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DRUG LAWS AND OFFENDERS

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HAWAII CRIMINAL JUSTICE DATA CENTER

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STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
HAWAII CRIMINAL JUSTICE DATA CENTER

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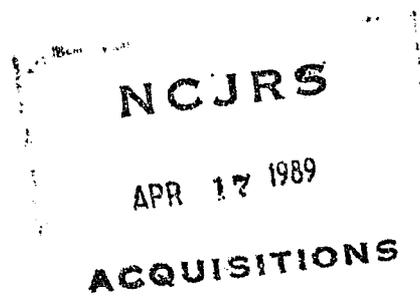
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Research and Statistics Report (RS05)

FOREWORD

Drug abuse is an important issue in criminal justice. Illicit drugs have a destructive potential on users. It also may lead the user to commit crimes to obtain the drugs. As such, the Hawaii Criminal Justice Data Center conducted a study to gain some insight into the problem. The Data Center examined drug abuse in general as well as drug laws and offenders.

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DRUG LAWS AND OFFENDERS

INTRODUCTION

Illicit drugs are a major concern of law enforcement agencies. The drug problem seems to be on the rise as is evident by the increase in drug arrests and drug confiscations. Drug arrests in Hawaii have increased close to 20 percent from 1982 to 1987.¹ The estimated value of marijuana confiscated or sprayed in 1982 was \$30 million; in 1987, it was \$1.9 billion.² The Hawaii Criminal Justice Data Center (HCJDC) conducted a study in order to obtain a better understanding of the problem. The study examined drug abuse, drug laws, and drug offenders. This report presents the results of the study.

METHOD

For the section on state drug offenders, the study used HCJDC's Offender-Based Transaction Statistics/Computerized Criminal History (OBTS/CCH) files to identify the arrest population. The files showed there were approximately 2,800 adults arrested at least once for drug offenses during 1984.³ The year selected was 1984 since it allowed some time for post arrest criminal activity, if any, to occur.

The study design required a sample size of about 340 offenders in order to be representative of the arrest population. A sample of that size is also a reasonable number to conduct research on. Table 1 presents the

distribution of arrest charges by group for the sample.

TABLE 1
ARREST CHARGE OF OFFENDERS

<u>Charge Group</u>	<u>Number</u>	<u>Percent</u>
Promoting Dangerous Drugs	79	23.2
Promoting Harmful Drugs	9	2.6
Promoting Detrimental Drugs	245	72.1
Promoting Intoxicating Compounds	7	2.1
TOTAL	340	100.0

Adjustments to the sample were made after an examination of the arrest records. The original sample included offenders arrested for HRS §712-1250 - Promoting Intoxicating Compounds. Intoxicating compounds include chemicals such as acetone, hexane, and ethyl acetate, which, technically are not drugs. For that reason, seven offenders arrested for promoting intoxicating compounds were deleted from the sample. The final sample consisted of 333 offenders.

The section on drug offenders presents offender characteristics, criminal history, and post-arrest criminal activity information. OBTS/CCH system files were the source of the data.

DRUG ABUSE

The word "drug" is defined by Webster's Ninth New Collegiate Dictionary as a substance used as a medication or in the preparation of medication. The Food, Drug, and Cosmetic Act defines this term as:

- 1) A substance recognized in an official pharmacopoeia or formulary.
- 2) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.
- 3) A substance other than food intended to affect the structure or function of the body, or
- 4) A substance intended for use as a component of a medicine but not a desire on a component, part, or accessory of a device.

David Girdano and Dorothy Dusek in their book Drug Education, defined drug abuse as the "repeated misuse of drugs." They stated that it also implied a "chronic desire for euphoria from a substance that is, in most cases, obtained illegally and carries with it a high personal and social hazard." Such abuse may lead to "socially deviant behavior and often to psychological and/or physiological dependence."⁴

Girdano and Dusek also point out that the general purpose of drugs is to cure the ill. The pattern may be seen as follows:

Sick -----> Drug -----> Well

The pattern of drug abuse may be envisioned as follows:

Sick -----> Drug -----> Relief -----> Sick

It is an endless cycle.⁵

Crime Relationships

The use or possession of illicit drugs is a crime in of itself. Drug abuse however, is also a contributing factor to other crimes. Physical dependence in the user may lead, and often has led, to crimes to obtain money needed to purchase more drugs. According to a report by the District of Columbia Office of Criminal Justice Plans and Analysis, many offenders use drugs. Of 14,249 adult arrestees tested for drug use in 1986 in the District of Columbia, 68 percent tested positive.⁶ The report emphasized that drug dependent persons have few options within the law to secure the required funds in order to maintain their habits and often commit crimes such as larcenies, robberies, or burglaries to obtain cash to purchase their drugs.

Stopping the distribution of illicit drugs is also a major problem. The District of Columbia report also stated that the distribution of illicit drugs is primarily conducted by well-financed, sophisticated organizations which employ many people and are able to operate across state, national, and international boundaries.⁷

A report by the HCJDC on juveniles arrested in 1985 showed that although the majority of arrestees did not seem

to be under the influence of drugs or alcohol when arrested, at least 12 percent were suspected of such. Actual drug testing is not routinely conducted and so the number may be higher.⁸

CAUSES OF DRUG ABUSE

Drug abuse is a growing problem in Hawaii and in the United States. It is impossible to isolate a single reason for the increase in drug abuse. The causes of the problem are complex and may vary from person to person and from drug to drug.⁹ Robert Ferguson in his book, Drug Abuse Control, presented several theories. Although the book was published in 1975, many of the possible causes are still relevant and are summarized below.¹⁰

Disease of Association

As a child grows up, the influence of his parents may be overshadowed by the influence of the peer group, which more fully satisfies his need for the feeling of solidarity. Often, the peer group influences the formation of individual attitudes toward drug use. Individuals who lack self-confidence or self-esteem are more likely to submit to peer pressure since they need more attention and approval from their peers than do those who have self-confidence. Conforming under group influence may lead to arrest or addiction.

Emotional Instability

Human weakness and personality maladjustments may increase an individual's susceptibility to drug addiction. The need to escape from nervous tension or frustration built up by societal factors, such as occupational pressure, may also increase susceptibility to drug addiction. The link between susceptibility and actual drug addiction, however, is socializing with illicit drug users. This socializing (peer pressure) reinforces the individual's belief that drugs, made readily available to him, are a required part of his life.

