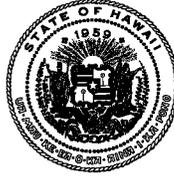


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



DEPT. COMM. NO. 213

KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII'
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWE LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

November 18, 2025

VIA ELECTRONIC MAIL

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty-Third State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Nadine K. Nakamura,
Speaker and Members of the
House of Representatives
Thirty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Office of Information Practices Annual Report for the period of July 1, 2024 through June 30, 2025, as required by Section 92F-42(7), Hawaii Revised Statutes. In accordance with Section 93-16, HRS, a copy of this report has been transmitted to the Legislative Reference Bureau and the report may be viewed electronically at: [Office of Information Practices Annual Report 2025](#)

Sincerely,

A handwritten signature in blue ink, appearing to read "KEITH A. REGAN".

KEITH A. REGAN
Comptroller

Enclosure

bc: Governor's Office
Lieutenant Governor's Office
Legislative Reference Bureau
Legislative Auditor
Department of Budget and Finance



State of Hawai‘i

**OFFICE OF
INFORMATION
PRACTICES**

Annual Report 2025

This report to the Governor and the Legislature summarizes the Office of Information Practices’ work from July 1, 2024, to June 30, 2025, in administering the public records law (the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes) and the open meetings law (the Sunshine Law, part I of chapter 92, Hawaii Revised Statutes).

Table of Contents

Introduction	3
Goals, Objectives and Action Plan	4
Budget and Personnel	10
Legal Guidance	
Overview and Statistics	12
Formal Opinions	18
UIPA.....	18
Sunshine Law	19
Informal Opinions.....	21
UIPA.....	21
Sunshine Law	31
General Legal Guidance.....	33
UIPA.....	33
Sunshine Law	35
Education, Open Data, and Communications	37
Education	38
Open Data	40
Records Report System	42
Legislation.....	44
Litigation.....	45
Rules	51

INTRODUCTION

In 1988, the Legislature enacted the Uniform Information Practices Act (Modified), as chapter 92F, Hawaii Revised Statutes (HRS), known as the “UIPA,” to replace the State’s then-existing laws relating to public records and individual privacy, and to better address the balance between the public’s interest in disclosure of government records and individual privacy interests in personal information maintained by government.

Under the UIPA, all government records are open to public inspection and copying unless an exception authorizes an agency to withhold the records from disclosure. The Legislature included the UIPA’s purpose statement in section 92F-2, HRS:

In a democracy, the people are vested with the ultimate decision-making power. Government agencies exist to aid the people in the formation and conduct of public policy. Opening up the government processes to public scrutiny and participation is the only viable and reasonable method of protecting the public’s interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy—the discussions, deliberations, decisions, and action of government agencies—shall be conducted as openly as possible.

The Legislature also recognized in section 92F-2, HRS, that “[t]he policy of conducting government business as openly as possible must be tempered by a recognition of the right of the people to privacy, as embodied in section 6 and section 7 of Article I of the Constitution of the State of Hawai‘i.”

The Legislature instructed that the UIPA be applied and construed to:

- (1) Promote the public interest in disclosure;
- (2) Provide for accurate, relevant, timely, and complete government records;
- (3) Enhance governmental accountability through a general policy of access to government records;
- (4) Make government accountable to individuals in the collection, use, and dissemination of information relating to them; and
- (5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy.

HRS § 92F-2 (1988). The Legislature created the Office of Information Practices (OIP) to administer the UIPA, with jurisdiction over all state and county agencies. HRS § 92-41 (Supp. 2024). In 1998, OIP was given the additional responsibility of administering Hawai‘i’s Sunshine Law, part I of chapter 92, HRS, which had been administered by the Department of the Attorney General since the law’s enactment in 1975. HRS §§ 92-1.5, 92F-42(18) (2012).

The Sunshine Law opens up the governmental processes to public scrutiny and participation by requiring state and county boards to conduct their business as transparently as possible in meetings open to the public. HRS § 92-3 (Supp. 2024). Unless a specific statutory exception applies, the Sunshine Law requires discussions, deliberations, decisions, and actions of government boards to be conducted in an open meeting, with advance notice and the opportunity for the public to present testimony. HRS § 92-3.

OIP seeks to promote government transparency while respecting people’s privacy rights by administering the UIPA and Sunshine Law in a fair and reasonable manner. As an independent, neutral agency, OIP provides uniform interpretation of both laws.

Additionally, following the enactment of the Open Data Law, Act 263, Session Laws of Hawai‘i (SLH) 2013 (codified at HRS § 27-44), OIP was charged with assisting the Office of Enterprise Technology Services (ETS) to implement Hawai‘i’s Open Data policy, which seeks to increase public awareness and electronic access to non-confidential and non-proprietary data and information available from state agencies; to enhance government transparency and accountability; to encourage public engagement; and to stimulate innovation with the development of new analyses or applications based on the public data made openly available by the state.

Pursuant to sections 92-1.5 and 92F-42(7), HRS, this annual report to the Governor and the Legislature summarizes OIP’s activities and findings regarding the UIPA and Sunshine Law for fiscal year (FY) 2025, which began on July 1, 2024 and ended on June 30, 2025. This annual report also details OIP’s performance for FY 2025. Details and statistics for FY 2025 are found later in this report, along with OIP’s goals, objectives and action plan for FY 2026-2031.

GOALS, OBJECTIVES AND ACTION PLAN

Pursuant to Act 100, SLH 1999, as amended by Act 154, SLH 2005, OIP presents its Goals, Objectives, and Action Plan for One, Two, and Five Years, including a report on its performance in meeting previously stated goals, objectives, and actions.

OIP’s Mission Statement

“Ensuring open government while protecting individual privacy.”

I. Goals

OIP’s primary goal is to fairly and reasonably administer the UIPA and the Sunshine Law in order to achieve the common purpose of both laws that the formation and conduct of public policy—the discussions, deliberations, decisions, and action of government[al] agencies—shall be conducted as openly as possible.

With the passage of the Open Data Law, OIP also assists the Office of Enterprise Services (ETS) to implement Hawai‘i’s Open Data policy, which seeks to increase public awareness and electronic access to non-confidential and non-proprietary data and information available from state agencies; to enhance government transparency and accountability; to encourage public engagement; and to stimulate innovation with the development of new analyses or applications based on the public data made openly available by the State.

II. Objectives and Policies

A. Legal Guidance and Assistance. Provide training and impartial assistance to members of the public and all state and county agencies to promote compliance with the UIPA and Sunshine Law.

1. Provide accessible training guides, audio/visual presentations, and other materials online at oip.hawaii.gov and supplement OIP's online training with customized training for state and county government entities.
2. Provide prompt informal advice and assistance to members of the public and government agencies through OIP's Attorney of the Day (AOD) service.
3. Adopt and revise administrative rules, as necessary.

B. Investigations and Dispute Resolution. Assist the public, conduct investigations, and provide a fair, neutral, and informal dispute resolution process as a free alternative to court actions filed under the UIPA and Sunshine Law, and resolve appeals under section 231-19.5(f), HRS, arising from the Department of Taxation's decisions concerning the disclosure of the text of written opinions.

1. Focus on reducing the age and number of OIP's backlog of formal cases.

C. Open Data. Assist ETS and encourage all state and county entities to increase government transparency and accountability by posting open data online, in accordance with the UIPA, Sunshine Law, and the State's Open Data Policy.

1. Post all of OIP's opinions, training materials, reports, and email communications at oip.hawaii.gov, which links to the state's open data portal at data.hawaii.gov.
2. Encourage state and county agencies to electronically post appropriate data sets onto data.hawaii.gov and to use the UIPA Record Request Log to record and report their record requests.

D. Records Report System (RRS). Maintain the RRS and assist agencies in filing reports for the RRS with OIP.

1. Promote the use of the RRS to identify and distinguish private or confidential records from those that are clearly public and could be posted as open data on government websites.

E. Legislation and Lawsuits. Monitor legislative measures and lawsuits involving the UIPA and Sunshine Law and provide impartial, objective information and assistance to the Legislature regarding legislative proposals.

1. Provide testimony, legislative proposals, reports, or legal intervention, as may be necessary, to uphold the requirements and common purpose of the UIPA and Sunshine Law.

III. Action Plan with Timetable

A. Legal Guidance and Assistance

1. Past Year Accomplishments

- a. Received approval, hired and trained a new staff attorney to fill a vacancy.
- b. Received approval and hired a new legal assistant to fill a vacancy, with start date in early FY 2026.
- c. OIP received 1,922 total requests for assistance in FY 2025, 96% (1,846) of which were resolved in the same fiscal year, and 88% (1,695) were informal requests typically resolved the same day through OIP's AOD service.
- d. OIP resolved over 66% (151) of the 227 new formal cases filed in FY 2025 in the same year.
- e. OIP wrote 35 formal and informal opinions.
- f. OIP provided updates to its online training materials to reflect the new provisions of the Sunshine Law enacted in 2025.

2. Year 1 Action Plan

- a. Trained a new legal assistant hired at the end of FY 2025.
- b. Received approval, hired, and trained a new administrative assistant to fill a vacancy.
- c. Conduct a public hearing to obtain agency and public input

on proposed amendments to OIP's administrative rules, including legally required renumbering, conditioned on the prior approval by the Governor.

- d. Assuming adoption, implement OIP's new administrative rules, including the creation of new training materials and a revised UIPA Record Request Log.
- e. Continue to promptly provide informal guidance through OIP's AOD service, so that approximately 80% of requests for OIP's assistance can be timely answered or resolved within one workday, which promotes compliance with the law and helps to prevent disputes from escalating to formal complaints.
- f. Continue to update OIP's online training materials to reflect statutory revisions and provide free and readily accessible guidance for government agencies and the public.

3. Year 2 Action Plan

- a. Continue to promptly provide informal guidance through OIP's AOD service, so that approximately 80% of requests for OIP's assistance can be timely answered or resolved within one workday, which promotes compliance with the law and helps to prevent disputes from escalating to formal complaints.

- b. Continue to update OIP’s online training materials to reflect statutory revisions and provide free and readily accessible guidance for government agencies and the public.

4. Year 5 Action Plan

- a. Evaluate recently implemented rules and determine whether additional rules or revisions are necessary.
- b. Draft and prepare to adopt new personal records rules, if needed.
- c. Obtain sufficient funding and position authorizations to recruit, train, and retain legal personnel to ensure the long-term stability and productivity of OIP.

B. Investigations and Dispute Resolution

1. Past Year Accomplishments

- a. OIP resolved 96% of the formal and informal requests for its services received in FY 2025 in the same year, and oftentimes the same day.
- b. Of the 227 formal cases opened in FY 2025, 151 (66.5%) were resolved in the same fiscal year.
- c. Of the 124 cases that remained pending at the end of FY 2024, 76 (61%) were opened in FY 2025 and 48 (39%) were opened in FY 2024 or earlier.

2. Year 1 Action Plan

- a. Strive to resolve 70% of all formal cases opened in FY 2025.
- b. Strive to resolve all formal cases filed before FY 2025 if they are not in litigation.

3. Year 2 Action Plan

- a. Strive to resolve all formal cases filed before FY 2026, if they are not in litigation.
- b. Retain experienced OIP staff to keep up with the anticipated increases in OIP’s workload while reducing the formal case backlog.

4. Year 5 Action Plan

- a. Strive to resolve all formal cases within 18 months of filing if they are not in litigation.
- b. Obtain sufficient funding and position authorizations to recruit, train, and retain legal personnel to ensure the long-term stability and productivity of OIP.

C. Open Data

1. Past Year Accomplishments

- a. Prepared a UIPA Record Request Log report summarizing results for FY 2024 from 191 state and 111 county agencies.

- b. Distributed 12 OIP email newsletters to keep government personnel and the public informed of open government issues, including proposed legislation.
- c. Received 158,906 unique visits to OIP’s website and 223,672 website page views (excluding OIP’s and home page hits).
- d. Assisted Chief Data Officer with questions about interaction between the UIPA and the State’s open data efforts.

2. Year 1 Action Plan

- a. Encourage and assist state and county agencies to electronically post open data, including the results of their Logs.
- b. Complete data analysis and prepare reports of the Log results for FY 2026 from all state and county agencies.
- c. Post information on OIP’s website at oip.hawaii.gov to provide transparency and obtain public input on the rule-making process.
- d. Revise the UIPA Record Request Log and related training materials if new administrative rules are adopted.
- e. Continue to assist Chief Data Officer as needed with questions about interaction between the UIPA and the State’s open data efforts.

3. Year 2 Action Plan

- a. Continue to assist state and county agencies to electronically post open data and report on their results of state and county agencies’ Logs.
- b. Continue to assist Chief Data Officer as needed with questions about interaction between the UIPA and the State’s open data efforts.

4. Year 5 Action Plan

- a. Continue to assist state and county agencies to electronically post open data and report on the results of state and county agencies’ Logs.
- b. Continue to assist Chief Data Officer as needed with questions about interaction between the UIPA and the State’s open data efforts.

D. Records Report System

1. Past Year Accomplishments

- a. For FY 2025, State and county agencies reported 26,927 record titles on the RRS.

2. Year 1 Action Plan

- a. Continue to train and advise state and county agencies on how to use the access classification capabilities of the RRS to uniformly identify and protect private or confidential records, while promoting access to public data that may be disclosed.

3. Year 2 Action Plan

- a. Continue to train and advise state and county agencies on how to use the access classification capabilities of the RRS to uniformly identify and protect private or confidential records, while promoting access to public data that may be disclosed.

4. Year 5 Action Plan

- a. Continue to train and advise state and county agencies on how to use the access classification capabilities of the RRS to uniformly identify and protect private or confidential records, while promoting access to public data that may be disclosed.

E. Legislation and Lawsuits

1. Past Year Accomplishments

- a. During the 2025 legislative session, reviewed and monitored 151 bills and resolutions and testified on 39 of them.
- b. In FY 2025, OIP monitored 30 cases in litigation, of which six were new cases. Since six litigation files were closed, 24 cases remained pending at the end of FY 2025.

2. Year 1 Action Plan

- a. Continue to monitor legislation and lawsuits and to take appropriate action on matters affecting the UIPA, Sunshine Law, open data, or OIP.

3. Year 2 Action Plan

- a. Continue to monitor legislation and lawsuits and to take appropriate action on matters affecting the UIPA, Sunshine Law, open data, or OIP.

4. Year 5 Action Plan

- a. Continue to monitor legislation and lawsuits and to take appropriate action on matters affecting the UIPA, Sunshine Law, or OIP.

F. Performance Measures

- a. Customer Satisfaction Measure – Monitor evaluations submitted by participants after training or informational sessions as well as comments or complaints made to the office in general, and take appropriate action.
- b. Program Standard Measure – Measure the number of formal cases and AOD inquiries received and resolved; opinions issued; lawsuits monitored; legislative proposals monitored; unique visits to OIP’s website; training materials added or revised; and public communications.
- c. Cost Effectiveness Measure – Monitor the percentage of formal or informal requests for assistance resolved in the same year of the request and the number of formal cases pending at the end of each fiscal year.

