

DEPARTMENT OF PUBLIC SAFETY  
REPORT TO THE 2011 LEGISLATURE

NARCOTICS ENFORCEMENT DIVISION  
FY2010 ANNUAL REPORT

December 2010

**NARCOTICS ENFORCEMENT DIVISION  
ANNUAL REPORT TO THE LEGISLATURE  
FY 2010**

**HRS CHAPTER 329-11 REPORTING REQUIREMENTS**

HRS Chapter 329-11(d) states, "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 make the corresponding change in Hawaii law." The Federal Government schedules the following in 2010:

**DESOXYMETHYLTESTOSTERONE (17a-methyl-5a-androst-2-en-17-ol, madol) 74 FR 63603, Schedule III, 1-4-2010**

**19-NOR-4,9(10)-ANDROSTADIENEDIONE (estra-4,9(10)-diene-3,17-dione), 74 FR 63603, Schedule III, 1-4-2010**

**BOLDIONE (Androsta-1,4-diene-3,17-dione), 74 FR 63603, Schedule III, 1-4-2010**

**4-ANILINO-N-PHENETHYL-4-PIPERIDINE (ANPP), 75 FR 37296, Schedule II, 8-30-2010**

In accordance with HRS Chapter 329-11(d) the Department of Public Safety (PSD) will make a corresponding change to HRS Section 329-18(g), Schedule III and Section 329-16(c), Schedule II.

HRS Chapter 329-11(e) authorizes the Administrator of PSD's Narcotics Enforcement Division (NED) to make an emergency scheduling by placing a substance into Schedules I, II, III, IV or V on a temporary basis, if the Administrator determines that such action is necessary to avoid imminent hazard or the possibility of an imminent hazard to the health and safety of the public. If a substance is added or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the state legislature has not enacted the corresponding changes in this Chapter, the temporary designation of the added or rescheduled substance shall be nullified.

In October of 2010 during an investigation of drug dealing and the subsequent search warrant of a residence located on the island of Hawaii (Kona) by Hawaii County Police Department Officers controlled substances were found. The controlled substance 4MMC and a yellowish powder later identified as Methylenedioxypropylvalerone (MDPV) was discovered in the search warrant in quantities indicating distribution amounts. These new chemicals are already here in Hawaii and like the rest of the Nation are being sold as a bath salt under the names Ivory White, Vanilla Sky, Pure Ivory, Purple Wave, Charge+, Ocean Burst and Sextacy but marked "not for human consumption."

In accordance with provisions set forth in HRS Chapter 329-11(e), Emergency Scheduling Authority, the Administrator of NED is emergency scheduling the substance 3,4-Methylenedioxypropylvalerone (MDPV) as a Schedule I, hallucinogenic substance by placing it in HRS Section 329-14(d). MDPV has no history of FDA approved medical use in the U.S. and is usually labeled “Not for human consumption” on packaging. MDPV is the 3,4-methylenedioxy ring-substituted analogue of the compound Pyrovalerone a Schedule V controlled substance. MDPV has stimulant effects and is reported to have amphetamine-like or cocaine-type effects. The acute effects may include: physical: rapid heartbeat, increase in blood pressure, vasoconstriction, sweating, mental: increases in alertness & awareness, increased wakefulness and arousal, anxiety, agitation, perception of a diminished requirement for food and sleep.

The effects have duration of roughly 3 to 4 hours, with after effects such as tachycardia, hypertension, and mild stimulation lasting from 6 to 8 hours. High doses have been observed to cause intense, prolonged panic attacks in stimulant-intolerant users, and there are anecdotal reports of psychosis from sleep withdrawal and addiction at higher doses or more frequent dosing intervals. Users often report to feel compelled to continue re-dosing, but often lose interest in taking it quickly because of the unpleasant side effects caused by higher doses.

On August 1, 2010, the State of Hawaii emergency scheduled the substances Mephedrone, HU-210, CP 47,497 and homologues, JWH-018 and JWH-073 because these drugs did not have an approved medical use in the United States and are presently listed as "drugs of concern" by the Federal Drug Enforcement Administration (DEA) due to its ability to evoke hallucinogenic effects, which in general, are similar to those of other scheduled hallucinogenic controlled substances.

On November 24, 2010, the DEA used its emergency scheduling authority to temporarily control five chemicals (JWH-018, JWH-073, JWH-200, CP-47,497, and cannabicyclohexanol) used to make “fake pot” products. Except as authorized by law, this action will make possessing and selling these chemicals or the products that contain them illegal in the United States for at least one year while the DEA and the United States Department of Health and Human Services (DHHS) further study whether these chemicals and products should be permanently controlled.

To be consistent with the Federal emergency scheduling action, the PSD added “Cannabicyclohexanol” to the list of emergency scheduled substances used to make “fake pot” products.

