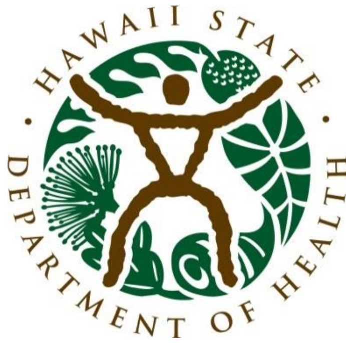
REPORT TO THE THIRTIETH LEGISLATURE
STATE OF HAWAIʻI
2019



PURSUANT TO HAWAIʻI REVISED STATUTES §334-16

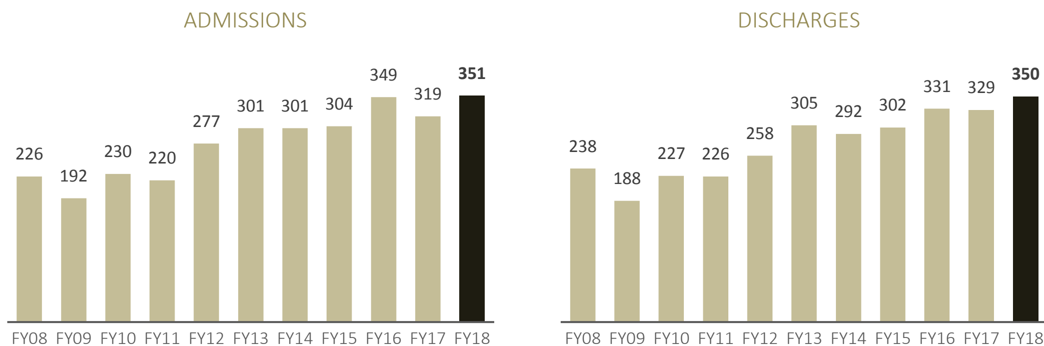
Requiring the Department of Health to Submit an Annual Report to the Legislature
Summarizing Yearly Data on Forensic Patients at
Hawaiʻi State Hospital
FY 2018

Prepared by:
Hawaiʻi State Department of Health
Adult Mental Health Division
Hawaiʻi State Hospital

EXECUTIVE SUMMARY

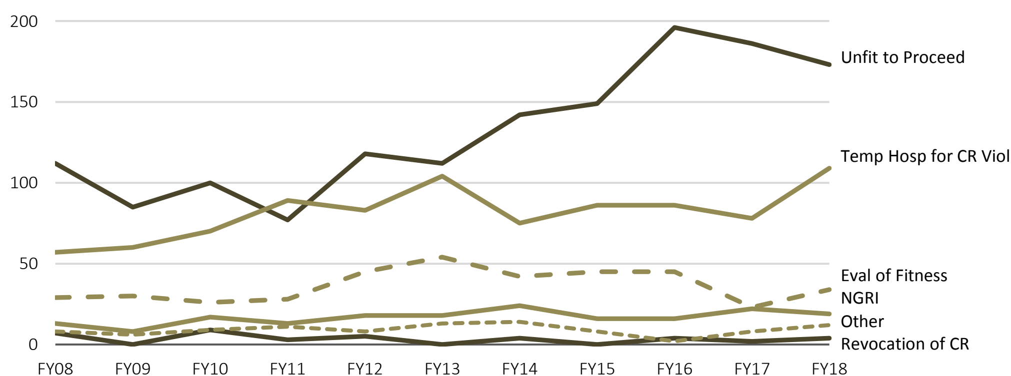
In accordance with Hawai'i Revised Statutes (HRS) §334-16, the Department of Health (DOH) submits this report to the 2019 Hawai'i State Legislature summarizing annual data on forensic patients served by the Hawai'i State Hospital (HSH). All data, unless otherwise noted, is for fiscal year 2018 (FY 2018) and in comparison with FY 2017. Key terms and definitions may be found after the table of contents.

- **Admissions & Discharges.** HSH admissions and discharges both increased in FY 2018 from the prior fiscal year (+10%, +6%) and reached their highest levels since HSH annual reports have been produced, suggesting that high levels of HSH utilization will likely continue. Admissions continue to come almost exclusively from criminal courts, and as a result, HSH has essentially become a forensic psychiatric institution.



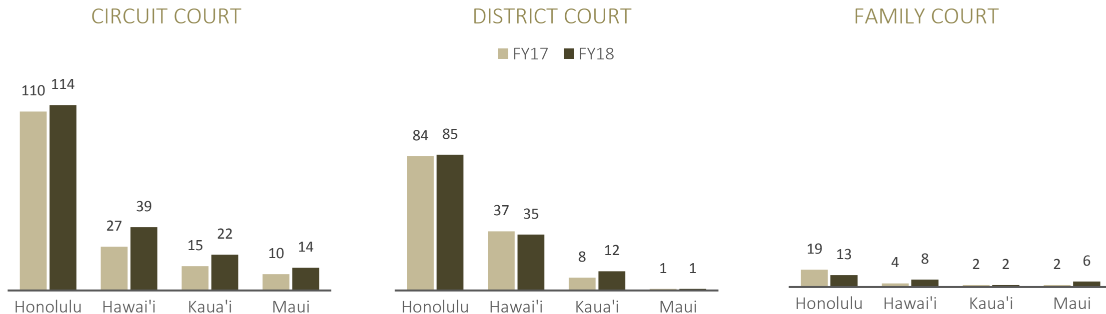
- **Contracted Beds.** HSH beds are augmented by DOH contracts with Kāhi Mōhala Behavioral Health (Kāhi Mōhala) and Columbia Regional Care Center (CRCC). DOH purchased 46 beds at Kāhi Mōhala, costing approximately $14 million in FY 2018. To serve individuals who cannot be safely treated at HSH due to intractable dangerous behaviors, three beds were contracted at CRCC's secure forensic facility in South Carolina.

- **Admission Commitment Categories.** Admissions with the legal status of unfit to proceed continued to be the most frequent commitment category, involving 49% of FY 2018 admissions. However, there was a +40% increase in individuals ordered to HSH for temporary hospitalization due to conditional release (CR) violations, suggesting a need to bolster community-based treatment and supervision programs to reduce rehospitalizations.

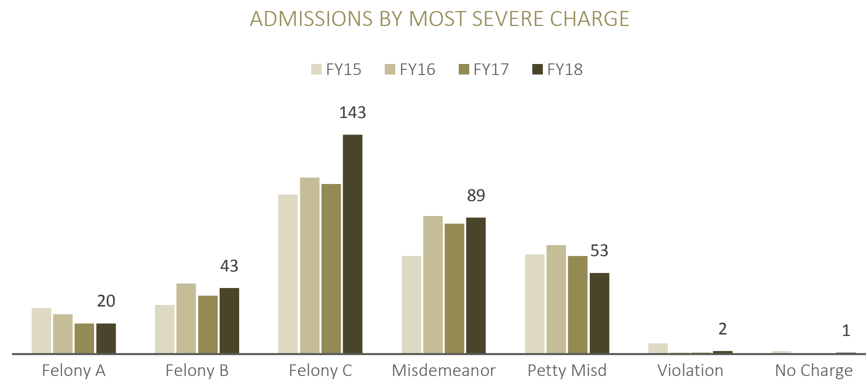


- **Discharge Legal Status Categories.** Conditional release was the most common discharge legal status, involving 39% of all FY 2018 discharges and increasing by +48% from the prior year. Of the 138 individuals discharged on conditional release, 78% were originally admitted for temporary hospitalization for CR violations. Individuals discharged after being found fit to proceed constituted 23% of discharges—an increase of +8%.

- **Committing Counties & Courts.** The increase in overall HSH admissions was paralleled by an increase in commitments by nearly all counties and courts. The exceptions to this rising trend were decreases from Oʻahu (Honolulu) family court (-32%) and the Hilo (Hawaiʻi) district court (-9%). As in past years, the majority (54%) of admissions came from circuit courts.



- **Grades of Most Severe Offense.** The +29% increase in admissions involving Felony C charges significantly exceeded the +10% overall increase in admissions. Felony C continued to be the most common grade of offense (41%) among admissions, followed by misdemeanors (25%) and petty misdemeanors (15%).

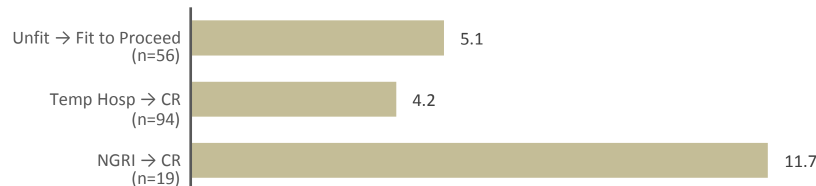


- **Categories of Underlying Crime.** Analysis of the categories of the underlying crimes charged against forensic patients active during FY 2018 revealed that property crimes (§708, 44%) were slightly more common than offenses against persons (§707, 42%). Sexual offenses were relatively rare (§707 Part V, 5%).

- **Inpatient Days.** Hospital utilization, as measured by total inpatient days, continued to be strong, nominally decreasing by -63 days largely due to the reduced number of patients in CRCC contract beds. Almost three-fourths of inpatient days were collectively attributable to two types of patients: individuals admitted as unfit to proceed (45%) and those temporarily hospitalized for conditional release violations (27%).

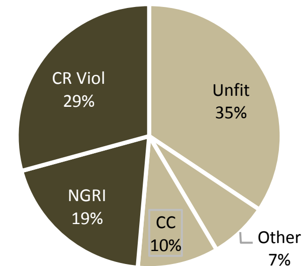
- **Length of Stay (LOS).** For individuals discharged in FY 2018, the average LOS was 8 months—an increase of 1 month from the previous fiscal year. Analysis of key admission and discharge legal status combinations revealed that individuals admitted for temporary hospitalization who resumed conditional release had an average stay of 4.2 months. The initial order for temporary hospitalization allows individuals to be held at HSH for up to 72 hours, but only 3 patients were discharged within that timeframe. Courts may approve 90-day extensions, up to 1 year, before CR is revoked; 44% of these successful returns to CR occurred within the first 90 days.

AVERAGE LOS (IN MONTHS) OF DISCHARGED PATIENTS, BY SELECT LEGAL STATUSES



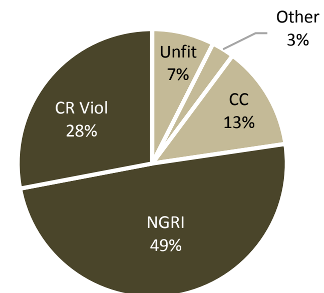
- **Snapshot of Active Patients.** Using the last day of the fiscal year (June 30, 2018) to provide a snapshot of the patients currently in the hospital, the largest group of patients were those with the legal status of unfit to proceed (35%). However, individuals acquitted and committed ("not guilty by reason of insanity," or NGRI) constituted 19% of the population and individuals previously acquitted but in violation of CR represented 29% of the population. Together, this NGRI cohort of legal statuses (i.e., acquitted and committed, acquitted and CR violations) involved nearly half (48%) of all patients active on the last day of FY 2018.

COMPOSITION OF PATIENTS ACTIVE AT FY18 END, BY LEGAL STATUS



- The gross LOS of patients hospitalized at HSH at the end of the fiscal year captures the length of an active hospitalization episode and cumulative hospital utilization, particularly for those who require long-term treatment and are not readily discharged. Collectively, the 49 individuals with the legal status of NGRI on the last day of FY 2018 spent 409 years at HSH and contracted beds since their respective admissions—an average of 8.4 years per patient. NGRI individuals accounted for only 19% of patients active on the last day of FY 2018, but about half of the total gross LOS (49%). The 74 individuals with CR violations accumulated 232 years, averaging 3 years per patient. In contrast, the 87 individuals currently unfit to proceed constituted the largest group, but amassed only 61 years, an average gross LOS of 8 months.