Highlights of Fiscal Year 2025

BUDGET AND PERSONNEL

OIP reports its total allocation as the net amount it was authorized to use of the legislatively appropriated amount, including any collective bargaining adjustments, minus administratively imposed budget restrictions. For FY 2025, OIP’s total legislative appropriation was \$1,258,905 and there were no collective bargaining increases. The total amount for administratively imposed restrictions in FY 2025 was \$125,890. OIP’s actual operational and personnel costs respectively totaled \$18,867 and \$1,231,733. See Figure 1, below, which shows OIP’s budget fluctuations over the years, and Figure 2 on page 11 which sets forth OIP’s budget over the years in dollar amounts.

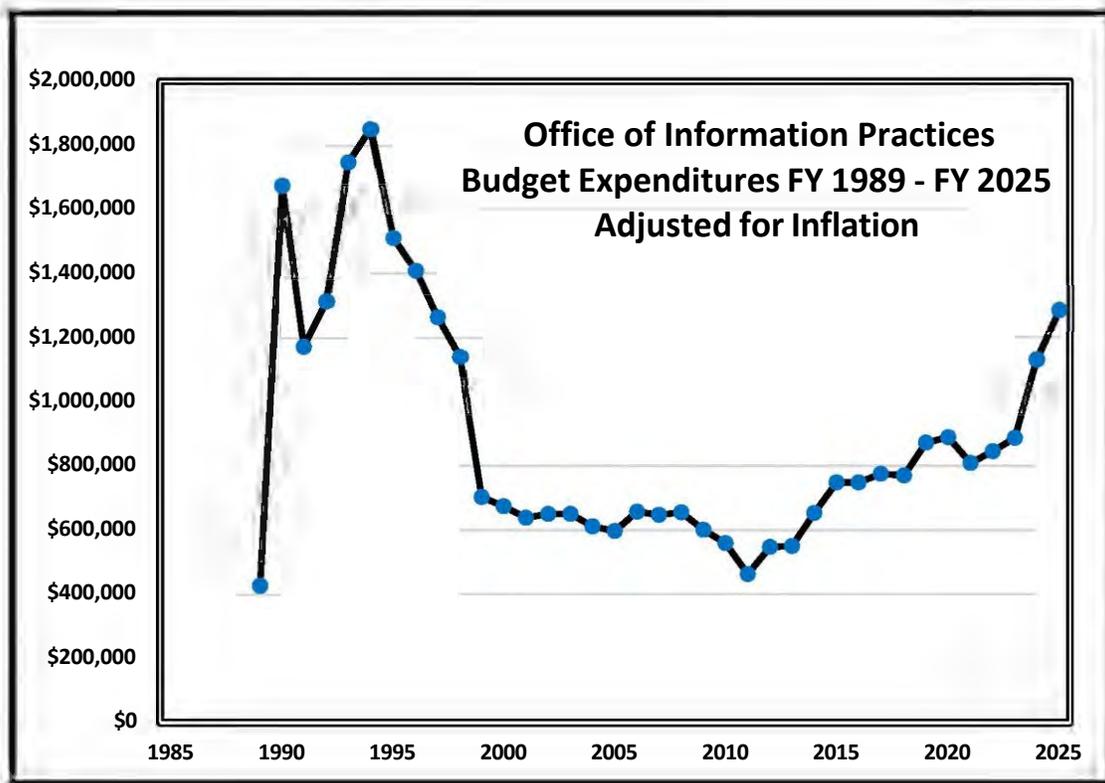


Figure 1

As in prior years, OIP was authorized 10.5 total full time equivalent (FTE) positions. OIP filled a vacant staff attorney position in April 2025. Additionally, OIP quickly filled two vacant administrative positions near the end of FY 2025 although the new hires did not start work until after FY 2026 began, thus OIP is currently fully staffed with no vacant positions.

**Office of Information Practices
Budget FY 1989 to FY 2025
Figure 2**

Fiscal Year	Approved Positions	Operational Costs	Personnel Costs	Total Expenditures	Expenditures Adjusted for Inflation*
FY 25	10.5	18,867	1,231,733	1,250,600	1,285,920
FY 24	10.5	22,594	1,046,230	1,068,824	1,131,666
FY 23	8.5	25,678	788,323	814,001	887,451
FY 22	8.5	22,127	689,632	711,759	846,285
FY 21	8.5	17,861	628,032	645,893	809,375
FY 20	8.5	22,188	683,170	705,358	889,599
FY 19	8.5	27,496	652,926	680,422	872,296
FY 18	8.5	15,793	568,222	584,015	770,202
FY 17	8.5	21,340	556,886	578,226	775,024
FY 16	8.5	31,592	532,449	564,041	748,591
FY 15	8.5	44,468	507,762	552,230	748,488
FY 14	8.5	35,400	436,505	471,905	652,871
FY 13	7.5	18,606	372,328	390,934	550,338
FY 12	7.5	30,197	352,085	382,282	547,113
FY 11	7.5	38,067	274,136	312,203	462,719
FY 10	7.5	19,208	353,742	372,950	558,575
FY 09	7.5	27,443	379,117	406,560	600,226
FY 08	7.5	45,220	377,487	422,707	655,404
FY 07	7.5	32,686	374,008	406,694	647,519
FY 06	7	52,592	342,894	395,486	656,869
FY 05	7	40,966	309,249	350,215	596,396
FY 04	7	39,039	308,664	347,703	611,458
FY 03	8	38,179	323,823	362,002	650,050
FY 02	8	38,179	320,278	358,457	650,555
FY 01	8	38,179	302,735	340,914	638,814
FY 00	8	37,992	308,736	346,728	673,946
FY 99	8	45,768	308,736	354,504	702,588
FY 98	8	119,214	446,856	566,070	1,140,785
FY 97	11	154,424	458,882	613,306	1,264,373
FY 96	12	171,524	492,882	664,406	1,407,443
FY 95	15	171,524	520,020	691,544	1,509,472
FY 94	15	249,024	578,513	827,537	1,851,345
FY 93	15	248,934	510,060	758,994	1,748,869
FY 92	10	167,964	385,338	553,302	1,314,288
FY 91	10	169,685	302,080	471,765	1,173,231
FY 90	10	417,057	226,575	643,632	1,675,456
FY 89	4	70,000	86,000	156,000	427,080

*Adjusted for inflation, using U.S. Bureau of Labor Statistics CPI Inflation Calculator.

LEGAL GUIDANCE, ASSISTANCE AND DISPUTE RESOLUTION

Overview & Statistics

OIP provides advice and training on the UIPA and Sunshine Law. OIP also provides neutral dispute resolution as an informal alternative to the courts. The public and Hawai'i's state and county government agencies and boards use OIP's services. Government inquiries come from the executive, legislative, and judicial branches of the state and counties, and include government employees as well as volunteer board members.

OIP quickly resolved 96% of the 1,922 formal and informal cases filed in FY 2025 within the same year. Of the 1,695 informal cases that constitute 88.2% of all new cases, OIP typically resolved them within 24 hours. OIP also resolved 151 of the 227 new formal cases filed in FY 2025 and issued 35 opinions. The number of formal cases pending at the end of FY 2025 hovered at 124 cases and consisted mainly of appeals.

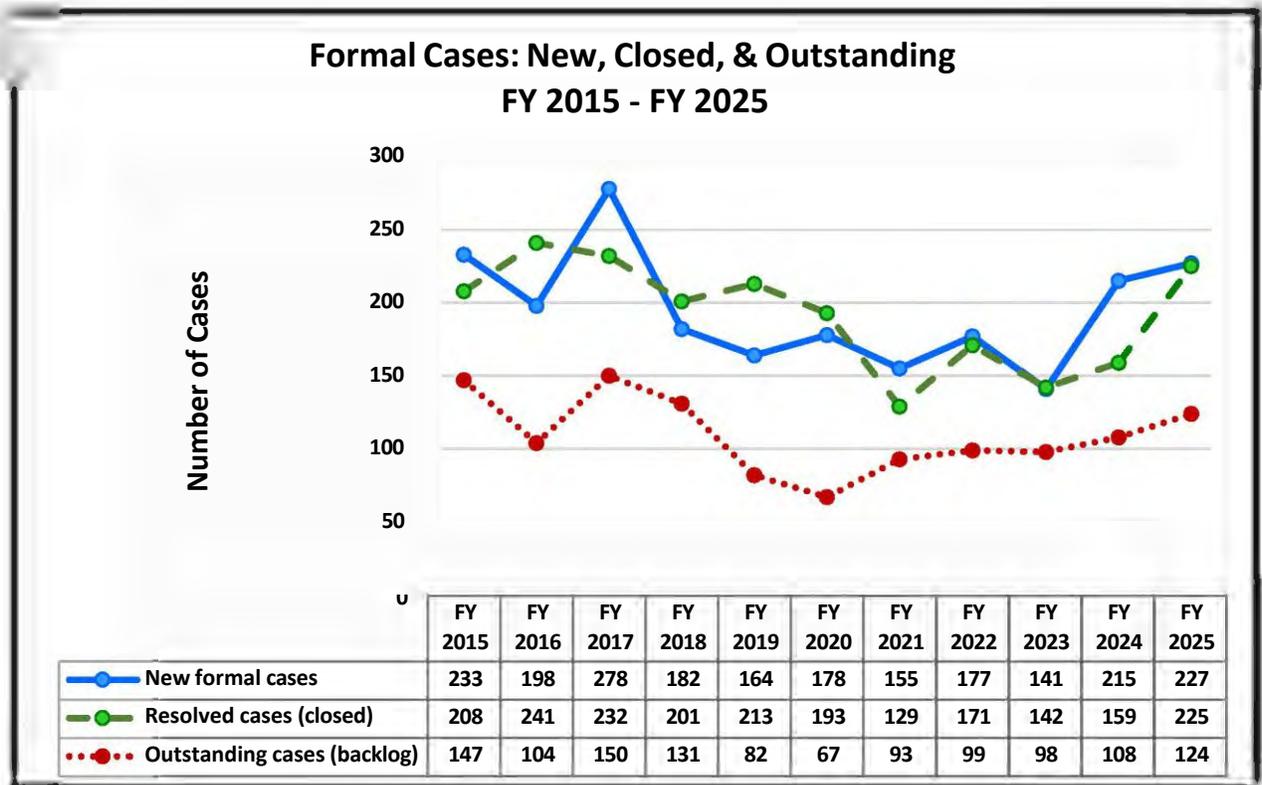


Figure 3

Formal Requests

Most of the formal cases are resolved through correspondence or voluntary compliance with OIP’s informal advice and mediation efforts. Appeals and requests for opinions, however, are much more time-consuming, even when opinions are not written. OIP resolved 186 cases without an opinion, out of 225 total formal cases resolved (82.7%) in FY 2025, and it issued seven formal opinions and 28 informal opinions, for a total of 35 written opinions. Summaries of the opinions begin on page 18.

In FY 2025, OIP opened 227 formal cases, compared to 215 formal cases opened in FY 2024. OIP timely resolved 151 of the 227 FY 2025 new formal cases (66.5%) in the same year they were filed. OIP had a backlog of 124 formal pending cases at the end of FY 2025. See Figure 3 on page 12 which shows OIP’s caseload over the past 10 years. Of the 124 formal cases backlog at the end of FY 2025, 76 cases were filed earlier that year and 48 were filed in FY 2024 or earlier. Fifteen of the appeals pending at the end of FY 2025 were filed by the same person and accounted for 12% of pending appeals. Figure 4 below shows the different types of formal requests received in FY 2025. Formal requests are further explained below Figure 4.

Formal Requests - FY 2025

Figure 4

<i>Type of Request</i>	<i>Number of Requests</i>
UIPA Requests for Assistance	115
UIPA Appeals	51
UIPA Requests for Advisory Opinions	0
Sunshine Law Appeals	15
Sunshine Law Requests for Opinions	1
Correspondence	23
UIPA Record Requests	20
Reconsideration Requests	2
Total Formal Requests	227

UIPA Requests for Assistance

OIP may be asked by the public for assistance in obtaining a response from an agency to a record request. In FY 2025, OIP received 115 written requests for assistance (RFAs) concerning the UIPA. In these cases, OIP staff attorneys will generally contact the agency to determine the status of the request, provide the agency with guidance as to the proper response required, and in appropriate instances, attempt to facilitate disclosure of the records. After an agency response has been received, the case is closed. Most RFAs are closed within 12 months of filing. A requester who is dissatisfied with an agency’s response may file a UIPA appeal or a lawsuit for access.

Requests for Advisory Opinions

A request for an opinion (RFO) does not involve a live case or controversy and may involve only one party, and thus, will result in an informal (memorandum) opinion that has no precedential value as to legal issues regarding the UIPA or Sunshine Law. In FY 2025, OIP received one request for an advisory Sunshine Law opinion.

UIPA Appeals

Appeals to OIP concern live cases or controversies. Appeals may result in formal or informal opinions, but are sometimes resolved through OIP's informal mediation and the subsequent voluntary cooperation of the agencies in providing all or part of requested records. Unless expedited review is warranted or the case is being litigated, appeals and requests for opinions involving the UIPA or Sunshine Law are generally resolved on a "first in, first out" basis, with priority given to the oldest cases whenever practicable. In FY 2025, OIP received 51 appeals related to the UIPA.

Sunshine Law Appeals

In FY 2025, OIP received 15 Sunshine Law appeals. These cases typically involve a member of the public asking whether a board violated the Sunshine Law, but some also ask whether a board is subject to the Sunshine Law.

Correspondence

OIP responds to general inquiries, which may include simple legal questions, by correspondence (CORR). A CORR file informally provides advice or resolves issues and obviates the need to open an appeal or RFO. Rather than waiting for an opinion, an agency or requester may be satisfied with a shorter, more general analysis presented on OIP's letterhead. In FY 2025, OIP opened 24 CORR files, of which 16 related to the UIPA, 1 was for a Sunshine Law issue and the remainder involved miscellaneous issues.

UIPA Record Requests

The UIPA allows people to request records that are maintained by an agency, and OIP receives UIPA requests for its own records. OIP's administrative rules require that an agency respond to a record request within 10 business days. When extenuating circumstances are present, however, the response time may be 20 business days or longer, depending on whether incremental responses are warranted. In FY 2025, OIP received 20 UIPA record requests for records maintained by OIP.

Reconsideration of Opinions

OIP's rules allow a party to request, in writing, reconsideration of OIP's written formal or informal opinions within ten business days of issuance. Reconsideration may be granted if there is a change in the law or facts, or for other compelling circumstances. OIP received two requests for reconsideration in FY 2025.

Types of Opinions and Rulings Issued

OIP issues opinions that it designates as either formal or informal. Formal opinions concern actual controversies and address issues that are novel or controversial, require complex legal analysis, or are otherwise of broader interest to agencies and the public. Formal opinions are used by OIP as precedent

for its later opinions and are posted, in full and as summaries, on OIP's opinions page at oip.hawaii.gov. Summaries of the formal opinions for this fiscal year are also found on pages 18-21 of this report. OIP's website contains a searchable subject-matter index for the formal opinions.

