

# **NARCOTICS ENFORCEMENT DIVISION ANNUAL REPORT TO THE LEGISLATURE FY 2007**

In accordance with Chapter 329-11 Hawaii Revised Statutes the Department of Public Safety has the authority to schedule controlled substances. Annually, upon the convening of each regular session of the state legislature, the department of public safety shall report to the legislature additions, deletions, or revisions in the schedules of substances enumerated in sections 329-14, 329-16, 329-18, 329-20, and 329-22, and any other recommendations that it deems necessary. Three months prior to the convening of each regular session, the department of public safety shall post public notice, at the state capitol and in the office of the lieutenant governor for public inspection, of the department's recommendations to the legislature concerning any additions, deletions, or revisions in these schedules; provided that the posting shall not be required if official notice has been received that the substance has been added, deleted, or rescheduled as a controlled substance under federal law.

Under Chapter 329-11(d) HRS states that if a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the department of public safety, the department of public safety shall recommend that a corresponding change in Hawaii law be made. The department of public safety shall similarly designate the substance as added, deleted, or rescheduled under this chapter after the expiration of thirty days from publication in the Federal Register of a final order and this change shall have the effect of law. If a substance is added, deleted, or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the State Legislature has not made the corresponding changes in this chapter, the temporary designation of the added, deleted, or rescheduled substance shall be nullified.

The Department of Public Safety was notified by means of the Code of Federal Regulations that on July 28, 2005, the substance "Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]" that was placed in Schedule V by the Federal government under 70 FR 43633. In accordance with provisions of Chapter 329-11(d) Hawaii Revised Statutes that if a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the department of public safety, the Department of Public Safety shall recommend that a corresponding change in Hawaii law be made. The department is therefore recommending that the controlled substance "Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]" be listed under Chapter 329-22 as a Schedule V controlled substance classified as a depressant.

The Department of Public Safety was notified by means of the Code of Federal Regulations that on September 28, 2006, the substance "Embutramide (Tributane)" that was placed in Schedule III by the Federal government under 71 FR 51115. In accordance with provisions of Chapter 329-11(d) Hawaii Revised Statutes that if a substance is added, deleted, or rescheduled as a controlled substance under federal law and notice of the designation is given to the department of public safety, the Department of Public Safety shall recommend that a corresponding change in Hawaii law be made. The department is therefore

recommending that the controlled substance “Embutramide (Tributane)” be listed under Chapter 329-18(c) as a Schedule III controlled substance classified as a depressant.

## **PART VI. REGULATED CHEMICALS FOR THE MANUFACTURE OF CONTROLLED SUBSTANCES**

Chapter 329-61(c) “Additional Chemicals” requires that if a chemical is added or deleted as a regulated list 1 or list 2 chemical under federal law and notice of the designation is given to the department, the department may recommend that a corresponding change be made to state law. The department of public safety shall designate the chemical as added or deleted under this chapter after the expiration of thirty days from publication in the Federal Register of a final order and the change shall have the effect of law. If a chemical is added or deleted under this subsection, the control shall be temporary and, if the temporary designation of the added or deleted chemical is not permanently enacted in corresponding changes to this chapter at the next regular session of the legislature, the temporary designation shall be nullified.

On March 8, 2006 President Bush signed the Federal Combat Methamphetamine Epidemic Act of 2005 that mandated that as of **April 8, 2006, Federal law require** retail sales of all Ephedrine, Pseudoephedrine and Phenylpropanelamine containing products be:

- No greater than 3.6 grams of the base chemical to the same purchaser within a 24-hour period
- No greater than 7.5 grams within a 30-day period for mail order and mobile retail vendors
- No greater than 9 grams of the base chemical to the same purchaser within a 30 day period.

NOTE: All Ephedrine, Pseudoephedrine and Phenylpropanelamine containing products, including gel caps and pediatrics, are subject to the provisions of the law. Also all Non-liquid forms of products containing Ephedrine, Pseudoephedrine, and phenylpropanelamine containing products must be sold in blister packs containing not more than 2 dosage units.

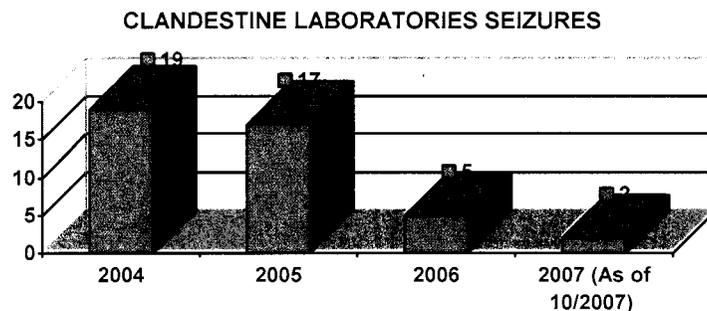
### **Hawaii Legislation**

#### **ACT 171**

On June 5, 2006, Lt. Governor James Aiona Jr. signed Act 171 into law that amended Chapters 329-75 and 329-64 (a)(4) relating to exemptions, by deleting the exemption for over the counter sale of Ephedrine and Phenylpropanelamine containing products and placed additional reporting requirements for pseudoephedrine and pseudoephedrine combination products. The amendments to Chapter 329-75 will take affect on October 1, 2006, but due to the more stringent Federal language relating to the non-exemption for

gel caps and liquids, the language in 329-75(b) will have to be negated and amended during this next legislative session.

During calendar year 2007 NED did see a decrease in the amount of clandestine laboratories found statewide during this period from 5 reported in calendar year 2006 to only 2 in calendar year 2007. NED feels that this decrease can be attributed to increased regulations on the key precursor chemical pseudoephedrine as well as increased education of retailers and the public on over the counter chemicals utilized to manufacture methamphetamine.



## **ACT 44 SLH 2004 REQUIREMENTS**

**Chapter 26-14.6 Department of public safety.** (m) states that the Department of Public Safety shall coordinate drug abatement efforts of the communities with the State, counties, and community agencies, by:

- (1) Facilitating sharing of resources and information;
- (2) Providing technical support for community mobilization groups;
- (3) Establishing community action plans for drug education, awareness, and prevention;
- (4) Facilitating problem solving in the delivery of law enforcement services by state and local agencies to the community.

The department shall submit an annual report to the legislature twenty days before the convening of each regular session, on the activities of the department relating to this mandate.