Environmental and Background Factors

The typical delinquent or drug abuser may be characterized as a victim of an overcrowded home or neighborhood. Excessive independence and lack of consistent discipline may have led him to low motivation for achievement, low self-esteem, and susceptibility to peer pressure, juvenile delinquency, and drug abuse. He may have dropped out of school and be unemployed.

Other environmental and background factors which may encourage drug addiction include: racial and religious prejudices; limited community and school recreational facilities; group pressures from family, friends, neighborhood, and gangs; social rejection; frustration over failure to reach unattainable goals, and revolt against the competitive, striving aspects of society.

Curiosity

Everyone has a basic desire to experience the unknown. Social contact and vivid stories enhance the interest in peer groups experimenting with new drugs. An individual may even be ostracized for refusing to participate.

For certain types of drug, such as amphetamines and barbiturates, usage of those drugs tend to decline after initial experimentation. Although marijuana users also follow that pattern, the number of people who continue to use marijuana after the first try is still high.

Boredom and Leisure Time

The problem of boredom and excessive leisure time is minor but nevertheless a factor which may lead to drug addiction as a substitute for creativity.

Relaxation and Pleasure

Alcohol and marijuana have become recreational drugs for many people. Drugs and alcohol can be used to acquire a sense of ease, freedom, and relaxation. Pleasure and curiosity may be the most frequently cited reasons for using drugs. If a compulsion for drugs develops in order to derive pleasure or to relax, however, the result is dependence.

The Nature of Life

Individuals with a strong interest in their own nature

or the meaning of life and the world about them are often attracted by marijuana or hallucinatory drugs.

Spiritual and Identity Formation

Drugs have been used in religious practice, as among the Aztecs and in the Native American Church, to communicate with the gods. The religious aspect of drug use, however, is more the exception than the rule.

Identity formation involves the development or discovery of oneself. Drugs may be used to show independence for the control of parents or others.

DRUG LAWS

Once a person becomes involved in illicit drugs, then drug laws come into play. Drug violations are addressed at all levels of government. This report covers Federal laws and Hawaii state laws.

The restriction of drug use through laws evolved from two basic motives. The first motive is morality. Society views illicit drug use as morally wrong and that the drug user needs to be protected from the user's own "weaknesses". The second motive is self-protection. Society must be protected from the potential harm which may be inflicted upon it by a drug-using population.¹¹ The harm is not only in terms of increased crime, but in the loss of productivity and quality of services.

FEDERAL LAWS

Federal laws are applicable throughout the nation. There are many sections in the United States Code (USC) that deal with drugs.¹² The title most pertinent is Title 21- Food and Drugs. Chapter 13 deals with drug abuse prevention and control. Chapter 13 has two subchapters, subchapter I deals with control and enforcement, and subchapter II, with import and export. This report focuses on subchapter I Parts A, B, and D, and briefly discusses subchapter II.

In general, Chapter 13 of Title 21 is organized as follows:

- Title 21 - Food and Drugs
 - Chapter 13 - Drug Abuse Prevention and Control
 - Subchapter I - Control and Environment
 - Part A - Introductory Provisions
 - Sections 801-803
 - Part B - Authority to Control; Standards and Schedules
 - Sections 811-812
 - Part C - Registration of Manufacturers, Distributors, and Dispensers of Controlled Substance
 - Sections 821-830
 - Part D - Offenses and Penalties
 - Sections 841-852
 - Part E - Administrative and Enforcement Provisions
 - Sections 871-886
 - Part F - General Provisions
 - Sections 901-904
 - Subchapter II - Import and Export
 - Sections 951-969

The chapter begins with introductory provisions and definitions. The "Congressional Findings and Declarations"

section of the chapter presents facts relating to the problem of drugs and other controlled substances. It also lays the foundation for the need for drug laws.

§801. Congressional findings and declarations for enforcement of laws and respecting duties

- (1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.
- (2) The illegal importation, manufacture, distribution, possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.
- (3) A major portion of the traffic in controlled substance flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because -
 - (A) after manufacture, many controlled substances are transported in interstate commerce
 - (B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and
 - (C) controlled substances possessed commonly flow through interstate commerce immediately prior to such substances.
- (4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.
- (5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured, and distributed interstate.

Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

- (6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.
- (7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substance.¹⁷

All drugs are classified in schedules according to their potential for abuse, medical use, and addictive properties. The most dangerous drugs are schedule I substances. The least dangerous are in schedule V. Section 812 of U.S.C. covers the schedules of controlled substances. The criteria for categorizing substances is found in subsections (B)(1) through (B)(5). They are presented below.

- (1) Schedule I -
 - (A) The drug or other substance has a high potential for abuse.
 - (B) The drug or other substance has no currently accepted medical use in treatment in the United States.
 - (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.
- (2) Schedule II -
 - (A) The drug or other substance has a high potential for abuse.

- (B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use severe restrictions.
 - (C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.
- (3) Schedule III -
- (A) The drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I and II.
 - (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
 - (C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.
- (4) Schedule IV -
- (A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule III.
 - (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
 - (C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.
- (5) Schedule V -
- (A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule IV.
 - (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
 - (C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV.

Schedule I substances include heroin, morphine, and hallucinogenic drugs such as marijuana, peyote, and

mescaline. Schedule II substances include opium, methadone, and coca leaves. Schedule II substances include narcotics, depressants, and stimulants such as amphetamine. Schedule IV drugs include barbital and phenobarbital. Schedule V drugs include preparations of medicinal value containing some narcotics.¹³

The major drug offense laws are contained in part D of Chapter 13. Sections 841, 842, and 843 are known as "Prohibited acts A", "Prohibited acts B", and "Prohibited acts C", respectively. Section 841 is the broadest law, dealing with any person who illegally manufactures, distributes, or dispenses, or possesses with intent to do any of the aforementioned, controlled substances. Part of the law is presented below.

§841. Prohibited acts A

(A) Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally -

- (1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or
- (2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.¹⁹

The penalties listed in section 841 are summarized in the below. The penalties are listed by controlled substance and are maximums.