Informal opinions, also known as memorandum opinions, are binding upon the parties involved but are considered advisory in other contexts and are not cited by OIP as legal precedents. The full text of informal opinions are not posted online by OIP, but are provided upon request. Summaries of informal opinions are on OIP's website and those issued in FY 2025 year are also found in this report on pages 21-33. Informal opinions do not have precedential value as formal opinions do because they generally address issues that have already been more fully analyzed in formal opinions. Informal opinions may provide less detailed legal discussion, or their factual bases may limit their general applicability.

Both formal and informal opinions, however, are subject to judicial review on appeal. Since the 2012 statutory changes regarding appeals to OIP, the office ensures to write opinions that "speak for themselves" in order to avoid having to intervene and defend them in court later. Thus, OIP opinions require more attorney time to gather the facts and parties' positions; perform legal research; analyze the statutes, case law, and OIP's prior precedents; draft; and undergo internal reviews before final issuance.

In FY 2025, OIP issued 35 opinions, consisting of three formal UIPA opinions, four formal Sunshine Law opinions, 22 informal UIPA opinions, and six informal Sunshine Law opinions. OIP closed 186 cases without opinions. See Figure 5 on page 16 for a breakdown of services provided by OIP over the past five years.

**OIP Service Overview
FY 2021-2025
Figure 5**

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Total Requests for OIP’s Services	874	1,633	1,416	1,766	1,922
Informal Requests (AODs)	719	1,456	1,275	1,551	1,695
Formal Requests Opened	155	177	141	215	227
Formal Requests Resolved	129	171	142	159	225
Formal Cases Pending	93	99	98	122	124
Live Training	0	0	0	4	1
Training Materials Added/Revised	1	19	13	21	10
Legislation Monitored	161	235	186	152	151
Lawsuits Monitored	45	39	40	38	30
Public Communications	30	30	33	21	12

Informal Requests Attorney of the Day Service

The vast majority (88% in FY 2025) of all requests for OIP's services are informally handled through the Attorney of the Day (AOD) service. AOD service allows the public, agencies, and boards to receive general, nonbinding legal advice from an OIP staff attorney, usually on the same business day. The AOD service allows people to quickly get answers to their relatively simple questions without having to wait for more time-consuming resolution of complex issues often found in formal cases, especially appeals.

Through AOD calls, OIP is often alerted to trends and problems, and OIP can provide informal advice to prevent or correct them. The AOD service is also a free and quick way for members of the public to get the advice that they need on UIPA record requests or Sunshine Law questions, without having to engage their own lawyers.

Members of the public use the AOD service frequently to determine whether agencies are properly responding to UIPA record requests or if government boards are following the procedures required by the Sunshine Law. Agencies often use the AOD service for UIPA assistance, such as how to properly respond to requests or redact specific information under the UIPA's exceptions. Boards also use the AOD service to assist them in navigating Sunshine Law requirements.

Through AOD inquiries, OIP may be alerted to inadequate Sunshine Law notices and is able to take quick preventative or corrective action. For example, based on AOD inquiries, OIP has unfortunately had to advise boards to cancel improperly noticed meetings. In such cases, OIP makes suggestions to boards so they can prepare legally sufficient notices in the future. OIP has even had boards call for advice during their meetings, with questions such as whether they can conduct an executive session closed to the public.

Through the AOD service, OIP has been able to informally and quickly inform people of their rights, inform agencies and boards of their responsibilities, avert or resolve disputes, and avoid having small issues escalate to appeals or other formal cases that necessarily take longer to resolve. Although AOD inquiries take a significant amount of OIP staff attorneys' time, agencies usually conform to this general advice, which thus prevents or quickly resolves many disputes that would otherwise lead to more labor-intensive formal cases.

In FY 2025, OIP received 719 AOD requests concerning the UIPA, 873 AOD requests concerning the Sunshine Law, and the remaining AOD requests were outside of OIP's jurisdiction. Informal AOD inquiries increased by 9.3% in FY 2025 from the prior year. Examples of AOD inquiries and OIP's informal responses start on page 33.

FORMAL OPINIONS

In FY 2025, OIP issued seven formal opinions, which are summarized below. The full text versions can be found at oip.hawaii.gov. In the event of a conflict between the full text and the summary, the full text of an opinion controls. Three opinions related to the UIPA, while four concerned the Sunshine Law.

UIPA FORMAL OPINIONS:

Reasonable Search for Records; Employee Medical Records

OIP Op. Ltr. No. F25-03

A record requester (Requester) sought copies of an officer’s disciplinary and medical records from the Honolulu Police Department (HPD). HPD denied the record request, asserting that it had performed a search for records responsive to the request for disciplinary records and did not find records responsive to the request, and that disclosing the medical records would result in a clearly unwarranted invasion of personal privacy. OIP found that HPD conducted a reasonable search for records responsive to the request for the officer’s disciplinary records by looking for the records in the places most likely to contain such records; and concluded that HPD’s response that it does not maintain records responsive to that part of the record request was proper under the UIPA.

Regarding the medical records, OIP found that a specific portion of the responsive records withheld by HPD was also “about” Requester, and therefore a joint “personal record” of Requester and the officer that must be analyzed under part III of the UIPA. OIP concluded that the exemptions to disclosure of personal records did not apply to that specific portion of the responsive records, and the portion of the records that was also “about” Requester must be disclosed to Requester. OIP also found that for the remainder of the responsive records, on balance, the officer’s privacy interest in his medical records exceeded the public’s interest in disclosure. OIP concluded that HPD properly withheld the records under the UIPA’s privacy exception, section 92F-13(1), HRS, with the exception of one page of the responsive records that contained only general information. OIP also found that the information in which the officer held a privacy interest was not reasonably segregable from the records responsive to the request, so apart from that specific page, which must be disclosed, HPD properly withheld the remainder of the records.

Record Requests Under the Individuals with Disabilities Education Act, and Title 8, Chapter 60, Hawai‘i Administrative Rules (HAR), Provision of Free Appropriate Public Education for a Student with a Disability

OIP Op. Ltr. No. F25-05

Requester, who is a parent (Parent) of a Department of Education (DOE) student receiving special education services, appealed DOE’s alleged denial of multiple record requests. OIP found that Parent requested access to student records not under the UIPA, but under a different applicable law, the Individuals with Disabilities Education Act (IDEA), 34 CFR 300.613, and its implementing rules at title 8, chapter 60, HAR (Chapter 60). OIP concluded that, although requesters are not required to cite to or reference the UIPA when making a record request thereunder, it was reasonable for DOE to respond under the IDEA’s statutory and regulatory scheme, instead of the UIPA, because Parent’s record requests clearly invoked the IDEA and Chapter 60, and did not reference, with sufficient clarity, any other basis for requesting records to give DOE fair notice that the requests were also a UIPA request. Without fair notice of a recognizable UIPA request, DOE did not have a duty to respond under the UIPA’s statutory scheme.

OIP concluded that Parent cannot use the UIPA's enforcement mechanisms to appeal an alleged denial of a record request made under the IDEA, 34 CFR 300.613, and Chapter 60, because the IDEA and UIPA are two separate and distinct statutory schemes for disclosure of records. The UIPA does not provide requesters with a right to use the UIPA's enforcement process to pursue a denial of a request made under a different statutory scheme, therefore, OIP cannot determine whether DOE properly provided Requester with access to student's educational records under the IDEA.

Adequacy of Search for Personal Records

OIP Op. Ltr. No. F25-06

Requester asked whether the County of Hawai'i Department of Parks and Recreation (Parks) fully responded to Requester's request for emails and a list of name-calling that Parks attributed to Requester before the Hawai'i County Ethics Board (Ethics Board). Parks provided Requester a copy of the exhibits Parks had previously provided to the Ethics Board, which consisted almost entirely of emails from Requester to Parks.

OIP concluded that Parks had properly responded to Requester's request as a personal record request under part III of the UIPA, since part III did not require Parks to compile a list of name-calling by Requester in other records or to create a new record of such name-calling, and that Parks had provided Requester all the records of name-calling that were "accessible" personal records.

OIP further concluded that part II of the UIPA did not require Parks to compile a list of name-calling by requester from the records it had provided to Requester or create a new record of name-calling not already set forth in its existing records. Finally, OIP concluded that since Requester's request was limited to emails and other name-calling that Parks had attributed to Requester before the Ethics Board, Parks had established based on its director's actual knowledge that it had already provided Requester with all records of name-calling it had provided as evidence to the Ethics Board. Parks therefore had no duty to make a further search for additional evidence of name-calling.

SUNSHINE LAW FORMAL OPINIONS:

Executive Sessions; Adequacy of Agendas; Discussion of Topics Not on Agendas

OIP Op. Ltr. No. F25-01

The Public First Law Center questioned whether the Honolulu Police Commission (Commission) was violating the Sunshine Law in its meetings, by failing to include sufficiently detailed purposes on its meeting notices for executive meetings anticipated in advance; failing generally to include sufficiently detailed agenda items on meeting notices and to list topics actually discussed at meetings; and engaging in executive discussions not allowed under the Sunshine Law.

Section 92-7(a), HRS, requires that meeting notices include an agenda of all items to be discussed, including items to be discussed in executive session. OIP found that the Commission was using catch-all agenda entries to discuss topics that were not specifically listed on its agenda, and concluded that the Sunshine Law did not allow the Commission to do so.

OIP also found that the Commission was using a catch-all listing of all executive session purposes potentially applicable to the Commission in lieu of stating the specific purpose or purposes it reasonably believed allowed each executive session agenda item to be discussed in executive session. OIP concluded

that this practice violated the Sunshine Law because section 92-7(a), HRS, requires that boards give notice of the purpose of an executive meeting when anticipated in advance.

OIP concluded that the Commission’s brief executive discussion of legislative bills (specifically, that it would defer discussing them until the next meeting) did not fall within an authorized executive session purpose. OIP further noted that the Commission’s executive session minutes were inadequate, and largely failed to reflect the Commission’s executive session discussions; and that the Commission’s executive session discussion of other topics likewise did not appear to fall under any executive session purpose.

Meeting Notice by Electronic Mail

OIP Op. Ltr. No. F25-02

Requester sought a decision as to whether the Downtown-Chinatown Neighborhood Board No. 13 (NB 13) violated the Sunshine Law by holding a meeting despite being informed that not all individuals on NB 13’s list of persons who requested to receive meeting notices by electronic email (Email List) had been sent timely notice of the meeting. The Neighborhood Commission Office (NCO) sends notices on behalf of NB 13 and had notified NB 13 that “due to a technical issue with the email program, some individuals did not receive email notification.” The NCO informed OIP that 600 people were on NB 13’s Email List, and most of them were not sent a timely email notice of the meeting. NB 13 admitted it had been “advised of the potential violation of Sunshine Law” but “voted to continue the meeting because two out of the three distribution methods were met and the information to be distributed during the meeting was important for the general public[.]” OIP found that: (1) NB 13 did not email a copy of its meeting notice to its Email List by the statutory deadline, and (2) although NB 13 had intended to send, and initially believed it had sent, notice to its Email List on the deadline, by the time of the meeting NB 13 had been informed by OIP and the NCO that the required notice had not been sent. OIP therefore concluded that NB 13 knowingly violated the Sunshine Law’s notice requirement in section 92-7(e), HRS, when it proceeded with its meeting without having provided the required notice of that meeting.

Written Testimony Submitted for Canceled Meeting

OIP Op. Ltr. No. F25-04

Requester asked whether the Maui County Planning Commission (Commission) violated the Sunshine Law by failing to consider testimony submitted for a canceled meeting when the same agenda item was next heard at a later meeting. Requester had submitted testimony for a meeting scheduled for February 7, 2023 (February 7 Meeting). The Commission’s board packet for the February 7 Meeting did not include the testimony from Requester and others whose testimony came in too late to be included in the board packet, but the February 7 Meeting was ultimately canceled. The proposed rule amendments Requester and others testified on were finally considered at a meeting held March 28, 2023 (March 28 Meeting). The Commission had intended to treat all testimony from the canceled February 7 Meeting as testimony for the March 28 Meeting, but it again failed to include Requester’s testimony in the board packet for the March 28 Meeting or otherwise distribute it to its members.

OIP concluded that the Commission had not violated the Sunshine Law’s testimony requirement with respect to the canceled February 7 Meeting because the Sunshine Law does not require a board to distribute written testimony for a canceled meeting or a canceled agenda item. A board’s failure to distribute written testimony rises to the level of a Sunshine Law violation when the board considers the agenda item the testimony was submitted for without having first made the testimony available to the board’s members. HRS § 92-3 (Supp. 2024); OIP Op. Ltr. No. 03-06. A board thus cannot violate the

Sunshine Law through its failure to distribute written testimony for an agenda item that it did not consider, either because the entire meeting was canceled or because that particular agenda item was canceled.

However, OIP concluded that even though Requester's testimony was submitted for a canceled meeting, in these circumstances the Commission should have reasonably understood it to be intended for consideration as testimony for the March 28 Meeting at which the Commission held its public hearing on proposed rule amendments that was originally scheduled for the canceled meeting date. The Commission's failure to distribute the testimony before the rescheduled meeting, although unintentional, violated the Sunshine Law's testimony requirement. HRS § 92-3. Nonetheless, the Commission's subsequent action to schedule yet another public hearing on the same proposed rule amendments, for which it would distribute Requester's testimony and other testimony submitted previously, mitigated the public harm from that violation.

Sufficiency of Minutes

OIP Op. Ltr. No. F25-07

A member of the public asked whether the Maui County Planning Commission's (Commission) written summary accompanying its recorded minutes violated the Sunshine Law by failing to record all votes made by the Commission at a meeting. OIP found that the summary failed to document all motions and votes by individual members, and included incorrect timestamps, hindering public access to key decision points in the meeting recording. OIP concluded that the Commission did violate the Sunshine Law's minutes requirements in section 92-9, HRS. Although these violations cannot be fully remedied, the Commission took corrective action by posting detailed written minutes akin to a transcript, which mitigated public harm.

INFORMAL OPINIONS

FY 2025, OIP issued 28 informal opinions. Summaries of these informal opinions are provided below. In the event of a conflict between the full text and a summary, the full text of an opinion controls.

UIPA INFORMAL OPINIONS:

UIPA informal opinions are written to resolve disputes between agencies and the public regarding disclosure of records. OIP wrote 22 informal opinions concerning the UIPA in FY 2025.

Reasonable Search for Video and Inmate Personal Property Records

U Memo 25-01

Requester sought, among other things, video footage just before his son's death at Hawai'i Community Correctional Center (HCCC), and his son's personal property records. On appeal, the Department of Corrections and Rehabilitation (DCR) clarified that his request for the video and personal property records were denied because it no longer maintained the requested video and personal property records at the time of the request.

When a requester contests an agency's response to a record request by stating that no responsive record exists, OIP will generally examine whether the agency's search for a responsive record was reasonable. OIP Op. Ltr. No. 97-8 at 4-6. A reasonable search is one "reasonably calculated to uncover all relevant documents," and an agency must make "a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." *Id.* at 5 (citations omitted).

