
Introduction to Federal Courts

Courts-Media Conference

October 15, 2015

Structure of the Court System

The United States Federal Courts

SUPREME COURT

UNITED STATES SUPREME COURT

APPELLATE COURTS

U.S. Courts of Appeals

12 Regional Circuit Courts of Appeals
1 U.S. Court of Appeals for the Federal Circuit

TRIAL COURTS

U.S. District Courts

94 judicial districts
U.S. Bankruptcy Courts

U.S. Court of International Trade

U.S. Court of Federal Claims

FEDERAL COURTS AND OTHER ENTITIES OUTSIDE THE JUDICIAL BRANCH

Military Courts (Trial and Appellate)

Court of Veterans Appeals

U.S. Tax Court

Federal administrative agencies and boards

State/Federal Courts

- Courts of general jurisdiction – state courts
 - Courts of limited jurisdiction – federal courts
 - Federal criminal statutes
 - Federal question involving the constitution or a federal statute
 - Diversity jurisdiction
 - Bankruptcy
 - Jurisdiction often overlaps between state and federal courts
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Initiation of the Federal Criminal Case

Complaints and Indictments

- A case is initiated through a complaint or grand jury indictment
 - A complaint typically follows a reactive arrest, such as a bank robbery, certain drug cases, or crimes of violence
 - An indictment will be returned in felony cases, whether or not the case is initiated by complaint
 - Exception: a defendant pleading guilty to an information can waive indictment

Initiation by a Criminal Complaint

- A defendant makes an initial appearance on the complaint before a magistrate judge
 - District judges are not yet assigned
 - The affidavit in support of the complaint sets forth facts to establish probable cause
 - This affidavit is publicly available
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Initiation by a Criminal Complaint

- Preliminary hearing scheduled, but not held if defendant is indicted first
 - In this district, preliminary hearings are rare because an indictment is typically returned prior to the preliminary hearing date
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Initiation by Grand Jury Indictment

- Grand jury proceedings themselves are closed and not open to the media
 - A federal grand jury can sit up to two years
- Evidence presented by AUSA to 16-23 citizens; defense counsel does not participate
 - Grand Jury can subpoena witnesses and evidence (such as bank records)
- Probable cause standard
- Grand jury indictment typically contains less information than an affidavit in support of a complaint
 - Not always so – e.g., certain white collar cases

Role of the Grand Jury

- The Grand jury determines whether there is probable cause to believe that a crime has been committed
 - The Grand jury “can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not.”
 - Secret: don't try to speak with grand jurors
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Bail