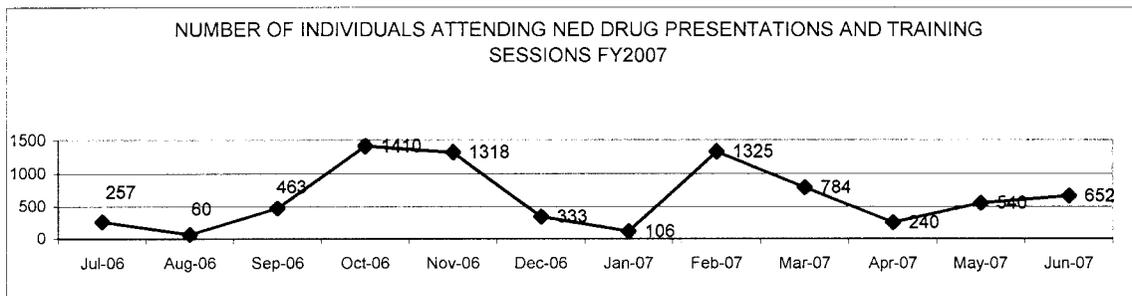
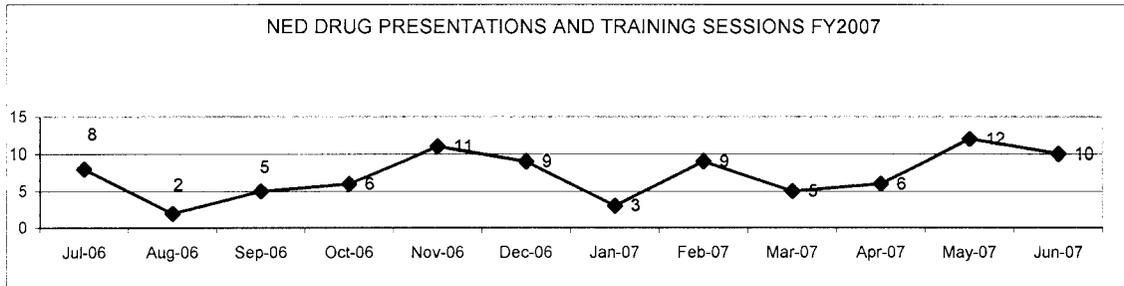
In accordance with Chapter 26-14.6(m)(2) (3) and (4) the Department of Public Safety's Narcotics Enforcement Division during FY 2006, NED took a leadership role in informing the community of Hawaii's methamphetamine problem within the division's budgetary constraints.

## **NED'S PREVENTION PROGRAMS**

## DRUG EDUCATION AND TRAINING PROGRAMS

During FY 2007, the Narcotics Enforcement Division put on 77 drug education and clandestine laboratory presentations to law enforcement, schools, the medical community and the public across the State with little or no impact to NED's budget. These drug education presentations covered drug identification, trends, and the physical and psychological damage done by drug use, clandestine laboratories, and the chemicals utilized in the illegal manufacture of controlled substances. These various presentations on were attended by 7436 individuals as well as had media coverage. NED's education programs covers Hawaii's drug trends, drug identification, the physical and psychological effects as well as the damage that drugs can do to the human body.

FISCAL YEAR	TRAINING SESSIONS	# OF INDIVIDUALS TRAINED
2007	77	7436
2006	59	3867
2005	72	4904
2004	97	9140
2003	45	2485
2002	49	1025



### NED'S COPS Grant "Kauai Drug Contamination Study"

On August 23, 2006, the Narcotics Enforcement Division was notified that it had been awarded \$75,000.00 from the U.S. Department of Justice, Office of Justice, Office of Community Orientated Policing (COPS) Grant through the sub-grantee the Hawaii Community Foundation to educate the public, businesses and government agencies on the

island of Kauai on the dangers associated with clandestine drug laboratories used to manufacture methamphetamine or its precursor chemicals, the contamination left behind by these illegal laboratories, and heavy drug use. This Grant will also allow NED to set up a program to test contamination levels in select target locations (hotels and public areas) throughout the duration of the grant utilizing the Dual Ion Mobility Spectrometry (IMS) identification technology (Ionscan 500DT), a forensic testing equipment.

The Narcotics Enforcement Division 's proposal is to educate businesses (hotel and other businesses), government and the public on the dangers associated with clandestine drug laboratories used to manufacture methamphetamine or its precursor chemicals and the contamination left behind by these illegal laboratories as well as heavy drug use. NED is proposing educational sessions geared toward businesses such as hotels and other rental businesses where individuals may utilize these locations to manufacture or use drugs. These training sessions will inform the participants of the different chemicals and drugs being utilized here in Hawaii to manufacture drugs, the dangers associated with exposure to these chemicals and drugs as well as a program to test contamination levels in select target locations (hotels and public areas) throughout the duration of the grant utilizing forensic testing equipment utilizing Dual Ion Mobility Spectrometry (IMS) identification technology (Ionscan 500DT).

The program will conduct a pre test at different (hotel and public / government businesses) locations on the island of Kauai then conduct training sessions for the employees to educate them on how to identify suspicious activity associated with individuals attempting to utilize their facilities to clandestinely manufacture drugs or precursor chemicals or the danger signs of contamination due to heavy drug use in these locations.

## **NED'S ENFORCEMENT PROGRAMS**

Chapter 26-14.6(m) requires the department to coordinate drug abatement efforts of the communities with the State, counties, and community agencies. By (1) facilitate the sharing of resources and information and (4) facilitate problem solving in the delivery of law enforcement services by state and local agencies to the community.

During FY 2007, NED responded to 8 drug complaints from the public and initiated 100 cases where another agency requested assistance from NED. To further accomplish these goals NED has facilitated the sharing of resources and information by working joint criminal investigations through its participation in initiatives with the Hawaii High Intensity Drug Trafficking Area (HIDTA). During FY2007, NED Investigators responded to 827 cases, 476 criminal and 351 regulatory.

### **HIGH INTENSITY DRUG TRAFFICKING AREA (AIRPORT INTRADITION)**

The Narcotics Enforcement Division continues to be a member of HIDTA and has dedicating two full time positions to the Airport Interdiction Taskforce stationed at the Honolulu International airport. The mission of this taskforce is the interdiction of drugs at all of the commercial airports statewide. During FY 2007, NED investigators and its

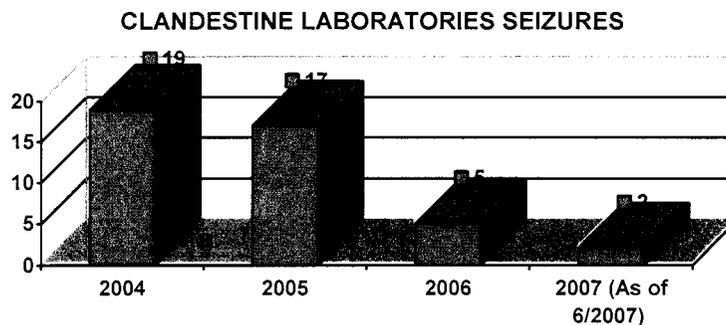
two investigators in the HIDTA Airport taskforce conducted 55 interdiction cases involving the seizure of drugs and money.

### **HIGH INTENSITY DRUG TRAFFICING AREA (FOREIGN INTERDICTION TASK FORCE)**

The Narcotics Enforcement Division continues to be a member of a Customs HIDTA initiative on an as needed bases. This initiative identifies and investigates any controlled substance that is shipped, mailed or smuggled from a foreign country into Hawaii. During FY 2007, the Narcotics Enforcement Division investigated 4 cases referred by BICE relating to the illegal importation of controlled substances by passengers or mail.