OIP found that DCR staff conducted a reasonable search for the requested property records in locations where the responsive record would likely have been found but no responsive records were located. OIP further found that DCR had actual knowledge that HCCC, a jail under the jurisdiction of DCR, did not maintain the requested video surveillance footage at the time of the record request and that it had been destroyed before the record request was made. OIP therefore concluded that DCR's response that the requested surveillance video and personal property records do not exist was proper under section 2-71-14(c), HAR, and the UIPA.

Complaint and Related Documents for Pending Investigation

U Memo 25-02

Requester asked whether the Department of Commerce and Consumer Affairs, Regulated Industries Complaints Office (RICO), properly denied Requester's request for a copy of a complaint filed against Requester's client (Client) and related materials. OIP found that the requested records were part of an ongoing administrative proceeding against Client at the time Requester made his request, and the information withheld would potentially have given Requester new information about what RICO knew or was considering in the investigation. OIP therefore concluded that the information was properly withheld at the time RICO responded, whether analyzed under section 92F-13(3), HRS (to the extent the records were general government records), or section 92F22(4), HRS (to the extent the records were Client's personal record).

Applicability of Attorney-Client Privilege to Legal Reviews of Proposed Legislation

U Memo 25-03

Requester sought the Department of the Attorney General's (AG) legal review of proposed ghost gun legislation. The AG denied the request on the basis that "the records need to remain confidential to avoid the frustration of a legitimate government function" under section 92F-13(3), HRS, and are protected by the attorney work product and attorney-client privileges, and therefore may also be withheld under subsection 92F-13(2), HRS (92F-13(2), HRS, was not raised in the appeal, but section 92F-13(4), HRS, was). Requester appealed the AG's denial of access to its legislative review.

Based on its *in camera* review, OIP found that the requested records are indeed confidential communications made for the purpose of facilitating the rendition of professional legal services between the AG and its clients, the Governor and Legislature, and their respective representatives. OIP therefore concluded that the requested records may be withheld under section 92F-13(3) and (4), HRS, as the records are protected by the attorney-client privilege as set forth in Rule 503, Hawai'i Rules of Evidence (HRE) (Rule 503), chapter 626, HRS. OIP further found that the AG failed to establish that the requested records were prepared in anticipation of potential litigation rather than prepared in the ordinary course of business. Therefore, OIP concluded that the attorney work product doctrine is inapplicable to this case.

Reasonable Search for Records

U Memo 25-04

A record requester (Requester) sought copies of documents related to an employment application from the Department of Land and Natural Resources (DLNR). DLNR provided Requester with responsive records and informed Requester that it did not maintain some of the requested records. Requester appealed DLNR's response to OIP.

OIP found that DLNR conducted a reasonable search for records responsive to Requester's record request in the locations where any responsive records would most likely be found which included reaching out to employees most likely to know where such records might be maintained. However, DLNR could not locate any responsive records other than the records provided to Requester. OIP concluded that DLNR's response that it has provided Requester with all records DLNR maintains responsive to the record request was proper and DLNR has satisfied its obligations under the UIPA to search for such records.

Investigative Records Related to Upcoming Enforcement Proceeding

U Memo 25-05

Requester sought a copy of the answer to his complaint and the Advisory Committee Member (ACM) report in an upcoming enforcement action before the Department of Commerce and Consumer Affairs, Regulated Industries Complaints Office (RICO). RICO denied Requester's request pursuant to sections 92F-13(3), 92F-22(4), and 92F-22(2), HRS, because (1) the responsive records directly related to an active RICO enforcement action involving the Requester-complainant, (2) premature disclosure would frustrate RICO's law enforcement function in prosecuting alleged licensing law violations, and (3) because the ACM received an express promise of confidentiality as a condition of assisting RICO.

Section 92F-22(4), HRS, allows agencies to withhold investigative materials related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual. Requester appealed RICO's response and asserted that section 92F-22(4), HRS, did not apply because he is the complainant and RICO's proceeding is not against him. OIP previously reviewed the legislative history of section 92F-22(4), HRS, and concluded that the "legislative policies underlying this exemption would be defeated were other persons mentioned in the fact-finding report provided with access to the same while the proceeding remains 'upcoming, ongoing, or pending.'" OIP Op. Ltr. 94-27 at 15. Thus, government agencies like RICO may assert section 92F-22(4), HRS, when a complainant requests copies of investigative materials related to an upcoming, ongoing or pending enforcement action.

Here, OIP concluded that premature disclosure would reasonably be expected to interfere with RICO's upcoming civil enforcement proceeding against the painting company and frustrate RICO's legitimate investigatory and law enforcement functions, so RICO properly withheld the records under sections 92F-22(4) and 92F-13(3), HRS, at the time of the request.

Requester also asserted that RICO failed to disclose at least a redacted copy of the ACM report pursuant to an unpublished OIP memorandum opinion, U MEMO 19-5, in an unrelated appeal. The facts and analysis in U MEMO 19-5 are distinguishable from this case as the agency in U MEMO 19-5 denied access to records of a closed investigation and asserted that disclosure would result in a clearly unwarranted invasion of personal privacy under section 92F-13(1), HRS. By contrast, here, Requester sought records of an ongoing investigation and RICO invoked a different UIPA exemption and exception to withhold the responsive records under sections 92F-22(4) and 92F-13(3), HRS, which were not at issue in U MEMO 19-5. In the controlling precedent, OIP Opinion Letter Number F20-04, OIP concluded that

the UIPA allowed agencies to withhold records part of an active, ongoing investigation as a rule, rather than being required to provide redacted versions. Thus, the ongoing investigation exemption invoked by RICO in this appeal applies broadly to records related to an upcoming, ongoing, or pending proceeding rather than being limited to specific information within those records.

Finally, OIP found that RICO promised the ACM confidentiality as a condition of providing RICO with the ACM's expert opinion and analysis in this case, which is crucial to RICO's investigatory function. OIP concluded that the ACM in this case is a confidential source whose identity may be withheld under section 92F-22(2), HRS.

Reasonable Search for Records

U Memo 25-06

A record requester (Requester) sought copies of documents related to an employment application from the Department of Education (DOE). DOE provided Requester with records responsive to part of Requester's request, asserted that it did not maintain records responsive to part of Requester's request, stated that it would withhold testing and examination materials pursuant to section 92F-22(3), HRS, and that it would redact the names of the interview panelists from the scoring sheets to protect an implied promise of confidentiality under section 92F-22(2), HRS. Requester appealed DOE's response to OIP.

OIP found that DOE conducted a reasonable search for records responsive to the request in locations such records were likely to be found, that DOE properly identified records responsive to the record request, that DOE may withhold prospective employee interview questions under section 92F-22(3), HRS, and that, given that DOE had already provided the names of the interview panel members separately, DOE may redact the names of interview panel members from the scoring sheets under section 92F-22(2), HRS. OIP concluded that DOE properly responded to the record request and satisfied its obligations under the UIPA to search for such records.

Policies and Procedures Relating to Reference and Record Checks

U Memo 25-07

Requester applied and interviewed for positions in three different divisions at the Department of Health (DOH). After his interviews, Requester emailed three separate but substantially similar record requests, each with the same date, to DOH's three divisions. Requester also emailed a second related request to DOH's Human Resource Office, seeking records similar to those he previously requested from the DOH divisions in his prior requests. Requester appealed DOH's responses to his four requests. OIP consolidated the four appeals for decision and disposition.

OIP found that for each appeal, DOH provided Requester with copies of all responsive records it maintains. OIP further found that for each appeal DOH conducted reasonable searches for responsive records in the places where the requested records were most likely to be maintained. OIP concluded that, for all four appeals, DOH met its burden under the UIPA and no further action is required.

Police Internal Affairs Records

U Memo 25-08

Requester sought Internal Affairs (IA) Records for seven Maui Police Department (MPD) officers. Upon in camera review of the records, OIP found that six MPD officers were never suspended or discharged for employment related misconduct, and therefore, concluded that these officers' records may be withheld under section 92F-13(1), HRS, to avoid a clearly unwarranted invasion of their personal privacy. Since information in one MPD officer's IA record showed that he had been suspended, OIP found that MPD properly disclosed this record to Requester because the information is considered public.

As part of her appeal, Requester had asked whether there were any missing IA records or other information not provided to her. In response, MPD searched for additional responsive records and information by looking in places where such information would have been kept and found none. OIP concluded that MPD's search was reasonable, its response was proper, and that no further actions were required.

Upon review of an Internal Affairs Inquiry (Inquiry Report), OIP found that the majority of the information may be disclosed to Requester because it provided documentation of MPD's investigation into the death of a fellow MPD officer. However, the portions of the Inquiry Report that included highly personal and intimate details about the decedent officer's home may be withheld to avoid a clearly unwarranted invasion of personal privacy.

Confidential Attorney-Client Communications and Work Product

U Memo 25-09

A record requester (Requester) sought copies of documents from the Department of Land and Natural Resources (DLNR) related to himself or his boat and the Ala Wai Small Boat Harbor. DLNR denied Requester's record request, stating that attorney-client privilege applied to the responsive documents. Requester appealed DLNR's denial to OIP.

Under section 92F-22(5), HRS, an agency is not required to disclose records in response to a personal record request if those records are required to be withheld by statute or authorized to be withheld by "constitutional or statutory privilege." Rule 503, HRE, chapter 626, HRS, provides that a client has the privilege to refuse to disclose and prevent others from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services. OIP found that many of the records DLNR withheld from Requester were communications subject to the attorney-client privilege, and that the attorney-client privilege still protects these communications, regardless of whether the Attorney General or a deputy Attorney General has since left that role. OIP therefore concluded that the emails that were protected under the attorney-client privilege in Rule 503, HRE, and withholding such records was therefore proper under section 92F-22(5), HRS.

Rule 26(b)(4) of the Hawai'i Rules of Civil Procedure (HRCP) states that records prepared "in anticipation of litigation or for trial" and "by or for another party or by or for that party's representative" are only discoverable upon a showing that the party seeking discovery has substantial need of the records and is unable to obtain equivalent records by other means. OIP previously found that this work product doctrine gives a party a "privilege" in the manner recognized by the Legislature in section 92F-22(5), HRS. OIP found that some of the responsive records were created in anticipation of litigation or in response to the court case filed by Requester against DLNR and other agencies, and therefore concluded DLNR may withhold such records.

However, upon *in camera* review of the responsive records, OIP found that some of the responsive records were neither confidential attorney-client communications nor work product prepared in anticipation of litigation or for trial, but also include other individuals' personal contact information, which OIP found was not part of Requester's personal record. OIP concluded that DLNR may redact individuals' personal contact information under the UIPA's privacy exception, section 92F-13(1), HRS, but must otherwise disclose these records to Requester.

Audio Portions of Body Worn Camera Recordings

U Memo 25-10

A member of the public (Requester) appealed the Hawai'i County Police Department's (POLICE-H) response to his personal record request for copies of body-worn camera (BWC) recordings. Specifically, he complained that portions of the recordings contained redactions of audio. OIP concluded that POLICE-H satisfied its obligations under the UIPA to explain why no additional audio existed for the portions of the BWC recordings that did not have audio. OIP found that POLICE-H had actual knowledge that BWCs do not record audio in buffering mode, and that officers had enabled the mute feature during some recordings. OIP found that the recordings and officers' actions were consistent with how BWCs are muted and how they record in pre-event buffering mode. OIP further concluded that POLICE-H did not have to conduct a reasonable search for the relevant audio portions of the BWC recordings because employees with actual knowledge sufficiently explained that no audio ever existed for those portions and that POLICE-H's response that no additional audio is available was proper under section 2-71-14(c), HAR, and the UIPA. Requester also complained that POLICE-H did not respond to his request within 10 business days, and was not in compliance with OIP's administrative rules. OIP concluded that POLICE-H failed to respond within ten working days as required by section 92F-23, HRS. OIP further concluded that POLICE-H's failure to notify Requester of the specific parts of his personal record request that would not be disclosed and its legal basis for denying access did not violate the UIPA or chapter 2-71, HAR, because the notice requirements set out in section 2-71-14, HAR, apply to government record requests, not personal record requests. Finally, OIP concluded that the UIPA and chapter 2-71, HAR, did not authorize POLICE-H to charge Requester for searching for, reviewing, and segregating records in response to his personal record request because section 2-71-31, HAR, applies to government record requests, not personal record requests. HAR § 2-71-1.

Records Relating to an Employment Application

U Memo 25-11

Requester, an applicant for employment with the Department of Human Resources Development (DHRD), asked whether DHRD properly denied a request for records relating to its procedures for obtaining employment references and verification information from applicants' current and former employers under the UIPA. DHRD disclosed copies of six responsive records to Requester, including its reference check guide and memorandum, employment voucher form, authorization for release of employment information form, policies and procedures for suitability investigations, and the Hawai'i Civil Rights Commission Guidelines for Pre-Employment Inquiries. Upon review, Requester noted minor differences in the employment voucher form and the authorization for release of employment information form when compared to the two forms that DHRD previously disclosed to him. Requester claimed that the minor differences in the two forms amounted to "outstanding issues." OIP found that DHRD reasonably explained that its forms may be amended at any time, and reasonably searched for information that would verify which specific forms were used when Requester had applied for a job with the agency. Therefore, OIP concluded that DHRD's response to the record request was proper.

Identifying Information About Complainant

U Memo 25-12

Requester requested a copy of a complaint filed with the County of Hawai‘i Department of Parks and Recreation (PARKS-H) about him. PARKS-H disclosed a copy of the complaint form with the name, address, and telephone number of the complainant redacted. Requester appealed PARKS-H’s response to his request. The requested record was a personal record of Requester because it was about him. Personal records must be disclosed to the person the record is about unless an exemption to disclosure of personal records at section 92F-22, HRS, applies. Based on the statements of PARKS-H staff and the oral “promise” PARKS-H asserted was given to the complainant prior to filing the complaint, OIP found that the complainant furnished information under an express promise of confidentiality, and concluded that in accordance with section 92F-22(2), HRS, PARKS-H was not required to disclose the name, address and telephone number of the complainant to Requester.

Emails Containing Attorney-Client Privileged Communications

U Memo 25-13

The Hawai‘i County Department of Information Technology properly denied access to emails containing confidential communications between the Hawai‘i County Office of the Corporation Counsel and its county agency clients, and their respective representatives under section 92F-13(4), HRS, because the communications were protected by attorney-client privilege as set forth in Rule 503, HRE, chapter 626, HRS.

Reasonable Search for School-Specific Football Practice Rules

U Memo 25-14

Requester sought the “exact reference and verbiage” of the rule that “states the restrictions for practicing with players from other [football] teams.” The Department of Education (DOE) provided Requester with a copy of the O‘ahu Interscholastic Association (OIA) rules, and Administrative Regulations of the Hawai‘i High School Athletic Association, and exact references to the requested rules therein. Requester asserted that DOE failed to disclose Mililani High School’s (MHS) school-specific rule restricting school football players from practicing with players from other teams.