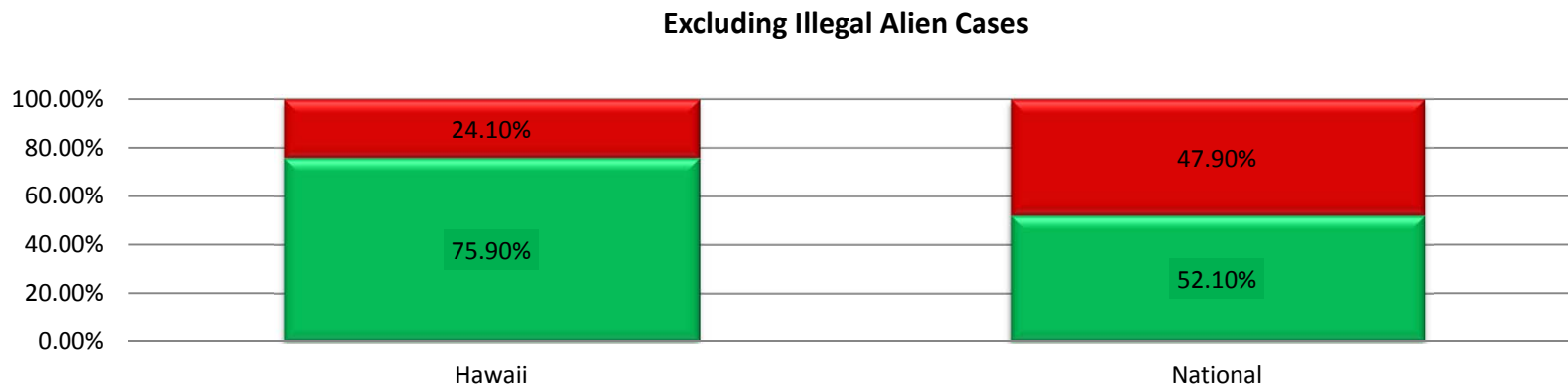
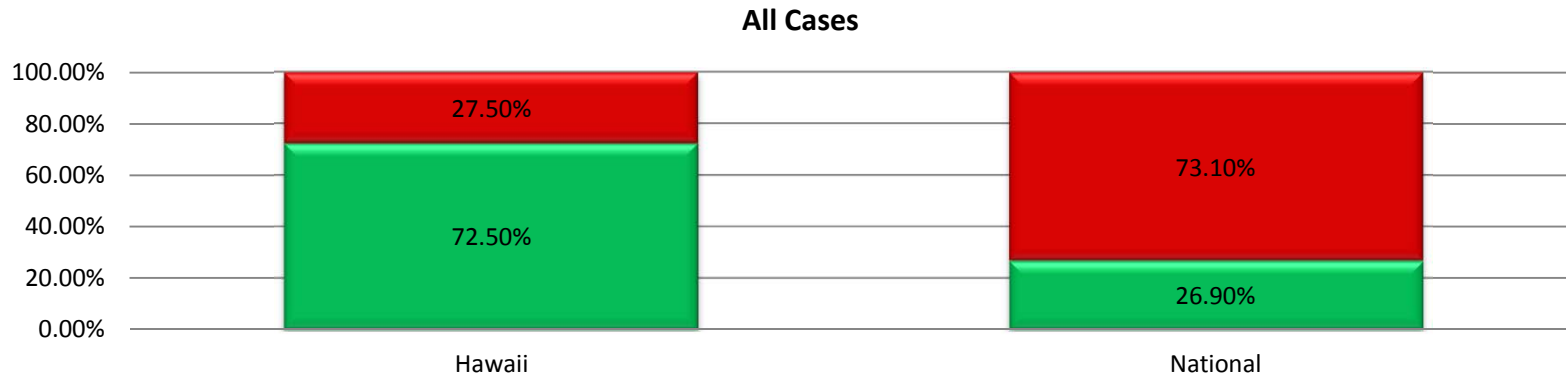
- AUSA may file a “Motion to Detain” the defendant pending trial
 - Will typically be heard 3-5 days after arraignment
 - Pretrial Services prepares report, which is not available to the media
 - Magistrate judge conducts bail hearing, which can then be appealed to the district judge
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The Bail Hearing

- Bail Reform Act requires the release of a defendant under the least restrictive conditions that will assure:
 - 1) the safety of the community; and
 - 2) that the defendant will not flee
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Pretrial Release Data

January 1, 2014 – December 31, 2014



■ Release Rate ■ Detention Rate

Speedy Trial Act

- Trial must be held within 70 days from date of indictment or defendant's first appearance before a judge, whichever date is last
- But, there are many exceptions to the Speedy Trial Act, extending the 70 day window
 - Pending motions
 - Time needed by defense or government for effective preparation
- Trials are seldom held on the date originally set
- The parties often stipulate to continue the trial date and toll time under the Speedy Trial Act
 - The stipulations set forth the new trial date

Common Pretrial Motions

- Motions to Suppress Evidence
 - Held prior to trial by the district judge
 - Typically an evidentiary hearing involving the admissibility of evidence (e.g., search and seizure issues) or a defendant's statement (e.g., compliance with *Miranda*)