### **HIGH INTENSITY DRUG TRAFFICING AREA (CLANDESTINE LABRITORY INITIAVE)**

During calendar year 2007 NED did see a decrease in the amount of clandestine laboratories found statewide during this period from 5 reported in calendar year 2006 to only 2 in calendar year 2007. NED feels that this decrease can be attributed to increased regulations on the key precursor chemical pseudoephedrine as well as increased education of retailers and the public on over the counter chemicals utilized to manufacture methamphetamine.



In FY 2007 NED received \$22,310.00 from the Hawaii High Intensity Drug Trafficking Area for its Clandestine Laboratory initiative to coordinate and train law enforcement on all islands and to coordinate a statewide multi-agency clandestine laboratory response team. NED is the lead agency coordinating HIDTA's Statewide Multi-agency Clandestine Laboratory Coordination initiative which provides oversight, consolidated training, and to coordinate a first response to clandestine laboratories involved in the manufacturing of crystal methamphetamine "ice", Gamma Hydroxyl-butyrate (GHB), phencyclidine (PCP), phenyl-2-propanone (P-2-P), methlenedioxtmethaphetamine (MDMA/Ecstasy), and lysergic acid diethylamide (LSD). The primary goal of this initiative is to coordinate and support all other HIDTA initiatives and regional law enforcement agencies as a resource to train, detect, dismantle, disrupt, arrest and prosecute individuals, drug organizations, drug gangs, and organized crime groups involved in clandestine laboratories, the diverting of regulated chemicals and the manufacturing of illicit narcotics.

During FY 2007 NED Investigators initiated 16 proactive chemical or clandestine laboratory investigations on the island of Hawaii, conducted 12 OSHA mandated Clandestine Laboratory equipment maintenance sessions and conducted 44 inspections due to new federal and State regulations on over the counter Pseudoephedrine and ephedrine combination products.

The Department has facilitated problem solving in the delivery of law enforcement services by state and local agencies to the community by working with the county and Federal law enforcement agencies in cooperatively responding and referring cases to the appropriate law enforcement agency.

## **HIGH INTENSITY DRUG TRAFFICING AREA (KAUAI IMPACT)**

### **Kauai Cops Grant**

On February 8, 2006, the Narcotics Enforcement Division was notified that it had been awarded \$61,000.00 by the U.S. Department of Justice, Office of Justice, Office of Community Orientated Policing (COPS) Grant through the sub-grantee the Hawaii Community Foundation. These funds will be utilized to fund one Investigator position for the island of Kauai to address the islands controlled substances and regulated chemical diversion issues. Due to difficulties in securing a permanent Investigator for the Island of Kauai, NED has been flying investigators to Kauai to fulfill the requirements of this grant. This Grant was extended till 7-1-07.

The grant provides funding for one Investigator position for the island of Kauai that currently does not have any Narcotics Enforcement Division (NED) Investigator. The Investigator will be responsible for addressing both controlled substances and regulated chemical diversion issues. The Investigator will be situated within the Kauai Police Department and will work with the County Police on drug cases of mutual interest.

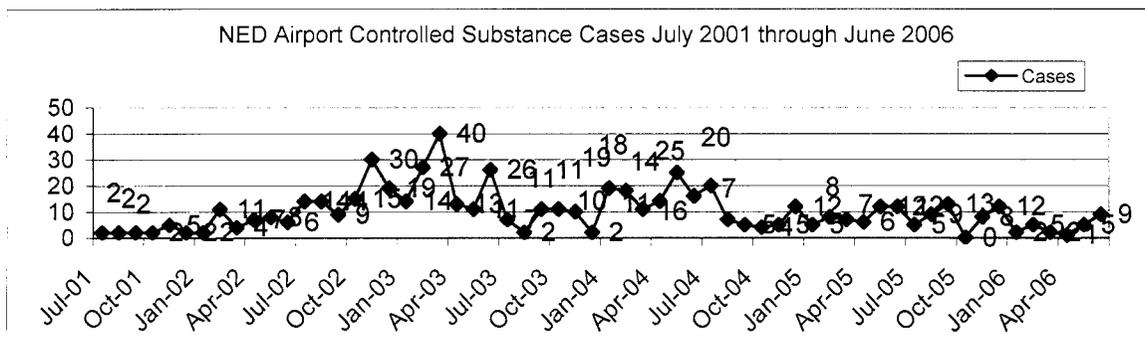
The Investigator will be part of NED's Clandestine Laboratory Response Team and the High Intensity Drug Trafficking Area (HIDTA) HI-IMPACT Kauai drug taskforce. The position will also be responsible to monitor and inspect all companies, pharmacies, and retail distributors of regulated chemicals utilized to manufacture controlled substances (including ephedrine and over the counter pseudoephedrine products) on the island of Kauai. Further, the position will coordinate NED's drug presentations and training sessions for law enforcement, schools, the community, and increase the number of educational presentations for retail distributors of over the counter products utilized to manufacture controlled substances such as methamphetamine. The NED will also initiate education sessions and first responder training of government, law enforcement agencies and the public about the dangers of clandestine drug laboratories. NED presently does not have an investigator situated on the island of Kauai but is flying investigative teams from Oahu to carry out the requirements of this grant. NED is actively recruiting for this investigator position.

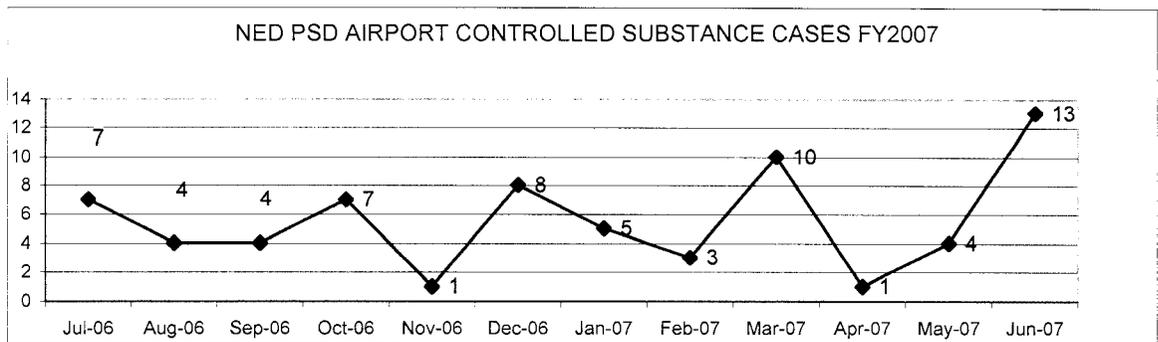
## FELONY DRUG ARREST LOCK-UP INVESTIGATION PROGRAM FOR THE DEPARTMENT OF PUBLIC SAFETY

In July 1994, the Narcotics Enforcement Division to assist the Department took on a secondary mission without any additional investigative manpower or funding and developed a new program to assist the Department in the investigation of all felony cases relating to controlled substances initiated by Deputies of the Sheriff, Maritime Law Enforcement, Protective Services Divisions and correctional facilities located on all islands. This program was named the “FELONY ARREST LOCK-UP INVESTIGATION PROGRAM FOR THE DEPARTMENT OF PUBLIC SAFETY.” In FY 2003 NED assigned two Investigators from its Diversion Branch to exclusively handle all cases initiated by the Airport Sheriff Detail and all correctional facilities on all islands.