When a requester contests an agency’s response that no additional responsive records exist, OIP will generally examine whether the agency’s search for responsive records was reasonable. OIP Op. Ltr. No. 97-8 at 4-6. A reasonable search is one “reasonably calculated to uncover all relevant documents,” and an agency must make “a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.” *Id.* at 5. However, in some instances where an agency’s staff has “actual knowledge that the type of record requested was never created,” the agency is “absolved from having to conduct a search reasonably likely to produce the requested records.” OIP Op. Ltr. No. F16-03 at 3-4.

Based on information provided by DOE, OIP concluded that DOE did not have to conduct a reasonable search for a school-specific rule because an employee with actual knowledge of the football practice rules implemented at MHS sufficiently explained that MHS follows the OIA rules and no school-specific rule exists, and that DOE’s response that no school-specific rule exists was proper under section 2-71-14(c), HAR, and the UIPA.

Attorney-Client Communications

U Memo 25-15

Requester sought copies of documents from the County of Maui Department of Planning (PLAN-M). PLAN-M partially granted and partially denied the record request, asserting that some of the responsive records were communications between the County of Maui Department of the Corporation Counsel (CORP CNSL-M) “regarding legal issues.” OIP found that most of the withheld records consisted of communications between PLAN-M and CORP CNSL-M. OIP concluded that, as communications between attorney and client regarding legal services, the responsive records were generally protected by the attorney-client privilege. However, PLAN-M had voluntarily disclosed to Requester specific parts of the communications from CORP CNSL-M and informed Requester that those portions of the communications were advice from CORP CNSL-M to PLAN-M. OIP therefore concluded that the portions of the responsive records that PLAN-M had already voluntarily disclosed to Requester must be disclosed, as well as an email between two PLAN-M employees that was not sent to or from CORP CNSL-M. OIP concluded that the remainder of the emails between PLAN-M and CORP CNSL-M may be redacted.

Records Related to an Ongoing Criminal Investigation

U Memo 25-16

Requester sought copies of records related to a murder investigation from the Maui Police Department (MPD). MPD denied the record request, arguing that disclosure would lead to a clearly unwarranted invasion of personal privacy of witnesses and third parties, and frustration of a legitimate government function. Requester appealed the denial of his record request to OIP.

OIP found that the responsive records consist of information of a type that OIP has previously recognized as likely to disrupt the progress of an ongoing investigation. OIP also found that MPD provided evidence that the criminal investigation the records relate to is still ongoing. Therefore, OIP concluded that MPD could withhold the records under section 92F-13(3), HRS, as their disclosure would likely frustrate a legitimate government function.

OIP also found that the responsive records contain personal information of witnesses and third parties, and the records are identifiable as part of an investigation into a possible violation of criminal law. OIP found that the significant privacy interests of the witnesses and third parties named in the police report outweighed public interest in disclosure and concluded that MPD could also withhold identifying information about witnesses and third parties under section 92F-13(1), HRS, to prevent a clearly unwarranted invasion of personal privacy.

Records Related to BWC Recordings

U Memo 25-17

Requester asked whether the Maui Police Department (MPD) properly redacted two police officers’ body worn camera (BWC) recordings from an investigation of another MPD officer’s (Officer) death. OIP found that, because the Officer’s death was recent, he continued to have a significant reputational privacy interest in the contents of the BWC footage, and his privacy interest was not outweighed by the public’s substantial interest in disclosure of the results of a police investigation. OIP also found that the Officer’s surviving family members had significant privacy interests in the BWC footage of the interior of their home that was also not outweighed by the public interest in disclosure. Although MPD disclosed

some footage of the Officer's home interior to Requester in one of the MPD officer's BWC recording, OIP found that the inconsistent disclosures did not waive Officer's or surviving family members' privacy interests.

OIP also found that information identifying a witness and bystanders carried significant privacy interests that were not outweighed by the public interest in disclosure. OIP therefore concluded that MPD's redactions in the recordings were proper.

Sensitive Location Data

U Memo 25-18

The Department of Land and Natural Resources (DLNR), sought an opinion on whether it may withhold "sensitive location data" under part II of the UIPA. DLNR explained that it was developing a program in which community groups would voluntarily share data related to fisheries and marine resources, and that the community groups may be concerned that if the location data was released to the public it could be exploited by fishers from outside the communities.

Section 92F-13(3), HRS, allows agencies to deny access to records when disclosure would result in the frustration of a legitimate government function. Here, OIP concluded that DLNR may redact sensitive location data under section 92F-13(3), HRS, when community groups voluntarily provide DLNR with location data based on an understanding that the data would not be made public, and disclosure would impair DLNR's ability to receive similar information in the future.

Request for Recording No Longer Maintained

U Memo 25-19

Requester asked whether the Aloha Stadium Authority Board (Authority) properly denied his request for recordings of a presentation made in executive session. OIP found that the Authority no longer maintained a recording of the executive session that included the presentation Requester was seeking access to, and OIP therefore concluded that the Authority could not be required under the UIPA to produce records it no longer maintained. See, e.g., OIP Op. Ltr. No. F25-03 at 3 (noting that "an agency's disclosure obligation applies only to those records it actually maintains"). Because it is improper for an agency to destroy a record that is subject to a pending UIPA request or appeal, the Authority should have taken measures to preserve both the audio recording and the Zoom recording of the meeting at which the presentation was made. Nonetheless, because the Authority was in the middle of transferring all its operations to a new agency during the relevant period, and given the operational challenges and general confusion that such a move entails, OIP stopped short of finding bad faith by the Authority in failing to preserve the recordings before their scheduled destruction.

Since the Authority had previously made public the written minutes of the executive session that included the presentation Requester was seeking a recording of, OIP did not need to reach the question of whether the Authority was required to disclose them in the absence of any recordings of the Presentation. OIP noted that the authorized purposes for holding an executive session under part I of chapter 92, HRS (the Sunshine Law), do not include consideration of matters relating to an ongoing procurement, and it was not clear that the Authority had a proper basis for hearing the Presentation in executive session. See HRS § 92-5(a) (2012) (listing authorized purposes to hold an executive session).

Personal Records; Stalking Allegations

U Memo 25-20

In 2022, the director (Director) of the Hawai‘i County Department of Parks and Recreation (Parks) appeared before the Hawai‘i County Board of Ethics and, according to Requester, “spewed about an accusation that [Requester] was following [Kona Community Aquatics Center staff] home after work.” Requester thereafter made a record request for copies of all communications that reported the stalking allegations. Parks granted the request. In response, Requester stated in an email to Parks which included OIP as a “cc” recipient that he “shall file yet another appeal with OIP,” without elaborating on why he believed Parks’ response to his request was improper. Parks’ response to the appeal stated that it had “searched our records and we have provided everything related to the request,” and the Director stated “I am the one who provided the emails. I did not conduct a ‘search’ since I knew the exact emails that I was referring to.” OIP concluded that Parks provided responsive accessible personal records under part III of the UIPA. OIP further concluded that, because an employee had actual knowledge that additional responsive records did not exist, Parks did not need to conduct a search for records under part II of the UIPA.

Roster of Graduate Assistants

U Memo 25-21

Requester made a record request to the University of Hawai‘i (UH) for a roster of graduate assistants. UH partially granted the request but withheld information that would make it possible to personally identify the students in question. Requester appealed the partial denial to OIP.

Based on guidance from the United States Department of Education (U.S. DOE), OIP found that the U.S. DOE would likely consider the records withheld by UH to be students’ education records under the Family Educational Rights and Privacy Act (FERPA). Because FERPA prohibits the release of such records without student consent and conditions federal funding on compliance, OIP concluded that disclosure of those records would jeopardize UH’s federal funding. OIP therefore concluded that UH was authorized to withhold the records under section 92F-4, HRS.

Proposals and Financial Records Designated as Confidential

U Memo 25-22

Requester questioned whether the City and County of Honolulu (City), Department of Budget and Fiscal Services (B&F-HON) properly withheld financial records from six offerors, and two of the six proposals received (Proposals) for beachboy services. The two withheld Proposals were marked confidential by the submitters.

B&F-HON claimed the two Proposals must be withheld under a confidentiality statute, section 102-3, HRS. However, OIP found that the confidentiality provision in section 102-3, HRS, did not apply as it pertains to bids and bidders, and the records at issue were Proposals that were also not submitted under oath or in response to a questionnaire. OIP further concluded that section 92F-13(4), HRS, which allows agencies to withhold records subject to a confidentiality statute, did not apply.

B&F-HON alternatively invoked the frustration exception at section 92F-13(3), HRS, arguing the Proposals contained trade secrets; disclosure would confer a manifestly unfair advantage; disclosure would impair its ability to obtain similar information in the future; and the Proposals contained

confidential commercial or financial information whose disclosure could cause substantial competitive harm to the offerors. OIP found no trade secrets as defined in section 482B-2, HRS, were contained in the records; and no ongoing procurement or negotiation justified withholding the Proposals under the manifestly unfair advantage standard of the frustration exception. OIP found that the proposals were submitted to obtain the benefit of a contract, creating a rebuttable presumption against impairment of B&F-HON's future ability to obtain similar information, which B&F-HON did not rebut.

OIP concluded that detailed financial information could be withheld to prevent substantial competitive harm, but narrative portions of the Proposals, like general business strategies and an employee manual, were mundane in nature and either publicly available, commonly known within the industry, or lack the specificity required to qualify as confidential commercial information. However, OIP found that B&F-HON could withhold identified business referral sources, a training manual published and copyrighted by a third party, and direct contact information of personal references as disclosure would frustrate a legitimate government function under section 92F-13(3), HRS. OIP also found that personal information about employees and interns, unrelated to whether the offeror had qualified employees to provide the solicited services, could also be withheld to avoid an unwarranted invasion of privacy under section 92F-13(1), HRS.

SUNSHINE LAW INFORMAL OPINIONS:

Sunshine Law informal opinions are written to resolve complaints and requests that OIP determine whether an entity is a "board" subject to the Sunshine Law. OIP wrote six informal opinions concerning the Sunshine Law in FY 2025.

Amendment of Notice Posted on Board Website

S Memo 25-01

A requester asked for an opinion as to whether the State of Hawai'i Board of Education (BOE) violated the Sunshine Law by editing a copy of the notice for a meeting posted on BOE's website to add a notification that additional meeting materials had been posted on BOE's website less than six days before the meeting.

The Sunshine Law requires that meeting notices be filed on a State or county calendar, and they cannot be changed by adding agenda items thereto less than six days before the meeting. The Sunshine Law does not require that notices be posted on a board's website. OIP found that the note that additional meeting materials had been posted on BOE's website was the only part of the meeting notice that was changed on the version of the notice posted to the BOE website, and that BOE did not attempt to add a new item to the agenda. OIP concluded that the addition of the note did not constitute a change in the agenda for the meeting, and therefore BOE did not violate the Sunshine Law. OIP cautioned BOE to avoid editing copies of notices for meetings posted on its website to add such notes in the future, because even though doing so may not violate the Sunshine Law it may confuse members of the public.

Board Packets Notification

S Memo 25-02

A member of the public asked whether the State Council on Mental Health (SCMH) had violated the Sunshine Law by failing to send persons on its notification list timely notice of the availability of board

packets for its meetings. HRS § 92-7.5. OIP concluded that the deadline of two business days prior to a meeting (or when distributed to members, if earlier) for a board to have its board packet available for public review in its office does not apply to the requirement for a board to notify persons on its mailing list that the board packet is available, which is in a separate sentence with no language to indicate that it must be done by the same time the packet is available for public review. OIP further concluded that none of the time standards set out in section 92-7.5, HRS, could be read to modify the board packet notification requirement, but for the requirement to be effective it must at least be done in time for those receiving a board packet notification to obtain and review the board packet itself prior to the meeting. OIP found that SCMH had sent its board packet notifications, each with a link to the board packet itself, in time for those receiving it to obtain and review each board packet prior to the relevant meeting, and concluded that SCMH had not violated the Sunshine Law by failing to send timely board packet notifications.

Board Packet's Availability

S Memo 25-03

Requester asked whether the Neighborhood Commission, City & County of Honolulu, had violated the Sunshine Law by not sending notification to persons on its mailing list that a board packet was available for its meeting held July 25, 2022 (July 25 Meeting). OIP found that the Neighborhood Commission Office distributed a board packet to the Neighborhood Commission members on July 22, 2022, but did not notify persons on the Neighborhood Commission's meeting notice mailing list of the board packet's availability at any time before or even after the July 25 Meeting. Because the Neighborhood Commission failed to notify its mailing list of the board packet's availability, which the Sunshine Law clearly requires, OIP concluded that the Neighborhood Commission violated the Sunshine Law's requirement to send a board packet notification to persons on its mailing list for its July 25 Meeting. HRS § 92-7.5 (Supp. 2024).

Unauthorized Discussion Not Permitted Interaction

S Memo 25-04

Requester asked for an investigation into whether the Downtown-Chinatown Neighborhood Board No. 13 (NB 13) violated the Sunshine Law when one member sent an email to eight other members regarding a "motion on our upcoming meeting agenda." OIP found that one NB 13 member had indeed emailed the remaining NB 13 members about an agenda item for NB 13's meeting to be held the next day, May 5, 2022, and the email was a discussion between NB 13 members about NB 13's board business. Because no permitted interaction in section 92-2.5, HRS, authorized the discussion, OIP concluded that NB 13 violated the Sunshine Law.

Sufficiency of Agenda

S Memo 25-05

Requester asked whether the State Public Charter School Commission (PCSC) violated the Sunshine Law by discussing topics not listed on the agenda for PCSC's meetings on May 26, 2022, and June 20, 2022. Because OIP already addressed the meeting on May 26, 2022, in S MEMO 24-01, OIP only addressed whether PCSC violated the Sunshine Law for the meeting on June 20, 2022.

OIP found that the agenda for the meeting on June 20, 2022, did not sufficiently inform the public of what "Parent Complaints" PCSC's staff had investigated and would be reporting on, and therefore a member of

the public could not reasonably anticipate that PCSC would discuss Kamalani Academy’s student records or the projected student enrollment. OIP therefore concluded that PCSC’s discussion on these topics violated the Sunshine Law.

OIP also found that while PCSC’s staff’s report made a reference to Kamalani Academy’s governance agendas and board minutes, PCSC does not appear to have discussed this topic during the meeting. Therefore, OIP concluded that PCSC did not violate the Sunshine Law by discussing this topic.

Anonymous Testimony

S Memo 25-06

Requester asked for an investigation into whether the Maui County Council (Council) violated the Sunshine Law by preventing him from testifying anonymously in the Council’s meeting on January 27, 2023.

OIP found that based on (1) the Council’s prior interactions with Requester, (2) Requester’s lack of objection to being identified by his real name in previous meetings while using the same screen names, and (3) the absence of any advance notice that Requester wished to testify anonymously prior to the second time he was called on to testify during the meeting, that the Council acted reasonably in assuming that Requester did not intend to remain anonymous until Requester informed the Council otherwise. OIP also found that once Requester informed the Council of his preference for anonymity, the Council accommodated that request. OIP therefore concluded that the Council did not prevent Requester from providing testimony anonymously and did not violate the Sunshine Law.