 - Motions in Limine
 - Held on the eve of trial by the district judge
 - Concerns the admissibility of evidence at trial
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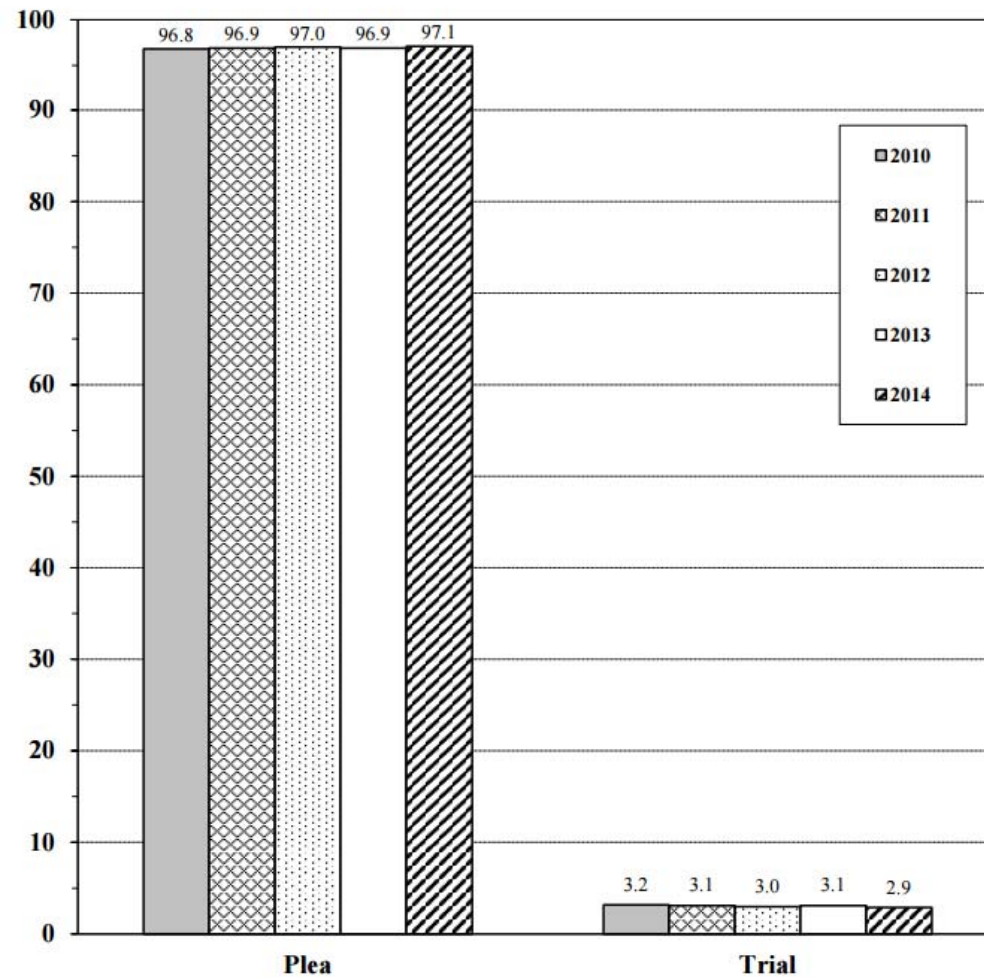
Pleas of Guilty

- Over 95% of cases in the District of Hawaii result in guilty pleas
 - Consistent with national average
 - The change of plea hearing may be conducted by the magistrate judge or the district judge
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Pleas of Guilty

- May be with a plea agreement or without a plea agreement
 - If the parties enter into a plea agreement, it sets forth essential facts of the case
 - A sentencing date is set at the plea hearing
 - A sentencing date may be moved, so check the court calendar
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Trials/Pleas in Federal Courts



Trial

- Felony trials are always conducted by a district judge
 - All aspects of the jury trial are open to the public, including jury selection
 - Jurors are told that they cannot speak to anyone, including the media, until after a verdict has been reached
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Trial

- Alternate jurors may be recalled to deliberate, and thus may not speak to the media while the jury is deliberating
 - In state court, alternate jurors cannot be recalled
 - If a defendant is convicted, a sentencing date will be set after the jury reaches its verdict
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Sentencing Basics - Federal

