admission and discharge
 - Train staff on forensic issues, risk for violence
 - Ensure implementation of risk-based tx planning
 - Review every potential discharge for risks
 - Provide risk assessments as needed

Response: Creation of staff

- Forensic Specialists
 - Psychology positions
 - Provide treatment with forensic populations
 - Provide risk assessment where appropriate
 - Program development
 - Data analysis and research

Response: Creation of staff

- Psychiatric Social Worker
 - Link with Public Safety
 - Corrections
 - Parole
 - Probation
 - Sex offenders

Response: Creation of staff

- Student programs
 - Forensic practicum students
 - Graduate research assistants
 - Pre-doctoral internship program

Response: Creation of staff

- Forensic Examiners
 - Psychology positions
 - Provide court-ordered mental health examinations
 - Pre-trial and post-trial exams
 - 850 per year
 - Dangerousness assessments which place people on—
and take people off—CR

Response: Creation of CR program

- Developed program from scratch
- Followed evidence-based practices
 - Policies and procedures
 - Standard operating procedures
 - Directives to all providers
 - Crisis responses / options for forensic cases
 - Hospital discharge planning for forensic cases

Response: Creation of CR program

- General CR program
 - Run by forensic coordinators
 - Created matrix for each CR case
 - Clinical functioning vs. risk for violence (lo, med, hi)
 - Consult on each case monthly at a minimum
 - Keep ongoing database (track and monitor)
 - Assist on all CR crisis or major transition periods
 - Train community providers
 - More than 500 hours of training per year

Response: Creation of CR program

- General CR program
 - Run by forensic coordinators
 - Court-based initiatives
 - Attend all CR court hearings
 - Provide court-ordered examinations
 - Pre-trial and post-trial exams
 - Psychology positions
 - Informal court roles
 - Advising court, informal consultations, chambers

Response: Creation of CR program

Specialized programs and services

- Hale Imua
 - 22 bed community program
 - 24-hour group home with specialized programs
 - Exclusively for CR population
 - Otherwise hard-to-place individuals
 - Some diversions from rehospitalization
 - Relieves HSH census crunch

Response: Creation of CR program

Specialized programs and services

- Hale Imua
 - Program components
 - Forensic oversight and emphasis (forensic specialists)
 - Psycho-social rehabilitation (Clubhouse)
 - Case management and psychiatric service from CMHC
 - 25-hour housing supervision (housing contractor)
 - Began March 2006
 - 30+ admissions
 - Challenging population
 - Several rehospitalizations, AWAs in beginning
 - Now much more stable population

Response: Creation of CR program

Specialized programs and services

- Secure Residential Facility
 - For treatment refractory population
 - Specialized residential, licensed program
 - 24 beds
 - Fencing, security
 - Will open in early 2008
 - Will reduce HSH census by creating more beds with increased potential for turnover

Response: Creation of CR program

Specialized programs and services

- CREST

- Conditional Release Exit Support and Transition
- Program to advocate and support d/c from CR
 - No regular mechanism for discharge from CR
 - Voluntary program
 - 8 session group psycho-education format
 - Prepares participants for life after CR
 - Final project completed by participant
 - Provides evidence to the tx team and court
 - Began June 2007, first 3 graduates in August 2007

Response: Creation of CR program

Specialized programs and services

- Community-Based Fitness Restoration
 - Hawaii statute allows for CBFR
 - No formal program has previously existed
 - 98% of all unfit consumers ordered to HSH for fitness restoration
 - Created formal program to fill this gap
 - Will reduce census of HSH

Response: Creation of CR program

Specialized programs and services

- Community-Based Fitness Restoration
 - 5 bedroom cottage in community near Hale Imua
 - Same fitness restoration program as HSH
 - Fencing, 24-hour supervision
 - Participants also engage with CMHC, Clubhouse
 - Began August 2007
 - Rare program nationwide
 - Will share data with NASMHPD

Response: Creation of inter-agency relationships

- Critical component
 - Agreements and working relationships with all relevant agencies
 - Public Health: Substance, DD/MR, etc
 - Hospitals: Public and private
 - Judiciary: Judges, counsel, probation
 - Public Safety: Corrections, parole
 - Legislature