GROSS LOS OF PATIENTS ACTIVE AT FY18 END, BY LEGAL STATUS



**CR Violation includes: Revocation of CR (n=32) and Temp. hosp. for violating CR (n=42)*
***"Other" includes: Eval. of fitness to proceed (n=9), Voluntary (n=5), Post-acquittal hearing/evaluation on dangerousness (n=3), and CR (n=1).*

- **New HSH Building.** The Hawaiʻi State Legislature appropriated $160.5 million for the construction of a new, 144-bed forensic facility to increase much-needed capacity at HSH and to ensure the treatment of forensic patients in a safe, secure, and therapeutic setting. Construction of the new building is currently underway and on schedule, with an anticipated completion date of December 2020 and patient move-in date of May 2021. The support of the Legislature for this project is greatly appreciated.

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KEY TERMS AND DEFINITIONS

LEGAL STATUS	DEFINITION
HRS §334-60.2	Involuntary Hospital Criteria, also known as "Civil Commitment" and "MH-6"
HRS §334-74	Transfer of Residents of Correctional Facilities, also known as "MH-9"
HRS §704-404	Evaluation of Fitness to Proceed
HRS §704-405	Fit to Proceed
HRS §704-406	Unfit to Proceed; Committed
HRS §704-406(1)	Unfit to Proceed; Released on Conditions
HRS §704-406(1)(a)	Unfit to Proceed; Charge is a Petty Misdemeanor not Involving Violence, Charge Dismissed after 60 days
HRS §704-406(1)(b)	Unfit to Proceed; Charge is a Misdemeanor not Involving Violence, Charge Dismissed after 120 days
HRS §704-406(3)(a)	Case Dismissed Due to Excessive Time; Discharged
HRS §704-406(3)(b)	Case Dismissed Due to Excessive Time; Civilly Committed
HRS §704-406(3)(c) – 2016	Case Dismissed Due to Excessive Time; Assisted Community Treatment
HRS §704-406(4) – prior	Found Unrestorable; Civilly Committed or Discharged *revised in 2016; see HRS §704-406(7) below*
HRS §704-406(7)(a) – 2016	Found Unrestorable; Discharged
HRS §704-406(7)(b) – 2016	Found Unrestorable; Civilly Committed
HRS §704-407	Case Dismissed Due to Legal Reasons; Civilly Committed, Discharged, or Assisted Community Treatment
HRS §704-410.5	Conditional Release Expired (non-felony)
HRS §704-411(1)(a)	Acquitted (on the Ground of Physical or Mental Disease, Disorder or Defect Excluding Penal Responsibility) and Committed to the Director of the Department of Health
HRS §704-411(1)(b)	Acquitted and Conditionally Released
HRS §704-411(1)(c)	Acquitted and Discharged
HRS §704-411(2)	Post-Acquittal Hearing on Dangerousness
HRS §704-411(3)	Post-Acquittal Evaluation on Dangerousness
HRS §704-412	Discharged from Conditional Release
HRS §704-413(1)	Temporary Hospitalization for Violating Terms of Conditional Release
HRS §704-413(4)	Revocation of Conditional Release
HRS §704-415	Conditional Release
HRS §706-607	Civil Commitment in Lieu of Prosecution or Sentence

KEY TERM	DEFINITION
Admission	An individual who is committed to the custody of the Director of the Department of Health (DOH) and has entered the Hawaiʻi State Hospital (HSH).
Assault *(Patient-to-Patient, Patient-to-Staff, Patient-to-Visitor)*	Any overt act (physical contact) upon the person of another that results in physical injury and/or emotional distress. Examples include, but are not limited to, hits, spits, kicks, sexual assaults, or any physical injury intentionally inflicted upon another person.
Attempted Assault *(Patient-to-Staff, Patient-to-Staff, Patient-to-Visitor)*	Attempted assault (no physical contact) includes behavior that appears to be for the purpose of causing physical injury to another that is unsuccessful. An example is throwing a chair at another person, but the person is able to get out of the way.
Columbia Regional Care Center (CRCC)	A private, secure forensic facility located in Columbia, South Carolina owned by Correct Care Recovery Solutions, and contracted by DOH to provide supplementary psychiatric beds for individuals who cannot be safely treated at HSH due to intractable dangerous behaviors.
Civil Commitment	See "Involuntary Hospitalization."
Conditional Release	An individual who has been acquitted of a crime and found by the court can be adequately controlled, and given proper care, supervision, and treatment if released into the community with conditions. Failure to comply with the terms of release may result in temporary rehospitalization at HSH.
DOH Commitment/Out-of-State, Private, Secure Facility Custody	Individuals who are committed to DOH and are in the custody of an out-of-state, private, secure facility contracted by DOH.
DOH/DPS Dual Custody or Dually-Committed Patients	Individuals who are committed to the care and custody of both DOH and the Department of Public Safety (DPS). As a result of offenses charged while under the custody of DOH, these individuals are administratively discharged to DPS.
Discharge	An individual released from DOH custody.
Fiscal Year 2018 (FY 2018)	The State of Hawaii's 12-month financial and reporting period, starting July 1, 2017 and ending June 30, 2018.
Forensic	Individuals at HSH who have a legal status generated by a criminal court; for example, a court-ordered admission.
Forensic Mental Health Hospital	A hospital that provides specialized mental health treatment for mentally ill individuals involved with the criminal justice system.
Gross Total Length of Stay (Gross LOS)	The difference between the current date and the admission date for non-discharged patients.
Kāhi Mōhala Behavioral Health (KMBH)	A private, psychiatric hospital in ʻEwa Beach, Hawaiʻi, owned by Sutter Health, a not-for-profit corporation, and contracted by DOH to provide supplementary psychiatric beds for HSH patients.

KEY TERM	DEFINITION
Length of Stay (LOS)	Total number of inpatient days a patient spends in DOH custody, from admission to discharge.
Inpatient Day	A measurement unit used by health care facilities. Each day represents a unit of time during which the services of the institution are used by a patient. For example, 100 patients in a hospital for 1 day would represent 100 patient days. Inpatient days exclude days when a patient stays overnight offsite, such as at an acute care medical facility, a transitional program in the community, or in DPS custody.
Involuntary Hospitalization (“Civil Commitment”)	A process by which an individual is found by the court to be mentally ill, imminently dangerous to self and/or others, and with no less restrictive alternative than hospitalization.
No Legal Encumbrance	Individuals discharged from HSH with no legal requirement to return to HSH. Examples include dismissal of charges, discharge from conditional release, expiration of civil commitment, or end of voluntary commitment.
Readmission	Individuals with a previous admission to HSH who are re-committed to DOH custody.
Staff Injuries	Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Staff injuries reported involve new, work-related cases resulting from an assault at HSH and do not include injuries that might have occurred while restraining a patient. The severity of injuries range from injury but no treatment (no first aid or medical treatment required or treatment refused) to hospitalization at an acute care facility.
Unfit to Proceed	A defendant determined by the court to lack the capacity to understand the proceedings and to assist in his/her defense.
Voluntary	An individual who opts to continue treatment at HSH after the end of court-ordered commitment.
Waived Bed	A hospital bed in addition to those included in the HSH licensed bed capacity (i.e., a substandard patient room with respect to licensing standards such as square footage, access to toileting facilities, etc).

BACKGROUND

The Hawaiʻi State Hospital (HSH) is the only publicly-funded, state psychiatric hospital in Hawaiʻi. HSH provides adult inpatient psychiatric services and is part of the Department of Health (DOH) Adult Mental Health Division (AMHD). HSH is accredited by The Joint Commission (TJC). TJC re-accredited HSH for up to 36 months following the most recent accreditation survey conducted August 29 to September 1, 2017.

HSH is licensed by the DOH, through the Office of Health Care Assurance (OHCA). Current licensure is through May 31, 2019. OHCA has licensed HSH for a maximum capacity of 202 patient beds. A patient census over 202 beds requires the use of patient rooms referred to as "waived beds," which may not meet certain licensing standards, such as total square footage available, direct access to a bathroom, or availability of an exterior window. For these beds, OHCA grants an exception to the normal licensure requirements for a hospital patient room. HSH contacts and informs OHCA every day that the hospital patient census exceeds 202 and requires the use of waived beds.

HSH beds are augmented by DOH contracts with Kāhi Mōhala Behavioral Health (KMBH or Kāhi Mōhala) and Correct Care Recovery Solutions for additional adult inpatient psychiatric beds. These contracts are funded through AMHD and supported entirely by state general fund appropriations. For the purposes of this report, data on individuals transferred from HSH to **contracted beds** (and vice versa) or discharged from HSH or a contracted facility are included in the data reporting and analyses, unless explicitly noted otherwise.

Kāhi Mōhala is a private psychiatric hospital located in ʻEwa Beach, Hawaiʻi and owned by a not-for-profit corporation, Sutter Health. Since the end of FY 2016, the state contracted for 46 beds at KMBH.

Correct Care Recovery Solutions operates **Columbia Regional Care Center (CRCC)**—a private, secure forensic facility in Columbia, South Carolina. **Out-of-state placement** is limited to individuals who cannot be safely treated at HSH due to intractable dangerous behaviors that present an unacceptable risk to the safety of other patients and staff. In FY 2018, three individuals were hospitalized at CRCC.

During FY 2018, there were a total of 13 **dually-committed** individuals, with 8 individuals in DPS custody at the end of the fiscal year. These individuals are dually committed to the care and custody of both DOH and DPS, and upon release from DPS custody, must return to HSH.

The Hawaiʻi State Legislature appropriated $160.5 million for the design and construction of a new, 144-bed forensic facility, replacing the Goddard Building on the HSH campus. Goddard was demolished in November 2016 and construction of the **new building** is currently underway and on schedule. The facility is slated to be completed in December 2020 and occupied by patients in May 2021, expanding much-needed capacity at HSH and allowing forensic patients to be treated in a safe, secure, and therapeutic setting. The support of the Legislature for this project is greatly appreciated.

REPORTING REQUIREMENTS OF HAWAIʻI REVISED STATUTES (HRS) §334-16

PART I. TOTAL ADMISSIONS AND DISCHARGES

Table 1~~Table 1~~ identifies the total admissions and discharges from HSH for FY 2017 and 2018. During FY 2018, HSH admissions increased by +10% and discharges by +6%.

TABLE 1: ADMISSIONS AND DISCHARGES

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change*	% Chg	FY17	**FY18**	Change*	% Chg
319	**351**	+32	+10%	329	**350**	+21	+6%

In this and following tables, reflects change between FY 2017 and 2018.

Figure 1~~Figure 1~~ illustrates the total number of admissions and discharges over the past 11 fiscal years. The record levels of HSH admissions and discharges in FY 2018 are part of the steady growth in HSH utilization spanning a decade, suggesting that high levels of HSH forensic utilization will likely continue. On average, there was a patient entering or leaving HSH nearly every day of the fiscal year.