The emergency scheduling of Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT, Methylenedioxypropylvalerone (MDPV, MDPK) and the chemicals utilized in Spice / K2 such as HU-210, CP 47,497 and dimethyloctyl homologues, JWH-018, JWH-073 and Cannabicyclohexanol be added as a Schedule I controlled substance by amending Section 329-14(d), Hawaii Revised Statutes, to read as follows:

Section 329-14(d) Any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers,

unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alpha-ethyltryptamine (AET);
- (2) 2,5-dimethoxy-4-ethylamphetamine (DOET);
- (3) 2,5-dimethoxyamphetamine (2,5-DMA);
- (4) 3,4-methylenedioxy amphetamine;
- (5) 3,4-methylenedioxymethamphetamine (MDMA);
- (6) N-hydroxy-3,4-methylenedioxyamphetamine (N-hydroxy-MDA);
- (7) 3,4-methylenedioxy-N-ethylamphetamine (MDE);
- (8) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (9) 4-bromo-2,5-dimethoxy-amphetamine (4-bromo-2,5-DMA);
- (10) 4-Bromo-2,5-dimethoxyphenethylamine (Nexus);
- (11) 3,4,5-trimethoxy amphetamine;
- (12) Bufotenine;
- (13) 4-methoxyamphetamine (PMA);
- (14) Diethyltryptamine;
- (15) Dimethyltryptamine;
- (16) 4-methyl-2,5-dimethoxy-amphetamine;
- (17) Gamma hydroxybutyrate (GHB) (some other names include gamma hydroxybutyric acid; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- (18) Ibogaine;
- (19) Lysergic acid diethylamide;
- (20) Marijuana;
- (21) Parahexyl;
- (22) Mescaline;
- (23) Peyote;
- (24) N-ethyl-3-piperidyl benzilate;
- (25) N-methyl-3-piperidyl benzilate;
- (26) Psilocybin;
- (27) Psilocyn;
- (28) 1-[1-(2-Thienyl) cyclohexyl] Pyrrolidine (TCPy);
- (29) Tetrahydrocannabinols;
- (30) Ethylamine analog of phencyclidine (PCE);
- (31) Pyrrolidine analog of phencyclidine (PCPy, PHP);
- (32) Thiophene analog of phencyclidine (TPCP; TCP);
- (33) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number 96-48-0 when any such substance is intended for human ingestion;
- (34) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4- butylenes glycol; butylene glycol; 1,4-dihydroxybutane; 1,4- tetramethylene glycol; tetramethylene

- glycol; tetramethylene 1,4- diol with Chemical Abstract Service number 110-63-4 when any such substance is intended for human ingestion;
- (35) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7), its optical isomers, salts, and salts of isomers;
  - (36) N-benzylpiperazine (BZP; 1-benzylpiperazine) its optical isomers, salts, and salts of isomers;
  - (37) 1-(3-trifluoromethylphenyl) piperazine (TFMPP), its optical isomers, salts, and salts of isomers;
  - (38) Alpha-methyltryptamine (AMT), its isomers, salts, and salts of isomers;
  - (39) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts, and salts of isomers;
  - (40) Salvia divinorum;
  - (41) Salvinorin A; ~~and~~
  - (42) Divinorin A;
  - (43) Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT;**
  - (44) Methylenedioxypropylvalerone (MDPV, MDPK);**
  - (45) (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, Some trade or other names: HU-210;**
  - (46) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, Some trade or other names: CP 47,497 and dimethyloctyl homologues;**
  - (47) 1-Pentyl-3-(1-naphthoyl)indole, Some trade or other names: JWH-018;**
  - (48) 1-Butyl-3-(1-naphthoyl)indole, Some trade or other names: JWH-073; and**
  - (49) Cannabicyclohexanol.**

**DESOXYMETHYLTESTOSTERONE (17a-methyl-5a-androst-2-en-17-ol, madol) 74 FR 63603, Schedule III, 1-4-2010**

**19-NOR-4,9(10)-ANDROSTADIENEDIONE (estra-4,9(10)-diene-3,17-dione), 74 FR 63603, Schedule III, 1-4-2010**

**BOLDIONE (Androsta-1,4-diene-3,17-dione), 74 FR 63603, Schedule III, 1-4-2010**

Section 329-18(g) Any anabolic steroid. The term "anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Clostebol (4-Chlorotestosterone);
- (3) Dehydrochlormethyltestosterone;
- (4) Dihydrotestosterone (4-dihydrotestosterone);
- (5) Drostanolone;
- (6) Ethylestrenol;
- (7) Fluoxymesterone;
- (8) Formebolone (Formyldienolone);