When the Sheriff Division took over responsibility of the Honolulu International Airport and surrounding area the Narcotics Enforcement Division did not receive any additional manpower or resources but assisted the Sheriff Division with investigations of all felony drug cases and assisted them with facilitating the analysis of drug evidence with the Honolulu Policed Department Crime Laboratory.

NED has noted a marked increase in the amount of drug cases initiated out of the Honolulu International Airport and airport area that are patrolled by the Department’s Sheriff Division. Prior to the marked increase starting in August of 2002 and post September 11, 2001, NED investigators were only responding to 5-6 cases a month at the airport. NED investigators are now responding to follow up drug cases at the Honolulu international Airport on an average of 4-5 a week with no increase in manpower or resources. The cases initiated at the Honolulu International Airport are time sensitive due to the transient nature of the individuals being arrested. This increased in time sensitive cases (Charge cases) has caused a backlog in NED cases involving the diversion of controlled substances and regulated chemicals as well as caused NED to redirect manpower away from interdiction assignments with federal taskforces. During FY 2007, NED responded to 73 criminal drug investigations initiated by the Airport Sheriff Detail.



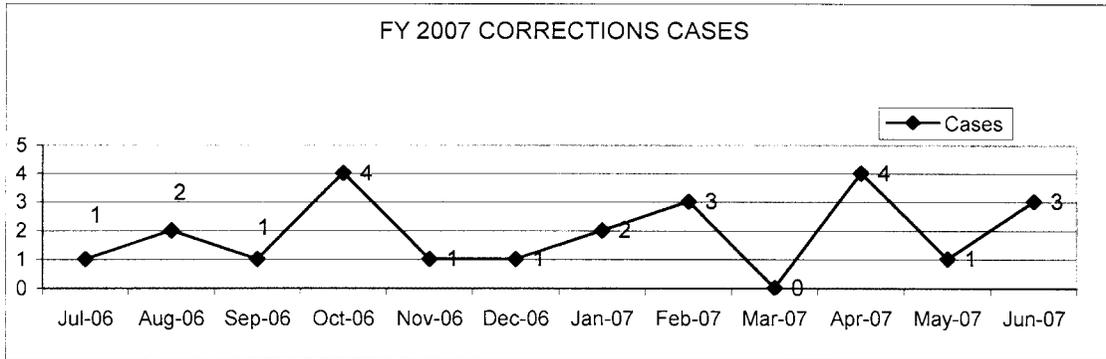
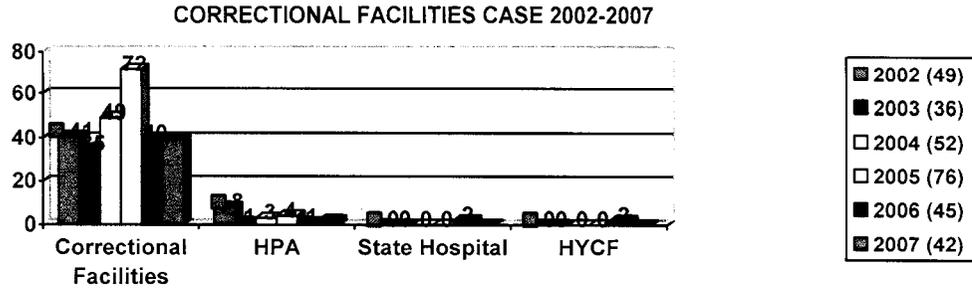


## **DRUG CASES AT CORRECTIONAL FACILITIES**

Since 1994 the Narcotics Enforcement Division's Investigative Branch has investigated all drug cases referred to the Division from all correctional facilities, however due to the fact that NED has no investigators situated on the islands of Kauai and Maui, it has had to rely on the local police departments to conduct the initial investigation and refer these cases to NED.

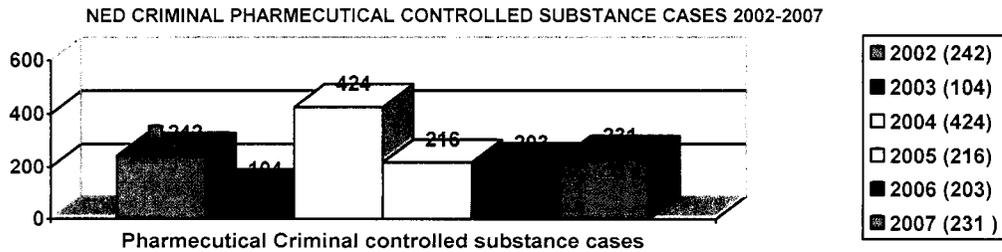
In Fiscal Year 2005, the duties of the Narcotics Enforcement Division's Investigative Branch was expanded by the Director to investigate all criminal cases (illicit drug and non drug) originating from all correctional facilities the Sheriff Division and all agencies administratively attached to the Department on all islands. NED Investigators respond to all controlled substance cases and criminal cases authorized by the Director originating from correctional facilities on all islands on a 24-hour a day, 7-days a week call out system. NED's one Hilo based Investigator who responds to all controlled substance cases initiated out of HCCC and Kulani Correctional Facility with the assistance of the Hilo Narcotics Vice Office. Presently NED must depend upon the Maui and Kauai Sheriff Offices and the local Police Departments for assistance in responding to any drug case originating from KCCC or MCCC due to the lack of presence of NED Investigators on both islands. NED Investigators presently fly up to the outer islands on an as needed bases and conduct illicit drug trafficking, pharmaceutical controlled substance and regulated chemical investigations. With the added responsibility of conducting all criminal investigations initiated at all correctional facilities and by the Sheriff Division on all islands, NED investigators will travel to the outer islands more frequently and be required to stay longer on each island, resulting in added non budgeted operating expenses.

During FY 2007, NED Investigators responded to 26 criminal and 12 regulatory cases originating from PSD Correctional facilities, 1 from the Hawaii Paroling Authority, 0 from the Hawaii Youth Correctional Facility, 1 from Internal Affairs Office and 0 cases from State operated Hospitals.



## PHARMECUTIAL CONTROLLED SUBSTANCE DIVERSION CASES

During FY 2007 NED saw a substantial increase in pharmaceutical controlled substance diversion cases. In FY 2007, NED investigated 77-forged controlled substance prescription cases, 9 multi-doctor cases, 2 Internet cases, 0 promoting cases involving pharmaceutical controlled substances, 158 cases where a physician or law enforcement agency is checking on a patient due to suspicion of diversion of pharmaceutical controlled substances, 25 Physician cases, 0 Nurse cases and 25 theft/loss from medical facility cases. During FY 2007 NED prioritized its emphasis on pharmaceutical controlled substance cases due to the increase of abuse across the nation.