FIGURE 1: HSH ADMISSIONS AND DISCHARGES, FY 2008 TO 2018

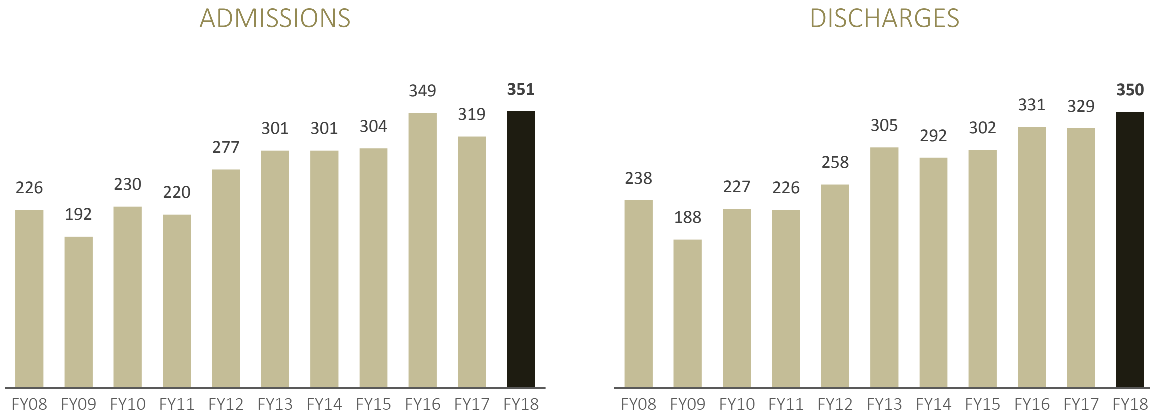

Table 2~~Table 2~~ identifies the total of transfers within DOH custody for FY 2018. To accommodate the persistently high levels of HSH utilization, DOH supplements HSH beds through contracts with Kāhi Mōhala (46 beds) and Columbia Regional Care Center (3 beds for individuals who cannot be safely treated at HSH due to intractable dangerous behaviors). Transfers to Kāhi Mōhala increased significantly (+51%) in FY 2018, reflecting the steady stream of patients being admitted to and discharged from HSH care over the year. Transfers of patients from Kāhi Mōhala back to HSH increased from four in FY 2017 to nine in FY 2018. Three patients continued to be in out-of-state custody at Columbia Regional Care Center during FY 2018, and no additional patients were transferred between HSH and CRCC.

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TABLE 2: TRANSFERS WITHIN DOH CUSTODY

TO KĀHI MŌHALA				TO CRCC			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
82	**124**	+42	+51%	0	**0**	0	–

Table 3~~Table 3~~ identifies the total of DOH/DPS dual custody individuals for FY 2018. Transfers to DPS custody decreased by two as seven individuals were transferred in FY 2018. Over the course of FY 2018, a total of 13 dually-committed individuals were in DPS custody, with 8 individuals remaining in DPS custody at the end of the fiscal year.

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TABLE 3: DUALLY COMMITTED TO DOH AND DPS

TRANSFERS TO DPS				DPS CUSTODY DURING FY			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
9	**7**	-2	-22%	17	**13**	-4	-24%

PART II. NUMBER OF HSH ADMISSIONS TO AND DISCHARGES, BROKEN DOWN BY COMMITMENT CATEGORIES[1]

A. Summary of Admissions by Legal Status Category

Table 4~~Table 4~~ summarizes the number of admissions by legal status category for FY 2017 and 2018.

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TABLE 4: LEGAL STATUS AT ADMISSION

LEGAL STATUS	# OF ADMISSIONS FY17	# OF ADMISSIONS FY18	% OF ADMISSIONS FY17	% OF ADMISSIONS FY18	Change	% Chg
Unfit to Proceed §704-406, §704-406(1)(a), §704-406(1)(b)	186	**173**	58%	**49%**	-13	-7%
Temp. Hospitalization for CR Violation §704-413(1)	78	**109**	24%	**31%**	+31	+40%
Evaluation of Fitness to Proceed §704-404	23	**34**	7%	**10%**	+11	+48%
Acquitted & Committed (NGRI) §704-411(1)(a)	22	**19**	7%	**5%**	-3	-14%
Civil Commitment §334-60.2, §706-607, §704-406(3), §704-406(4)	8	**9**	3%	**3%**	+1	+13%
Revocation of CR §704-413(4)	2	**4**	1%	**1%**	+2	+100%
Post-Acquittal Hearing on Danger. §704-411(2), §704-411(3)	0	**3**	0%	**1%**	+3	NA
TOTAL	319	**351**	100%	**100%**	**+32**	**+10%**

Figure 2~~Figure 2~~ breaks down the past decade of admissions by admission legal status. Despite a numerical decline (-13, -7%), the legal status of unfit to proceed continued to be the most common admission legal status, involving nearly half of all FY 2018 admissions. HSH saw a significant rise (+31, +40%) in temporary hospitalizations for conditional release (CR) violations, growing to nearly one-third of all admissions.

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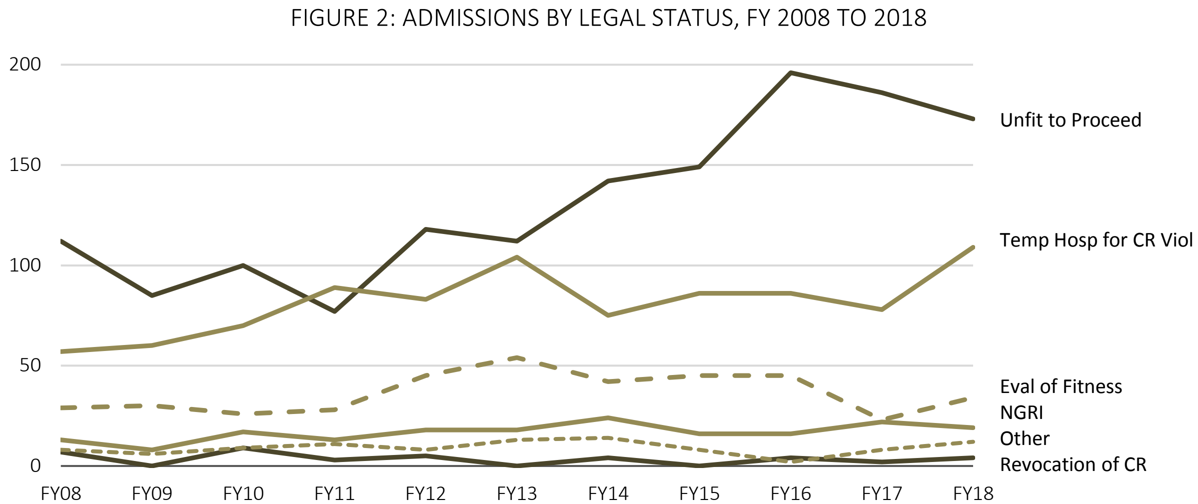
[1] Methodological Note on Reporting of Commitment Status: The commitment status of an individual usually changes over the course of hospitalization. For instance, a patient committed pursuant to §704-406 (unfit to proceed; committed), may later be found unrestorable and in need of hospitalization with charges dismissed (§704-406(7)(a)), then discharged from HSH with no legal encumbrance. For the purposes of this report, the commitment status has been assessed at the point in time of interest; that is, for information requested regarding admissions, the commitment status at the time of **admission** is reported; for discharges, the commitment status at the time of **discharge** is reported.

FIGURE 2: ADMISSIONS BY LEGAL STATUS, FY 2008 TO 2018



B. Summary of Discharges by Legal Status Category

Table 5 summarizes the number of discharges by legal status category for FY 2017 and 2018.

TABLE 5: LEGAL STATUS AT DISCHARGE

	# OF DISCHARGES		% OF DISCHARGES			
LEGAL STATUS	FY17	FY18	FY17	FY18	Change	% Chg
Conditionally Released §704-415	93	**138**	28%	**39%**	+45	+48%
Fit to Proceed §704-405	74	**80**	22%	**23%**	+6	+8%
No Legal Encumbrance[2]	105	**73**	32%	**21%**	-32	-30%
Unfit to Proceed, Released on Conditions §704-406(1)	40	**42**	12%	**12%**	+2	+5%
Acquitted & Conditionally Released §704-411(1)(b)	12	**10**	4%	**3%**	-2	-17%
Evaluation of Fitness to Proceed §704-404	4	**3**	1%	**1%**	-1	-25%
Acquitted & Discharged §704-411(1)(c)	0	**2**	0%	**1%**	+2	NA
Unfit to Proceed §704-406	0	**1**	0%	**0%**	+1	NA
Expired (patient death)	1	**1**	0%	**0%**	0	0%
TOTAL	329	**350**	100%*	**100%**	**+21**	**+6%**

**Percentages may not add up to 100% due to rounding.*

C. **HRS §704-411(1)(a):** Acquitted on the Grounds of Physical or Mental Disease, Disorder, or Defect and Committed to the Custody of the Director of Health (Acquitted and Committed)—*Commonly referred to as "Not Guilty by Reason of Insanity" or NGRI.*

Table 6 identifies the number of admissions and discharges with a legal status of acquitted and committed. These individuals were deemed fit for trial, stood trial, and were found to not be penally (or criminally) responsible because at the time of the offense, suffered from physical or

[2] Individuals discharged from HSH with no legal requirement to return to HSH. Examples include dismissal of charges, discharge from conditional release, expiration of civil commitment, or end of voluntary hospitalization.

mental disease, disorder, or defect that prevented conformity with law, and therefore, acquitted (i.e., cleared of criminal charge). They were also found to present a risk of danger to themselves or others and not proper subjects for conditional release, and hence, committed to HSH. During FY 2018, NGRI admissions decreased by -14%. While committed to HSH for treatment, such patients may seek conditional release from the court to continue supervision and treatment in the community (§704-415). In FY 2018, 22 patients admitted as NGRI successfully petitioned the court for conditional release, an increase from 10 patients in FY 2017 and 18 patients in FY 2016.

TABLE 6: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF ACQUITTED AND COMMITTED (OR NGRI)

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
22	**19**	-3	-14%	0	**0**	0	—

D. HRS §704-411(1)(b): Acquitted and Conditionally Released

Table 7~~Table 7~~ identifies the number of admissions and discharges with a legal status of acquitted and conditionally released. Similar to §704-411(1)(a), these individuals were deemed fit for trial, stood trial, were found to not be criminally responsible due to physical or mental disease, disorder, or defect at the time of the offense, and acquitted. However, in these instances, the courts found that these individuals could be adequately controlled and provided proper care, supervision and treatment within the community if conditionally released. In FY 2018, discharges with this legal status decreased by two

TABLE 7: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF ACQUITTED AND CONDITIONALLY RELEASED

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
0	**0**	0	—	12	**10**	-2	-17%

E. **HRS §704-411(2), §704-411(3):** Post-Acquittal Hearing/Evaluation on Dangerousness

Table 8~~Table 8~~ identifies the number of admissions and discharges with a legal status of post-acquittal hearing or evaluation on dangerousness. If an individual is found to not be penally responsible due to physical or mental disease, disorder, or defect and cleared of criminal charges, a separate hearing may be ordered by the court to assess his or her current risk of danger to self or others if evidence at trial was not sufficient to determine present dangerousness. While no individuals were ordered to HSH in FY 2016 and 2017 for a post-acquittal assessment of dangerousness, three were admitted in FY 2018. All three admissions occurred during the last quarter of FY 2018 and the individuals had yet to be discharged at the end of the fiscal year.

TABLE 8: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF
POST-ACQUITTAL HEARING ON DANGEROUSNESS

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
0	**3**	+3	NA	0	**0**	0	—

F. **HRS §704-413(1):** Temporary Hospitalization for Violating Terms of Conditional Release

Table 9~~Table 9~~ identifies the number of admissions and discharges with a legal status of temporary hospitalization for violating terms of conditional release in FY 2017 and 2018. After acquittal and obtaining conditional release, these individuals were later found to be struggling to comply with the terms of their conditional release or in need of hospitalization and ordered to return to HSH temporarily (up to 72 hours) with the hope of stabilization, improvement, and return to community-based supervision and treatment. Within 72 hours of admission, courts determine whether further hospitalization is necessary to prevent revocation of conditional release and may approve 90-day extensions, up to one year, before conditional release is revoked (§704-413(4)). In FY 2018, there was a +40% increase in temporary hospitalization admissions. Among patients originally admitted for temporary hospitalization, 108 were granted CR in FY 2018, an increase of +34 (+46%) from the prior year.

