



# HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 • FAX: 586-8655 • TDD: 568-8692

August 12, 2022

Sent via email and US mail

Michael Owens  
MuckRock News  
DEPT MR 132479  
263 Huntington Ave  
Boston, MA 02115  
Email: [132479-09782212@requests.muckrock.com](mailto:132479-09782212@requests.muckrock.com)

Dear Michael Owens:

I am writing in response to your e-mail request received on August 9, 2022 which requested disclosure of HCRC records under the Hawai‘i Uniform Information Practices Act (UIPA), HRS chapter 92F. This letter, the attached Notice to Requestor.

## **Request by MuckRock news**

*Pursuant to the Hawaii Uniform Information Practices Act, I hereby request the following records:*

*(1) Any HCRC documents from 1995 through 1998 related to the development of HCRC's draft administrative guidelines or rules to implement the 1973 and 1974 laws regarding anti-discrimination against people with "arrest and criminal records" AND (2) any public comments, remarks, letters, memos, or testimonies submitted to HCRC in 1997 and 1998 regarding HCRC's draft administrative guidelines or rules to implement the 1973 and 1974 laws regarding anti-discrimination against people with "arrest and criminal records."*

*My request stems from the attached articles from the Honolulu Star-Bulletin. The one from January 9, 1998 reported that the HCRC in the late 1990s drafted a set of administrative rules to implement the 1973 and 1974 laws regarding anti-discrimination against people with "arrest and criminal records." Unfortunately, it's not specific which year this occurred. Also, that article reported that HCRC received public testimonies -- or at least comments from the business community -- about the draft rules. It quotes former HCRC Chief Counsel John Ishihara: "Ishihara said the commission asked for opinions from business two years ago 'and they hated the law. There have been calls to eliminate the protection totally.'" The other article is by the Editorial Board of the*

*Honolulu Star-Bulletin, published March 27, 1998. It wrote of "the Hawaii Civil Rights Commission's recent discovery of an obscure inclusion of 'arrest and court record' among illegally discriminatory hiring practices. The ban was enacted without notice in 1973 and had gone undetected ever since. Upon its discovery, the commission ambitiously went about writing guidelines to bring every business into compliance. (The law conveniently exempts the state and county governments.)"*

*Furthermore, I contacted the Hawai'i State Archives. It was direct that these documents are not in its possession and that only HCRC can fulfill my request. Specifically, Ju Sun of the HSA replied in bold letters to me in an 8/1/2022 email "And so if you need a copy of the Admin Rules and/or testimonies given after 1990 or 1992, then you will need to contact the agency directly."*

*I hope all of that helps the HCRC make a decision about my request, as well as in locating the documents.*

### **Response to Request**

Your records request is granted in its entirety. However, there is a fee for scanning of the paper documents, like a copy fee. We charge 10¢ per page, and there are approximately 600 to 800 pages responsive to your request. Since we do not know the exact number, we cannot give you an exact cost.

We are not charging for search or segregation costs.

You asked us to provide you with the cost prior to preparation of the documents. I provided this information to you in an email on August 10, 2022, but have not received a response from you. Please respond as soon as possible. We accept payment by check or money order. We do not accept credit card payments. We also ask that you pay \$50.00 prior to copying, since it is clear that the records will be at least 500 pages.

Respectfully, your request is granted. We await your response regarding payment.

Yours truly,

*/s/ Robin Wurtzel*

Robin Wurtzel  
Chief Counsel

# NOTICE TO REQUESTER

TO: Michael Owens, Muck Rock  
(Requester's name)

FROM: Hawai'i Civil Rights Commission, Robin Wurtzel, (808) 586-8642, robin.wurtzel@hawaii.gov  
(Agency, and agency contact person's name, telephone number, & email address)

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: August 9, 2022

DATE OF THIS NOTICE August 12, 2022

**GOVERNMENT RECORDS YOU REQUESTED** (attach copy of request or provide brief description below):

Your August 9, 2022 request stated

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My request stems from the attached articles from the Honolulu Star-Bulletin. The one from January 9, 1998 reported that the HCRC in the late 1990s drafted a set of administrative rules to implement the 1973 and 1974 laws regarding anti-discrimination against people with "arrest and criminal records." Unfortunately, it's not specific which year this occurred. Also, that article reported that HCRC received public testimonies -- or at least comments from the business community -- about the draft rules. It quotes former HCRC Chief Counsel John Ishihara: "Ishihara said the commission asked for opinions from business two years ago 'and they hated the law. There have been calls to eliminate the protection totally.'" The other article is by the Editorial Board of the Honolulu Star-Bulletin, published March 27, 1998. It wrote of "the Hawaii Civil Rights Commission's recent discovery of an obscure inclusion of 'arrest and court record' among illegally discriminatory hiring practices. The ban was enacted without notice in 1973 and had gone undetected ever since. Upon its discovery, the commission ambitiously went about writing guidelines to bring every business into compliance. (The law conveniently exempts the state and county governments.)"

**THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:**

**Will be granted in its entirety.**

The documents are available for inspection and copying during regular business hours, pursuant to HRS § 92F-11.

**Cannot be granted. Agency is unable to disclose the requested records for the following reason:**

- Agency does not maintain the records. (HRS § 92F-3)  
Other agency that is believed to maintain records: \_\_\_\_\_
- Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: \_\_\_\_\_
- Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

**Will be granted in part and denied in part, OR**  **Is denied in its entirety**  
**Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.**  
(Describe the portions of records that the agency will not disclose.)

RECORDS OR  
INFORMATION WITHHELD

APPLICABLE  
STATUTES

AGENCY  
JUSTIFICATION

**REQUESTER'S RESPONSIBILITIES:**

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested. If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

**METHOD & TIMING OF DISCLOSURE:**

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days after this notice or after receipt of any prepayment required. HAR § 2-71-13(c). If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

**Method of Disclosure:**

Inspection at the following location: 830 Punchbowl Street, Room 411, Honolulu, HI 96813

As requested, a copy of the record(s) will be provided in the following manner:

- Available for pick-up at the following location: \_\_\_\_\_
- Will be mailed to you.
- Will be transmitted to you by other means requested: \_\_\_\_\_

**Timing of Disclosure:** All records, or the first increment if applicable, will be made available or provided to you:

On August 12, 2022.

**After prepayment** of 50% of fees and 100% of costs, as estimated below.

**For incremental disclosures**, each subsequent increment will be disclosed within 20 business days after:

- The prior increment (if one prepayment of fees is required and received), or
- Receipt of each incremental prepayment, if prepayment for each increment is required.

**Records will be disclosed in increments because the records are voluminous and the following extenuating circumstances exist:**

- Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
- Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
- Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- A natural disaster or other situation beyond agency's control prevents agency from responding to the request within 10 business days.

**ESTIMATED FEES & COSTS AND PAYMENT:**

**FEES:** For personal record requests under Part III of chapter 92F, HRS, the agency may charge you for its costs only, and fee waivers do not apply.

For public record requests under Part II of chapter 92F, HRS, the agency is authorized to charge you fees to search for, review, and segregate your request (even if a record is subsequently found to not exist or will not be disclosed in its entirety). The agency must waive the first \$30 in fees assessed for general requesters, OR in the alternative, the first \$60 in fees when the agency finds that the request is made in the public interest. Only one waiver is provided for each request. See HAR §§ 2-71-19, -31 and -32.

**COSTS:** For either personal or public record requests, the agency may charge you for the costs of copying and delivering records in response to your request, and other lawful fees and costs.

**PREPAYMENT:** The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. If a prepayment is required, the agency may wait to start any search for or review of the records until the prepayment is received by the agency. Additionally, if you have outstanding fees or costs from previous requests, including abandoned requests, the agency may require prepayment of 100% of the unpaid balance from prior requests before it begins any search or review for the records you are now seeking.

**The following is an itemization of what you must pay, based on the estimated fees and costs that the agency will charge you and the applicable waiver amount that will be deducted:**

**For public record requests only:**

<b>Fees:</b> Search	Estimate of time to be spent: _____ hours ((\$2.50 for each 15-minute period)	\$ <u>0</u>
Review & segregation	Estimate of time to be spent: _____ hours ((\$5.00 for each 15-minute period)	\$ <u>0</u>
Fees waived	<input type="checkbox"/> general (\$30), <b>OR</b> <input type="checkbox"/> public interest (\$60) (Only one waiver per request)	<\$ _____>
Other	_____	\$
	(Pursuant to HAR §§ 2-71-19 & 2-71-31)	
<b>Total Estimated Fees:</b>		<b>\$</b>

**For public or personal record requests:**

<b>Costs:</b> Copying	Estimate of # of pages to be copied: <u>600-800</u> (@ \$ <u>.10</u> per page, pursuant to HRS § 92-21)	\$ <u>60 to \$80</u>
Delivery	Postage	\$ <u>0</u>
Other	_____	\$
<b>Total Estimated Costs:</b>		<b>\$ 60-80</b>

**TOTAL ESTIMATED FEES AND COSTS from above: \$60-80**

**The estimated fees and costs above are for the first incremental disclosure only. Additional fees and costs, and no further fee waivers, will apply to future incremental disclosures.**

**PREPAYMENT IS REQUIRED** (50% of fees + 100% of costs, as estimated above) **\$**

**UNPAID BALANCE FROM PRIOR REQUESTS** (100% must be paid before work begins) **\$**

**TOTAL AMOUNT DUE AT THIS TIME**

**\$**

Payment may be made by:  cash  
 personal check payable to State of Hawaii, HCRC  
 other Money Order

For questions about this notice or the records being sought, please contact the agency person named at the beginning of this form. Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies, and a requester must seek records directly from the agency it believes maintains the records. If the agency denies or fails to respond to your written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at (808) 586-1400, [qip@hawaii.gov](mailto:qip@hawaii.gov), or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.