<u>Substance</u>	<u>Fine</u>	<u>Imprisonment</u>	<u>Special parole</u>
Schedule I or schedule II (narcotic)	\$25,000	15 years	3 years
Schedule I or schedule II (non-narcotic); all of schedule III	\$15,000	5 years	2 years
Schedule IV	\$10,000	3 years	1 year
Schedule V	\$5,000	1 year	none
Phencyclidine	\$25,000	10 years	2 years
Marihuana (over 1000 lbs.)	\$125,000	15 years	none
Piperidine	\$15,000	5 years	none

The law allows for extended sentences. If an offender had been previously convicted for a felony under any provision of Chapter 13 or any other drug law, the penalties are doubled. If an offender is convicted for violations of section 841 (A)(1) by distributing a controlled substance to a person under 21 years of age, the above table of penalties are also doubled. If that offender also has certain previous drug convictions, the penalties are tripled.¹⁴

Special parole is a term provided in addition to, and not in lieu of, any other parole term. The special parole may be revoked if its terms and conditions are violated. If it is revoked, the original imprisonment term is increased by the special parole term.

Section 842 primarily concerns violations of registration laws by people who are subject to requirements under the law or who are registered to work with controlled substances. The penalties are civil penalties unless it can be proven that the offender knowingly committed the offense.

Section 843 concerns criminal violations of registration laws such as the illegal distribution by a registrant; obtaining, manufacturing, or distributing by fraudulent means; or producing counterfeit substances. Anyone violating this section may be imprisoned up to 4 years and fined up to \$30,000. The terms may be doubled if the offender has previous drug convictions.

Section 844 addresses simple possession. Illegally possessing a controlled substance may lead to imprisonment up to 1 year and/or a fine of \$5,000 for a person with no previous drug conviction.

If an offender is convicted of attempting to commit or conspiracy to commit offenses under any section in subchapter I, the penalties are the same as if the offenses were actually committed.¹⁵ Penalties for criminal offenses are in addition to, and not in lieu of, civil or any other penalties.¹⁶

Sections 848 and 849 address special cases. Section 848 says that a person engaging in a continuing criminal enterprise will be sentenced to prison anywhere from 10 years to life, fined up to \$100,000, and forfeit profits from, and

any interest in, or property of, such enterprise. If the offender has previous convictions, he may be imprisoned from 20 years to life and fined up to \$200,000.

A person is involved in a continuing criminal enterprise, for purposes of section 848, if he continuously violates any felony provision of chapter 13 which are undertaken in concert with five or more other people, and from which such people obtain substantial income or resources.

Section 849 deals with dangerous special drug offender sentencing. If the US Attorney has valid reasons to believe that the defendant is a dangerous special drug offender, and if the court finds such, imprisonment terms may be increased.

Subchapter II deals with the unlawful importation and exportation of controlled substances. Section 952 states it is unlawful to import controlled substances except under certain circumstances such as medical or scientific purposes. Similarly, section 953 addresses the illegal aspects of exporting such substances.

Section 955 states that it is illegal to bring or possess (also to manufacture or distribute, or attempt to do so), on board any vessel, vehicle or aircraft, arriving in or departing from the United States, a controlled substance in schedule I or II or a narcotic drug in schedule III or IV, unless it is listed in the manifest or is part of the official supplies. In addition to criminal penalties,

property involved in such illegal activities may be seized and forfeited.

Section 959 makes it illegal to manufacture or distribute a schedule I or II substance outside the U.S. for the purpose of unlawfully importing into the U.S.

Section 960 entitled, "Prohibited acts A", states the punishment for violating sections 952, 953, 955, 957, and 959. The penalties are as follows:

Substance	Fine	Imprisonment	Special parole
Narcotic Drugs: Schedules I, II	\$25,000	15 years	3 years
All Other Drugs: Schedules I, II, III	\$15,000	5 years	2 years
Schedule IV	\$15,000	5 years	1 year

HAWAII LAWS

Hawaii drug laws are found in the Hawaii Revised Statutes (HRS).¹⁷ Hawaii, like the Federal government, classifies controlled substances into schedules. A substance is placed in a schedule based on the factors listed below.

- (1) The actual or probable abuse of the substance including:
 - (a) Its history and current pattern of abuse;
 - (b) The scope, duration and significance of abuse; and
 - (c) A judgment of the degree of actual or probable detriment which may result from the abuse of the substance.
- (2) The biomedical hazard of the substance including:
 - (a) Its pharmacology: the effects and modifiers of

- effect of the substance;
- (b) Its toxicology: the acute and chronic toxicity interaction with other substances whether controlled or not and liability to psychic or physiological dependence;
 - (c) Risk to public health and particular susceptibility of segments of the population; and
 - (d) Existence of therapeutic alternatives for substances which are or may be used for medical purposes.
- (3) A judgment of the probable physical and social impact of widespread abuse of the substance.
 - (4) Whether the substance is an immediate precursor of a substance already controlled under this part.
 - (5) The current state of scientific knowledge regarding the substance.¹⁸

Schedule I substances pose the highest degree of danger. They include opiates, opium derivatives, and hallucinogenics such as LSD, mescaline, peyote, PCP, and marijuana. Schedule II substances pose less of a threat than schedule I substances and includes opium, coca leaves, depressants such as secobarbital, and stimulants such as amphetamine. Schedules III & IV include other depressants and stimulants that have an effect on the central nervous system. Schedule V substances pose the least danger. It includes compounds of medicinal qualities that also contain narcotic drugs such as codeine. A complete listing of substances in each schedule can be found in HRS Chapter 329. The list is revised periodically. The law allows the Department of Health to temporarily add, delete, or reschedule substances. However, in order for the change to be permanent, the legislature must make the corresponding statutory changes.

The focus of Chapter 329 is controlled substances. It

regulates the manufacture, distribution, prescription, and dispensing of such substances. It also provides for the enforcement of laws and penalties for law violations. However, the focus of this section is on the major drug violation laws, HRS sections 712-1241 through 712-1249.¹⁹

The violations of sections 712-1241 through 712-1249 range from petty misdemeanors to felonies. These sections deal with the person who has received, is in possession of, or who intends to promote a dangerous, harmful, or detrimental drug.

The schedule of controlled substances appears in those laws. Basically, "dangerous drugs" are those in Schedule I and II with the exception of marijuana. "Harmful drugs" are those in Schedules III and IV including marijuana concentrates such as hashish. "Detrimental drugs" are those in Schedule V with the addition of marijuana. Those terms are formally defined in section 712-1240.

There are three degrees of violation for each drug group. The degree depends on the weight of the drug in question. It is designed to give the drug trafficker a stiffer penalty than the occasional user.