TABLE 9: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF
TEMPORARY HOSPITALIZATION FOR VIOLATING TERMS OF CONDITIONAL RELEASE

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
78	**109**	+31	+40%	0	**0**	0	—

G. **HRS §704-413(4):** Revocation of Conditional Release

Table 10~~Table 10~~ identifies the number of admissions and discharges with a legal status of revocation of conditional release in FY 2017 and 2018. Similar to individuals temporarily hospitalized for violating conditional release terms (§704-413(1)), these previously-acquitted individuals also struggled to adhere to the terms of their conditional release. However, in these instances, the courts found these individuals to be non-compliant and ordered the immediate revocation of their conditional release, returning them to HSH for hospitalization. In FY 2018, four individuals were admitted with this legal status. After at least 60 days following CR revocation, the individual or HSH may apply for a return to conditional release and community-based treatment or a discharge from conditional release. Of patients originally admitted with CR revoked, three successfully petitioned the courts to reinstate CR in both FY 2017 and 2018.

TABLE 10: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF
REVOCATION OF CONDITIONAL RELEASE

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
2	**4**	+2	+100%	0	**0**	0	—

H. **HRS §704-404:** Evaluation of Fitness to Proceed

Table 11Table 11 identifies the number of admissions and discharges with a legal status of evaluation of fitness to proceed in FY 2017 and 2018. Before an individual can be tried, convicted, or sentenced, the individual must be able to understand the court proceedings and assist in their defense. If there is doubt of an individual's fitness to proceed, the court may suspend proceedings and order qualified expert(s) to examine and report on the individual's fitness to proceed. These evaluations may be conducted at HSH if the courts determine it necessary for the purpose of examination. In FY 2018, admissions with a legal status of evaluation of fitness to proceed increased by +48%. Three individuals were discharged with the same legal status and returned to DPS custody after it was determined that they did not require hospital level of care while being evaluated for fitness. Fourteen patients admitted for fitness evaluations were discharged as fit to proceed (§704-405) and released to DPS to stand trial for their criminal charges.

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TABLE 11: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF EVALUATION OF FITNESS TO PROCEED

ADMISSIONS				DISCHARGES			
FY17	FY18	Change	% Chg	FY17	FY18	Change	% Chg
23	**34**	+11	+48%	4	**3**	-1	-25%

I. **HRS §704-406:** Unfit to Proceed; Committed

Table 12Table 12 identifies the number of admissions and discharges with a legal status of unfit to proceed in FY 2017 and 2018. The courts found these individuals unable to understand the court proceedings and assist in their own defense. They were also found to be a danger to themselves or others, or substantial danger to the property of others, and committed to HSH for detention, care, and treatment. During FY 2018, admissions with a legal status of unfit to proceed decreased by -7%. One individual was discharged as unfit to proceed and released to a neighbor island hospital for continued inpatient psychiatric care.

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TABLE 12: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF UNFIT TO PROCEED

ADMISSIONS				DISCHARGES			
FY17	FY18	Change	% Chg	FY17	FY18	Change	% Chg
186	**173**	-13	-7%	0	**1**	+1	NA

In 2011, the Hawai'i State Legislature passed Act 53, which established the maximum duration of mental health commitment for individuals found unfit to proceed and charged with non-violent petty misdemeanor (§704-406(1)(a)) or misdemeanor (§704-406(1)(b)) offenses at 60 and 120 days, respectively. **Table 13**~~Table 13~~ details Act 53 admissions among individuals found unfit to proceed. During FY 2018, commitments citing Act 53 fell by -23% and declined as a share of all unfit to proceed admissions, from 32% in FY 2017 to 27% in FY 2018. Among Act 53 admissions, the bigger decline occurred among individuals charged with non-violent misdemeanor offenses, which decreased by -43%.

TABLE 13: DETAILS OF ADMISSIONS WITH LEGAL STATUS OF UNFIT TO PROCEED

	# OF ADMISSIONS			
LEGAL STATUS	FY17	**FY18**	Change	% Chg
Unfit to Proceed §704-406	126	**127**	+1	+1%
Unfit to Proceed, Non-Violent Petty Misdemeanor §704-406(1)(a)	39	**34**	-5	-13%
Unfit to Proceed, Non-Violent Misdemeanor §704-406(1)(b)	21	**12**	-9	-43%
TOTAL	186	**173**	**-13**	**-7%**

After treatment at HSH, 64 individuals originally admitted as unfit were restored of fitness (§704-405) and discharged in FY 2018 to stand trial for their offenses. Nearly all of these discharges involved patients admitted under §704-406 (n=58, 91%), with a small number admitted under Act 53 (n=6, 9%).

J. Involuntary Hospitalization ("Civil Commitment")[3]

Table 14~~Table 14~~ identifies the number of admissions and discharges with a legal status of involuntary hospitalization (or civil commitment) in FY 2017 and 2018. During FY 2018, admissions with a legal status of civil commitment increased to nine. Eight of the admitted individuals had been found unrestorable, imminently dangerous to themselves or others, and in need of hospital level of care, and the courts ordered them civilly committed to HSH. The ninth individual was mistakenly transported to HSH rather than a non-forensic psychiatric facility.

TABLE 14: ADMISSIONS AND DISCHARGES WITH LEGAL STATUS OF CIVIL COMMITMENT

ADMISSIONS				DISCHARGES			
FY17	**FY18**	Change	% Chg	FY17	**FY18**	Change	% Chg
8	**9**	+1	+13%	0	**0**	0	—

[3] HRS §334-60.2, §704-406(3)(b), §704-406(4), §704-406(7)(b), and §706-607.

K. Other Legal Statuses at Discharge

Table 15~~Table 15~~ identifies the number of discharges involving other legal statuses.

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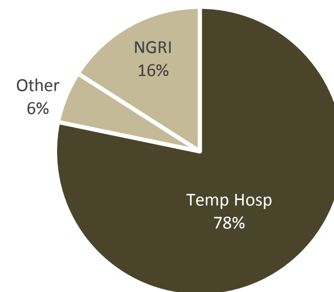
TABLE 15: OTHER LEGAL STATUSES AT DISCHARGE

LEGAL STATUS	# OF DISCHARGES FY17	FY18	Change	% Chg
Conditionally Released (CR) §704-415	93	**138**	+45	+48%
Fit to Proceed §704-405	74	**80**	+6	+8%
No Legal Encumbrance	105	**73**	-32	-30%
Unfit to Proceed, Released on Conditions §704-406(1)	40	**42**	+2	+5%
Acquitted & Discharged §704-411(1)(c)	0	**2**	+2	NA
Expired (patient death)	1	**1**	0	0%

FIGURE 3: ADMISSION LEGAL STATUS OF PATIENTS DISCHARGED ON CR IN FY 2018



Conditional release (§704-415) was the most common discharge legal status during the fiscal year (n=138), increasing significantly (+48%) after several years of decline (-10% in FY 2017, -7% in FY 2016). These individuals were acquitted and committed to HSH, temporarily hospitalized for conditional release violations (§704-413(1)), or had their conditional release revoked (§704-413(4)), and after a statutory period of time, applied for and were granted, by the courts, conditional release to continue care, supervision, and treatment within the community. Of the 138 individuals discharged on conditional release, a majority (78%) were originally admitted for temporary hospitalization, with an additional 16% previously admitted as recently acquitted and committed, or NGRI (Figure 3~~Figure 3~~).

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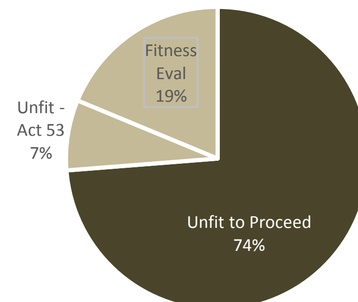
FIGURE 4: ADMISSION LEGAL STATUS OF PATIENTS DISCHARGED AS FIT

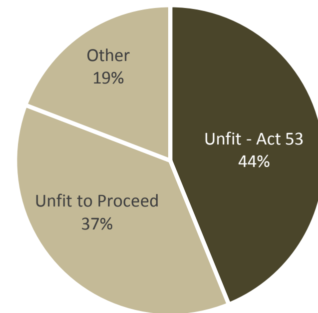


Fit to proceed (§704-405) was the next most common discharge legal status (n=80), holding relatively steady over the past several years (n=74 in FY 2017, n=84 in FY 2016). Previously, these individuals were found by the courts to either require an evaluation of their fitness to proceed (§704-404) or be unfit to proceed (§704-406). If, after receiving evaluation reports from mental health experts, the court finds an individual competent (i.e., capable of understanding the court proceedings and assisting in their own defense), the criminal case proceeds to trial. If the court determines that the individual is incompetent and a danger to persons or property, the individual is ordered to HSH for treatment to restore the individual's fitness for trial. Of the 80 individuals discharged as fit to stand trial, a majority (74%) were originally admitted as unfit to proceed (§704-406) and an additional 8% admitted as unfit to proceed under Act 53 for

non-violent misdemeanors (Figure 4~~Figure 4~~). The remainder of individuals had been admitted to HSH for fitness evaluation or in one instance, later required a fitness evaluation.

After rising for several years, **discharges with no legal encumbrance** decreased significantly (-30%) in FY 2018. Individuals may end up with no further legal requirements for a variety of reasons. For example, some individuals admitted as unfit to proceed, despite hospitalization, remain unable to comprehend the legal proceedings and assist in their defense. If the individual is found to be unrestorable (§704-406(7)) or if too much time has passed (§704-406(3)), the courts may dismiss the charges and discharge the patient. However, if the individual poses an imminent danger to themselves or others and is in need of hospital level of care, the court may civilly commit the individual to HSH (for a limited, statutory period of time, renewable upon petition from hospital staff if still meeting commitment criteria), after which the individual is discharged with no further HSH legal encumbrance.

FIGURE 5: ADMISSION LEGAL STATUS OF PATIENTS DISCHARGED WITH NO LEGAL ENCUMBRANCE

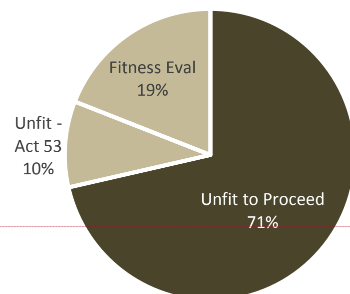


A majority (81%) of patients discharged with no legal encumbrance were originally admitted as unfit to proceed—37% admitted as §704-406 and 44% originally admitted under Act 53 for non-violent misdemeanors and petty misdemeanors (Figure 5~~Figure 5~~). Under Act 53, patients who are not found fit to proceed prior to the expiration of commitment are dismissed of their charges and released from HSH or civilly committed. While Act 53 patients remain a sizeable portion of those discharged with no legal encumbrance, there was a -10 percentage point decrease from the prior year (54% in FY 2017) and likely related to the -23% decline in Act 53 admissions in FY 2018.

In FY 2018, the courts granted four NGRI individuals discharge from conditional release (§704-412) after finding that they did not pose a danger to themselves, others, or property or that they were no longer affected by mental disease, disorder, or defect, thereby removing these individuals from further legal encumbrance for the given criminal charges. Three of the individuals were originally admitted to HSH for temporary hospitalization for violating CR (§704-413(1)), while the fourth individual had been acquitted and commited to HSH (§704-411(1)(a)).

Discharges with legal status of **unfit to proceed and released on conditions (§704-406(1))** held steady after fluctuations in previous years (+5% in FY 2018, +48% in FY 2017, -16% in FY 2016). The courts found these individuals unable to understand the court proceedings and assist in their own defense. However, they were also found to not be a danger to self or others, or substantial danger to the property of others, and therefore, released on conditions to participate in fitness restoration programs in the community. As illustrated in Figure 6~~Figure 6~~, the vast majority (81%) of these individuals were originally admitted as unfit to proceed and in need of restoration—71% under §704-406 and 10% under Act 53—and the remainder had entered HSH for fitness evaluation (§704-404).