General Legal Guidance and Assistance

To expeditiously resolve most inquiries from agencies or the public, OIP provides informal, general guidance, usually on the same day, through its “Attorney of the Day” (AOD) service. AOD advice is not official policy or binding upon OIP, as the full facts may not be available, the other parties’ positions are not provided, complete legal research will not be possible, and the case has not been fully considered by OIP. The following summaries are examples of the types of AOD advice provided by OIP attorneys in FY 2025.

UIPA GUIDANCE

Procurement Score Sheets

An agency received a request for records of a small purchase procurement, including individual evaluation criteria sheets. The small purchase procurement process does not require forming a committee or completing evaluation criteria score sheets, but in this instance the agency did form a committee and completed individual evaluation criteria score sheets. The agency asked OIP whether these individual evaluation criteria score sheets must be shared with the requestor. OIP advised that as a general rule, once a procurement is fully complete (contract signed, with no pending challenge that could require reopening the process), the disclosure of evaluations of vendor proposals would no longer frustrate the procuring agency’s ability to get a fair deal. See, e.g., OIP Op. Ltr. No. 94-09. If there is also a frustration concern related to disclosure of the identities of the committee members and the requester

objects to having their names redacted, that might be a separate issue. OIP has concluded in the past that committee member names were required to be disclosed, but it can be a fact-specific question so, if the agency withheld the names and the requester appealed, the agency would have the opportunity to present a fact-based argument as to why disclosure of the committee member names would frustrate a legitimate function of the agency in this particular situation.

Subpoena for Records

An agency asked whether a subpoena for records should be reported in the UIPA Record Request Log (Log). OIP explained that the Log does not apply to records sought by a subpoena or through the discovery process in a court case. The Log only captures information about formal written (not oral) requests made under the UIPA.

UIPA Request Requiring Extensive Agency Effort

A state agency received a voluminous record request for copies of decisions addressing claims of mental disabilities, civil rights violations, sexual harassment, and discrimination filed by pro se litigants for the years 2020 to 2025. The agency issues approximately 4,000 decisions each year, and explained that, due to its computer system's limited search functions, responding to this request would require one of its employees to review five years of decisions. The agency sent an Acknowledgement to Requester and calculated that it would take approximately five minutes for its employee to review one decision. The agency planned to assign an employee to review decisions in its database for one hour/day each workday. The agency proposed that it would send a Notice to Requester every month for one month of incurred time (20 hours) with payment due within 5 days. Once the agency received the payment, it planned to disclose any responsive decisions. Because the volume of decisions and technology limitations would result in high fees, OIP advised the agency that it could ask the requester to modify the request to lower the fees.

Copying Fees for Records Sent Via Email

A state agency asked whether it is allowed to charge a copying fee when it provides requested records via email. OIP advised that copy charges are set at not less than \$0.05 per page by section 92-21, HRS. Agencies may charge a higher per-page fee if they are authorized to do so by an agency rule. Section 92-21, HRS, is outside the UIPA, but copy charges are a cost that agencies are authorized to charge. When an agency must scan paper records to produce pdfs, it can charge for doing so in the same way as for making paper copies since the staff time and machine use to do so is effectively the same. Thus, if the agency is scanning paper records to produce pdfs to email to the requester, it can charge the requester copy charges for the records.

List of Employees and Salary Ranges

A member of the public asked whether he may have access to a list of names and salary ranges for state employees at a certain office. OIP advised that section 92F-12(a)(14), HRS, makes certain information about Hawai'i state and county government employees always public. This includes an employee's name, compensation (but only the salary range for certain employees), job title, business address, business telephone number, job description, education and training background, previous work experience, dates of

first and last employment, position number, type of appointment, service computation date, occupational group or class code, bargaining unit code, employing agency name and code, department, division, branch, office, section, unit, and island of employment of present or former employees. HRS § 92F-12(a)(14). This law does not require creation of a roster of employees; and does not apply to information about present or former employees involved in an undercover capacity in a law enforcement agency.

An Agency Must Treat Any Written Record Request as a Formal Request

An agency asked OIP whether it could require all record requesters to submit their requests by using the Request to Access a Government Record template form, which OIP provides on its website to assist the public in making record requests. OIP explained that under section 2-71-12, HAR, a formal record request is any record request that is in writing and contains (1) information that would enable the agency to correspond with or contact the requester; (2) a reasonable description of the requested record to enable the agency personnel to locate it with reasonable effort; and (3) if applicable, a request for a waiver of fees, in addition to the request to inspect or obtain copies of the records described. Therefore, an agency cannot require the use of a specific form and must treat any written request as a formal record request as long as it contains the requester's contact information and a reasonable description of the requested records.

SUNSHINE LAW GUIDANCE

PowerPoint Presentation at Meeting

A board asked whether a PowerPoint presentation shown only at a meeting must be included in a board packet in advance of a meeting. OIP advised that boards are not required to create or distribute a board packet. "Board packet" is defined as "documents that are compiled by the board and distributed to board members before a meeting for use at that meeting." HRS § 92-7.5 (emphasis added). Materials not distributed before the meeting, such as slides presented for the first time during the meeting, do not qualify as part of a board packet and are not subject to the advance public disclosure requirement.

AI Meeting Notes

Staff for a Sunshine Law board asked for guidance regarding a regular meeting attendee who was using an artificial intelligence (AI) notetaker and sharing the resulting notes or transcript in the meeting chat. Staff asked whether the board could ask the attendee to refrain from sharing the AI-generated notes. OIP advised that the Sunshine Law does not require or prohibit the use of AI note-taking at meetings. Just as a board cannot generally prevent attendees from taking their own notes, a board would not generally be able to prevent attendees from using an AI-based application to take meeting notes, since Sunshine Law meetings are open to the public and boards must allow the public to record an open meeting as long as the recording does not actively interfere with the meeting. OIP acknowledged that if the attendee shares AI notes others, they might assume that the notes have some sort of official status or may confuse them with the meeting minutes, even though the AI notes typically would not satisfy the requirements for written meeting minutes and may not be a particularly good summary of what happened at the meeting. If that is a concern, OIP would recommend addressing it by making it clear to attendees (perhaps in the notice) when and where the official meeting recording and minutes will be posted online. A board could not bar attendees from sharing AI generated notes, but could request that

participants not share such notes to avoid confusion as to which are the official minutes. When an AI summary has been shared, the board's staff could also notify attendees that it was not from the board, which has not reviewed it for accuracy or endorsed it.

Board Input on Proposed Changes to Administrative Rules

A new law authorized a state agency to schedule a public hearing to address revisions to its administrative rules without needing prior approval by the agency's advisory board. A member of the board reported that the agency's executive officer had distributed a draft of the proposed administrative rule changes to board members, with the instruction that the draft was not to be shared with anyone. At a board meeting, members of the public criticized the board for not publicly disclosing the proposed revisions to the rules and claimed that by withholding the proposed rule changes, it showed a lack of transparency. OIP suggested that the board list the proposed administrative rule changes as an item on the agenda for its next meeting to allow members of the public to present testimony on the rule changes and so that board discussion may occur. When the public hearing on the proposed changes to the rules is held, the board could include relevant input on the changes that resulted from the meeting's public testimony and board discussion.

Limited Meeting During Area Visits to Multiple Locations

A county board planned to consider a bill related to conditions on zoning, and wanted to have a limited meeting pursuant to section 92-3.1, HRS, to conduct area visits at six locations. The board members believed that it was necessary to do physical inspections at the six locations to get a better understanding of matters like traffic patterns and flood plains, which were relevant to the zoning bill, but that "public attendance is not practicable." The board's staff asked whether section 92-3.1, HRS, would allow the board to travel by vehicle to conduct an area visit that included certain stopping points. OIP advised that a limited meeting could include stops at more than one location, and may include the transport of the members between those locations, provided that the board meets the other requirements of the statute. OIP also advised that if the board members are traveling in multiple vehicles, they should treat the limited meeting as recessed during travel. In that case, they should not be discussing board business during travel to, from and between meeting sites.

Notice of Meeting

A state commission asked about the timing for posting a meeting notice on the state calendar. OIP advised that all Hawai'i state and county boards that are subject to the Sunshine Law must provide timely notice of all regular, special, or rescheduled meetings, and of executive meetings that are anticipated in advance. At least six calendar days before non-emergency meetings, the notice must be: (1) electronically posted on the State Calendar (State agencies) or the appropriate county calendar (county agencies), which is the official filing; (2) filed with the Office of the Lt. Governor (state boards), or the county clerk's office (county boards); (3) physically posted at the board's office for public inspection; (4) physically posted at the meeting site (when feasible); and (5) provided to persons requesting notification by postal or electronic mail.

No Reasonable Expectation of Privacy for Testimony Given in Public

A board asked OIP for guidance after a member of the public asked the board to redact testimony she had given in a meeting from the minutes and board packet for that meeting. OIP informed the board that, in general, anything discussed in a public meeting is public, and when a member of the public offers testimony at a public meeting the testifier thereby places that testimony into the public domain and has no reasonable expectation of privacy. Therefore, the board would not be able to use the privacy exception found in section 92F-13(1), HRS, to justify withholding or redacting a record of the testimony from a future record request, because any privacy interest has already been waived. If someone were to submit written testimony and request that some personal information be redacted, the board could redact that information when it posts the board packet. However, if someone has already informed the public of that information in open session, the board would not be required under the Sunshine Law or the UIPA to redact that public information afterwards, and would be required to disclose copies of the already-public information if it receives a record request.

Education, Open Data, and Communications

OIP's efforts in education, open data, and communications are important duties that help agencies, boards, and the public understand their rights and responsibilities under the UIPA and Sunshine Law and prevent violations from occurring in the first place.

To utilize its limited personnel resources more efficiently, and to reach a larger audience, OIP has emphasized its online training since FY 2011. OIP's education efforts include making resources readily available via its website at oip.hawaii.gov. The UIPA and Sunshine Law statutes are timely updated and posted, along with OIP's administrative rules, opinions, reports, and important court opinions. In the first quarter of FY 2026, OIP updated its training materials to reflect the Sunshine Law amendments enacted during the 2025 legislative session.

OIP's Legislation page, launched in FY 2021, provides easy access to the legislative history behind the enactment and amendment of the UIPA, Sunshine Law, and tax statute providing for appeals to OIP from challenges regarding the disclosure of written tax opinions. The Legislation page is regularly updated to include significant proposed and adopted legislation concerning the UIPA, Sunshine Law, and OIP.

OIP's open data efforts ensure agencies report their annual record request data on their UIPA Record Request Log. The Log provides objective data that can be used to assess how well state and county government agencies are implementing Hawai'i's open records law. The Log results are compiled into the Master Log at data.hawaii.gov which OIP summarizes in a year-end Log report. The Log report and OIP's annual report are posted on the Reports page of OIP's website.

Throughout the year, OIP keeps government entities and the public informed of the open government news through emailed newsletters that are also archived for 5 years on OIP's website. In FY 2025, OIP sent out 12 emailed newsletters. To be added to OIP's newsletter email list, please email a request to oip@hawaii.gov.

EDUCATION

OIP's education efforts include online training as well as customized presentations to assist government agencies and boards in understanding and complying with the UIPA and the Sunshine Law. OIP conducted one in-person training presentation in FY 2025. OIP also updated its online training materials in the first quarter of FY 2026 to reflect the Sunshine Law amendments enacted in 2025.

Online Training Materials, Model Forms, and Reports

OIP's online training materials, reports, and model forms help to inform the public and government agencies about the UIPA, Sunshine Law, and work of OIP. The online training has reduced the need for in-person basic training on the Sunshine Law and enabled OIP to instead develop additional or more specialized training materials that address common questions and boards' specific needs. The online training is also accessible to members of the public. All of OIP's training materials, forms, and reports are available online at oip.hawaii.gov, where they are updated by OIP as necessary. Some of OIP's publications are described below.

Sunshine Law Guides and Video

Open Meetings: Guide to the Sunshine Law for State and County Boards (Sunshine Law Guide) is intended as basic training to assist board members and their staff in understanding and navigating the Sunshine Law. OIP has also produced a Sunshine Law Guide specifically for neighborhood boards. The Sunshine Law Guide uses a question-and-answer format to provide general information about the law and covers such topics as meeting requirements, permitted interactions, notice and agenda requirements, minutes, and the role of OIP.

OIP also produced a detailed Sunshine Law PowerPoint presentation with a voice-over and full written transcript, and other training materials. The online materials make the Sunshine Law basic training conveniently available to board members and staff as well as the public and have freed OIP's staff to fulfill many other duties. In early FY 2026, OIP updated its Sunshine Law materials to incorporate revisions made to the law during the 2025 legislative session.

OIP has also created Quick Reviews and more specific guidance for Sunshine Law boards, which are posted on OIP's website and cover specific topics of interest, such as whom board members can talk to and when; meeting notice and minutes requirements; highlights of the remote meeting provisions; and how a Sunshine Law board can address legislative issues.

UIPA Guides and Video

The Open Records: Guide to Hawai'i's Uniform Information Practices Act (UIPA Guide) explains Hawai'i's public records law and OIP's related administrative rules. The UIPA Guide navigates agencies through the process of responding to a record request, such as determining whether a record falls under the UIPA, providing the required response to the request, analyzing whether any exception to disclosure applies, and explaining how the agency may review and segregate the record. The UIPA Guide includes answers to frequently asked questions.

In addition to the UIPA Guide, a pamphlet entitled *Accessing Government Records Under Hawai'i's Open Records Law* explains how to make a record request; the amount of time an agency has to respond to that request; what types of records or information can be withheld; fees that can be charged for search, review, and segregation; and what options are available for an appeal to OIP if an agency should deny a

request. OIP has produced a detailed PowerPoint presentation with voice-over and a full written transcript of its basic training on the UIPA. OIP has also produced written guidance on specific topics of interest, such as how to handle a large and complex request and how to correctly redact records.

Model Forms

OIP has created model forms for the convenience of agencies and the public. While use of these forms is not required, they help agencies and the public to remember the deadlines and to provide information that is required by the UIPA.

To assist members of the public in making UIPA record requests to agencies, OIP developed a *Request to Access a Government Record* form that provides all of the basic information an agency requires to respond to a request. To assist agencies in properly following the procedures set forth in OIP's rules for responding to record requests, OIP has forms for the *Notice to Requester* or, where extenuating circumstances are present, the *Acknowledgment to Requester*.

Members of the public may use the *Request for Assistance to the Office of Information Practices* form when their requests for government records have been denied by an agency, or to request other assistance from OIP.

To assist agencies in complying with the Sunshine Law, OIP provides a *Public Meeting Notice Checklist*.

In early FY 2026, OIP created a new *Limited Meeting (Site Visit) Checklist and Request for OIP's Concurrence for a Limited Meeting* form for the convenience of boards seeking OIP's concurrence to hold a limited meeting that will be closed to the public because the meeting location is dangerous to health or safety, or to conduct an on-site inspection because public attendance is not practicable. Before holding a limited meeting, a board must, among other things, obtain the concurrence of OIP's director that it is necessary to hold the meeting at a location where public attendance is not practicable.