- All felonies before a district judge
 - No parole – 54 days good time credit
 - After release from custody, a defendant is on “supervised release” under the court’s supervision
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Critical Federal/State Differences

- Sentencing
 - A federal defendant serves most of the sentence imposed by the court
 - A state defendant, with a minimum term imposed after sentencing, may serve substantially less than the sentence imposed
 - Supervision after release from custody
 - A federal defendant is subject to the court's supervision (judiciary)
 - A state defendant is subject to the parole board's supervision (executive)
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Maximum vs. Actual Sentence in Federal Court

- Generally, there is a large disparity between the maximum sentence that a defendant could receive and the actual sentenced imposed
 - This is largely driven by the fact that the maximum sentence is generally set high by Congress, but the guidelines carry a much lower range
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Mandatory Minimum Sentences

- Do not confuse mandatory minimum sentences with the sentencing guidelines
 - Over 170 mandatory minimum provisions in US law
 - 90% of mandatory minimum sentences are imposed in drug cases
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Relief from a Mandatory Minimum Sentence

- There are only two ways in which a defendant may escape a mandatory minimum sentence
 - The government files a motion pursuant to 18 U.S.C. section 3553(e) based on defendant's substantial assistance in the investigation or prosecution of another person
 - The defendant meets certain criteria -- called the "safety valve" -- under 18 U.S.C. section 3553(f)
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Substantial Assistance

- Only the government can file a 3553(e) motion
 - The defense cannot file the motion
 - The court can neither file the motion on its own nor require the government to file it
 - Once the government files the motion, the court may sentence below the mandatory minimum “so as to reflect a defendant’s substantial assistance”
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Safety Valve

- If a defendant meets the following statutory factors, the court is authorized to sentence below the mandatory minimum:
 - ❑ No more than one criminal history point
 - ❑ No violence, credible threats of violence, or possession of a firearm
 - ❑ No death or serious bodily injury to another
 - ❑ The defendant was not an organizer, leader, manager or supervisor of others in the offense
 - ❑ The defendant provides truthful information to the government concerning his offense conduct
 - This need not rise to the level of “substantial assistance”

The Section 3553(a) Factors

- Congress has set forth factors that a district court must consider when imposing sentence
- Relevant factors include:
 - The nature and circumstances of the offense and the history and characteristics of the defendant
 - The need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, protect the public from the defendant's further crimes, and provide the defendant with training or medical care
 - The sentencing guidelines
 - The need to avoid unwarranted sentencing disparities among similarly situated defendants
- The court must articulate its reasons for the sentence imposed
- State judges apply these same factors (other than the sentencing guidelines)
 - HRS § 706-606

Sentencing Guidelines Overview

- After calculation, the guidelines provide the court with a guideline range, such as 63-78 months
 - A court can sentence, subject to any mandatory minimum sentence, below the guideline range, within the guideline range, or above the guideline range
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“Relevant Conduct” under the Guidelines

- “Relevant Conduct” captures the full range of defendant’s related criminal conduct
 - The inquiry moves away from a sentencing scheme driven solely by the offense to which the defendant was found guilty
 - Defendant is held accountable for his own acts or omissions
 - Defendant can be held accountable for acts or omissions of others
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“Relevant Conduct” under the Guidelines

Example:

A defendant engages in a wire fraud scheme over a two day period, obtaining by wire \$100,000 of fraudulent proceeds on day 1 (count 1) and obtaining by wire \$1,000,000 of fraudulent proceeds on day 2 (count 2). If a defendant enters a plea of guilty to count 1 only, he is nonetheless held responsible for a loss of \$1,100,000, not just the \$100,000 attributable to count 1

Calculation of the Guidelines

- Based on the offense and specific offense characteristics, determine an offense level
 - Common subtractions from the offense level:
 - Accepting responsibility
 - Mitigating role in the offense
 - Common additions to the base offense level:
 - Aggravating role in the offense
 - Obstruction of justice
 - Abuse of position of public or private trust
 - Results in a total offense level
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Example: Fraud Guideline