NED has a few advantages over many of the other states across the nation:

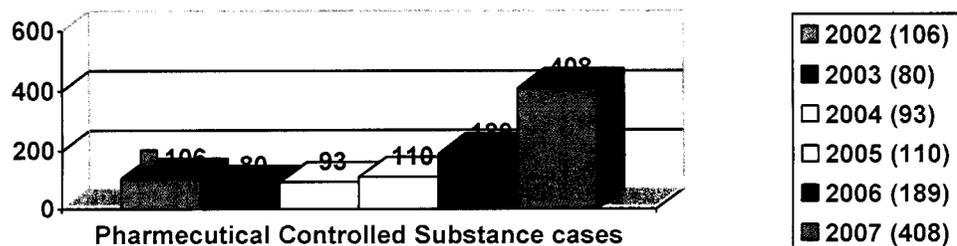
- 1) Hawaii is a dual registration state requiring that all practitioners must obtain a State Controlled Substance registration as well as a Federal DEA registration.
- 2) Hawaii does not allow out-of state controlled substance prescriptions to be filled in the State.
- 3) All controlled substance prescriptions must originate from within the State. (Practitioner must physically be in the State when issuing the prescription)
- 4) Hawaii has an Electronic Prescription Monitoring Program for all Schedule II through V controlled substances.
- 5) NED has a Pharmacy Alert System connected to all of Hawaii's pharmacies.
- 6) NED's Administrator has emergency scheduling powers for controlled substances and regulated chemicals.
- 7) Hawaii has an investigative Division (NED) that specializes in pharmaceutical and chemical diversion cases.

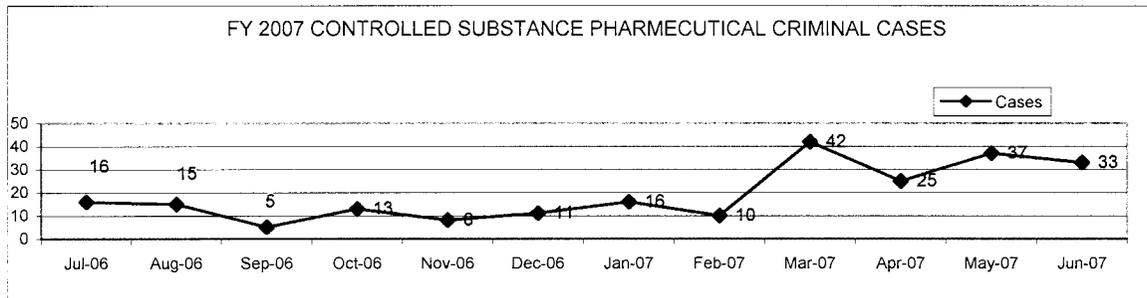
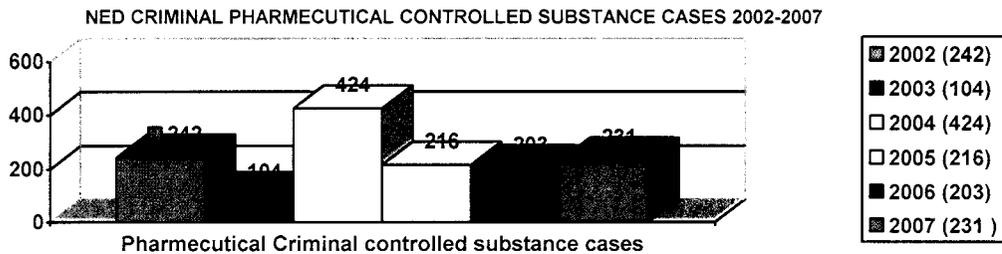
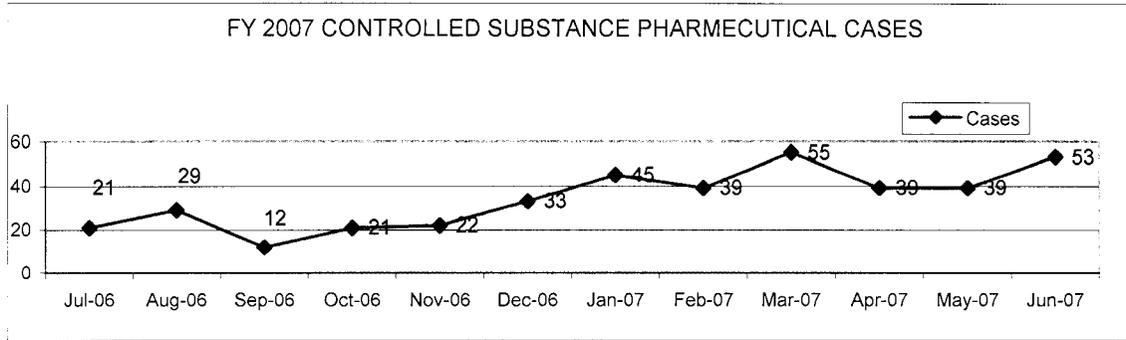
Hawaii's top ten-abused pharmaceutical controlled substances during the period of April-June 2007 are as listed:

- 1) Hydrocodone products
- 2) Oxycodone products (except Oxycontin)
- 3) Methadone
- 4) Morphine
- 5) Alprazolam
- 6) Diazepam
- 7) Anabolic Steroids
- 8) Soma
- 9) Codeine products
- 10) Oxycontin

NOTE: Hydrocodone and Oxycodone products were substantially abuse more than any other drug. It should be also noted that benzodiazepine products are utilized in conjunction with narcotic controlled substances to enhance the high.

### NED PHARMECUTICAL CONTROLLED SUBSTANCE CASES 2002-2007



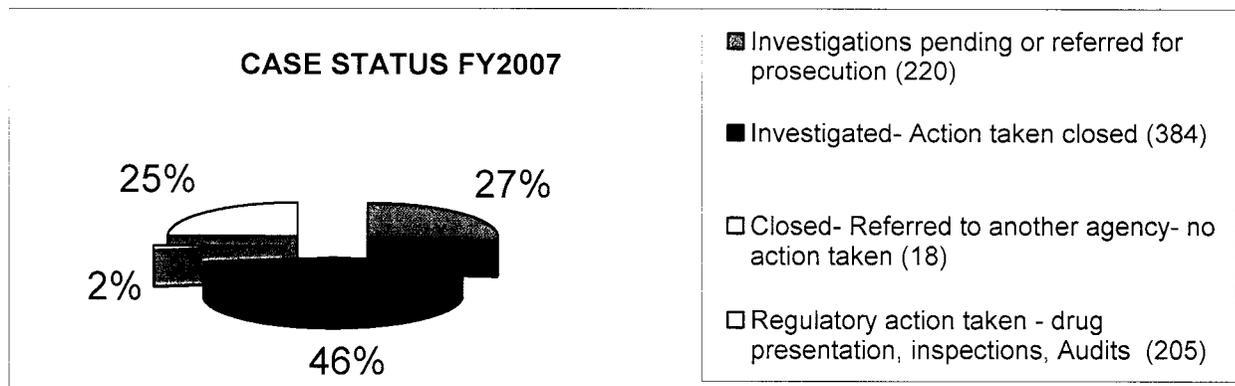


During FY2007, NED Investigators responded to 827 cases, 476 criminal and 351 regulatory. The following is a detailed listing of these cases:

- 45 Agency Assist cases where NED Investigator worked with other Federal, State or County law enforcement agencies.
- 21 Agency assist where NED Investigators assist a law enforcement agency with Medical Marijuana Verification.
- 29 Agency assist where NED Investigators assist a law enforcement agency with HISTEM information or guidance regarding a suspect abusing or diverting pharmaceutical controlled substances.
- 45 cases involving the disposal of controlled substances from a registrant.
- 8 Drug activity complaints from public.
- 77 Drug Presentations/Training given. Total individuals receiving training approximately 7436 individuals.