- (9) Mesterolone;
- (10) Methandranone;
- (11) Methandriol;
- (12) Methandrostenolone (Methandienone);
- (13) Methenolone;
- (14) Methyltestosterone;
- (15) Mibolerone;
- (16) Nandrolone;
- (17) Norethandrolone;
- (18) Oxandrolone;
- (19) Oxymesterone;
- (20) Oxymetholone;
- (21) Stanolone (Dihydrotestosterone);
- (22) Stanozolol;
- (23) Testolactone;
- (24) Testosterone;
- (25) Trenbolone;
- (26) 3[beta], 17-dihydroxy-5a-androstane;
- (27) 3[alpha], 17[beta]-dihydroxy-5a-androstane;
- (28) 5[alpha]-androstan-3, 17-dione;
- (29) 1-androstenediol (3[beta], 17[beta]-dihydroxy-5[alpha]-androst-1-ene);
- (30) 1-androstenediol (3[alpha], 17[beta]-dihydroxy-5[alpha]-androst-1-ene);
- (31) 4-androstenediol (3[beta], 17[beta]-dihydroxy-androst-4-ene);
- (32) 5-androstenediol (3[beta], 17[beta]-dihydroxy-androst-5-ene);
- (33) 1-androstenedione ([5[alpha]]-androst-1-en-3, 17-dione);
- (34) 4-androstenedione (androst-4-en-3, 17-dione);
- (35) 5-androstenedione (androst-5-en-3, 17-dione);
- (36) Bolasterone (7[alpha], 17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);
- (37) Calusterone (7[beta], 17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);
- (38) [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- (39) Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan);
- (40) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;
- (41) 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);
- (42) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one);
- (43) Mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
- (44) Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);
- (45) Methandriol (17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-5-ene);
- (46) Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- (47) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxy-5a-androstane;
- (48) 17[alpha]-methyl-3[alpha], 17[beta]-dihydroxy-5a-androstane;
- (49) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-4-ene;
- (50) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);
- (51) Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4, 9(10)-dien-3-one);
- (52) Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4, 9-11-trien-3-one);

- (53) 17[alpha]-methyl-[Delta] 1-dihydrotestosterone (17b [beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (a.k.a. '17-[alpha]-methyl-1-testosterone');
- (54) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene);
- (55) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene);
- (56) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene);
- (57) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene);
- (58) 19-nor-4-androstenedione (estr-4-en-3, 17-dione);
- (59) 19-nor-5-androstenedione (estr-5-en-3, 17-dione);
- (60) Norbolethone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);
- (61) Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);
- (62) Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);
- (63) Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);
- (64) Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4, 9, 11-trien-3-one);
- (65) Desoxymethyltestosterone (17a-methyl-5a-androst-2-en-17-ol, madol);**
- (66) 19-NOR-4,9(10)-Androstadienedione (estra-4,9(10)-diene-3,17-dione);**
- (67) Boldione (Androsta-1,4-diene-3,17-dione); and**
- [(65)] (68)** Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth, except the term "anabolic steroid" does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for nonhuman administration. If any person prescribes, dispenses, or distributes an anabolic steroid intended for administration to nonhuman species for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

**4-ANILINO-N-PHENETHYL-4-PIPERIDINE (ANPP), 75 FR 37296, Schedule II, 8-30-2010**

Section 329-16(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Bulk Dextropropoxyphene (nondosage form);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levo-alphaacetylmethadol (LAAM);
- (12) Levomethorphan;
- (13) Levorphanol;

- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (18) Pethidine (Meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil;
- (27) Sufentanil [~~and~~]
- (28) Tapentadol[-]; and
- (29) **4-anilino-n-phenethyl-4-piperidine (ANPP)**.

This emergency scheduling action and Federal scheduling changes shall take effect on December 1, 2010 (**12:01 AM.**) to avoid an imminent hazard or the possibility of an imminent hazard to the citizens of Hawaii from these dangerous substances.

## **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.

## **NED'S ENFORCEMENT PROGRAMS**

Chapter 26-14.6(m) requires the PSD to coordinate drug abatement efforts of the communities with the State, counties, and community agencies. By (1) facilitating the sharing of resources

and information and (4) facilitating problem solving in the delivery of law enforcement services by state and local agencies to the community.

During FY 2010, NED responded to 6 drug complaints from the public and initiated 506 cases where another agency requested assistance from NED to include criminal, administrative controlled substance investigations, inspections, forensic drug laboratory services and medical use of marijuana and electronic prescription monitoring assistance. 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), Western States Information Network, Alliance of States with Prescription Monitoring Programs, DEA Domestic Cannabis Eradication Suppression Program (DCE/SP) and DEA Airport Taskforce. During FY2010, NED Investigators responded to 1240 cases, 834 criminal and 406 regulatory.

### ***STATE AIRPORTS, DRUG INTERDICTION AND OTHER AREAS:***

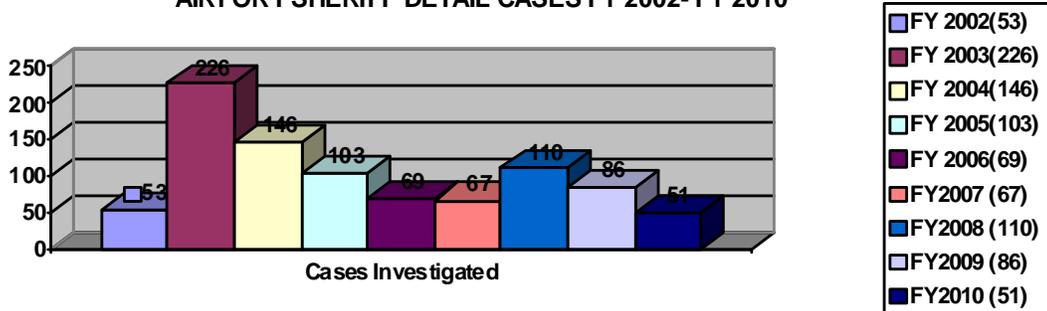


Due to increased security at the airport since the September 11, 2001, terrorist incident have resulted in an increase in the number of controlled substance being detected at airport checkpoints and through the mail. During FY 2010, NED Investigators investigated 51 controlled substances and drug paraphernalia cases referred by the Airport Sheriff Detail at security checkpoints, 6 cases referrals by the Bureau of Immigration and Customs Enforcement (BICE), US Postal Service and HPD Parcel team relating to illegal importation or smuggling of pharmaceutical and illicit controlled substances into Hawaii and 39 by NED's HIDTA Airport / DEA taskforce Investigators for controlled substances or regulated chemicals being smuggled into Hawaii.