A *Notice of Continuance of Meeting* form can be used when a convened meeting must be continued past its originally noticed date and time. A Quick Review provides more specific guidance and practice tips for meeting continuances.

All of these forms, and more, may be obtained online at oip.hawaii.gov.

OPEN DATA

To further its educational and open data objectives, and to evaluate how the UIPA is working in Hawai‘i, OIP has been collecting information from state and county agencies through the UIPA Record Request Log (Log). To have a common platform that could be used by all state and county agencies, OIP created the Log as an Excel spreadsheet in FY 2013. The Log helps agencies track the formal UIPA record requests that they receive as well as report to OIP when and how the requests were resolved and other objective data.

In FY 2025, OIP released a year-end report based on information posted by 198 state and 111 county agencies on the Master UIPA Record Request Year-End Log for FY 2024 at data.hawaii.gov. The collected data showed overall that the typical record request was granted in whole or in part and was completed in less than ten workdays, and the typical requester paid nothing for fees and costs.

201 state agencies and 100 county agencies reported Log results in FY 2025. The Log report was completed and is posted on OIP’s website at oip.hawaii.gov.

OIP also participates on both the Open Data Council and the Access Hawai‘i Committee to encourage online access to government services and the creation of electronic data sets that can make government information more readily accessible to the public.

OIP continues to demonstrate its commitment to the Open Data policy by making its statutes, opinions, rules, subject matter index, and training materials easily accessible on its website at oip.hawaii.gov for anyone to freely use. Since 2016, OIP has expanded access to its website by converting all of its previous formal opinions to, and providing new online materials in, a format accessible to people with disabilities.

Website Features

OIP’s website at oip.hawaii.gov features the following sections, which may be accessed either through the menu found directly below the State’s seal or through links in boxes located on the right of the home page (*What’s New*, *Laws/Rules/Opinions*, *Training*, and *Contact Us*).

“News from OIP”

OIP’s frequent newsletters provide news and important information regarding OIP and open government issues, including timely updates on relevant legislation. To be added to or removed from OIP’s newsletter email list, please email a request to oip@hawaii.gov.

“Laws / Rules / Opinions”

This section features these parts:

UIPA: the complete text of the UIPA, with quick links to each section.

Sunshine Law: the complete text of the Sunshine Law, with quick links to each section.

Rules: the full text of OIP’s administrative rules; “Agency Procedures and Fees for Processing Government Record Requests;” a quick guide to the rules and OIP’s impact statement for the rules; and “Administrative Appeal Procedures,” with a guide to OIP’s appeals rules and impact statement.

Formal Opinions: a chronological list of all OIP opinions with precedential value; a searchable subject index; a summary of each opinion; and the full text of each formal opinion.

Informal Opinions: summaries of OIP’s informal opinion letters regarding the Sunshine Law or UIPA.

“Legislation”

This webpage, added in FY 2020, provides easy public access to important pending, recent, or proposed legislation, and to the four-volume “Report of the Governor’s Committee on Public Records and Privacy,” which was published in December 1987 and formed the basis for the adoption of the UIPA in 1988. OIP has also compiled on this webpage the legislative history relating to the enactment and amendment of the UIPA and Sunshine Law.

“Training”

The training link on the right side of the home page will take you to all of OIP’s training materials, as categorized by the UIPA, Sunshine Law, and Appeals to OIP.

“Forms”

Visitors can view and print the model forms created by OIP to facilitate access under and compliance with the UIPA and the Sunshine Law.

“Reports”

OIP’s annual reports are available here, beginning with the annual report for FY 2000. In addition, this section links to special reports and to the UIPA Record Request Log Reports.

“Records Report System (RRS)”

This section has guides to the Records Report System for the public and for agencies, as well as links to the RRS online database.

“State Calendar and Open Government Links”

Here, you can link to Hawai‘i’s State Calendar showing the meeting agendas for all state agencies, and to the online calendar for each county. You can visit Hawai‘i’s open data site at data.hawaii.gov and see similar sites of cities, states, and other countries.

Records Report System



The UIPA requires each state and county agency to compile a public report describing the records it routinely uses or maintains and to file these reports with OIP. HRS § 92F-18(b). OIP developed the Records Report System (RRS), a computer database, to facilitate collection of this information from agencies and to serve as a repository for all agency public reports required by the UIPA. The actual records are located with the agency.

Public reports must be updated annually by the agencies. OIP makes these reports available for public inspection through the RRS database, which may be accessed by the public through OIP’s website. The image above shows the RRS page on OIP’s website. As of the end of FY 2025, state and county agencies posted 26,927 record titles. See Figure 6 on page 43.

Since 2004, the RRS has been accessible on the internet through OIP’s website. Agencies may access the system directly to enter and update their records data. Agencies and the public may access the system to view the data and to create various reports. A guide on how to retrieve information and how to create reports is also available on OIP’s website at oip.hawaii.gov.

The RRS requires agencies to enter, among other things, public access classifications for their records and to designate the agency official having control over each record. When a government agency receives a request for a record, it can use the RRS to make an initial determination as to public access to the record.

State executive agencies have reported 51% of their records as accessible to the public in their entirety; 18% as unconditionally confidential, with no public access permitted; and 26% in the category “confidential/conditional access.” Another 5% are reported as undetermined. OIP is not required to, and in most cases has not, reviewed the access classifications.

Records in the category “confidential/conditional access” are (1) accessible after the segregation of confidential information, or (2) accessible only to those persons, or under those conditions, described by specific statutes.

The RRS access classification helps to determine whether actual records held by agencies should be posted onto the internet. With the 2012 launch of the state’s open data website at data.hawaii.gov and the

new Data Task Force created in 2024, the RRS can be used to help determine which records contain confidential information and require special care in order to prevent the inadvertent posting of confidential information while making it easier to post open data. Note that the RRS only lists government records by their titles and describes their accessibility. The system does not contain the actual records, which remain with the agency. Accordingly, the record reports on the RRS contain no confidential information and are public in their entirety.

<i>Records Report System</i>	
Status of Records Reported by Agencies: 2025 Update	
Jurisdiction	Number of Record Titles
State Executive Agencies	19,339
Legislature	726
Judiciary	774
City and County of Honolulu	3,642
County of Hawai‘i	869
County of Kaua‘i	1,069
County of Maui	508
Total Record Titles	26,927

Figure 6

Legislation Report

One of OIP's functions is to make recommendations for legislative changes to the UIPA and Sunshine Law. OIP may draft proposed bills and monitor or testify on legislation to clarify areas that have created confusion in application; to amend provisions that work counter to the legislative mandate of open government; or to provide for more efficient government as balanced against government openness and privacy concerns.

To foster uniform legislation in the area of government information practices, OIP also monitors and testifies on proposed legislation that may impact the UIPA or Sunshine Law; the government's practices in the collection, use, maintenance, and dissemination of information; and government boards' open meetings practices. Since adoption of the State's Open Data policy in 2013, OIP has also tracked open data legislation.

Legislative work takes considerable time of OIP's staff and Director to process, monitor, respond to inquiries, prepare and present testimony during the four-month legislative session, and to prepare bills and respond to legislative requests during the interim. During the 2025 legislative session, OIP reviewed and monitored 151 bills and resolutions affecting government information practices and testified on 39 of these measures. In addition to the operating budget bill, OIP was most significantly impacted by the following legislation regarding the Sunshine Law and the partial exceptions to the Sunshine Law for Neighborhood Boards:

Act 169 enacted SB 1651, SD1, HD2, CD1, and amended the Sunshine Law's board packet provision. A board using a board packet must now make the packet available at least three full business days before the relevant meeting, and must notify people on its meeting list of the packet's availability at that same time. Legislative history indicates that a board packet must be available at least six hours before the relevant office closing time for the day to count as a full business day. For example, if a board's meeting is scheduled on Thursday and its office closes at 4:30 p.m., then the deadline to make its board packet available would be no later than 10:30 a.m. on the preceding Monday (assuming no intervening holidays).

Act 053 enacted SB 869, SD1, HD1, and added "community outreach boards" as another type of board that, like neighborhood boards, are authorized to use the special permitted interactions and other partial Sunshine Law exceptions set out in part VII of chapter 92, HRS. Community outreach boards are similar to neighborhood boards in that they are county-level boards that act in an advisory capacity to channel community sentiment; however, they are not necessarily specific to a single area in the same way as neighborhood boards.

Act 072 enacted SB 405, SD1, HD1, CD1, and expanded an existing authorization for neighborhood boards (and now, also community outreach boards) to discuss an issue that was not listed on a meeting agenda but is raised in public testimony, so long as no action is taken except at a future meeting where the issue is on the agenda. Act 72 adds issues raised in a third-party report from a government official to this existing authorization, so neighborhood boards and community outreach boards can now discuss (but not act on) an issue that is not on the meeting agenda when that issue is raised either in public testimony or in a third-party report from a government official.

Litigation Report

Abbreviations used throughout this section:

Cir. Ct. – Circuit Court
ICA – Intermediate Court of Appeals
Hawai‘i Supreme Court (HSC)

OIP monitors litigation that raises issues under the UIPA or the Sunshine Law, or involves challenges to OIP’s rulings.

Under the UIPA, a person may bring an action for relief in the circuit court if an agency denies access to records or fails to comply with the provisions of the UIPA governing personal records. A person filing suit must notify OIP at the time of filing. OIP has standing to appear in an action in which the provisions of the UIPA have been called into question.

Under the Sunshine Law, a person may file a suit in the circuit court seeking to require compliance with the law or prevent violations. A person filing suit must notify OIP at the time of filing. A suit seeking to void a board’s “final action” must be commenced within 90 days of the action.

In FY 2025, OIP monitored 30 litigation cases, of which six were new. Six litigation cases closed during the year, and 24 remained pending at the end of FY 2025.

Summaries are provided below of the new lawsuits monitored by OIP in FY 2025 as well as updates of selected cases that OIP continues to monitor. The UIPA cases, which are the majority, are discussed first, followed by those involving the Sunshine Law.

UIPA Litigation

Excessive Fee Estimate for Records

North Shore Law Offices LLLC v. State of Hawai‘i Department of Human Services, ICCV-24-0000333 (1st Cir. Ct.)

North Shore Law Offices LLLC (Plaintiff) submitted a record request to the Department of Human Services (DHS) seeking six categories of records over a twelve-year period related to procurement documents and communications regarding DHS’s hiring of hearing officers in contested case hearings, all documents, communications, and payments between DHS and a particular hearing officer, the number of contested hearings for which a particular person served as a hearing officer, and the number of sustained appeals in favor of the petitioner by a particular hearing officer. DHS denied two categories under section 92F-11(c), HRS, because those requests required DHS to create a summary or compilation of records that were not “readily retrievable.” DHS informed Plaintiff that the remaining four categories would be granted in part and denied in part, upon prepayment of \$5,415.00 or 50 percent of the total estimated fees of \$10,830.00 for its search, review, and segregation of the responsive records, not including the actual costs for copies and postage. To complete the request, DHS estimated it needed 54 hours to search for the records and 516 hours to review and segregate the records. DHS provided Plaintiff with an itemized bill of all fees and costs assessed for this request. Plaintiff thereafter filed a lawsuit in circuit court seeking full disclosure of the responsive records and alleging that DHS did not make a good faith estimate of the fees and costs associated with fulfilling the request. Plaintiff asserted that the fee estimate was done in bad faith to avoid its disclosure obligations under the UIPA and deny access to the requested records by

demanding an exorbitant amount of money before processing the request. DHS denied any wrongdoing and asserted, among other things, that its non-disclosures were justified. On April 9, 2024, the parties stipulated to dismiss all claims with prejudice.

UIPA Requests Denied After Discovery Cut-Off Deadline

Scarlet Honolulu, Inc. and Walter Enriquez d/b/a Gay Island Guide v. Honolulu Liquor Commission, Civil No.: 1:21-cv-457-DKW-KJM.

Walter Enriquez, the owner of Scarlet nightclub (Plaintiffs), filed a federal lawsuit against the Honolulu Liquor Commission (Commission) alleging the Commission harassed and discriminated against its LGBTQ establishment and employees with unfounded inspections and violations. The Gay Island Guide, an online magazine, joined the lawsuit. After the discovery cut off deadline, a witness for Scarlet, Robert Sobieralski (Witness), submitted UIPA record requests to the Commission. The Commission denied the Witness' request for records because the discovery cut-off deadline set forth in the Rule 16 Scheduling Order had passed. On April 15, 2024, Plaintiffs filed a Motion for Court to Affirm Public Record Access under UIPA and Compel Defendants Response to Public Records Request. On May 21, 2024, the court denied Scarlet's motion as untimely. The court added that Plaintiffs' misreading of *Sierra Club v. City & of Honolulu*, 2008 WL 4922329 (D. Haw. Nov. 18, 2008) (*Sierra Club*), bordered on a Rule 11 violation and could not be read to support Plaintiffs' proposition that the discovery cutoff and discovery motions cutoffs were immaterial when considering a motion to compel responses to UIPA requests. Instead, *Sierra Club* reinforced the notion that public access to government records under UIPA is maintained irrespective of any ongoing litigation or discovery deadlines. Nothing in *Sierra Club* supported the complete disregard of the Rule 16 Scheduling Order that Plaintiffs asked this court to endorse. After reaching a settlement agreement, the parties stipulated to dismiss all claims with prejudice on January 22, 2025.

UIPA Requests Denied After Discovery Cut-Off Deadline

Robert Sobieralski v. City and County of Honolulu, Honolulu Liquor Commission, John Does 1-10, Jane Does 1-10, DOE entities 1-10, ICCV-24-0001060 (1st Cir. Ct.)

On August 5, 2025, Robert Sobieralski (Plaintiff) filed a circuit court complaint seeking an order (1) requiring the Honolulu Liquor Commission (Commission) to disclose records, which were wrongfully withheld under UIPA; and (2) disallowing the Commission from invoking discovery deadlines and restrictions to refuse to disclose public records. Plaintiff alleged that the Commission improperly denied several requests under section 92F-13(2), HRS, by claiming the requested records were not "discoverable" because "the July 10, 2023 discovery cutoff in *Scarlet Honolulu v. Honolulu Liquor Commission*, Civil No. 21-00457 DKWKJM (*Scarlet* lawsuit) precluded further discovery via UIPA requests." On August 26, 2025, the Commission responded, asserting, among other things, that Plaintiff was a "vexatious requester," who submitted approximately 100 UIPA requests to the Commission since February 14, 2022; that his requests were unduly burdensome due to the unreasonable amount of records requested and unreasonable frequency of requests; and that his requests were submitted to harass the Commission and disrupt its essential functions. On January 23, 2025, the parties stipulated to dismiss all claims with prejudice after a global settlement agreement, including the *Scarlet* lawsuit, was executed.