- Base offense level: 6 or 7
- If the loss exceeded \$5,000, increase:
 - More than \$5,000 add 2 levels
 - More than \$10,000 add 4 levels
 - More than \$30,000 add 6 levels
 - More than \$70,000 add 8 levels
 - More than \$120,000 add 10 levels
 - More than \$200,000 add 12 levels
 - More than \$400,000 add 14 levels
 - More than \$1,000,000 add 16 levels
 - More than \$2,500,000 add 18 levels
- 16 more specific offense characteristics that can increase the offense level

Determine Criminal History

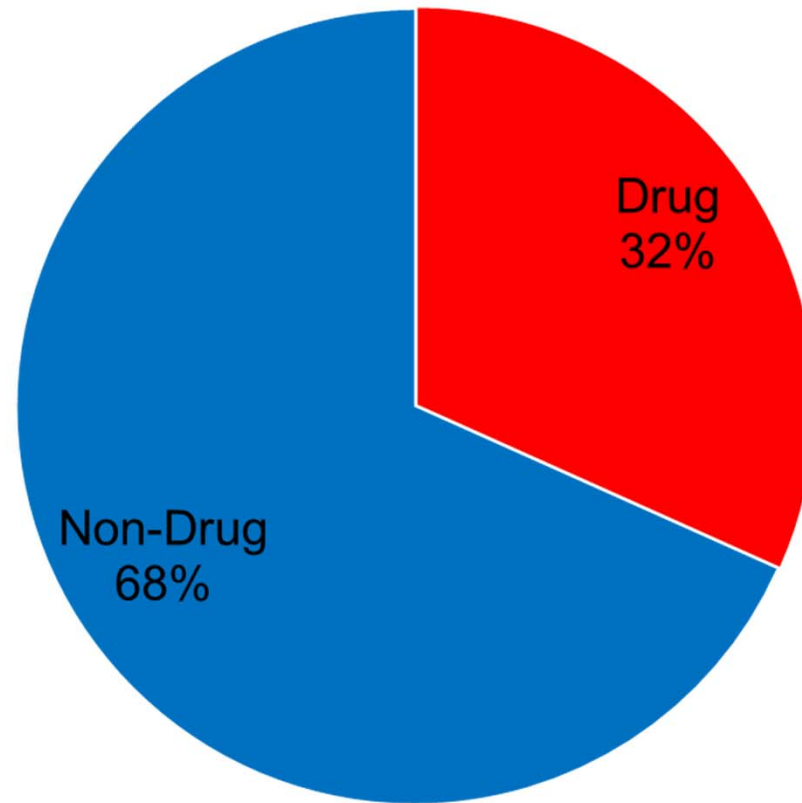
- Next, the defendant's criminal history score is calculated
 - This is largely driven by the types of prior convictions and how recent they are
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SENTENCING TABLE
(in months of imprisonment)