### **NED RESPONSE TO AIRPORT SHERIFF DETAIL**

During FY 2010, NED Investigators investigated 51 controlled substances and drug paraphernalia cases referred by the Airport Sheriff Detail at security checkpoints. The Narcotics Enforcement Division presently responds to all drug cases initiated by the Airport Sheriff Detail; however, NED unlike the Attorney General's investigators and the Airport Sheriff Deputies receive no funding from DOT for overtime or investigative expenses. In FY 2010 due to the State's fiscal situation NED has had to prioritize all it's after hour responses to the Airport Sheriff Detail taking into consideration the Division's budgeted overtime and manpower availability.

### AIRPORT SHERIFF DETAIL CASES FY 2002- FY 2010



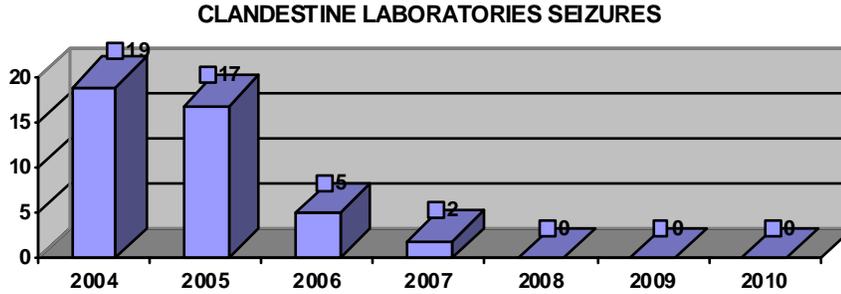
### HIGH INTENSITY DRUG TRAFFICKING AREA (CLANDESTINE LABORATORY INITIATIVE)



Keith Kamita, Narcotics Enforcement Division chief, Department of Public Safety (DPS), holds sudafed and addresses the importance of HB 2410. From left: Anthony Williams, U.S. Drug Enforcement Administration assistant special agent in charge; Dutchie Hanohano, U.S. Marshall; Jim Propotnik, acting DPS director; and Lt. Governor James R. "Duke" Aiona, Jr.



During calendar year 2010, law enforcement statewide did not report any clandestine laboratories. NED conducted 3 purported clandestine laboratory (suspicious smells or activity lab related) investigations resulting in no labs found. NED feels that this decrease can be attributed to increased enforcement activities, 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. During FY 2010, NED conducted five OSHA required clandestine laboratory recertification classes for Federal, State and County law enforcement. NED conducted 2 classes on Oahu, 1 on Maui, 1 on Kauai and 1 on the island of Hawaii. During FY 2010, NED did not conduct any cases involving the unlawful procurement of precursor chemicals (Pseudoephedrine) to manufacture methamphetamine.



## **NEW PSEUDOEPHEDRINE TRACKING PROGRAM**

In accordance with Act 184 signed into law by Governor Linda Lingle on June 17, 2008, NED was mandated to develop and implement by January 1, 2010, an electronic tracking program for all pharmacies and retailers selling products, mixtures, or preparations containing pseudoephedrine. Act 184 mandates that this electronic log be transmitted to the Narcotics Enforcement Division on monthly bases where the information will be retained for a period of two years. The law required that the electronic log be capable of being checked for compliance against all State and Federal laws, including interfacing with other states to ensure comprehensive compliance. NED formed a partnership with the Western States Information Network (WSIN/RISS) whose mission is to support law enforcement efforts nationwide to combat illegal drug trafficking, identity theft, human trafficking, violent crime, terrorist activity, and to promote officer safety in Alaska, California, Hawaii, Oregon, Washington, as well as Canada and Guam. NED was able to work with WSIN to host and collect all of the retail pseudoephedrine states data at no cost to the State of Hawaii.