- 19 Drug / Chemical Contamination testing
- 7 Regulatory Evidence processing and disposition
- 5 State case resulting in Forfeiture
- 48 Federal cases initiated by HIDTA Airport Taskforce resulting in Federal Forfeiture
- 5 Federal cases initiated by HIDTA Airport Taskforce Federal Drug Investigations
- 16 Clandestine Laboratory investigation or chemicals utilized to manufacture investigations.
- 12 Clandestine Laboratory Protective Equipment Maintenance conducted by NED
- 0 Prisoner transport requested by PSD Corrections
- 6 Intelligence cases where information was gathered and disseminated to appropriate law enforcement agencies.
- 77 Fraudulent Obtaining of a Controlled substance cases.
- 9 Multi-doctor cases where suspects visited numerous physicians and obtained controlled substances by deceit or subterfuge.
- 2 Internet Controlled Substance Investigations
- 0 Non-Drug Criminal Investigation assigned by Director
- 0 Nurse investigations relating to diversion of controlled substances.
- 4 Cases classified as Other Investigations, miscellaneous cases investigated by NED.
- 22 Prison Contraband Case
- 93 Promoting cases that required investigators to conduct surveillance on suspects for extended periods of time. These types of investigations where investigators are required to spend long hours on surveillance can run on for days at a time.
- 0 Miscellaneous criminal investigation
- 2 Cases identified as Other
- 25 Controlled Substance registrant investigation
- 25 cases where there was a theft from medical facility possibly medical professional personnel.
- 15 Registrant assist where NED Investigators assist a practitioners
- 129 Registrant assist where NED Investigators assist a practitioner with e-Pass information or guidance regarding one of his patients
- 44 Registrant inspections, Controlled Substance and Regulated Chemical.
- 22 Training for NED Investigative Staff
- 1 Registrant license suspensions
- 3 Warning letters sent out to Medical Marijuana Patients and Physicians for violations of Section 122, HRS.
- 9 instances where medical use of marijuana certificates revoked by physician
- 5904 Operation Sentinel / Electronic Prescription Monitoring System information checks made by analyst or investigators (verbal and written).
- 80 new Pharmacy alerts initiated by NED

- NED is presently monitoring 928 individuals utilizing its pharmacy alert system for doctor patient or NED agreements, controlled substance violations or suspected violations.
- 8 NED Patient Agreements. These are written agreements between the NED and patients who are visiting multiple physicians to obtain controlled substance prescriptions. This agreement acts as a deterrent for the problem patient who is at the beginning of his/her abusive drug-seeking behavior.
- 4 Cases was referred to NED by USCS relating to persons who are stopped at US Customs Airport for a controlled substance violation such as undeclared pharmaceutical drugs imported to the US without a prescription or a controlled substance not authorized in the US or unauthorized importation by mail of controlled substances.



## NED'S REGULATORY PROGRAMS

### **ELECTRONIC PRESCRIPTION MONITORING PROGRAM / PHARMACY ALERT SYSTEM**

In March 1992, the Narcotics Enforcement Division (NED), established an electronic point-of-sale schedule II prescription monitoring program known as HISTEM. The program collected prescription drug information on Schedule II controlled substances from the dispensing pharmacies, which agreed to voluntarily participate in the program and were responsible for entering the information that was sent to the program through computers, disks, tapes, or universal claim forms. The program in 1002 monitored 4,600 physicians and information from 110,000 Schedule II prescriptions filled annually in the State of Hawaii.

In December 1993, the White House introduced the President's Commission on Model State Drug Laws. One of the model bills proposed by this commission was the Model Prescription Accountability Act. This bill calls for states to establish an electronic data transfer system that collects information on doctors, pharmacists, and patients receiving controlled substances, and compares it with programmed criteria to detect suspicious prescriptions. President Clinton's Model Prescription Accountability Act is essentially

Hawaii's electronic schedule II prescription accountability program (HISTEM) and possibly the most successful innovation toward controlling the diversion of legitimate pharmaceutical products in Hawaii.

In 1996 NED was able to transition this program through Act 268 SLH in 1996 to become Chapter 329 Part VIII, HRS. This program is fully funded through the Controlled Substance Registration revolving fund S325 and is one of the Division's tools in its war against pharmaceutical controlled substance diversion.

In 1999 the program was expanded to encompass all Schedule II through IV controlled substance prescriptions. This expansion of scope provides for a greater information collection, drug diversion detection and analysis, and ultimately greater feedback and guidance for registrants regarding drug abusers and criminal violators, all in an effort to foster a public/private partnership to address drug diversion and abuse. Act 145 passed in 1999, which allowed the Division to share the information obtained through its electronic prescription-monitoring program with physicians. This expansion of the program resulted in the formation of a program named "Operation Sentinel" a program to allow the Division to provide information collected from the electronic prescription-monitoring program to a physician on his/her patient.

On May 2, 2006, Governor Linda Lingle signed Act 69 into law, which added language to Chapter 329-104 to allow the administrator of the Narcotics Enforcement Division to share prescription information collected by the Division's electronic prescription monitoring program with other state-authorized governmental prescription monitoring programs.

NED's Electronic Prescription Monitoring Program (e-PASS) and NED's Pharmacy Alert System continues to identify and chart specific prescribing trends of Hawaii Physicians as well as identifies multi-doctor patients attempting to obtain controlled substance prescriptions. NED's Electronic Prescription Monitoring System is presently monitoring the data from 6,782,888 schedules II through IV controlled substance prescriptions and during FY2007 NED Investigators made 5904 queries into the system and sent out 29 prescription data reports to other law enforcement agencies conducting criminal drug cases and 129 reports to physicians relating to their patients controlled substance use.