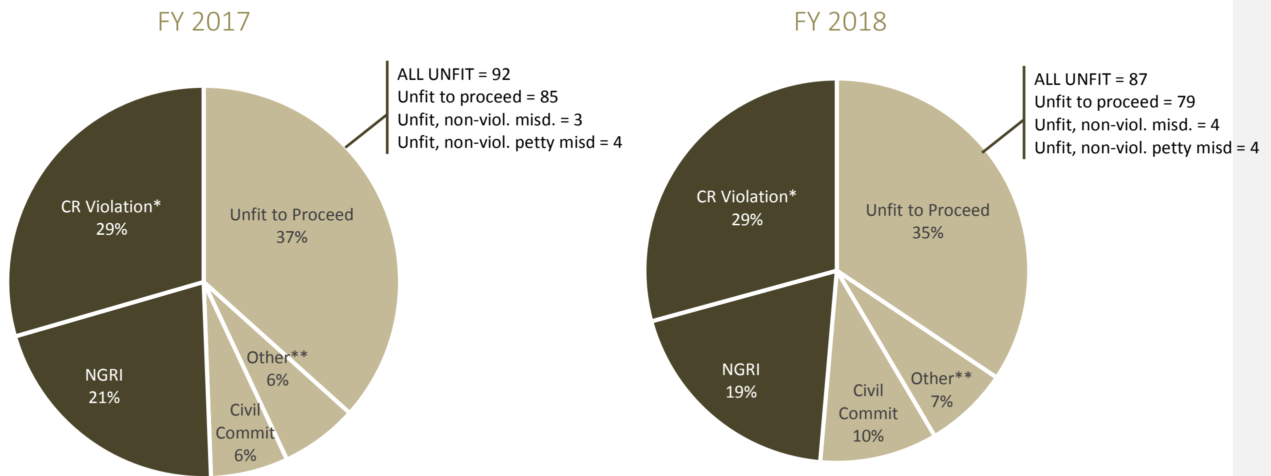
FIGURE 6: ADMISSION LEGAL STATUS OF PATIENTS DISCHARGED AS UNFIT, RELEASED ON CONDITIONS



L. Legal Status of Patients Active at End of Fiscal Year

Figure 7Figure 7 presents the primary legal status of patients active on the last day of FY 2017 (June 30, 2017) and FY 2018 (June 30, 2018). The commitment status of an individual normally changes over the course of hospitalization. For instance, an individual committed pursuant to §704-406 (unfit to proceed), may later be found unrestorable and in need of hospitalization with charges dismissed (§704-706(7)(a)), then involuntarily hospitalized, or civilly committed (§334-60.2), and finally discharged from HSH with no legal encumbrance. This snapshot captures a patient's legal status as of the last day of the fiscal year. Also, individuals are sometimes admitted to HSH with multiple court cases and orders, resulting in more than one legal status, all of which will likely evolve during a hospitalization episode. In such instances, the legal status involving the longest DOH commitment is selected as the individual's primary legal status.

FIGURE 7: ACTIVE PATIENTS BY LEGAL STATUS AT END OF FY 2017 AND 2018



**CR Violation includes: Revocation of CR (n=37) and Temporary hospitalization for violating CR (n=37)*
***"Other" includes: Eval. of fitness to proceed (n=3), Voluntary (n=5), Conditional release (n=6), Unfit & released on conditions (n=1), and Conditional release expired for non-felony (n=1).*

**CR Violation includes: Revocation of CR (n=32) and Temporary hospitalization for violating CR (n=42)*
***"Other" includes: Eval. of fitness to proceed (n=9), Voluntary (n=5), Post-acquittal hearing/evaluation on dangerousness (n=3), and Conditional release (n=1).*

The proportion of patient legal statuses were relatively constant across the two fiscal years. While individuals unfit to proceed and committed for competency restoration were the single largest category (35% in FY 2018, 37% in FY 2017), the NGRI cohort of legal statuses (i.e., NGRI and CR violation) collectively constituted about half of all active patients (48% in FY 2018, 51% in FY 2017).

PART III. NUMBER OF INDIVIDUALS COMMITTED TO THE HAWAIʻI STATE HOSPITAL BY EACH COUNTY AND COURT

A. County

Figure 8~~Figure 8~~, Figure 9~~Figure 9Figure 9~~, and Table 16~~Table 16~~ detail admissions by the county ordering DOH commitment. During FY 2018, all counties except Honolulu increased their admissions to HSH, ranging from +21% on Hawaiʻi to +62% on Maui. In comparison to each county's proportion of the state population (Figure 9~~Figure 9~~), the percentage of admissions from Hawaiʻi (14% of state pop. vs 23% of HSH admissions) and Kauai (5% of state pop. vs 10% of HSH admissions) were notably higher, while the percentage of admissions from Maui were significantly lower (12% of state pop. vs 6% of HSH admissions).

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FIGURE 8: ADMISSIONS BY COMMITTING COUNTY, FY 2015 TO 2018

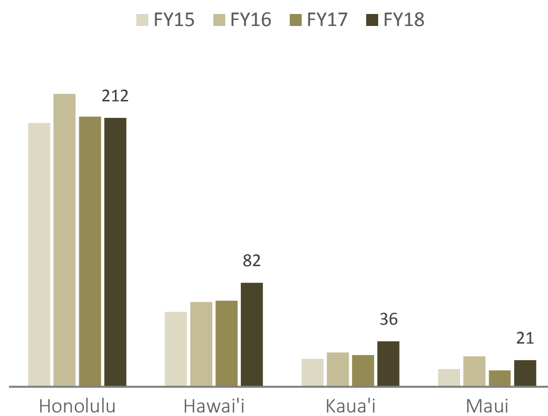

FIGURE 9: PERCENTAGE OF ADMISSIONS BY COMMITTING COUNTY AND STATE POPULATION, FY 2017 AND 2018

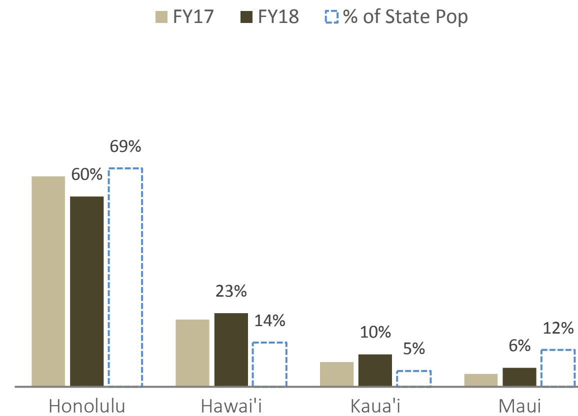

TABLE 16: ADMISSIONS BY COMMITTING COUNTY

	# OF ADMISSIONS		% OF ADMISSIONS				
COUNTY	FY17	**FY18**	FY17	**FY18**	% of State Pop.*	Change	% Chg
Honolulu	213	**212**	67%	**60%**	69%	-1	0%
Hawaiʻi	68	**82**	21%	**23%**	14%	+14	+21%
Hilo	54	**60**	17%	**17%**	—	+6	+11%
Kona	14	**22**	4%	**6%**	—	+8	+57%
Kauaʻi	25	**36**	8%	**10%**	5%	+11	+44%
Maui	13	**21**	4%	**6%**	12%	+8	+62%
TOTAL	319	**351**	100%	**100%**	**100%**	**+32**	**+10%**

**Based on the 2017 U.S. Census Bureau estimate of the State of Hawaii's population.*

B. Court

Figure 10Figure 10 and Table 17Table 17 present the admissions by type and location of committing court. Generally, circuit courts preside over felony charges, district courts oversee charges of misdemeanor or lower, and family courts handle, among other things, domestic violence and civil commitment cases. In FY 2018, admissions increased overall and similarly, most courts saw an increase in commitments. The exceptions to this rising trend were decreases from O'ahu (Honolulu) family court (-32%, 19 to 13) and Hawaii county's Hilo district court (-9%, 32 to 29). Consistent with past years, more than half (54%) of all admissions in FY 2018 came from circuit courts (51% in FY 2017, 53% in FY 2016).

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FIGURE 10: ADMISSIONS BY COMMITTING COURT AND COUNTY, FY 2017 AND 2018

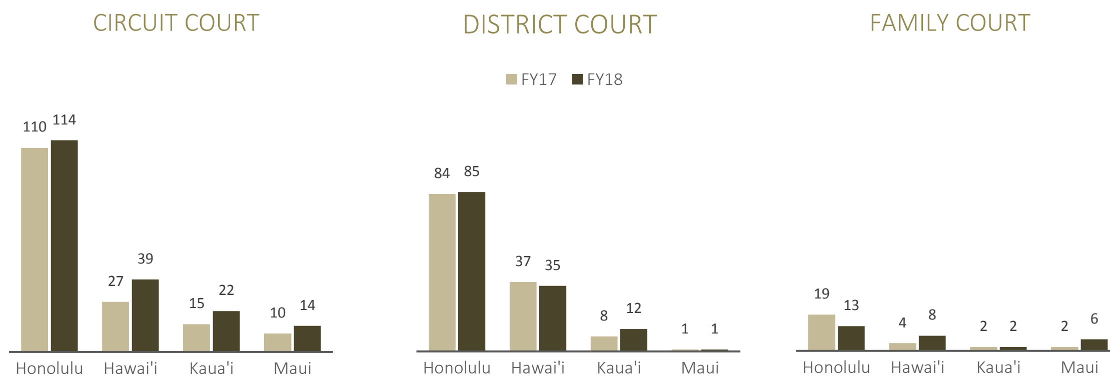

TABLE 17: ADMISSIONS BY COMMITTING COURT AND COUNTY

	CIRCUIT COURT			DISTRICT COURT			FAMILY COURT		
COUNTY	FY18	Change	% Chg	FY18	Change	% Chg	FY18	Change	% Chg
Honolulu	**114**	+4	+4%	**85**	+1	+1%	**13**	-6	-32%
Hawai'i	**39**	+12	+44%	**35**	-2	-5%	**8**	+4	+100%
Hilo	**23**	+5	+28%	**29**	-3	-9%	**8**	+4	+100%
Kona	**16**	+7	+78%	**6**	+1	+20%	**0**	0	NA
Kaua'i	**22**	+7	+47%	**12**	+4	+50%	**2**	0	0%
Maui	**14**	+4	+40%	**1**	0	0%	**6**	+4	+200%
TOTAL	**189**	+27	+17%	**133**	+3	+2%	**29**	+2	+7%
% of Admissions	**54%**			**38%**			**8%**		

PART IV. NUMBER OF HAWAI'I STATE HOSPITAL PATIENTS ON FORENSIC STATUS, BROKEN DOWN BY GRADE OF OFFENSE AND CATEGORY OF UNDERLYING CRIMES

Table 18~~Table 18~~ summarizes admissions during FY 2018 by grade of the offense and whether the offense was against a person or not.[4] Because an individual may be admitted for multiple offenses of varying grades, the most severe charge is used in this report.

Individuals committed to HSH due to felonies accounted for more than half (59%) of admissions during FY 2018. For the most common legal status at admission—unfit to proceed (§704-406)—individuals were more likely to be admitted due to misdemeanors than felonies. However, for the next three most common admission legal statuses—temporary hospitalization for violating conditional release (§704-413(1)), evaluation of fitness to proceed (§704-404), and NGRI (§704-411(1)(a))—individuals were more likely to be admitted due to felonies.