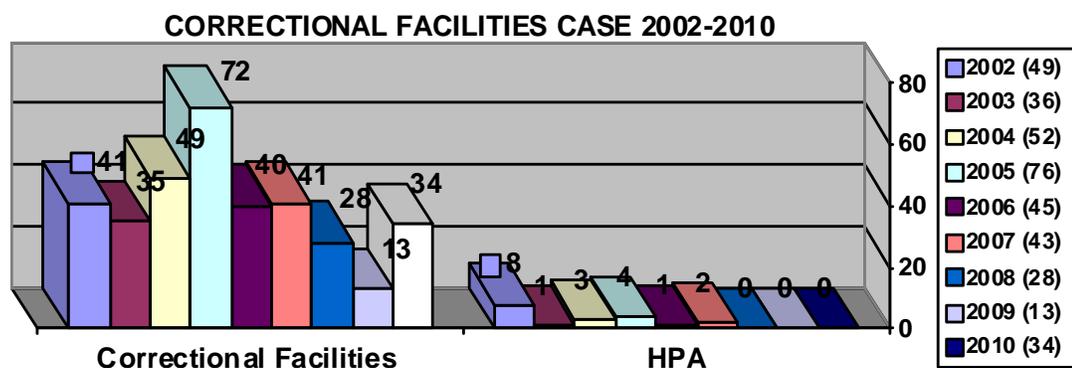
During FY 2010, NED did not have any reports of unlawful procurement of the precursor chemicals (Pseudoephedrine) to manufacture methamphetamine. During FY 2010, NED identified 0 cases of non-compliance with the Federal Combat Methamphetamine Epidemic Act of 2005, which went into affect on March 8, 2006 and Hawaii's Regulated Chemical for the Manufacture of Controlled Substances Section 329, Part IV, Hawaii Revised Statutes. The Hawaii Legislature also passed Act 171, which was signed into law on June 5, 2006, a new amendment to Chapter 329-64 (a)(4) relating to exemptions. Act 171 deletes the exemption for over the counter sale of Ephedrine and Phenylpropanelamine containing products and placed additional reporting requirements for pseudoephedrine products.

On May 15, 2010, Governor Linda Lingle signed Act 123 into law. Act 123 deleted the exemption in 329-64(a) relating to obtaining a permit to sell pseudoephedrine as an over the counter drugs. All individuals handling regulated chemicals listed in 329-61 are required to register with the PSD as required by 329-67, Hawaii Revised Statutes.

It should be noted that many of the non-pharmacy retail distributors no longer carry ephedrine and pseudoephedrine containing products and are now selling over the counter pseudoephedrine PE products that cannot be utilized to manufacture methamphetamine.

## CORRECTIONAL FACILITIES

During FY 2010, NED Investigators responded to 13 criminal and 0 regulatory cases originating from PSD Correctional facilities, 0 from the Hawaii Paroling Authority, 0 from the Hawaii Youth Correctional Facility, 0 from Internal Affairs Office and 0 cases from State operated Hospitals.



## PHARMACEUTICAL CONTROLLED SUBSTANCE DIVERSION CASES

### Pharmaceutical Controlled Substance Diversion Cases



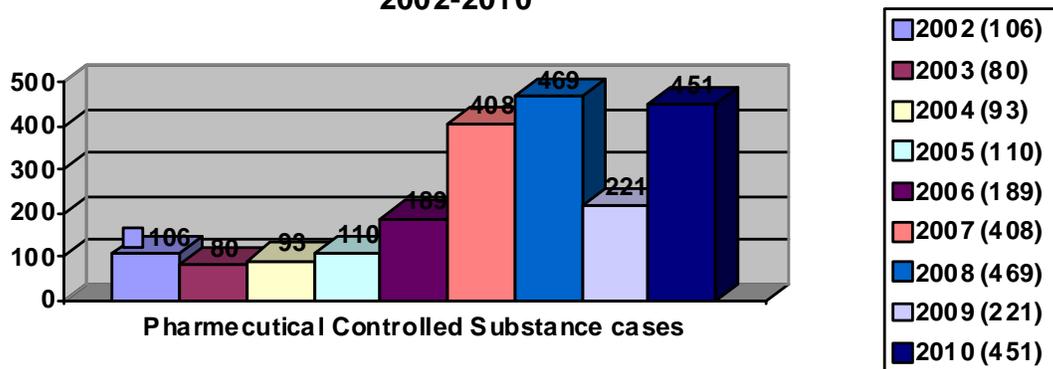
During FY 2010, NED saw a substantial increase in pharmaceutical controlled substance diversion cases. In FY 2010, NED investigators conducted 451 pharmaceutical criminal and regulatory cases. Of the 451 cases 201 were criminal pharmaceutical controlled substance investigations: 89 forged controlled substance prescription cases, 12 multi-doctor cases, 0 Internet cases, 8 pharmaceutical cases classified as Other, 2 promoting cases involving pharmaceutical controlled substances, 11 diversion by physician cases, 4 cases where registrants controlled substance registration was revoked, 6 theft of missing drug cases, 48 cases where an authorized agency and 229 cases where a physician is checking on a patient due to suspicion of

diversion of pharmaceutical controlled substances using NED's electronic prescription monitoring program "e-Pass." During FY 2010, NED prioritized its emphasis on criminal cases involving pharmaceutical controlled substances and proposed legislation to better address problem issues with Hawaii's controlled substance laws.

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.
- 8) As of July 1, 2008, Act 186 gave NED the ability to assess monetary fines for violations of Hawaii's Uniform Controlled Substance Act, Chapter 329 HRS.