UIPA Exceptions Do Not Double As Exceptions to Discovery

Hawai‘i Police Department v. Kubota,

155 Hawai‘i 136, 557 P.3d 865 (2024) (Kubota); SCPW-24-0000537; 3CSP-23-0000003; 3CSP-23-0000017 (3rd Cir. Ct.)

After spending decades in prison, the circuit court vacated the convictions of brothers Albert Ian Schweitzer and Shawn Schweitzer (Schweitzer brothers), for the 1991 death of Dana Ireland (Ireland), based on newly discovered DNA and bitemark evidence, and newly presented tire tread evidence. In a post-conviction proceeding under Rule 40 of the Hawai‘i Rules of Penal Procedure (HRPP), the Schweitzer brothers sought compensation under chapter 661B, HRS (Chapter 661B), for being wrongfully imprisoned and served the Hawai‘i County Police Department (HPD) with a subpoena duces tecum (SDT) seeking its investigative records related to Ireland’s death. HPD moved to quash the SDT, but the court denied the motion and ordered the records to be produced. On August 7, 2024, HPD filed a Petition for Writ of Mandamus arguing that the order’s (1) denial violates sections 92F-13(3) and 92F-22(1), HRS, and disclosure would frustrate HPD’s legitimate criminal investigative purpose, and compromise the integrity of an ongoing investigation; and (2) reliance on *Brady v. Maryland*, 373 U.S. 83 (1963) (*Brady*), to produce the requested documents is misplaced, as *Brady* applies to criminal, not civil, proceedings. On October 10, 2024, the HSC ruled that claims under Chapter 661B should be pursued in a separate civil case and not within a HRPP Rule 40 proceeding. The HSC ordered that the circuit court transfer the Schweitzer brothers’ Chapter 661B petition to a new civil case and vacate its orders denying HPD’s Motion to Quash the SDT. The HSC also clarified that the UIPA does not apply to “the nonadministrative functions” of Hawai‘i’s courts; instead, discovery in civil cases is governed by the HRCPP, which controls access to all matters including government records. *Kubota*, 155 Hawai‘i at 152 (citing HRS § 92F-3). As stated in *Kubota*, “[e]xceptions to disclosure under the UIPA do not double as exceptions to discovery.” *Id.*

Hawai‘i Police Department Records

Evans v. Hawai‘i Police Department

3CCV-24-0000382 (3rd Cir. Ct.)

In May 2024, Bonny Evans (Plaintiff) made record requests to the Hawai‘i Police Department (Defendant) for copies of government records related to two police reports, and the complete investigative file related to her complaint against a police officer and a report documenting injuries. Plaintiff alleged that Defendant denied her request for one of the police reports, and failed to adequately address her other request. Defendant justified withholding the records based on the UIPA’s disclosure exemptions under sections 92F-13(1), (2), (3) and (4), HRS, and personal record disclosure exemption under section 92F-22(1), HRS. Plaintiff filed a lawsuit against Defendant and other parties on February 1, 2025, alleging violations of the UIPA and other laws. The case is in the early stages of litigation.

Special Management Area Use Permit Records

Szymanski v. County of Maui

2CSP-23-0000060 (2nd Cir. Ct.)

In early 2023, Michael Szymanski (Petitioner) requested that several County of Maui agencies (Respondents) provide him with copies of records relating to Special Management Area Use Permit No. SM1 2020-0007 (SMA). Petitioner alleged that Respondents did not provide him with the requested records, nor did they provide a legal basis for denying access. Petitioner filed a lawsuit against Respondents on November 29, 2025, alleging violations of the UIPA. Respondents asserted that the

requested records were made available or produced to Petitioner as early as March 10, 2023. Respondents' Motion for Summary Judgment and Dismissal of the case was granted on July 25, 2024, and the civil action was dismissed with prejudice.

Withholding and Redaction of Records

Roslyn Cummings v. The Circuit Court, 5th Circuit
5CCV-25-0000065 (5th Cir. Ct.)

Roslyn Cummings (Plaintiff) requested assistance from OIP in obtaining a response to her record request to the Department of Hawaiian Homelands (DHHL) for successor information regarding a lease. OIP wrote to DHHL regarding the record request, and DHHL responded by disclosing some records and citing statutory authority for denying access to other records. OIP thereafter closed its file. On June 30, 2025, Plaintiff filed a document in the circuit court titled "Affidavit of Standing, Notice of Trust Breach, Cease and Desist, Memorandum, and Demand for Lawful Remedy." Plaintiff alleged, among other things, that DHHL failed to acknowledge the successor to a homelands lease, and asked that OIP apologize for its treatment of her request for assistance. On July 18, 2025, the court ordered the document stricken because Plaintiff did not pay required court fees.

Maintenance of Voter Rolls

Republican National Committee v. State of Hawai'i, Office of Elections; Scott Nago
1CCV-25-0001691 (1st Cir. Ct.)

On October 14, 2025, the Republican National Committee (Plaintiff) filed a Complaint for Declaratory and Injunctive Relief, relating to its record request seeking information related to sixteen categories of information related to the maintenance of voter rolls from the Office of Elections (OE). The OE referred the Plaintiff to the respective county clerks, and at least two county clerks referred the Plaintiff back to the OE for the requested records. Plaintiff alleged that the OE failed to comply with its obligations under the UIPA. This case is in the early stages of litigation.

Disciplinary and Investigative Records

Makai Ranch, LLC, et al. v. City and County of Honolulu, et al.
1:23-cv-00230-JAO-WRP (USDC)

Makai Ranch, LLC, et al. (Plaintiffs) filed a complaint in the United States District Court on May 26, 2023, alleging that the City and County of Honolulu and the Director of Planning and Permitting (DPP) (*collectively*, Defendants) gave them official assurances that a Special Management Area Permit (SMA Permit) to make improvements on their properties was not needed, and that Defendants' systematic delays prevented the Plaintiffs from making the improvements and using their property. The complaint seeking declaratory and injunctive relief also included a claim that DPP violated the UIPA when it denied a request for copies of: (1) records pertaining to misconduct by five DPP employees (2) permit applications reviewed by the five named DPP employees; (3) communications between DPP and the FBI related to an investigation of the five DPP employees and one nonemployee architect; (4) communications between DPP and the FBI regarding the investigation; and (5) records related to allegations of public corruption that were disclosed to other record requesters. On October 21, 2025, the court granted Defendants' Motion for Summary Judgment (MSJ) and denied Plaintiffs' Motion to Defer Consideration of Defendants' MSJ. The court dismissed all federal claims and declined to exercise supplemental jurisdiction over the remaining UIPA claim. Unless an appeal is filed regarding the UIPA issue, OIP will discontinue reporting on this case.

Email About Vaccination Status Compliance Allegedly Disclosed Personal Information

HGEA, et al. v. Dept. of Public Safety

CAAP-22-0000506

ICCV-21-1304 (1st Cir. Ct.)

A Department of Public Safety (PSD) employee (PSD has since been redesignated as the Department of Corrections and Rehabilitation) sent an email to approximately two hundred sixty PSD employees regarding compliance with the Governor’s COVID-19 Emergency Proclamation issued on August 5, 2021, which included, among other things, a requirement that state and county employees attest to whether they were vaccinated or unvaccinated. Because the employee sent the email as a “cc” instead of a “bcc,” the email addresses of all employees the email was sent to were visible to all recipients of the email. On October 25, 2021, the Hawai‘i Government Employees’ Association and United Public Workers (Plaintiffs) filed suit, claiming invasion of privacy which alleged that the fact that the email was sent to the copied employees implied that PSD believed the recipients were unvaccinated and PSD thereby disclosed the employees’ vaccination status. On November 23, 2021, PSD filed a motion to dismiss. On November 29, 2021, PSD filed an amended motion to dismiss, arguing that Plaintiffs lacked standing and neither the UIPA nor the Emergency Proclamation provided a private right of action to bring suit. PSD also argued that the email did not include the employees’ vaccination status and that it was sent to both employees who were unvaccinated and employees who were vaccinated but had not yet submitted their vaccination card or an attestation that they were vaccinated. On March 31, 2022, the court granted the Amended Motion to Dismiss. On October 19, 2022, Plaintiffs filed a notice of appeal. In an opinion dated August 28, 2025, the ICA concluded that the UIPA does not provide an express or implied private cause of action for disclosure of private information and therefore the plaintiffs could not sue under the UIPA for PSD’s alleged disclosure of private information. However, the ICA also found that the complaint stated a claim for invasion of privacy as a tort, and that viewing the allegations in the Plaintiffs’ complaint in the light most favorable to the Plaintiffs, it was not beyond doubt that Plaintiffs could not prove a set of facts that would support such a claim. Therefore, the ICA concluded that the circuit court erred in dismissing the complaint’s privacy claim, and that, because the complaint stated a tort claim that could have been brought by the Plaintiffs’ individual members, the Plaintiffs had associational standing to file suit on behalf of their members. No one filed a further appeal as to the UIPA issue, so OIP will no longer report on this case.

Sunshine Law Litigation

Executive Session Discussions on Hiring

Public First Law Center v. Defender Council, et al.

Civ. No. ICCV-24-0000050 (1st Cir. Ct.)

Section 92-5(a)(2), HRS, allows a board to enter an executive session to consider the hire of an officer or employee where consideration of matters affecting privacy will be involved. Prior to the filing of this litigation, OIP issued OIP Opinion Letter No. F24-03 (Opinion F24-03). Opinion F24-03 found, among other things, that the Agribusiness Development Corporation (ADC) Board of Directors (Board) had a valid reason to enter an executive session under section 92-5(a)(2), HRS, to interview candidates and then to discuss the selection and salary of the new executive director (ED). OIP found it could be reasonably anticipated that the executive session discussion of the candidates and salary involved consideration of matters affecting privacy, and concluded the Board was properly in executive session for these discussions. OIP further concluded the Board was permitted to vote in executive session on selection of the ED because holding the vote in a public meeting would have revealed the candidates’ identities, which, at that time, carried privacy interests that allowed the Board to hold the executive session.

The Public First Law Center (PFLC) thereafter filed a complaint against the Board, the Defender Council (Council); and against State Public Defender (Public Defender) Jon Ikenaga (Ikenaga), who was appointed by the Council. PFLC alleged that the Council and the Board violated the Sunshine Law on numerous occasions during their respective searches for a new Public Defender and a new ED.

PFLC asked the court to declare that the Council violated the Sunshine Law by: (1) meeting in executive session to discuss and decide the general process for hiring the Public Defender; (2) conducting candidate interviews, post-interview discussions, and candidate selection deliberations in executive session; (3) failing to keep sufficient public and executive minutes; (4) failing to take testimony and limiting testimony to the beginning of meetings; and (5) failing to timely post minutes. PFLC asked for a court order compelling the Council (1) to disclose executive session minutes and recordings; (2) to maintain audio recordings of all public meetings and publish the recordings online within forty days of the meeting for a period of four years; and (3) to maintain audio recordings of all executive session meetings for a period of four years. PFLC further asked for an order voiding the Council's selection of Ikenaga as Public Defender.

PFLC also asked the court to declare that the Board violated the Sunshine Law by: (1) forming 3-member committees to evaluate the ED's annual performance; (2) evaluating the ED's performance for two fiscal years entirely in executive session; (3) deliberating on the Hiring Permitted Interaction Group's (Hiring PIG) recommendations, interviewing candidates, evaluating candidate qualifications and fitness, discussing the ED's salary, and selecting the next ED entirely in executive session; (4) failing to dissolve the Hiring PIG after it presented its report; and (5) deliberating and engaging in decision-making on the Hiring PIG's findings and recommendations at the same meeting at which the findings and recommendations were presented to the Board. PFLC asked the court to compel the Board (1) to disclose executive session minutes and recordings; and (2) to disclose the complete findings and recommendations of the Hiring PIG.

PFLC further asked that the court declare that Opinion F24-03 is palpably erroneous to the extent it held that the Board properly conducted an executive session. PFLC asked the court to order the Council and ADC to participate in annual Sunshine Law training.

PFLC filed several motions for partial summary judgment which were granted in part and denied in part. The parties stipulated to several facts including Sunshine Law violations by the Council and the Board. As a result, the court ordered disclosure of a significant portion of the Board's executive meeting minutes at which ED candidates were interviewed. The court also found that Section III(B) of Opinion F24-03 and its related conclusion was palpably erroneous. No parties appealed, and this litigation is now concluded.

Water Commission Deputy Director Reassigned Outside of a Meeting

Keahi, et al. v. Chang, et al.

CAAP-24-0000163

ICCV-23-0001078 (1st Cir. Ct.)

Plaintiffs alleged that the Board of Land and Natural Resources violated the Sunshine Law by reassigning the Water Commission Deputy Director who delayed permission to allow the use of stream water to fight the Lahaina wildfire. Plaintiffs alleged that reassigning the deputy director outside of a meeting violated the Sunshine Law. On December 8, 2023, the court entered an order granting Defendants' motion to dismiss and denying Plaintiffs' motion for summary judgment. On March 13, 2024, Plaintiffs filed a Notice of Appeal, appealing the dismissal of the case, and both parties filed their respective briefs with the ICA in 2024. Decision by ICA is pending.

Governor's Emergency Proclamation Regarding Housing Shortage Created a Working Group*Leonard Nakoa III, et al. v. Nani Medeiros, et al.**CAAP-24-0000401**CAAP-24-0000576**SP No. 2CSP-23-0000046 (2nd Cir. Ct.)*

Plaintiffs filed a Petition for Writ of Quo Warranto asserting that the working group created by the Governor's emergency proclamation regarding the housing shortage was unlawful. The circuit court dismissed the case on the basis that the mechanism used by the Plaintiffs was inapplicable, but determined that the core issue was the Governor's use of emergency powers, and recommended that the Plaintiffs amend their complaint to focus on the Governor's constitutional authority rather than the working group. On September 11, 2025, the HSC issued an opinion concluding that the emergency proclamations were rationally related to the health, safety and welfare of the public but the executive action taken was not reasonably necessary to address the declared emergency because the first five emergency proclamations opened project certification to all housing projects, not just those related to affordable housing.

Rules

OIP's current rules, set forth in chapters 71 and 73 of Title 2, HAR, concern agency procedures for processing a request for access to a government record, the fees an agency may charge for processing a record request, the procedures for appealing a denial of a record request to OIP, and the procedures for filing an administrative complaint regarding a board's failure to comply with the Sunshine Law.

Because OIP was transferred for administrative purposes to the Department of Accounting and General Services (DAGS), OIP is in the process of renumbering its administrative rules to fall within DAGS's system. For the most part, OIP will simply renumber its rules for appeals that are made to OIP, which were adopted on December 31, 2012. Housekeeping and other changes are being proposed for OIP's rules to process UIPA record requests, which were adopted in 1988. OIP will hold a public hearing on its proposed rule amendments once it receives approval to do so from the Governor. After new rules are implemented, OIP will prepare updated training materials, including a new, simpler UIPA Record Request Log.

CONCLUSION

OIP will continue to administer the UIPA and Sunshine Law by providing legal guidance and assistance regarding these laws and the state's Open Data policy to agencies and the public, and to monitor legislation and litigation that raises issues under the UIPA or the Sunshine Law. OIP will continue to strive to resolve its formal case backlog and amend its existing administrative rules. OIP would like to thank state and county agencies and boards for their cooperation in these matters.