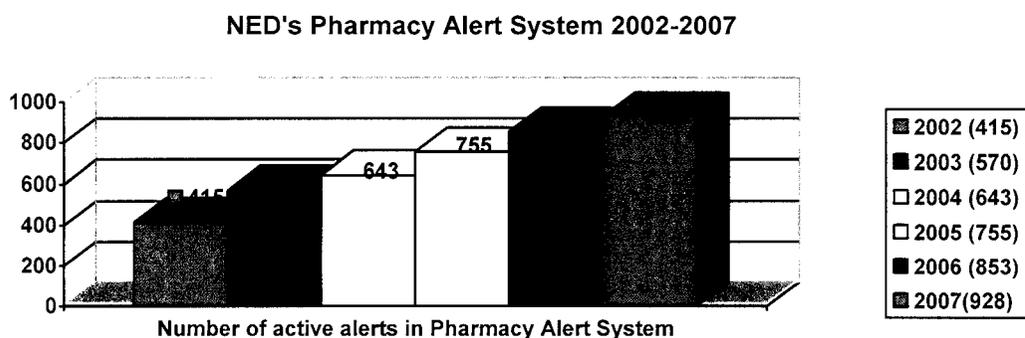
During FY 2007 NED was able to take over the function of the "Central Repository" of all controlled substance schedule II through V prescription data and establish an Internet base webpage that has the capability of allowing pharmacies to electronically transmit data to NED. By having the capability to process all schedule II through V controlled substance prescriptions within NED has saved the Division over \$50,000.00 in annual vendor fees.

NED's Electronic Prescription Monitoring Program ( e-Pass) investigative data inquiries 2002-2007



## NED'S PHARMACY ALERT SYSTEM

NED's Pharmacy Alert System was designed to link all of Hawaii's pharmacies electronically to the Division. NED is able to issue warning bulletins to all of Hawaii's 316 pharmacies registered to dispense controlled substances. This program allows NED to warn pharmacies of individuals suspected of pharmaceutical diversion and to update these pharmacies with information on new laws and amendments to Hawaii's Uniform Controlled substance Act. NED's Pharmacy Alert System continues to identify and chart specific prescribing trends of Hawaii Physicians as well as identifies multi-doctor patients attempting to obtain controlled substance prescriptions. In FY 2007, NED issued 80 pharmacy alerts and is presently monitoring 928 alert bulletins on this system.



### Prescription Monitoring Program Federal Funding

On June 23, 2004, NED was notified that it had received a \$349,530.00 grant from the Department of Justice FY 2004 Prescription Drug Monitoring (Harold Rodgers) Program. This Federal Grant will be used to enhance the State's electronic prescription monitoring program, which is maintained within the Department's Narcotics Enforcement Division (NED). This grant would allow NED to upgrade its existing prescription monitoring system by addressing the problem of data lag through the implementation of a secured e-mail system used to receive and respond to prescription information requests from controlled substance registrants. This enhancement to the electronic prescription-monitoring program would allow for data to be shared on a timely basis with a realistic objective of reducing the transaction time from several days to a response being made within hours. The electronic prescription-monitoring program will help prevent and detect the diversion and abuse of pharmaceutical controlled substances, particularly at the retail level where no other statewide automated information collection system exist. NED's electronic prescription monitoring program also partner law enforcement, health care providers and the community in identifying drug abuse trends and possible sources of diversion, uncovering outmoded prescribing practices, and developing meaningful and appropriate education for medical professionals. An additional enhancement to be made to NED's electronic prescription monitoring system would be the creation of a western regional states network (WRSN) for the uniform sharing of controlled substance prescription information. California, Wyoming, New Mexico, Idaho, Utah and Nevada currently have controlled substance prescription monitoring capabilities. Oregon and

Washington are currently developing prescription-monitoring systems within their respective states. NED's enhancement of a secured e-mail system to the electronic prescription monitoring system could be utilized as a platform for an interface that WRSN states could use for the requesting and transmission of electronic prescription monitoring data. This system enhancement would allow for ready integration of electronic prescription data into the requesting member state's existing system. WRSN member states would then have the ability to use the received prescription data in accordance with their respective state's laws, such as having the data available for a treating practitioner, patient treatment programs or for law enforcement purposes (where state law permits). An additional enhancement to the electronic prescription monitoring system would provide funds for the periodic and on-going training for medical practitioners, pharmacists, law enforcement and the general public regarding the problem issues relating to the diversion and abuse of prescription controlled substances. NED would develop specific training "packets" for the ongoing training presentations to physicians, pharmacy employees as well as law enforcement officials for the identification, protection from and response to patients who are abusing controlled substances. The training "packets" will consist of audio/visual presentations, printed materials and other reference materials prepared to address the specific needs of practitioners, pharmacists, law enforcement as well as the general public. This training and information-sharing enhancement will bolster the electronic prescription monitoring system's overall effectiveness through increased awareness and more active utilization of the collected prescription information. NED received authorization to extend the grant period till July 31, 2006.

On August 25, 2005, NED was notified that had received a \$349,530.00 grant from the Department of Justice FY 2005 Prescription Drug Monitoring (Harold Rodgers) Program to continue the enhancements to the State's electronic prescription monitoring program, which is maintained within the Department's Narcotics Enforcement Division (NED). This grant will focus on addressing the problem of data lag through the implementation of a secured e-mail system used to receive and respond to prescription information requests from controlled substance registrants. NED will also focus on implementing a web based information dissemination system during this grant period. This grant was extended till 10-31-07.

On July 6, 2007, NED was notified that had received a \$275,000.00 grant from the Department of Justice FY 2007 Prescription Drug Monitoring (Harold Rodgers) Program to continue the enhancements to the State's electronic prescription monitoring program, which is maintained within the Department's Narcotics Enforcement Division (NED). This grant will focus on development of NED's web access for practitioners to its Electronic Prescription Monitoring Program through a secured e-mail system used to receive and respond to prescription information requests from controlled substance registrants. This grant runs from May 1, 2007 through April 30, 2009.

On August 15, 2007, NED was notified that had received a \$400,000.00 grant from the Department of Justice FY 2008 Prescription Drug Monitoring (Harold Rodgers) Program to continue the enhancements to the State's electronic prescription monitoring program,

which is maintained within the Department's Narcotics Enforcement Division (NED). This grant will focus on processing all prescription data electronically sent to NED in house. This Grant will afford NED the ability to hire a Clerk III to assist the PMP Investigator with the inputting and analysis of all Schedule II through V controlled substances prescriptions filled by all pharmacies registered in the State of Hawaii. This grant runs from May 1, 2008 through April 30, 2010.

## **HAWAII'S MEDICAL USE OF MARIJUANA PROGRAM**

On June 14, 2000, Governor Cayetano signed Act 228 relating to the Medical Use of Marijuana. Act 228 / Senate Bill 862 SD 2 HD requires that the Department promulgate administrative rules to implement a program to register all qualifying patient and primary caregivers authorized by their physicians to utilize marijuana for medical purposes. Act 228, however did not allot any additional funding to the department to implement this program nor did it legislatively address the problem of transferring the moneys collected from fees to be utilized to supplement the budget of Division maintaining the program. On October 16, 2000, Governor Cayetano authorized the Department to go forward with the public hearing on the Medical Use of Marijuana Rules. On December 22, 2000, the Department held a public hearing on the proposed Administrative Rules for the Medical Use of marijuana Title 23 Chapter 202. On December 28, 2000, the Governor signed title 23 Chapter 202 Administrative rules into law and on January 9, 2001,

NED is sued its first certificate. NED is presently utilizing Special and General Funds to implement this program. On June 18, 2002, Acting Governor Mazie Hirono signed Act 165 into law, which authorized the Department to deposit monies collected from medical use of marijuana registration fees into NED's Special Controlled Substance Revolving fund to offset the cost of the Medical Use of Marijuana Program.