Response: Creation of inter-agency relationships

- Hospitals
 - HSH: Continuity of Care project
 - Community hospitals: Contract developed for them to hold and treat forensic consumers with state reimbursement
- Judiciary
 - Development of mental health calendars
 - Partnership with Mental Health Court
 - Annual training for examiners and judiciary

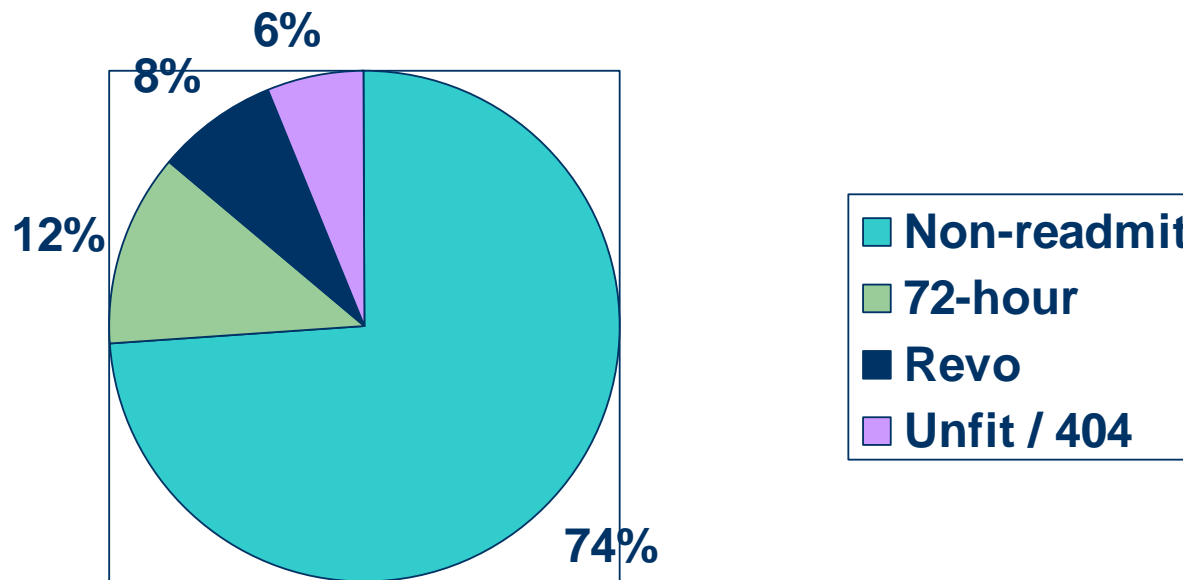
Results

- Within 5 years we have very encouraging results
 - Track and monitor more than 500 CR cases/year
 - Developed more than 12 special programs within forensics, including several specific CR programs
 - Created several staff and training positions, including a pre-doctoral internship in forensics
 - 30+ consumers treated in contracted community hospitals
 - Creation of inter-agency relationships, including multiple mental health calendars, Mental Health Court, continuity of care with hospitals, and programs with Public Safety
 - US Dept of Justice ended oversight in 2006