TABLE 18: FY 2018 ADMISSIONS BY LEGAL STATUS AND GRADE OF MOST SEVERE OFFENSE

	EVAL. OF FITNESS TO PROCEED	UNFIT TO PROCEED	ACQUIT & COMMIT (NGRI)	TEMP. HOSP. FOR VIOLATING CR	REVOCATION OF CR	CIVIL COMMITMENT	POST-ACQUITTAL HRG ON DANG.	TOTAL	% OF ADMISSIONS
TOTAL ADMITS W/FELONY CHARGES	**19**	**73**	**13**	**94**	**1**	**4**	**2**	**206**	**59%**
Felony A	**2**	**3**	**1**	**13**	**–**	**–**	**1**	**20**	**6%**
Offense against another	1	3	1	12	–	–	1	**18**	5%
Offense not against another	1	–	–	1	–	–	–	**2**	1%
Felony B	**6**	**13**	**4**	**19**	**–**	**1**	**–**	**43**	**12%**
Offense against another	1	4	2	10	–	1	–	**18**	5%
Offense not against another	5	9	2	9	–	–	–	**25**	7%
Felony C	**11**	**57**	**8**	**62**	**1**	**3**	**1**	**143**	**41%**
Offense against another	5	20	4	33	–	1	1	**64**	18%
Offense not against another	6	37	4	29	1	2	–	**79**	23%
TOTAL ADMITS W/MISD. CHARGES	**14**	**99**	**6**	**15**	**3**	**4**	**1**	**142**	**40%**
Misdemeanors	**10**	**55**	**6**	**12**	**3**	**2**	**1**	**89**	**25%**
Offense against another	5	37	4	7	1	2	1	**57**	16%
Offense not against another	5	18	2	5	2	–	–	**32**	9%
Petty Misdemeanors	**4**	**44**	**–**	**3**	**–**	**2**	**–**	**53**	**15%**
Offense against another	1	9	–	–	–	–	–	**10**	3%
Offense not against another	3	35	–	3	–	2	–	**43**	12%
VIOLATION – Offense not against another	**1**	**1**	**–**	**–**	**–**	**–**	**–**	**2**	**1%**
NO CHARGE; CIVIL COMMITMENT	**–**	**–**	**–**	**–**	**–**	**1**	**–**	**2**	**0%**
TOTAL	**34**	**173**	**19**	**109**	**4**	**9**	**3**	**351**	**100%**
% OF ADMISSIONS	10%	49%	5%	31%	1%	3%	1%	**100%**	

[4] HSH defines "offense against another" as an offense involving (potential) violence against another person: all HRS §707 offenses, robbery (HRS §§708-840-842), and abuse of family or household member (HRS §709-906).

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Figure 11Figure 11 and Table 19Table 19 compare the offense grades of FY 2018 admissions against admissions in prior years. The increase in admissions with Felony C charges (+29%) significantly exceeded the +10% overall increase in admissions. Felony C (41%) continued to be the most common severest charge among admissions, followed by misdemeanors (25%) and petty misdemeanors (15%).

FIGURE 11: ADMISSIONS BY MOST SEVERE CHARGE, FY 2015 TO 2018

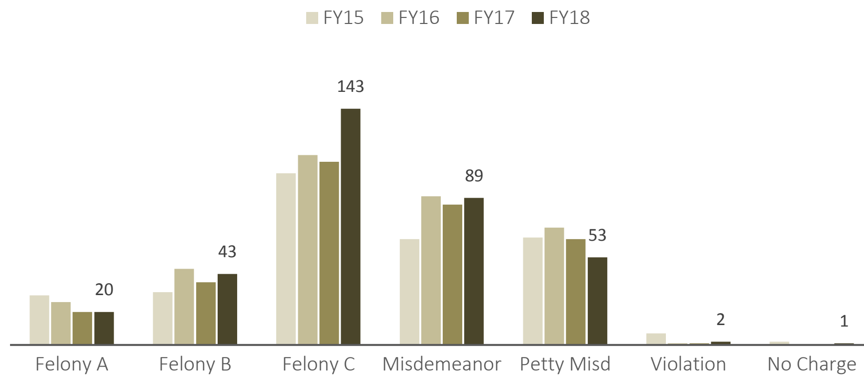

TABLE 19: COMPARISON OF FY 2017 AND 2018 ADMISSIONS BY GRADE OF MOST SEVERE OFFENSE

	# OF ADMISSIONS		% OF ADMISSIONS			
	FY17	FY18	FY17	FY18	Change	% Chg
TOTAL ADMITS W/FELONY CHARGES	**169**	**206**	**53%**	**59%**	**+37**	**+22%**
Felony A	**20**	**20**	**6%**	**6%**	**0**	**0%**
Offense against another	19	18	6%	5%	-1	-5%
Offense not against another	1	2	0%	1%	+1	+100%
Felony B	**38**	**43**	**12%**	**12%**	**+5**	**+13%**
Offense against another	12	18	4%	5%	+6	+50%
Offense not against another	26	25	8%	7%	-1	-4%
Felony C	**111**	**143**	**35%**	**41%**	**+32**	**+29%**
Offense against another	55	64	17%	18%	+9	+16%
Offense not against another	56	79	18%	23%	+23	+41%
TOTAL ADMITS W/MISD. CHARGES	**149**	**142**	**47%**	**40%**	**-7**	**-5%**
Misdemeanors	**85**	**89**	**27%**	**25%**	**+4**	**+5%**
Offense against another	45	57	14%	16%	+12	+27%
Offense not against another	40	32	13%	9%	-8	-20%
Petty Misdemeanors	**64**	**53**	**20%**	**15%**	**-11**	**-17%**
Offense against another	16	10	5%	3%	-6	-38%
Offense not against another	48	43	15%	12%	-5	-10%
VIOLATION – Offense not against another	**1**	**2**	**0%**	**1%**	**+1**	**+100%**
NO CHARGE; CIVIL COMMITMENT	**0**	**1**	**0%**	**0%**	**+1**	**NA**
TOTAL	**319**	**351**	**100%**	**100%**	**+32**	**+10%**

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Table 20Table 20 details the categories of underlying crimes charged against forensic patients active during FY 2017 and 2018. Forensic patients are individuals with a legal status generated by a criminal court. Individuals who are civilly committed for non-criminal matters (§334-60.2) are not considered forensic patients. Of the 603 active patients in FY 2018 (HSH and contracted bed sites), three were originally admitted under a non-forensic status, resulting in a total of 600 forensic patients. While most individuals had criminal charges in only one category, more than one-fourth of active patients were charged with crimes in multiple categories and are counted in each category charged.

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Offenses against persons (e.g., assault, terroristic threatening, murder) involve victims who are individuals. Sexual offenses are a subset of offenses against persons, and per HRS §707 Part V, include sexual assault, indecent exposure, and incest. Offenses against property (e.g., burglary, criminal trespassing, criminal property damage, robbery) involve crimes related to the theft or destruction of another's property. In FY 2018, property crimes (44%) were slightly more common than offenses against persons (42%) among HSH patients. Sexual offenses increased (+13%), but remained relatively rare (5%) and primarily involved misdemeanor-level charges (52% were sexual assault in the fourth degree). Thirty-nine percent of patients committed offenses other than personal or property crimes—most commonly, harassment and promoting a dangerous drug in the third degree—and for 20% of patients (n=120), commitment to HSH involved crimes other than those against persons or property.

TABLE 20: FORENSIC PATIENTS, BY CATEGORIES OF UNDERLYING CRIME, FY 2017 AND 2018

	# OF FORENSIC PTS*		% OF FORENSIC PTS			
CATEGORY OF UNDERLYING CRIME	FY17	**FY18**	FY17	**FY18**	Change	% Chg
Offenses Against Persons §707, excluding sex offenses	236	**252**	41%	**42%**	+16	+7%
Sexual Offenses §707 Part V	24	**27**	4%	**5%**	+3	+13%
Offenses Against Property §708	253	**266**	44%	**44%**	+13	+5%
Other Offenses Offenses other than §§707, 708	250	**235**	43%	**39%**	-15	-6%
Other offense only - Did not commit any §§707, 708 offense	126	**120**	22%	**20%**	-6	-5%
TOTAL FORENSIC PATIENTS	**578**	**600**			**+22**	**+4%**

**Not a unique count. Patient charged with crimes in more than one category are counted in each category charged.*

PART V. LENGTHS OF STAY IN THE HAWAI'I STATE HOSPITAL

A. Inpatient Days by Admission Legal Status and Location

Table 21 presents the number of inpatient days by admission legal status and location for patients active during FY 2018, including inpatient days accrued in contracted beds at Kāhi Mōhala and CRCC. Inpatient days is a commonly-used measure of hospital utilization representing each day a patient utilizes HSH services.[5] Similar to FY 2017 and 2016, almost three-fourths (72%) of inpatient days were collectively attributable to two types of patients: individuals admitted as unfit to proceed (45%) and those temporarily hospitalized for CR violations (27%).

TABLE 21: INPATIENT DAYS OF ACTIVE PATIENTS, BY ADMISSION LEGAL STATUS AND LOCATION

	HSH			KĀHI MŌHALA			CRCC			
ADMISSION LEGAL STATUS	**FY18**	Chg	% Chg	**FY18**	Chg	% Chg	**FY18**	Chg	% Chg	**FY18 TOTAL**
Unfit to Proceed	**31,046**	-932	-3%	**10,246**	+761	+8%	**365**	0	0%	**41,657**
Temp. Hosp. for CR Violation	**21,098**	+431	+2%	**3,504**	-813	-19%	—	—	—	**24,602**
Acquitted & Committed (NGRI)	**11,244**	-159	-1%	**909**	-109	-11%	**730**	-103	-12%	**12,883**
Evaluation of Fitness to Proceed	**4,768**	+369	+8%	**1,503**	-220	-13%	—	—	—	**6,271**
Revocation of CR	**2,942**	-563	-16%	**281**	+164	+140%	—	—	—	**3,223**
Civil Commitment	**2,028**	+819	+68%	**318**	+187	—	—	—	—	**2,346**
Transfer fr. Correctional Facility	**365**	0	0%	—	—	—	—	—	—	**365**
Post-Acquittal Hrg on Dangerousness	**117**	+105	+875%	—	—	—	—	—	—	**117**
TOTAL	**73,608**	+70	0%	**16,761**	-30	0%	**1,095**	-103	-9%	**91,464**

[5] For example, 100 patients at HSH for 1 day would represent 100 inpatient days. Inpatient days exclude days when a patient stays overnight offsite, such as at an acute care medical facility, a transitional program in the community, or in DPS custody.

Table 22~~Table 22~~ presents total inpatient days over the past eight fiscal years for each of the three DOH locations (i.e., HSH and contracted beds). Total inpatient days increased almost every year between FY 2011 and FY 2018. The decline in FY 2018 inpatient days is largely attributable to the reduced number of patients at CRCC and was nominal overall.

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TABLE 22: INPATIENT DAYS OF ACTIVE PATIENTS BY LOCATION, FY 2011 TO 2018

	LOCATION					
FISCAL YEAR	HSH	Kāhi Mōhala	CRCC	TOTAL	Change	% Chg
2018	**73,608**	16,761	1,095	**91,464**	-63	0%
2017	**73,538**	16,791	1,198	**91,527**	+1,202	+1%
2016	**73,651**	15,365	1,309	**90,325**	-231	0%
2015	**74,408**	15,298	850	**90,556**	+4,230	+5%
2014	**71,214**	14,600	512	**86,326**	+3,857	+5%
2013	**67,528**	14,576	365	**82,469**	+6,225	+8%
2012	**69,003**	6,875	366	**76,244**	+2,570	+3%
2011	**67,469**	5,840	365	**73,674**	—	—

B. Length of Stay (LOS) for Individuals Discharged During FY 2018

Table 23~~Table 23~~ details the length of stay for individuals discharged during FY 2018. LOS measures a hospitalization episode by calculating the number of days between admission and discharge. Overall, the average LOS for patients discharged in FY 2018 lengthened from 7 months (212 days) in FY 2017 to 8 months (247 days).