Sections 712-1241, 712-1242, and 712-1243 addresses the person who knowingly attempts or commits the offense of promoting a dangerous drug. The laws are presented below.

§712-1241 Promoting a dangerous drug in the first degree. (1) A person commits the offense of promoting a dangerous drug in the first degree if he knowingly:

(a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:

(i) One ounce or more, containing heroin, morphine, or cocaine or any of their respective salts; or

(ii) Two ounces or more, containing one or more of any of the other dangerous drugs; or

(b) Distributes:

(i) Fifty or more capsules, tablets, ampules, dosage units, or syrettes containing one or more dangerous drugs; or

(ii) One or more preparations, compounds, mixtures, or substances of an aggregate weight of:

(A) One-eighth ounce or more, containing heroin, morphine, or cocaine or any of their respective salts; or

(B) One-half ounce or more, containing any other dangerous drug; or

(c) Distributes any dangerous drug in any amount to a minor.

(2) Promoting a dangerous drug in the first degree is a class A felony.

§712-1242 Promoting a dangerous drug in the second degree. (1) A person commits the offense of promoting a dangerous drug in the second degree if he knowingly:

(a) Possesses fifty or more capsules, tablets, ampules, or ceratose, containing one or more dangerous drugs; or

(b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:

(i) One-eighth ounce or more, containing heroin, morphine, or cocaine or any of their respective salts; or

(ii) One-half ounce or more, containing any dangerous drug; or

(c) Distributes any dangerous drug in any amount.

(2) Promoting a dangerous drug in the second degree is a class B felony.

§712-1243 Promoting a dangerous drug in the third degree. (1) A person commits the offense of promoting a dangerous drug in the third degree if he knowingly possesses any dangerous drug in any amount.

(2) Promoting a dangerous drug in the third degree is a class C felony.

Dangerous drugs have the potential to destroy the physical and mental well being of the user. Most of the drugs of this category are highly addictive and have high tolerance levels. Greater amounts of the drugs are needed each time they are used in order to achieve the same "high". Severe withdrawal symptoms occur when the use of the drugs are stopped. The combination of a high tolerance level and addictive ability creates a physical dependence in the user which may lead, and in many cases has led, to crimes to obtain money needed to purchase more drugs.²⁰

Sections 712-1244, 712-1245, and 712-1246 addresses the person who knowingly attempts or commits the offense of promoting a harmful drug. The laws are presented below.

§712-1244 Promoting a harmful drug in the first degree. (1) A person commits the offense of promoting a harmful drug in the first degree if he knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one ounce or more containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (c) Distributes fifty or more capsules or tablets containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (d) Distributes one or more preparations, compounds, mixtures, or substances, of an

aggregate weight of one-eighth ounce or more, containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; of

(e) Distributes any harmful drug or any marijuana concentrate in any amount to a minor.

(2) Promoting a harmful drug in the first degree is a class A felony.

§712-1245 Promoting a harmful drug in the second degree. (1) A person commits the offense of promoting a harmful drug in the second degree if he knowingly:

(a) Possesses fifty or more capsules or tablets containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or

(b) Possesses one or more preparations, compounds, mixture, or substances, of an aggregate weight of one-eighth ounce or more, containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or

(c) Distributes any harmful drug or any marijuana concentrate in any amount.

(2) Promoting a harmful drug in the second degree is a class B felony.

§712-1246 Promoting a harmful drug in the third degree. (1) A person commits the offense of promoting a harmful drug in the third degree if he knowingly possesses any harmful drug in any amount.

(2) Promoting a harmful drug in the third degree is a misdemeanor.

Sections 712-1247, 712-1248, and 712-1249 concern people who knowingly attempt or actually commit the offense of promoting a detrimental drug. Marijuana is considered a detrimental drug even though it is a schedule I substance. It is felt that marijuana is not addictive. Withdrawal symptoms are not likely to occur after marijuana usage has stopped.²¹ As marijuana is one of the more readily available drugs, most of the drug offenders fall into this category.

The laws are presented below.

§712-1247 Promoting a detrimental drug in the first degree. (1) A person commits the offense of promoting a detrimental drug in the first degree if he knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or more of the Schedule V substances; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing one or more of the Schedule V substances; or
- (c) Distributes fifty or more capsules or tablets containing one or more of the Schedule V substances; or
- (d) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-eighth ounce or more, containing one or more of the Schedule V substances; or
- (e) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of two and two-tenths pounds or more, containing any marijuana; or
- (f) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of two ounces or more, containing any marijuana; or
- (g) Distributes any marijuana or any Schedule V substance in any amount to a minor.

(2) Promoting a detrimental drug in the first degree is a class C felony.

(3) Any marijuana seized as evidence of a violation of this section in excess of ten pounds may be destroyed after it has been photographed and the weight thereof recorded. The remainder of the marijuana shall remain in the custody of the police department until the termination of any criminal action brought as a result of the seizure of the marijuana. Photographs duly identified as accurately representing the marijuana shall be deemed competent evidence of the marijuana involved and shall be admissible in any proceeding, hearing or trial to the same extent as the marijuana itself. Provided, however, that nothing in this subsection shall be construed to limit or to restrict the application of Rule 901 of the Hawaii Rules of Evidence.

§712-1248 Promoting a detrimental drug in the second degree. (1) A person commits the offense of promoting a detrimental drug in the second degree if he knowingly:

- (a) Possesses fifty or more capsules or tablets containing one or more of the Schedule V substances; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one-eighth ounce or more, containing one or more of the Schedule V substances; or
- (c) Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one ounce or more, containing any marijuana; or
- (d) Sells any marijuana or distributes any Schedule V substance in any amount.

(2) Promoting a detrimental drug in the second degree is a misdemeanor.

§712-1249 Promoting a detrimental drug in the third degree. (1) A person commits the offense of promoting a detrimental drug in the third degree if he knowingly possesses any marijuana or any Schedule V substance in any amount.

(2) Promoting a detrimental drug in the third degree is a petty misdemeanor.

The listing below summarizes the penalties for sections 712-1241 to 712-1249.