### NED PHARMECUTICAL CONTROLLED SUBSTANCE CASES 2002-2010



## NED'S PREVENTION PROGRAM



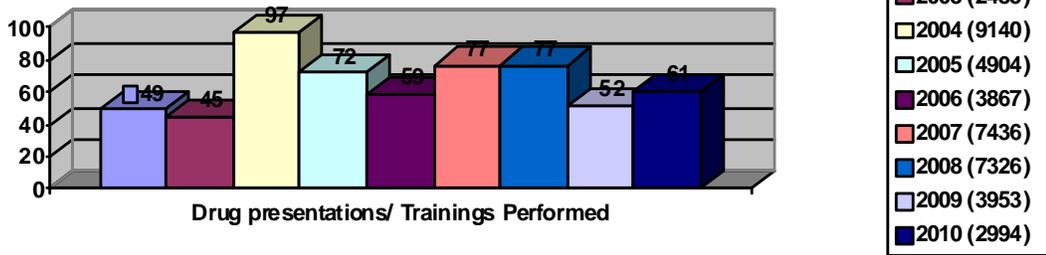
In accordance with Chapter 26-14.6(m)(2) (3) and (4) the PSD's NED during FY 2009, NED took a leadership role in informing the community of Hawaii's methamphetamine problem within the division's budgetary constraints.

### DRUG EDUCATION AND TRAINING PROGRAMS

NED continues to inform the public, schools, businesses and law enforcement on Hawaii's illicit and pharmaceutical controlled substance drug problems. The presentations covered Hawaii's drug trends, drug identification, medical use of marijuana program, Hawaii's electronic prescription monitoring program, clandestine laboratories, and the chemicals utilized in the illegal manufacture of controlled substances and the physical and psychological effects as well as the damage that drugs can do to the human body. In FY 2010, NED conducted 61 educational drug/chemical, medical use of marijuana and clandestine laboratory presentations on the Islands of Hawaii, Maui, Kauai and Oahu that were attended by 2,494 individuals from law enforcement, education, business, medical community and the public.

FISCAL YEAR	TRAINING SESSIONS	# OF INDIVIDUALS TRAINED
2010	61	2,494
2009	52	3,953
2008	77	7,326
2007	77	7,436
2006	59	3,867
2005	72	4,904
2004	97	9,140
2003	45	2,485
2002	49	1,025

**NED DRUG PRESENTATIONS / TRAININGS CONDUCTED  
2002-2010**



**ELECTRONIC PRESCRIPTION MONITORING PROGRAM**

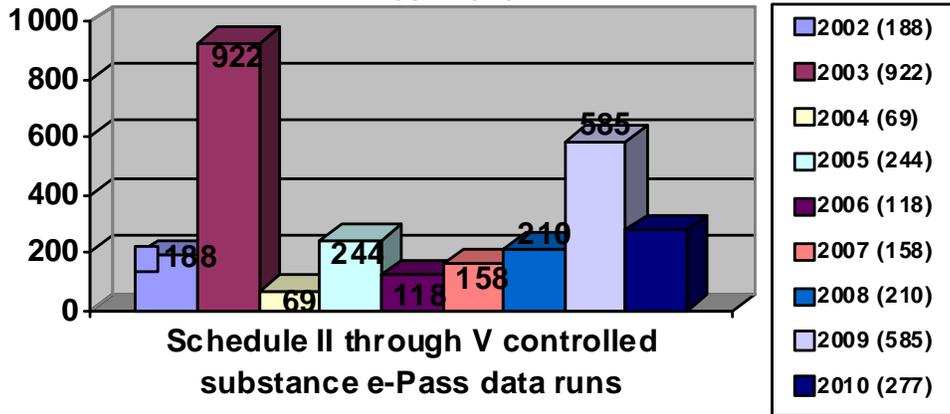
NED’s Electronic Prescription Monitoring Program (e-PASS) and NED’s Pharmacy Alert System continues to identify and chart specific prescribing trends of Hawaii Physicians as well as identifies multi-doctor patients attempting to obtain controlled substance prescriptions. During FY 2010, NED provided prescription information utilizing Hawaii’s electronic prescription monitoring program to 48 authorized law enforcement agencies conducting criminal drug cases and 229 reports to physicians relating to their patients controlled substance use.

During FY 2007 with the assistance of a Bureau of Justice Grant NED was able to acquire two positions for its prescription-monitoring program. These two federally funded positions enabled NED to take over the function of the “Central Repository” of all Schedule II through V controlled substance prescription data statewide. This Grant also enabled NED to establish an Internet base webpage that has the capability of allowing pharmacies to electronically transmit data to NED.

On August 15, 2007, NED was notified that it 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 PSD’s NED.

This grant focuses on processing all prescription data electronically sent to NED in-house. This grant also allowed 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. In April of 2010, NED’s PMP Investigator took a position with the Attorney General’s Office and caused a backlog of data at NED. NED had to prioritize the issuance of e-pass reports only to agencies conducting criminal cases, pending NED acquiring a fully hosted prescription monitoring program vendor. During FY2010, NED was able to select a vendor for a fully hosted PMP from the invitation for bid (IFB), but due to challenges by another vendor the official award was not made till June 2010. NED is working with Relay Health to implement the contract and is expecting that the contract will be executed by the end of January 2011.