Offense Level	Criminal History Category (Criminal History Points)					
	I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
1	0-6	0-6	0-6	0-6	0-6	0-6
2	0-6	0-6	0-6	0-6	0-6	1-7
3	0-6	0-6	0-6	0-6	2-8	3-9
4	0-6	0-6	0-6	2-8	4-10	6-12
5	0-6	0-6	1-7	4-10	6-12	9-15
6	0-6	1-7	2-8	6-12	9-15	12-18
7	0-6	2-8	4-10	8-14	12-18	15-21
8	0-6	4-10	6-12	10-16	15-21	18-24
9	4-10	6-12	8-14	12-18	18-24	21-27
10	6-12	8-14	10-16	15-21	21-27	24-30
11	8-14	10-16	12-18	18-24	24-30	27-33
12	10-16	12-18	15-21	21-27	27-33	30-37
13	12-18	15-21	18-24	24-30	30-37	33-41
14	15-21	18-24	21-27	27-33	33-41	37-46
15	18-24	21-27	24-30	30-37	37-46	41-51
16	21-27	24-30	27-33	33-41	41-51	46-57
17	24-30	27-33	30-37	37-46	46-57	51-63
18	27-33	30-37	33-41	41-51	51-63	57-71
19	30-37	33-41	37-46	46-57	57-71	63-78
20	33-41	37-46	41-51	51-63	63-78	70-87
21	37-46	41-51	46-57	57-71	70-87	77-96
22	41-51	46-57	51-63	63-78	77-96	84-105
23	46-57	51-63	57-71	70-87	84-105	92-115
24	51-63	57-71	63-78	77-96	92-115	100-125
25	57-71	63-78	70-87	84-105	100-125	110-137
26	63-78	70-87	78-97	92-115	110-137	120-150
27	70-87	78-97	87-108	100-125	120-150	130-162
28	78-97	87-108	97-121	110-137	130-162	140-175
29	87-108	97-121	108-135	121-151	140-175	151-188
30	97-121	108-135	121-151	135-168	151-188	168-210
31	108-135	121-151	135-168	151-188	168-210	188-235
32	121-151	135-168	151-188	168-210	188-235	210-262
33	135-168	151-188	168-210	188-235	210-262	235-293
34	151-188	168-210	188-235	210-262	235-293	262-327
35	168-210	188-235	210-262	235-293	262-327	292-365
36	188-235	210-262	235-293	262-327	292-365	324-405
37	210-262	235-293	262-327	292-365	324-405	360-life
38	235-293	262-327	292-365	324-405	360-life	360-life
39	262-327	292-365	324-405	360-life	360-life	360-life
40	292-365	324-405	360-life	360-life	360-life	360-life
41	324-405	360-life	360-life	360-life	360-life	360-life
42	360-life	360-life	360-life	360-life	360-life	360-life
43	life	life	life	life	life	life