<u>Law</u>	<u>Severity</u>	<u>Fine</u>	<u>Imprisonment</u>
712-1241 712-1244	Class A Felony	\$10,000	20 years
712-1242 712-1245	Class B Felony	\$10,000	10 years
712-1243 712-1247	Class C Felony	\$5,000	5 years
712-1246 712-1248	Misdemeanor	\$1,000	1 year
712-1249	Petty Misd.	\$500	30 days

Recent Changes and Additions

In 1986, Act 314, Session Laws of 1986 added section 712-1249.5 to Chapter 712. The law addresses the commercial promoting of marijuana. It made growing marijuana a crime and a class B felony.

Act 356, Session Laws of 1987 amended section 712-1242 to include possession of 50 or more dosage units containing one or more dangerous drugs.

Act 259, Session Laws of 1988 made the possession, advertisement, manufacture, or delivery of drug paraphernalia, illegal and established penalties. Also in 1988, Act 284 made promoting a controlled substance in, on, or near schools, a class C felony. It established a minimum term of imprisonment of two years for an offender with prior convictions for promoting controlled substances. The legislature also addressed the drug "crystal". Act 146 amended section 712-1241 to include possession or distribution of methamphetamine and its salts, isomers, and salts of isomers. The act also amended the law to include isomers and salts of isomers of heroin, morphine, and cocaine. Similarly, Act 291 amended section 712-1242 to include possession of methamphetamine.

PREVENTION OF DRUG ABUSE

The drug problem cannot be solved through the efforts of law enforcement alone. The first step in the prevention of drug abuse must be taken by the drug user. Through drug treatment programs, the drug user may receive counseling, treatment, and outpatient or inpatient services. These programs also conduct assessments and research as well as provide education and information on drug abuse prevention.²²

Educating young people about drugs is important. It is easier for young people to change their behavior than it is for adults, and schools and the media are ideal channels by which to encourage them to avoid or give up drug abuse.

There are also sound reasons to offer services to adults. Adults abuse only certain types of drugs, especially the legal drugs. The elderly, who use medications, are an example. Adults must be cared for, too, as they are important role models for younger members of society. They are the decisionmakers of society, setting standards and formulating laws.²³

Knowledge, attitudes, and behavior play important roles in society. Educators have struggled for a long time to understand the relationships between what people know, what they feel, and what they do. Research results suggest that drug education programs should seek to fulfill a variety of informational, affective, and behavioral objectives.²⁴

Informational objectives may include increasing knowledge and awareness about the nature and effects of drugs, the appropriate use of drugs, and alternatives to the use of drugs.²⁵

Affective objectives may deal with feelings, attitudes, and values regarding drugs, drug abuse, and addiction. They may also address feelings about individuals who use or abuse drugs and the improvement of the self-image.²⁶

Behavioral objectives may range from supporting prevention efforts, through changing the way in which drugs are used, to achieving total abstinence from drugs.

DRUG TREATMENT APPROACHES

The four most frequent treatment approaches are therapeutic community, detoxification, abstinence, and methadone maintenance.²⁷

1. **Therapeutic Community** - This is a treatment program that works to rehabilitate those with a history of drug abuse. Treatment methods include counseling sessions that deal with self-awareness, self-worth, self-discipline, respect for authority, and acceptance of guidelines for problem areas. Treatment lasts from six to nine months, and upon release from the program, participants are encouraged to continue substance abuse treatment.

2. **Detoxification** - Detoxification is a process during which an illicit substance is rid from the body. Entry to a detoxification unit requires that the level of alcohol or drugs in the blood be above 0.1 percent. Detoxification is a gradual process which may last from 3 days to several months. Frequently the first phase of treatment of alcoholics and drug addicts, detoxification programs are usually voluntary. After being detoxified, a client is usually referred to an outpatient clinic for psychiatric or psychological treatment or to an abstinence program.

3. **Abstinence** - Abstinence programs operate by regarding addiction as a disease. The effectiveness of the program depends on the client's willingness to take responsibility for his condition, his life, and his own future. The attitude of self-responsibility is achieved through a self-help process with the group support of others experiencing similar addiction problems.

4. **Methadone Maintenance** - This is a form of treatment used with heroin addicts. The heroin normally taken by the addict is replaced with an approximately equivalent dosage of oral methadone, which blocks the desire for heroin without producing the same narcotic euphoria. The purpose of methadone maintenance is to help the

client achieve abstinence from all mind-altering drugs except methadone.

DRUG TESTING

General interest is growing in the use of chemical tests to identify drug users. Since drug abuse and associated health problems are common among criminals, drug testing may be valuable in achieving the following:

1. Identifying active criminals,
2. Alleviating crowded conditions in jails and prisons,
3. Ensuring community safety from further crimes by released prisoners,
4. Identifying drug abusers who have public health problems,
5. Monitoring patterns of drug availability and use in the community, and
6. Reducing drug abuse and crime.²⁸

The disadvantages of drug testing include the occasional occurrence of false positives in urine testing, the possibility of the long-term labeling of an individual as a drug user following a positive result, potential violation of the fourth amendment against illegal search and seizure, and potential violation of the right to due process. The most

serious danger in a drug testing program, however, is the belief that merely using the tests will remedy the drug abuse problem. Although tests are a basic tool in identifying the extent of the problem, a plan of effective responses must be available, before testing begins, so that assistance may be rendered to those identified as victims of drug abuse.²⁹

DRUG ARRESTS IN 1984

Both federal and state data is presented in this section. Federal data represents people arrested in 1984 by the Drug Enforcement Administration (DEA) in Hawaii. State data represents a sample of people arrested in the state in 1984 for violating state drug laws. In this report, such people are referred to as offenders.

FEDERAL DRUG ARRESTS

Information on DEA arrests made in Hawaii in 1984 are presented in this section.³⁰ Included as a sub-category of total DEA arrests are arrests made in cooperation with state and local law enforcement agencies.

Table 2 presents arrest data by offense and type. By offense category, most of the arrests made by the DEA in 1984 were for either distribution or possession of drugs. Very few were made for manufacturing.

By drug type, cocaine was the leading drug involved in Federal arrests. Marijuana was involved in only a small portion of the arrests in 1984.

Arrests disposed of in 1984 are presented in Table 3. Please note, the table may include arrests occurring prior to 1984 but resolved in 1984. The majority of the arrests resulted in convictions.