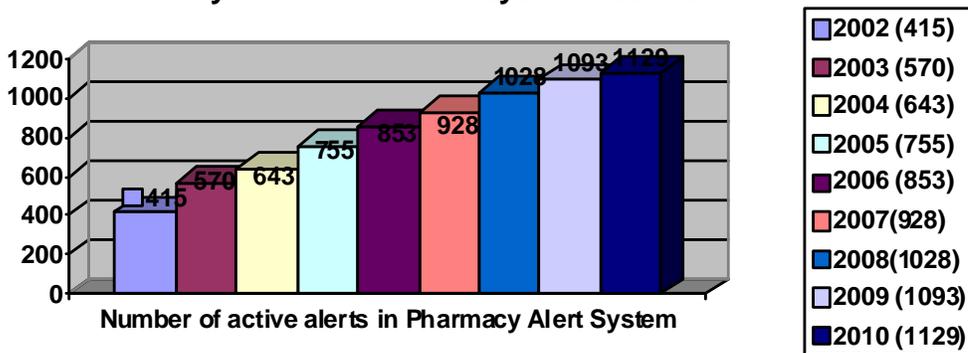
**NED's Electronic Prescription Monitoring Program ( e-Pass)  
data reports sent to Law Enforcement and Physicians  
2002-2010**



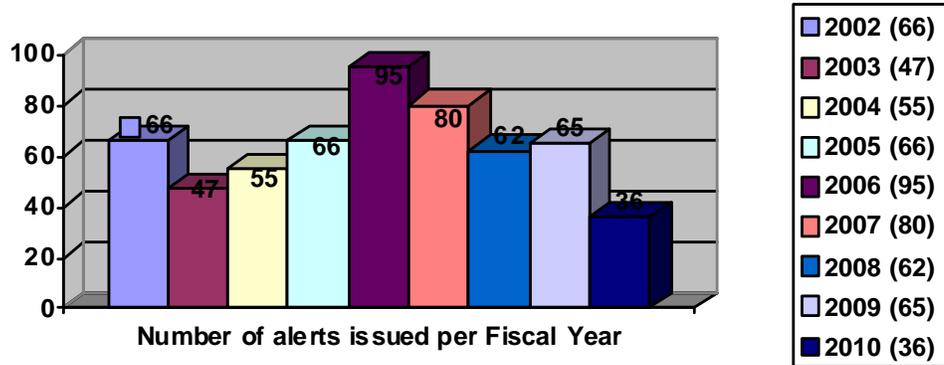
**NED'S PHARMACY ALERT SYSTEM**

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. During FY2010, NED issued 36 pharmacy alerts and is presently monitoring 1,129 alert bulletins on this system.

**Pharmacy Alert Bulletins in System 2002-2010**



### Pharmacy Alert Bulletins per year 2002-2010



## REGISTRATION

During FY2010 NED's Registration Staff processed 12,390 applications for controlled substance registrations, regulated chemical permits and patient registry identification certificates for the medical use of marijuana program.

State Administrative rules require that the processing of these certificates be done within 60 days; however, prior to 2010, NED Registration Staff had been able to process these applications with 5-7 days. In 2009-2010, due to the substantial increase in Medical Use of Marijuana patient and caregiver applications, the one registration clerk assigned full time to process these applications is reporting a 45 to 60 day processing timeline. This is due to the fact that the Medical Use of Marijuana Program was placed in the Narcotics Enforcement Division in 2000 with no additional personnel appropriated for this program by the legislature. Since then, NED has had to utilize its two clerical positions to process the Medical Use of Marijuana permits without additional support or appropriations from the legislature, causing a backlog in of the data input of the NED.

During this legislative session NED is requesting two Administrative Assistant III positions to assist NED's registration staff in processing all of the controlled substance, regulated chemical and medical use of marijuana applications in a timelier manner.

## 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 which requires that the PSD prorogate 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 PSD 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 PSD to go forward with the public hearing on the Medical Use of Marijuana Rules. On December 22, 2000, the PSD 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 issued 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 PSD 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.

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, however did not appropriate any funding for positions.

On June 6, 2005, NED was notified that the U.S. 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."

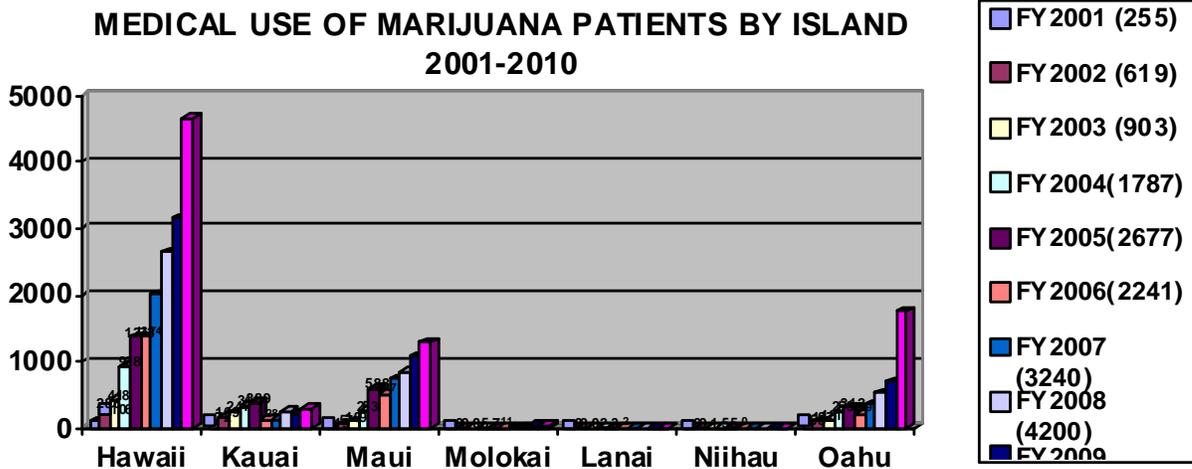
Due to these findings, NED requested guidance from the Attorney General's Office as to Hawaii's Medical Use of Marijuana Program. NED will be amending all of its registry application forms, patient and physician information packets to educate the public that the protections afforded to authorized patients 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.