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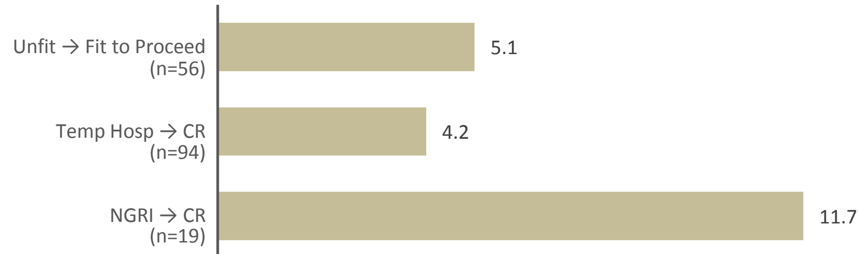
TABLE 23: LENGTH OF STAY (LOS) FOR INDIVIDUALS DISCHARGED IN FY 2018, BY DISCHARGE LEGAL STATUS

	# OF DISCHARGES			TOTAL LOS			AVERAGE LOS		
LEGAL STATUS AT DISCHARGE	FY18	Chg	% Chg	FY18	Chg	% Chg	FY18	Chg	% Chg
Conditionally Released (CR)	**138**	+45	+48%	**46,301**	+20,790	+81%	**336**	+61	+22%
Fit to Proceed	**80**	+6	+8%	**12,927**	+1,367	+12%	**162**	+5	+3%
No Legal Encumbrance	**73**	-32	-30%	**12,086**	-5,790	-32%	**166**	-5	-3%
Unfit to Proceed, Rel. on Cond.	**42**	+2	+5%	**11,347**	+1,481	+15%	**270**	+24	+10%
Acquitted & CR	**10**	-2	-17%	**1,238**	-1,117	-47%	**124**	-72	-37%
Eval. of Fitness to Proceed	**3**	-1	-25%	**238**	-48	-17%	**79**	+8	+11%
Acquitted & Discharged	**2**	+2	–	**188**	+188	–	**94**	+94	–
Unfit to Proceed	**1**	+1	–	**55**	+55	–	**55**	+55	–
Expired (patient death)	**1**	0	0%	**1,990**	-450	-18%	**1,990**	-450	-18%
TOTAL	**350**	+21	+6%	**86,370**	+16,476	+24%	**247**	+34	+16%

Average LOS is a commonly used indicator of efficiency that refers to the average number of days that patients spend in a hospital. It also provides insight on the impact of certain legal status admissions on hospital utilization. Figure 12Figure 12 presents the average LOS[6] of key admission and discharge legal status combinations reflecting ideal outcomes.

FIGURE 12: AVERAGE LOS (IN MONTHS) OF PATIENTS DISCHARGED, BY SELECT LEGAL STATUSES



For the most common admission legal status, unfit to proceed (§704-406; excluding Act 53), individuals later discharged as fit to proceed (§704-405) after treatment at HSH had an average stay of 5.1 months. Individuals admitted for temporary hospitalization for violating conditional release (§704-413(1)) who resumed conditional release (§704-415) had an average stay of 4.2 months. The initial order for temporary hospitalization allows individuals to be held at HSH for up to 72 hours, but only 3 patients were discharged within that timeframe while the others were found by courts to require further hospitalization to stabilize and improve before returning to community-based treatment and supervision. Courts may approve 90-day extensions, up to one year, before conditional release is revoked, and 44% of these successful returns to conditional release occurred within the first 90 days. For patients recently acquitted and committed, or NGRI (§704-411(1)(a)), and discharged on conditional release after hospitalization, the average stay was nearly a year (11.7 months).

[6] Given the varied nature and severity of psychiatric conditions of HSH patients and the potential for commitment extensions due to multiple court cases, there are often a handful of patients whose restoration or stabilization period vary significantly from the majority of other patients. To account for this while reflecting a range of episode durations, extreme outliers were identified statistically (Q1 - 3*IQR, Q3 + 3*IQR) and removed from each pairing for these calculations of average LOS.

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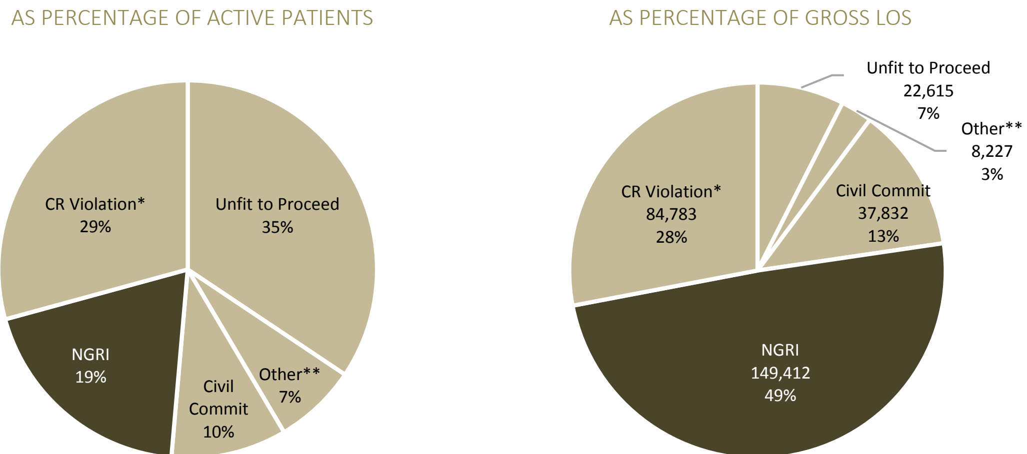
C. Gross Length of Stay (Gross LOS) for Patients Active at End of Fiscal Year

LOS is typically calculated upon discharge for individuals leaving a hospital to capture the length of a hospitalization episode. For patients who are *currently* in a hospital and yet to be discharged, gross length of stay is measured from admission date to the current or a given date. Figure 13~~Figure 13~~ provides a snapshot of the HSH population on the last day of FY 2018 (June 30, 2018) based on their legal status on that day (which may have changed since admission as a result of ongoing court proceedings), comparing the composition of active patients with their collective gross LOS.

FIGURE 13: COMPOSITION AND GROSS LOS OF PATIENTS ACTIVE AT END OF FY 2018, BY LEGAL STATUS ON JUNE 30, 2018



**CR Violation includes: Revocation of CR (n=32) and Temporary hospitalization for violating CR (n=42)*
***"Other" includes: Eval. of fitness to proceed (n=9), Voluntary (n=5), Post-acquittal hearing/evaluation on dangerousness (n=3), and Conditional release (n=1).*

In FY 2018, the 49 individuals with the legal status of acquitted and committed (NGRI) on the last day of the fiscal year collectively spent 409 years (149,412 days) at HSH and contracted beds since their respective admissions—an average of 8.4 years per patient. NGRI individuals accounted for only 19% of patients active on the last day of FY 2018, but nearly half of the total gross LOS (49%). Patients with CR violations are individuals who were acquitted and granted conditional release for community-based supervision and treatment, but later violated or were in danger of violating the terms of their CR. The 74 individuals with CR violations accumulated 232 years, or 28% of the total gross LOS, averaging 3 years per patient. By contrast, the 87 individuals with the legal status of unfit to proceed on the last day of the fiscal year constituted the largest group (35%), but amassed only 61 years (22,615 days), an average gross LOS of 8 months.

APPENDIX:

HSH Staff Injuries and Assaults on Staff

HSH STAFF INJURIES AND ASSAULTS ON STAFF

During the 2014 Legislative Session, the Hawai'i State Senate conducted informational and investigational hearings on assaults and staff injuries at HSH. The Senate Investigational Committee issued a report on October 23, 2014 (Senate Spec Com. Rep. No. 1, Senate – 2014, State of Hawai'i) after the hearings were completed. The report contained several recommendations, including that HSH submit a written report on data regarding staff assaults and injuries to the 2015 and 2016 legislative sessions.

Issued by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA), "Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers" states that "healthcare and social service workers face a significant risk of job-related violence. The National Institute for Occupational Safety and Health (NIOSH) defines workplace violence as 'violent acts (including physical assaults and threats of assaults) directed toward persons at work or on duty.' According to the Bureau of Labor Statistics (BLS), 27 out of the 100 fatalities in healthcare and social service settings that occurred in 2013 were due to assaults and violent acts."[7]

A workplace violence prevention program is an effective organizational approach to mitigate the risk of violence in the hospital workplace. OSHA outlined key elements of an effective program: leadership support, staff involvement, worksite hazard analysis, reporting assault and injury incidents, analysis and tracking and record keeping using the OSHA Form 300 log, and program evaluation.

HSH, as a component of its quality management program, has maintained records of patient assaults since 2006 and records of staff injury OSHA log reports since 1990. In addition to maintaining an OSHA log on staff injuries for record keeping purposes, HSH collects data on staff assaults and injuries, conducts an analysis of the incidents, and reports any trends using quality report cards that are evaluated by the HSH Performance Improvement Committee and shared with all staff.

HSH is an active member of the Western Psychiatric State Hospital Association (WPSHA), a regional organization consisting of state psychiatric hospitals from 15 western states: Alaska, Arizona, California, Colorado, Hawai'i, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. WPSHA compares performance measures among member hospitals and encourages participation in joint research and surveys to continuously improve services provided to the citizens served by publicly-operated hospitals. HSH compares its assault and staff injury data with other state psychiatric hospitals for benchmarking purposes.

In 2013, WPSHA performed a benchmarking study on staff injuries. In 2014, WPHSA performed a benchmarking study on incidents of aggression. Since 2015, WPSHA has conducted a benchmarking study comparing member hospitals that reported staff, patient, and visitor incidents of aggression, including reports of assaults and attempted assaults. Twenty-two WPSHA hospitals that treat adults participated in the FY 2017 study, including HSH. Of the participating hospitals, 3 (including HSH) treat only forensic patients, 4 treat only civilly-committed patients, and the remaining 15 treat a mixture of forensic and civilly-committed patients.

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[7] U.S. Department of Labor, Occupational Safety and Health Administration, OSHA 3148-04R 2015, "Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers."

HSH defines an assault as any overt act (physical contact) upon the person of another that **may** or does **result** in physical injury and/or emotional distress. Examples include, but are not limited to, hits, spits, kicks, sexual assaults, or any physical injury intentionally inflicted upon another person. It should also be noted that while HSH includes attempted assaults (i.e., no contact) in its aggression data, not all hospitals do so. HSH continues to collect and analyze attempted assaults because it takes seriously all assaults, including attempted assaults, and because it provides critical data to help treatment teams understand and address escalations in patient aggression. The data is presented as rates of aggression per 1,000 patient days to allow comparison across hospitals with differing numbers of beds.

Table 24~~Table 24~~ provides HSH data on rates of violence for patient-to-patient aggression, patient-to-staff aggression and patient-to-visitor aggression. No incidents involving HSH visitors were reported for FY 2017 and 2018.

TABLE 24: FY 2017 AND 2018 WPSHA BENCHMARKING PROJECT
AGGRESSION INCIDENTS PER 1,000 PATIENT DAYS IN STATE HOSPITALS

	HSH RATES				
CATEGORY	FY17	**FY18**	Change	% Chg	FY18 WPSHA RANGE
Patient-to-Patient Aggression	1.24	**1.62**	+0.38	+31%	0.42 – 7.79
Patient-to-Staff Aggression	1.97	**2.38**	+0.41	+21%	0.42 – 37.28
Patient-to-Visitor Aggression	0.00	**0.00**	0	—	0 – 0.01
TOTAL Aggression Incident Rate	3.21	**3.99**	+0.78	+24%	0.84 – 45.07

Figure 14~~Figure 14~~ illustrates WPSHA comparison data on total aggressive incidents for FY 2018. This graph demonstrates that of the 21 hospitals reporting data on total acts of aggression, 11 have a higher rate per 1,000 patient days than HSH.