TABLE 2
FEDERAL DRUG ARRESTS IN HAWAII

<u>Offense Category</u>	<u>Total DEA</u>		<u>DEA & State/Local</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Distribution	21	32.3	12	27.9
Manufacture	0	0.0	0	0.0
Importation	1	1.5	1	2.3
Possession	31	47.7	24	55.8
Conspiracy	8	12.3	4	9.3
Other	4	6.2	2	4.7
TOTAL	65	100.0	43	100.0

Major Drug

Opiates	14	21.5	11	25.6
Cocaine	38	58.5	23	53.5
Cannabis	8	12.3	6	14.0
Hallucinogens	1	1.5	1	2.3
Stimulants	1	1.5	1	2.3
Depressants	0	0.0	0	0.0
Other/Unknown	3	4.6	1	2.3
TOTAL	65	100.0	43	100.0

Note: Percentages may not add to 100.0 due to rounding.

TABLE 3
ARRESTS DISPOSED OF IN 1984

<u>Disposition</u>	<u>Total DEA</u>		<u>DEA & State/Local</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Convicted	49	65.3	10	62.5
Acquitted	4	5.3	0	0.0
Dismissed	7	9.3	0	0.0
Declined	15	20.0	6	37.5
TOTAL	75	100.0	16	100.0

Note: Percentages may not add to 100.0 due to rounding.

Table 4 shows that of the convicted offenders, the majority received either prison or probation terms. Table 5 shows the average sentence in months for those sent to prison.

TABLE 4
SENTENCES

<u>Type of Sentence</u>	<u>Total DEA</u>		<u>DEA & State/Local</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Prison	29	59.2	0	0.0
Probation	15	30.6	5	50.0
Fine	5	10.2	5	50.0
Suspended Sentence	0	0.0	0	0.0
Other	0	0.0	0	0.0
TOTAL	49	100.0	10	100.0

TABLE 5
AVERAGE PRISON TERM BY DRUG
TOTAL DEA ARREST

<u>Major drug</u>	<u>Average (In months)</u>
Opiates	55
Cocaine	34
Cannabis	84
Hallucinogens	-
Stimulants	-
Depressants	13
Other/Unknown	-
TOTAL	46

STATE DRUG ARRESTS

This study collected data on 333 adult offenders arrested in 1984 for violating the drug laws HRS sections

712-1241 through 712-1249. The arrests were made by the county police departments.

The 333 offenders were arrested on a total of 486 drug charges. However, for purposes of this study, if an offender was arrested and charged with violating more than one drug law, the arrest charge recorded in this report was the most serious one.

Also, for reporting purposes, if the 1984 arrest was a rearrest (i.e. the offender was previously arrested for the same offense, released pending further investigation, and rearrested in 1984,) the rearrest information was recorded.

Offender Background

Males accounted for 83.8 percent of drug offenders.

TABLE 6
SEX OF ARRESTEE

<u>Sex</u>	<u>Number</u>	<u>Percent</u>
Male	279	83.8
Female	54	16.2
TOTAL	333	100.0

The average age of drug offenders was 28.3 years. The oldest offender was 79 years. A little more than one-half of the offenders were 25 years of age or younger. (See Table 7.)

TABLE 7
AGE OF OFFENDER

<u>Age Group</u>	<u>Number</u>	<u>Percent</u>
18-20	52	15.6
21-25	121	36.3
26-30	67	20.1
31-35	39	11.7
36-40	24	7.2
41-45	15	4.5
46-50	3	0.9
51 & Over	<u>12</u>	<u>3.6</u>
<u>TOTAL</u>	333	100.0

Note: Percentages may not add to 100.0 due to rounding.

The race of drug offenders is shown in Table 8. The White group was the largest, accounting for almost half of the offenders, (47.7 percent). The next three groups were bunched closely together accounting for a combined total of 30.9 percent. They are the Hawaiian, Filipino, and Japanese groups and they made up 10.8 percent, 10.5 percent, and 9.6 percent, respectively.

The majority of the offenders were born in the United States; 42.0 percent from Hawaii and 31.2 percent from other states. (See Table 9.) Of the 21 offenders born in foreign countries, 14 were Filipinos.

TABLE 8
RACE OF OFFENDER

<u>Race</u>	<u>Number</u>	<u>Percent</u>
American Indian	1	0.3
Black	13	3.9
White	159	47.7
Chinese	6	1.8
Filipino	35	10.5
Hawaiian	36	10.8
Japanese	32	9.6
Korean	4	1.2
Samoaan	2	0.6
Other	44	13.2
Unknown	1	0.3
<u>TOTAL</u>	<u>333</u>	<u>100.0</u>

Note: Percentages may not add to 100.0 due to rounding.

TABLE 9
BIRTHPLACE OF OFFENDER

<u>Birthplace</u>	<u>Number</u>	<u>Percent</u>
Hawaii	140	42.0
Other States	104	31.2
U.S. Territory	1	0.3
Foreign	21	6.3
Unknown	67	20.1
<u>Total</u>	<u>333</u>	<u>100.0</u>

Note: Percentages may not add to 100.0 due to rounding.

Arrest

Of the 333 drug offenders, 97.0 percent were originally arrested for drug violations in 1984. The classification "original arrest" represents arrest made in 1984 for criminal events pertaining to drug violations in which the suspect was

never previously arrested for that same criminal event. The remaining 3.0 percent were classified as "rearrests". In general, rearrest in this report means that an offender was initially arrested and released by the police, but arrested again for the same charge or charges after an indictment or complaint. In Table 10, rearrest means that the suspect was arrested for drugs prior to 1984, but was released pending further developments. Subsequently, he was indicted and rearrested in 1984. In some instances the suspect was also rearrested in 1984 because the prosecutor decided to add more drug charges to a pre-1984 drug arrest.

TABLE 10
TYPE OF DRUG ARRESTS IN 1984

<u>Arrest Type</u>	<u>Number</u>	<u>Percent</u>
Original	323	97.0
Rearrest	10	3.0
TOTAL	333	100.0

Charges

Table 11 presents charges by both statute and severity. Detrimental drug charges were the most frequent. Detrimental drugs accounted for 73.6 percent or almost three-fourths of the charges reported in this study. Detrimental drug third degree itself accounted for 50.5 percent of all recorded charges. The predominant drug in this group is marijuana.

Harmful drug charges were the most infrequent. It accounted for only 2.7 percent of recorded charges.