Over the years the Narcotics Enforcement Division's Registration Section has been able to decrease the time required to process medical marijuana registry certificate to within five to seven days of receipt. State Administrative rules require that the processing of these certificates be done within 60 days; however, in FY 2010 the number of patients in the program increased to 5,190 patients and 562 caregivers requiring NED to dedicate one of its registration clerks to handle the processing of medical use of marijuana applications full time. In FY 2010, as the number of patients and caregivers steadily increased NED's one registration clerk was no longer able to keep up with the steadily increasing volume of medical use of marijuana applications without help. NED was forced to utilize additional PSD clerical staff, after hours, and at overtime rates to assist in processing the increasing number of medical use of marijuana applications. FY 2010 now reflects 8067 patients and 858 caregivers. It should be noted that the processing of each medical use of marijuana application takes approximately 20-30 minutes to make the appropriate verifications, computer input, printing and mailing of the permit. This does not include the time required for the NED Administrator to respond to all law enforcement

verification requests, subpoena's for records or court testimony. NED will be requesting additional funds and personnel during the FY2011 legislative session.

As of the end of FY 2010, the following is the statistical breakdown 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	4,665	512	24	24
Kauai	302	117	13	17
Lanai	5	0	0	2
Maui	1,293	128	20	15
Molokai	45	10	0	9
Niihau	6	0	0	4
Oahu	<u>1,751</u>	<u>91</u>	<u>13</u>	<u>34</u>
<b>TOTAL:</b>	<b>8,067</b>	<b>848</b>	<b>70</b>	<b>105</b>

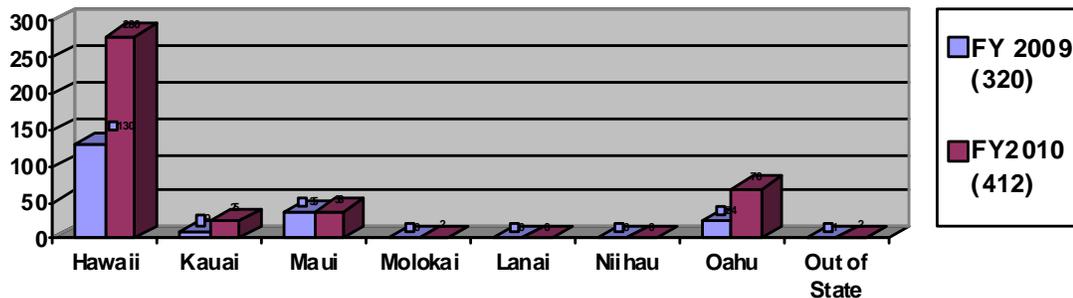


## MEDICAL USE OF MARIJUANA VERIFICATION CHECKS REQUESTED CONDUCTED BY LAW ENFORCEMENT

Since the inception of Hawaii's Medical Use of Marijuana program in 2000, NED has worked very closely with State and county law enforcement officers in conducting medical use of marijuana permit verification information with the officers on the street.

During FY 2010, NED conducted 412 medical marijuana verification checks for Federal, State and County law enforcement agencies. Of these 412, law enforcement verification checks the issuing physician has only revoked 5 of these permits from patients or caregivers arrested for violating the program by possessing over the authorized number of marijuana plants or processed marijuana. NED has received numerous verification calls resulting in an individual being released without arrest or seizure of their plants due to the ability of law enforcement officer to contact NED 24 hours a day, 7 days a week to verify a patient or caregiver's medical use of marijuana certificate status. During 2009, NED implemented a standardized form for Federal, State and County law enforcement to request Medical Use of Marijuana verification information and set up a tracking system of these request.

**LAW ENFORCEMENT MEDICAL USE OF MARIJUANA VERIFICATION REQUEST BY ISLAND 2009-2010**



The following is the list of debilitating medical conditions in which Medical Use of Marijuana permits were issued in FY 2010:

Cachex / Wasting Syndrome	33
Chron's Disease	0
Glaucoma	60
HIV or AIDS	76
Malignant Neoplasm (Cancer)	76
Multiple conditions listed	1,977
Persistent Muscle Spasms	98
Seizures	43
Severe Nausea	95
Severe Pain	<b>4,938</b>

During FY 2008 through FY 2010, the law enforcement agencies and the public have continue to voice concerns relating to specific physicians participating in Hawaii's Medical Use of Marijuana Program not examining or having a bona fide doctor patient relationship with their patients. Another concern being voiced by the public is that some of these patients on the program are just doing it to smoke marijuana and that the doctors know about this.

Based on the above, on June 15, 2008, Governor Linda Lingle signed Act 186 into law that amended Chapter 329 HRS by adding a new definition for the term "Physician-patient relationship" and penalties for non-compliance to this section.