FIGURE 14: WPSHA FY 2018 BENCHMARKING DATA FOR TOTAL AGGRESSION INCIDENTS
PER 1,000 PATIENT DAYS, BY FACILITY TYPE

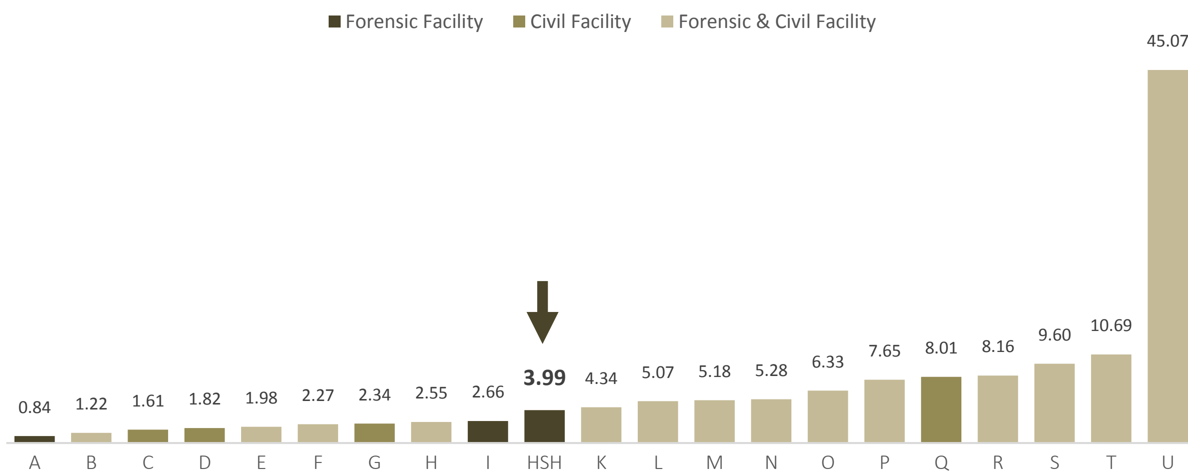
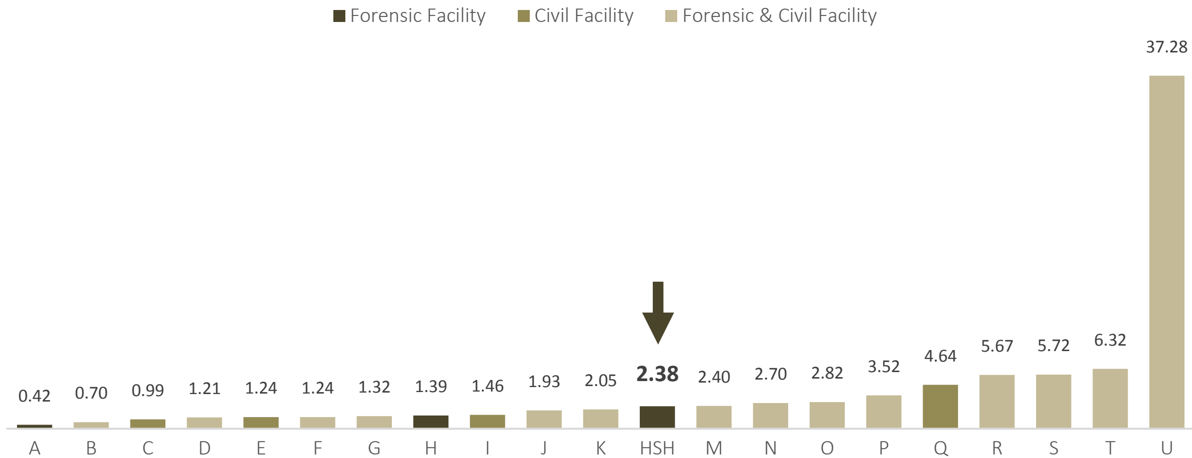


Figure 15~~Figure 15~~ illustrates WPSHA comparison data on patient-to-staff aggression incidents for FY 2018. Of the 21 hospitals reporting patient to staff acts of aggression, 9 have a higher rate than HSH.

FIGURE 15: WPSHA FY 2018 BENCHMARKING DATA FOR PATIENT-TO-STAFF AGGRESSION INCIDENTS PER 1,000 PATIENT DAYS, BY FACILITY TYPE



Turning from a comparison between HSH and other state psychiatric hospitals to a closer examination of HSH assaults over time (Figure 16~~Figure 16~~) show that after a steady decline, HSH experienced a +28% increase in FY 2018 of total patient-to-staff assaults. This increase was driven by both an increase in assaults with physical contact (+20%) and attempted assaults (+56%).

FIGURE 16: TOTAL ASSAULTS (COMMITTED AND ATTEMPTED) ON HSH STAFF, FY 2013-2018

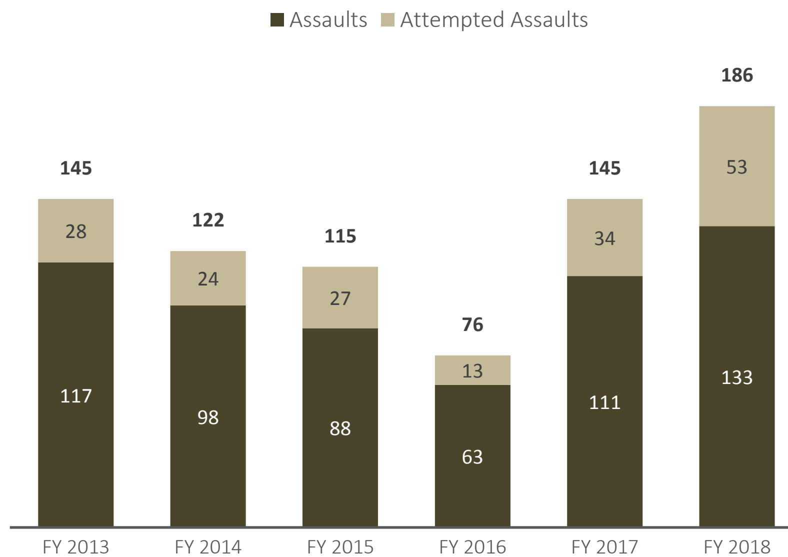


Figure 17~~Figure 17~~ analyzes patient-to-staff assault data by identifying the proportion of patients involved in staff assaults (i.e., assaultive patients) and the frequency of assaults committed or attempted by assaultive patients. Of the 523 patients active at HSH in FY 2018, 72 individuals (14%) were responsible for all staff assaults committed or attempted. Of the 186 assaults on staff, nearly one-fourth were attributable to just 4 highly-assaultive patients, while 34 patients were each involved in only one staff assault event during the year.

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FIGURE 17: PATIENTS RESPONSIBLE FOR STAFF ASSAULTS, FY 2018

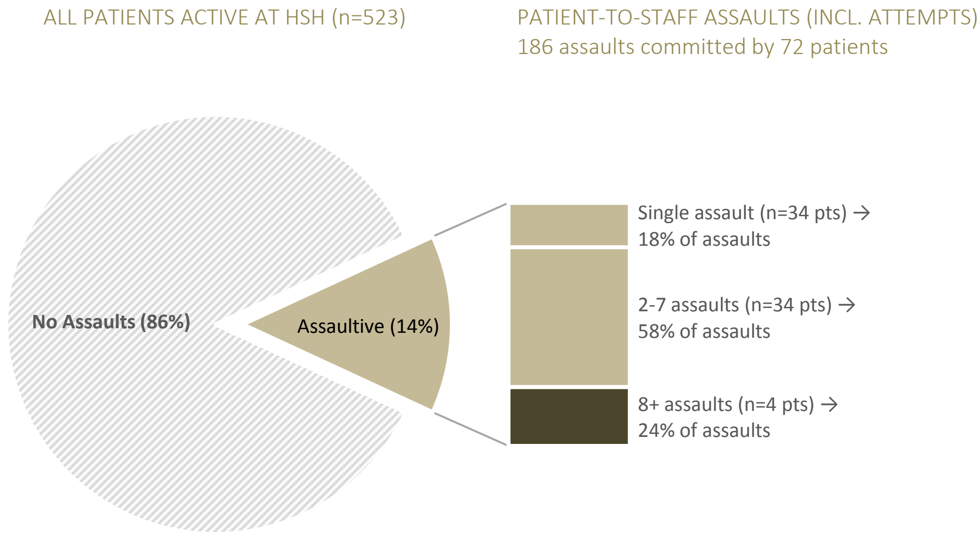

Figure 18~~Figure 18~~ illustrates the severity of staff injuries arising from assaults at HSH between FY 2013 and 2018. While there was a clear increase (+28%) in assaults on HSH staff in FY 2018, resultant staff injuries increased marginally (+6%). One-fourth of injuries from patient assaults required no treatment, more than half (55%) of injuries required first-aid treatment, and 20% of injuries required outside medical intervention. HSH efforts to mitigate harm from assaults and the significant increase in attempted assaults likely attenuated the number and severity of injuries relative to the number of assaults.

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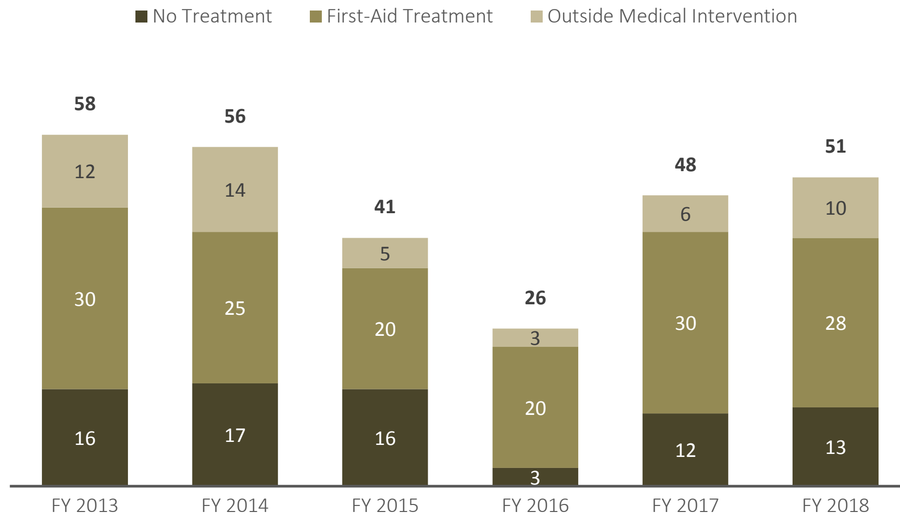
FIGURE 18: INJURY SEVERITY OF ASSAULTS ON HSH STAFF, FY 2013-2018



AMHD and HSH are committed to the provision of a safe work environment for all staff members. General healthcare settings present certain risk for staff. This is particularly true in the psychiatric hospitals. HSH continues to plan, design and implement measures to improve safety for patients, staff and visitors. Enhanced staff training, adequate staffing levels, and analysis of assault events are among these measures. Additionally, a new proactive patient engagement program called IMUA (Interact with patients, Mindful documentation, Unconditional positive regard, Always available) began effective July 30, 2015 based on an extremely successful program at the Colorado Mental Health Institution at Pueblo. HSH has also increased physical measures to bolster staff safety, such as partitions inside of transport vehicles to provide a barrier between patients and drivers, and expanding the presence of security personnel from the campus perimeter to include the inside of hospital units. DOH, AMHD, and HSH Administrations believe that one assault is one assault too many and continue to take steps to minimize assaults on staff.