TABLE 11
NUMBER OF CHARGES BY STATUTE AND SEVERITY

<u>Charge</u>	<u>Code</u>	<u>Number</u>	<u>Percent</u>
Dangerous Drug 1	712-1241	29	8.7
Dangerous Drug 2	712-1242	18	5.4
Dangerous Drug 3	712-1243	32	9.6
Harmful Drug 1	712-1244	1	0.3
Harmful Drug 2	712-1245	4	1.2
Harmful Drug 3	712-1246	4	1.2
Detrimental Drug 1	712-1247	47	14.1
Detrimental Drug 2	712-1248	30	9.0
Detrimental Drug 3	712-1249	168	50.5
TOTAL		333	100.0
<u>Severity</u>			
Felony		131	39.3
Misdemeanor		202	60.7
TOTAL		333	100.0

Most of the charges were misdemeanors (60.7 percent). Most of the offenders arrested for misdemeanor drug charges were 25 years of age or younger. (See Table 12.) Overall, the offenders arrested for felonies were, on the average, 30.9 years of age while those arrested for misdemeanors were, on the average, 26.6 years of age.³¹

TABLE 12
CHARGE SEVERITY BY AGE GROUP

<u>Severity</u>	<u>Age Group</u>		<u>TOTAL</u>
	<u>18 to 25</u>	<u>26 and Older</u>	
Felony	52	79	131
Misdemeanor	121	81	202
TOTAL	173	160	333

Disposition

Of the 333 offenders arrested, 24.0 percent pled guilty or were found guilty in trial. Another 11.7 percent were granted motions for Deferred Acceptance of Guilty Plea (DAGP), Conditional Discharge (CDS), or Deferred Acceptance of No Contest Plea (DANCP). The DAGP, CDS, and DANCP offenders fulfilled their requirements and eventually had their charges dismissed. Dispositions were not available for 82 offenders. (See Table 13.)

Of the 64 offenders released pending investigation, 11 were rearrested. Of the 18 offenders released with no charge, 2 were rearrested.

TABLE 13
DISPOSITION

<u>Disposition</u>	<u>Number</u>	<u>Percent^a</u>
Released at police level:		
Pending investigation	64	19.2
No charge	18	5.4
Turned over to another agency	1	0.3
Prosecutor declined	4	1.2
Guilty	80	24.0
DAGP	12	3.6
CDS	26	7.8
DANCP	1	0.3
Stricken	1	0.3
Acquitted	3	0.9
Nolle pros	7	2.1
Dismissed/Discharged	30	9.0
Other	4	1.2
Pending (In-process) ^b	82	24.6
TOTAL	333	100.0

Notes: ^a Percentages may not add to 100.0 due to rounding.
^b Includes cases where the final disposition was not known when data collection ended.

Sentencing

Sentencing is presented for the 80 offenders who pled or were found guilty. Table 14 shows the most severe penalty. Of the 80 offenders, a total of 45.1 percent were given confinement or probation terms. The remaining offenders were fined or received other forms of penalties. An offender was classified in the "Fine, Other" category only if he did not have a confinement or probation term.

Table 15 breaks down the sentences by arrest charge. For offenders convicted on felony drug charges, more offenders received confinement or probation with jail time (14 of 18) than any other sentence.

TABLE 14
SENTENCE

<u>Sentence</u>	<u>Number</u>	<u>Percent</u>
Confinement	19	23.8
Probation	6	7.5
Probation with jail	11	13.8
Fine, Other	44	55.0
<u>TOTAL</u>	80	100.0

Note: Percentages may not add to 100.0 due to rounding.

TABLE 15
SENTENCE BY OFFENSE

<u>Offense</u>	<u>Confine</u>	<u>Prob</u>	<u>Prob Jail</u>	<u>Fine Other</u>	<u>TOTAL</u>
712-1241	2	0	1	0	3
712-1242	2	2	0	0	4
712-1243	0	0	4	0	4
712-1245	0	0	1	0	1
712-1247	0	1	4	1	6
712-1248	4	0	1	2	7
712-1249	11	3	0	41	55
<u>TOTAL</u>	19	6	11	44	80

The confinement term is presented in Table 16 for offenders sentenced to confinement only (without probation.)

TABLE 16
TIME CONFINED

<u>Confinement Period</u>	<u>Number</u>	<u>Percent</u>
30 days or less	15	78.9
10 years	3	15.8
20 years	1	5.3
TOTAL	19	100.0

There were 17 people sentenced to probation (including those with jail time) for drug abuse. The most frequently received probation term was five years. The jail terms ranged from 1 month to 5 years.

TABLE 17
PROBATION TIME

<u>Probation Period</u>	<u>Probationers</u>	<u>Percent</u>
6 months	3	17.6
1 year	1	5.9
5 years	13	76.5
TOTAL	17	100.0

A total of 47 offenders were fined (including 10 of those sentenced to confinement or probation.) The amount of the fine is shown in Table 17. The highest fine was \$1,000.

TABLE 17
AMOUNT OF FINE

<u>Amount (\$)</u>	<u>Number</u>	<u>Percent</u>
100 or less	39	83.0
101 - 250	2	4.3
251 - 500	4	8.5
501 - 1,000	2	4.3
<u>TOTAL</u>	47	100.0

Note: Percentages may not add to 100.0 due to rounding.

1984 Other Arrests

Of the 333 offenders, 95 were arrested on other charges (besides drug charges) at the time of arrest for the drug charge. Of the 95, 2 had at least one robbery charge and 18 had at least one theft or burglary charge. Of the 95 offenders, 40 were convicted on at least one of the other charges.

Of the 333 offenders, 105 had at least one other arrest on drug or other charges in 1984 (in addition to the 1984 drug arrest under study.) Of the 105, 32 had drug arrests. For 2 of the 32, the drug arrest was a rearrest, where the offender was originally released pending investigation. Three offenders had robbery arrests and 19 offenders had theft or burglary arrests. Of the 105 offenders, 60 were convicted on at least one charge of the other arrest.

Pre and Post 1984 Arrests

Of the 333 offenders, 138 had prior arrest records (pre-1984). Of the 138, 63 had prior drug arrests (including the 10 offenders whose 1984 drug arrest was a rearrest of a previous drug arrest.) Nine offenders had previous robbery arrests and 32 had previous theft or burglary arrests. Of the 138, 107 had previous convictions.

The first part of Table 18 shows the most serious prior arrest charge broken down by type of offense. Serious violent crimes were involved in 16.1 percent of the prior arrests.