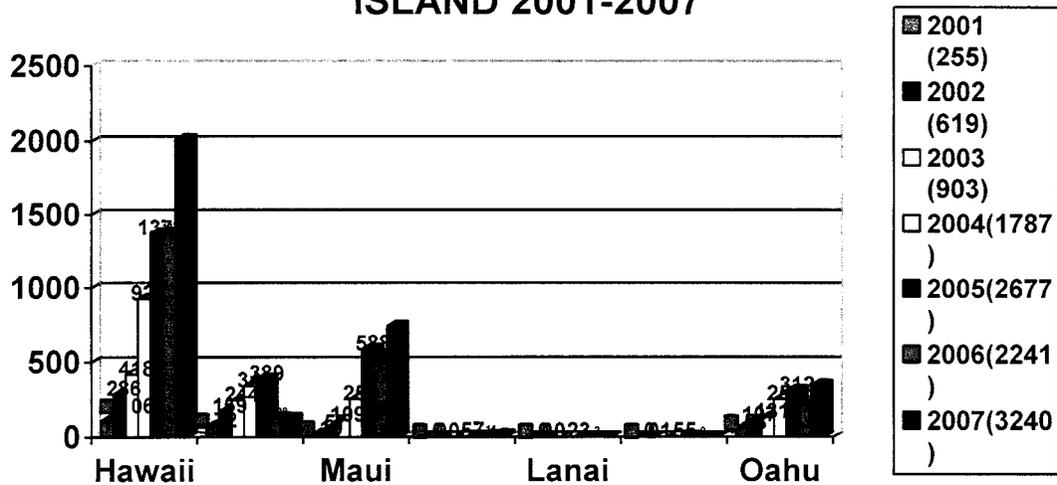
On June 18, 2002, Acting Governor Mazie Hirono signed Act 165 into law. Act 165 (HB 703 HD 1, SD 2) authorized the Department to deposit the fees collected from the Medical Use of Marijuana Program into the Controlled Substance Registration Revolving Fund. Act 165 also appropriated \$10,000.00 for equipment and other current expenses to carry out the provisions of Chapter 329, Part IX Hawaii Revised Statutes, and Hawaii's Medical Use of Marijuana Program. During the 2005 there was a Bill introduced in the Senate SB128 to move the Medical Use of Marijuana Program from the Narcotics Enforcement Division to The Department of Health. Senate Bill 128 was held during this legislative session and a resolution was passed to do a study on where this program should be located.

June 6, 2005, The Narcotics Enforcement Division was notified that the US Supreme Court had issued a 6-3 ruling on Gonzales, Attorney General v. Raich relating to medical use of marijuana. The Supreme Court stated that the Federal Controlled Substance Act designated marijuana as contraband for any purpose; in fact, by characterizing marijuana as a Schedule I Controlled Substance, Congress expressly found that the drug has no acceptable medical uses. It goes on to state: "Moreover the CSA is a comprehensive regulatory regime specifically designed to regulate which controlled substances can be

utilized for medicinal purposes, and in what manner. “Also referred to was the Supremacy Clause, which “unambiguously provides that is there is any conflict between federal and state law federal law shall prevail.”

Due to these findings NED requested guidance from the Attorney General’s Office as to Hawaii’s Medical Use of Marijuana Program. NED will be amending all of its registry application forms, patient and physician information packets to educate the public that the protections afforded authorized patients to utilize medical marijuana by State law does not protect them from Federal prosecution. NED amended its patient and physician information forms and included the information indicated in the June 15, 2005 letter from Attorney General Mark Bennett.

### MEDICAL USE OF MARIJUANA PATIENTS BY ISLAND 2001-2007



At the end of FY 2007, the following is the statistical break down by island of the patients registered under this program to utilize marijuana for medical purposes:

ISLAND	# Patients	# Caregiver	Physician on island	Physician off island
Hawaii	2014	182	25	15 (1380 patients)
Kauai	123	13	8	9 (12 patients)
Lanai	0	0	0	0
Maui	744	44	21	7 (8 patients)
Molokai	16	2	0	6 (16 patients)
Niihau	0	0	0	0
Oahu	343	52	23	7 (31 patients)
<b>TOTAL:</b>	<b>3240</b>	<b>293</b>	<b>66</b>	<b>43 (1447 patients)</b>

### FY 2007 List of Debilitating Medical Conditions in which Medical Use of Marijuana Certificates are issued:

Cachex / Wasting Syndrome	15
Chron's Disease	0
Glaucoma	25
HIV or AIDS	61
Malignant Neoplasm (Cancer)	42
Multiple conditions listed	895
Persistent Muscle Spasms	57
Seizures	29
Severe Nausea	33
Severe Pain	2083
Severe pain, severe nausea	0

#### **NED'S REGISTRATION SECTION**

The Narcotics Enforcement Division's Registration staff during FY 2007 handled 26979 administrative transactions relating to the registration individuals administering, prescribing or dispensing of controlled substances, dispensing, sale or purchase of regulated chemicals and transactions for the registration of patients in the medical use of marijuana program, with 8 processing errors and 0 complaints. During this time period the Registration Staff issued 5499 controlled substance registrations, 23 regulated chemical permits, 3195 patient registry identification certificates for the medical use of marijuana and assigned 379 new oral call numbers to physicians, physician assistants or advance practice registered nurses **within the five day NED imposed processing time limit**. The Registration Staff issued 0 controlled substance registrations, 0 regulated chemical permits, 1 patient registry identification certificates for the medical use of marijuana and assigned 0 new oral call numbers to physicians, physician assistants or advance practice registered nurse **within the sixty day State imposed processing time limit**. **Most of these registrations that took longer than 5 days were completed within 14 days and mailed out.** The Division set a high goal for itself by implementing the five-day with out error processing deadline. A 99.98% clearance rate within NED's self imposed processing time limit and a 100% clearance rate within the State imposed 60 day processing time limit. During FY 2007 NED processed 9104 controlled substance, oral code, regulated chemical and medical marijuana certificates with only 8 processing errors a error free clearance rate of 99.91%.

During Fiscal Year 2007, the registration section responded to 3296 controlled substance registration verification calls, 0 Regulated chemical verification calls, 287 Oral Code verification calls and 176 Medical Use of Marijuana verification calls. During Fiscal Year 2007, the registration section responded to 2170 controlled substance registration

question calls, 4 Regulated chemical question calls and 568 Medical Use of Marijuana questions with 0 complaints.

The Narcotics Enforcement Division's Registration Section has decreased the time required to process a controlled substance, regulated chemical or medical marijuana registry certificate to within five days. State Administrative rules require that the processing of these certificates be done within 60 days.