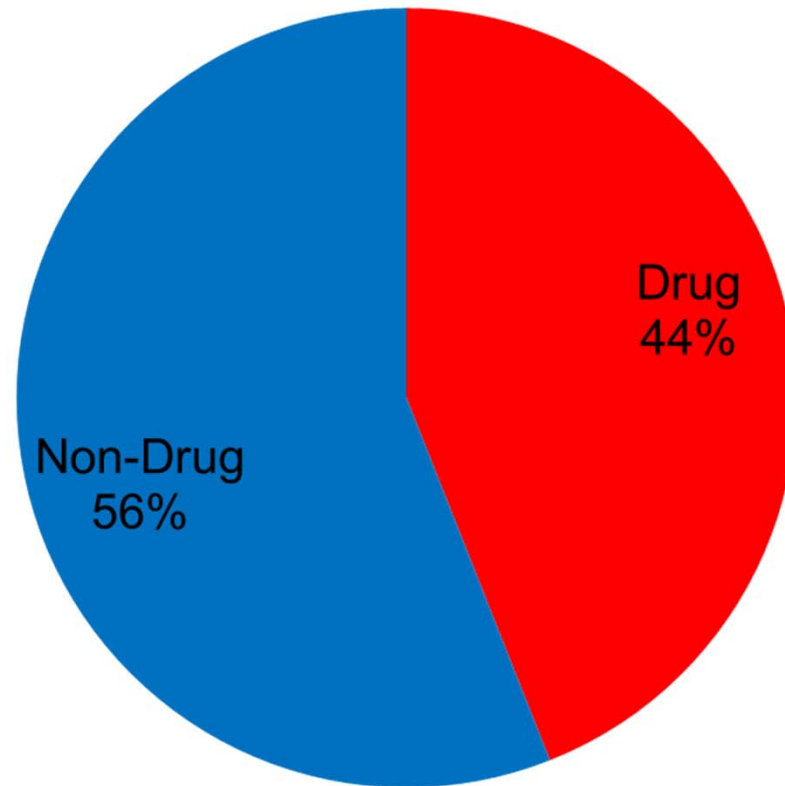
National FY 2014

Case Type

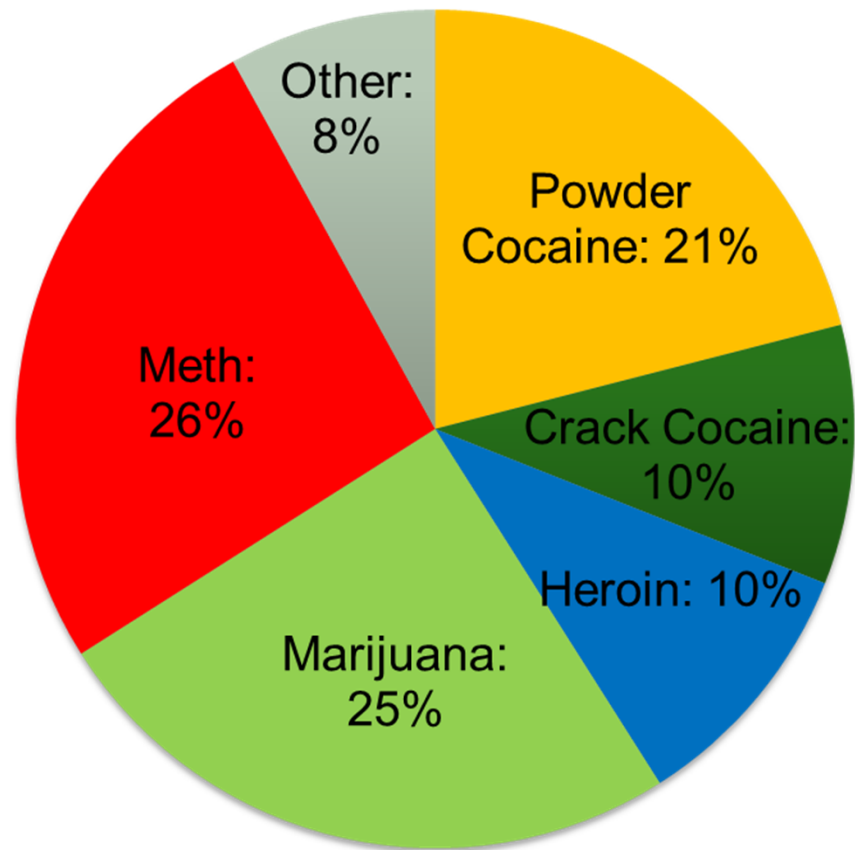


Hawaii FY 2014

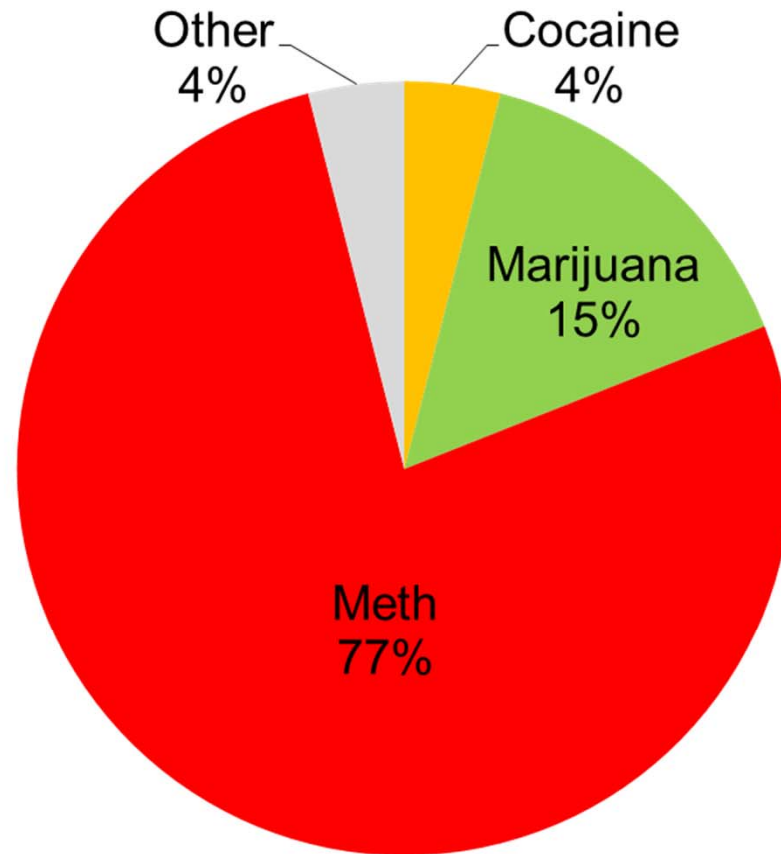
Case Type



National Drug Type FY 2014



Hawaii Drug Type FY 2014



National FY 2014



Average Age³	Mean	Median
TOTAL	36	35
Male	36	35
Female	37	36

Mode of Conviction⁴		
TOTAL	75,836	100.0%
Plea	73,612	97.1%
Trial	2,224	2.9%

Gender, Race, and Ethnicity¹

	TOTAL		Male		Female	
TOTAL	73,376	100.0%	63,206	86.1%	10,170	13.9%
White	17,300	23.6%	13,827	79.9%	3,473	20.1%
Black	14,878	20.3%	12,695	85.3%	2,183	14.7%
Hispanic	38,138	52.0%	34,298	89.9%	3,840	10.1%
Other	3,060	4.2%	2,386	78.0%	674	22.0%

Departure Status²

TOTAL	74,126	100.0%
Sentenced Within Guideline Range	34,117	46.0%
Upward Departure from Guideline Range	343	0.5%
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553	123	0.2%
Above Guideline Range with <i>Booker</i> /18 U.S.C. § 3553	1,104	1.5%
All Remaining Cases Above Guideline Range	75	0.1%
§5K1.1 Substantial Assistance Departure	9,482	12.8%
§5K3.1 Early Disposition Program Departure	6,944	9.4%
Other Government-Sponsored Below Guideline Range	6,068	8.2%
Downward Departure from Guideline Range	1,757	2.4%