Results: Re-hospitalization of CRs base rate

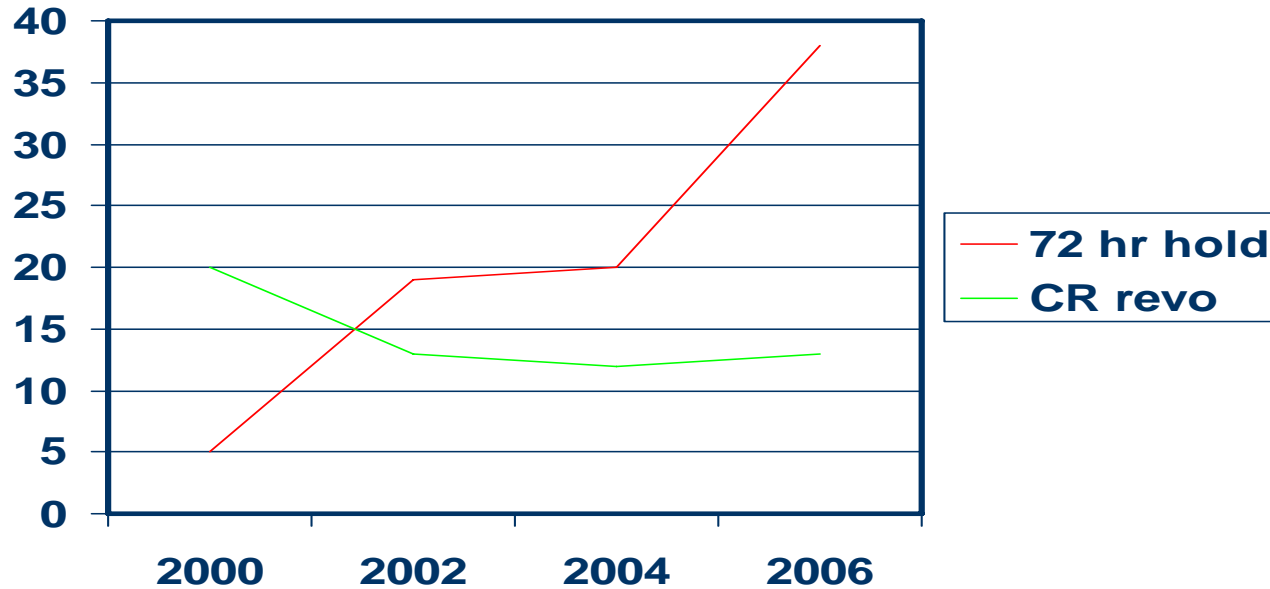
- Total discharged on CR (1999 to 2001): 34
- 5 year follow-up for re-hospitalizations
- Total Readmits: 9 (26%)
 - Readmits (first readmits after discharge):
 - 4 72-hour holds
 - 3 revocations
 - 1 406 admission and 1 404 admission
 - Re-admitted two or more times: 3 (8%)

Results: Re-hospitalization of CR base rates (5-year follow-up from 1999-2001 CR d/cs)



Results: Hospitalization data

- Total numbers of 72-hours holds and revocations from 2000-2006



Results: Hospitalization data

- Community FCs spend more than 80% of their time on managing and reducing risks for violence and/or recidivism on CR cases

Results: Hospitalization data

- Average 2000-2004 = 26.4 hospitalizations / year
 - Out of 190 CRs in community known to AMHD (13.9%)
- Average 2005-2006 = 53 hospitalizations / year
 - Out of 420 CRs in community known to AMHD (12.6%)
 - This rate can probably be expected to be the ceiling rate

Results: Impact of FCs (Oct-Dec 2006)

- Potential bed days saved
 - Average LOS for 72+ hr hold = 250 days
 - 14 diversions x 250 days = 3500 days
 - Average LOS for revocation = 1400 days
 - 17 attempted revocations → 12 72-hour holds and 5 diversions
 - 5 diversions x 1400 days = 7000 days

Results: Impact of FCs (Oct-Dec 2006)

- Potential bed days saved
 - Average LOS for 72 hr hold = 250 days
 - 14 diversions x 250 days = **3500 days**
 - Average LOS for revocation = 1400 days
 - 5 diversions x 1400 days = **7000 days**
- Potential financial savings
 - 72 hr hold diversions
 - 3500 days x \$800/day = **\$2,800,000**
 - Revocation diversions
 - 7000 days x \$800/day = **\$5,600,000**

Future

- Data-informed system
- Legislative efforts
 - Changes to CR statutes
 - Regular call backs to court for each CR case
 - Maximum time frames for CRs
 - Minimization of CR for misdemeanor crimes

Future

- Expansion
 - CR population to be increasingly connected with:
 - Pre- and post-booking jail diversion
 - Mental Health Court
 - Community Reintegration from jail / prison
 - Forensic peer specialist opportunities

Future

- Movement of CR consumers to state-operated facilities
 - Moving CR consumers out of purchase-of-service providers (private providers) over time
 - Data has shown importance of maintaining state control over forensic programs in Hawaii

Forensic Examiner Training

- Website: www.amhd.org/About/forensics.asp
- Thank you!