Of the 333 offenders, 119 had post 1984 arrest records. Of the 119, 50 had drug arrests. Of the 50, 11 were rearrests for the study charge (9 of the offenders released pending investigation and 2 of the offenders released no charge.) Eight offenders had post 1984 arrests for robbery and 31 had arrests for theft or burglary. Of the 119, 76 had post 1984 convictions.

The second part of Table 18 shows the most serious post-1984 arrest charge broken down by type of offense. Serious violent crimes were involved in 13.4 percent of the post arrests.

Of the offenders with post-1984 arrests, 72, or 60.5 percent also had prior arrests. This figure is statistically significant.³² Offenders with prior arrests were the ones most likely to have post 1984 arrests.

TABLE 18
TYPE OF MOST SERIOUS ARREST CHARGE

<u>Type</u>	<u>Number</u>	<u>Percent^a</u>
Prior Arrests:		
Violent ^b	22	16.1
Property ^c	35	25.5
Drug	44	32.1
Other	36	26.3
 TOTAL	 137	 100.0
Post 1984 Arrests:		
Violent ^b	16	13.4
Property ^c	18	15.1
Drug	35	29.4
Other	50	42.0
 TOTAL	 119	 100.0

Notes: ^a Percentages may not add to 100.0 due to rounding.
^b Violent crimes include murder, sex offenses, robbery, kidnapping, and assault.
^c Property crimes include burglary, theft, and motor vehicle theft.

SUMMARY AND DISCUSSION

The typical state drug offender in 1984 was male, white, age 26 or younger, born in Hawaii, and arrested for misdemeanor drug charges. Older offenders were the ones most likely to be arrested for the more serious drug offenses.

The typical state offender was arrested for violating the detrimental drug III statute. Marijuana is the predominant detriment drug.

The typical federal drug offender in Hawaii, based on DEA data, was arrested on charges involving mainly opiates

and cocaine. However, offenders sentenced to prison in 1984 on charges involving mainly marijuana, were given longer sentences. On the average, they were sentenced to 84 months in prison as compared to 55 months in cases where opiates were the major drug. This suggests that the marijuana cases probably involved very large quantities.

The above may also suggest why there are differences in sentencing between state and Federal courts. It is often said that Federal courts are stricter than state courts on drug offenses. From looking at only one year's worth of data, it is difficult to accurately validate or invalidate that statement. However, in general, the difference may be due in part to the nature of the cases. A large portion of state cases involve small quantities of marijuana while federal cases revolve around opiates, cocaine, and large shipments of marijuana. As a result the penalties tend to be more severe.

Many of the state offenders had extensive records of criminal activity. These included arrests for offenses other than drugs as well as prior drug arrests. For example, of the 333 state offenders in the sample, 95, or 28.5 percent were arrested for other offenses at the time they were arrested for drugs. These included robbery and assault.

Also, of the 333 offenders, 137, or 41.1 percent, had records of prior arrests. Of the 137, at least 16.1 percent were arrested for committing violent crimes.

Moreover, of the state offenders, 119, or 35.7 percent had records of post 1984 arrests. Of the 119, at least 13.4 percent were arrested for committing violent crimes. The offenders with prior arrests were most frequently the ones who continued criminal activity beyond 1984.

This report presented a general overview of the drug problem. From the report, it is clear that many drug offenders are involved in other crimes. Whether these other crimes are a direct result of drug use however, is not so clear. More data would be needed to answer that question. Specifically, the following areas should be examined in more detail:

1. Incidents involving crimes committed while the offender was under the influence of drugs.
2. Incidents involving crimes committed to obtain drugs or money to purchase drugs.
3. Incidents involving crimes committed to protect drug manufacturing or distributing.

Also, the total number of offenders who use illegal drugs should be determined. This figure may be difficult to obtain as the police do not routinely test offenders for drug use. However, the figure is important as an indication of the extent of the problem facing the criminal justice system. These are areas that need further exploration.

NOTES

1. Source: Hawaii Criminal Justice Data Center, Crime in Hawaii, Annual reports for the years 1982 and 1987.
2. From green harvest and maintenance statistics from the Honolulu Police Department. Currently, marijuana plants are valued at \$1,000 each. However, many feel that \$3,000 per plant is a better valuation.
3. Hawaii Revised Statutes (HRS) sections 712-1241 to 712-1250.
4. Girdano, Daniel A. and Dusek, Dorothy, Drug Education, Contents and Methods, Third Edition, Addison-Wesley Publishing Company, 1980.
5. Ibid.
6. Office of Criminal Justice Plans and Analysis, Drug Abuse and Crime in the District of Columbia, Government of the District of Columbia, Washington D.C.
7. Ibid.
8. Hawaii Criminal Justice Data Center, Juveniles Arrested in 1985 in the City and County of Honolulu for Serious Offenses, Research and Statistics Report - JJ01A, Department of the Attorney General, Honolulu, April 1988.
9. Ferguson, Robert W., Drug Abuse Control, Holbrook Press, Inc., Boston, 1975.
10. Ibid, pp 1-8.
11. Supra note 4, p. 280.
12. The federal laws in this section were taken from the 1982 edition of the United States Code.
13. For an actual list of substances within each schedule, refer to subsection (C) of section 812.
14. 21 USC §845.

15. 21 USC §846.
16. 21 USC §847.
17. The Hawaii laws presented in this section were taken from the 1985 replacement of the HRS. Since then, some laws have been revised, others have been added. However, since the revisions were not in effect when the offenders were arrested, they are not presented in detail.
18. HRS section 329-11.
19. HRS Chapter 712 - Offenses Against Public Health and Morals, Part IV - Offenses Related to Drugs and Intoxicating Compounds.
20. HRS Commentary on §§712-1241 to 712-1250.
21. HRS Commentary on §§712-1241 to 712-1250.
22. Supra note 4.
23. Goodstadt, Michael S., "Drug Education", National Institute of Justice Crime File Study Guide, U.S. Department of Justice, NCJ 104557.
24. Ibid.
25. Ibid.
26. Ibid.
27. Supra note 4, pp 34-35.
28. Wish Eric, "Drug Testing", National Institute of Justice Crime File Study Guide, U.S. Department of Justice, NCJ 104556.
29. Ibid.
30. Source for Federal data: Drug Enforcement Administration, U.S. Department of Justice.
31. It is statistically significant that younger offenders are more likely to be arrested for misdemeanor drug charges and older offenders are more likely to be arrested for felony drug charges.
32. The chisquare test produced: $X^2 = 26.519$, $p = 0.000$.