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553	807	1.1%
Below Guideline Range with <i>Booker</i> /18 U.S.C. § 3553	12,894	17.4%
All Remaining Cases Below Guideline Range	412	0.6%

District of Hawaii FY 2014



Average Age³

	Mean	Median
TOTAL	43	41
Male	42	40
Female	45	45

Mode of Conviction⁴

TOTAL	291	100.0%
Plea	283	97.3%
Trial	8	2.7%

Gender, Race, and Ethnicity¹

	TOTAL		Male		Female	
TOTAL	288	100.0%	214	74.3%	74	25.7%
White	58	20.1%	47	81.0%	11	19.0%
Black	8	2.8%	6	75.0%	2	25.0%
Hispanic	30	10.4%	29	96.7%	1	3.3%
Other	192	66.7%	132	68.8%	60	31.3%

Departure Status²

TOTAL	290	100.0%
Sentenced Within Guideline Range	100	34.5%
Upward Departure from Guideline Range	0	0.0%
Upward Departure with <i>Booker</i> /18 U.S.C. § 3553	0	0.0%
Above Guideline Range with <i>Booker</i> /18 U.S.C. § 3553	4	1.4%
All Remaining Cases Above Guideline Range	0	0.0%
§5K1.1 Substantial Assistance Departure	87	30.0%
§5K3.1 Early Disposition Program Departure	0	0.0%
Other Government-Sponsored Below Guideline Range	5	1.7%
Downward Departure from Guideline Range	1	0.3%
Downward Departure with <i>Booker</i> /18 U.S.C. § 3553	2	0.7%
Below Guideline Range with <i>Booker</i> /18 U.S.C. § 3553	91	31.4%
All Remaining Cases Below Guideline Range	0	0.0%