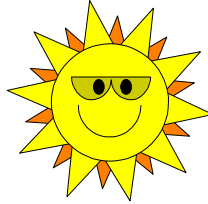


## More States Create Open Records Agencies

New Jersey is the latest in a growing number of states with open records agencies. New Jersey's **Open Public Records Act**, which takes effect on December 26, 2002, presumes that all state and local government records are public unless specifically exempted.

The new law also creates a **Government Records Council**. The five-member council is responsible for educating citizens and officials about the new law and also resolving disputes that arise when access is denied.

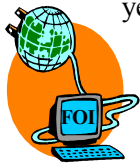
The estimated cost of operating the new council in its first year is at least \$1.2 million, according to The



New Jersey Foundation for Open Government ("NJ FOG"), a non-partisan, non-profit corporation founded in January 2001 to increase citizen access to public records and meetings.

The cost estimate is based on the experience of the seven other states (Connecticut, Hawaii, Indiana, Massachusetts, Minnesota, New York, and Virginia) that have established agencies to interpret public records laws and help resolve disputes. [In Hawaii, the OIP's current annual budget is \$334,096.]

See **Open Records**, p. 2



## FOI Information on the Internet

For more about freedom of information and privacy issues, the OIP's web site features links to related sites in Hawaii and other states, and the world.



### Agencies

Hawaii	Office of Information Practices
Connecticut	Freedom of Information Commission
Indiana	Public Access Counselor
Massachusetts	Public Records Division
Minnesota	Information Policy Analysis Division
New Jersey	Government Records Council
New York	Committee on Open Government
Virginia	Freedom of Information Advisory Council
Canada	Privacy Commissioner
Canada	Information Commissioner
Alberta	Freedom of Information and Protection of Privacy
British Columbia	Information and Privacy Commissioner
Ontario	Information and Privacy Commissioner
United Kingdom	Information Commissioner
Hong Kong	Privacy Commissioner's Office
Australia	Federal Privacy Commissioner
New Zealand	Office of the Privacy Commissioner

[www.state.hi.us/oip](http://www.state.hi.us/oip)  
[www.state.ct.us/foi](http://www.state.ct.us/foi)  
[www.state.in.us/pac](http://www.state.in.us/pac)  
[www.state.ma.us/sec/pre](http://www.state.ma.us/sec/pre)  
[www.ipad.state.mn.us](http://www.ipad.state.mn.us)  
[www.nj.gov/grc](http://www.nj.gov/grc)  
[www.dos.state.ny.us/coog/coogwww.html](http://www.dos.state.ny.us/coog/coogwww.html)  
[dls.state.va.us/foiacouncil.htm](http://dls.state.va.us/foiacouncil.htm)  
[www.privcom.gc.ca](http://www.privcom.gc.ca)  
[www.infocom.gc.ca](http://www.infocom.gc.ca)  
[www3.gov.ab.ca/foip](http://www3.gov.ab.ca/foip)  
[www.oipc.bc.org](http://www.oipc.bc.org)  
[www.ipc.on.ca](http://www.ipc.on.ca)  
[www.dataprotection.gov.uk](http://www.dataprotection.gov.uk)  
[www.pco.org.hk](http://www.pco.org.hk)  
[www.privacy.gov.au](http://www.privacy.gov.au)  
[www.privacy.org.nz/top.html](http://www.privacy.org.nz/top.html)

### More Links

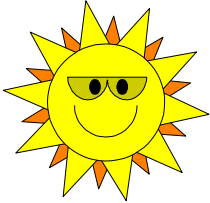
Hawaii State Government  
 Hawaii Office of Elections  
 Hawaii State Ethics Commission  
 Hawaii Campaign Spending Commission  
 Freedom of Information Center  
 Electronic Privacy Information Center  
 Privacy Rights Clearinghouse  
 Council on Governmental Ethics Laws (COGEL)  
 Foundation for Open Government (New Mexico)  
 Additional links from *Access Reports*

[www.state.hi.us](http://www.state.hi.us)  
[www.hawaii.gov/elections](http://www.hawaii.gov/elections)  
[www.hawaii.gov/ethics](http://www.hawaii.gov/ethics)  
[www.hawaii.gov/campaign](http://www.hawaii.gov/campaign)  
[www.missouri.edu/~foiwww](http://www.missouri.edu/~foiwww)  
[www.epic.org](http://www.epic.org)  
[www.privacyrights.org](http://www.privacyrights.org)  
[www.cogel.org](http://www.cogel.org)  
[www.roswell-record.com/fog/fog.html](http://www.roswell-record.com/fog/fog.html)  
[www.accessreports.com/links.html](http://www.accessreports.com/links.html)



## Open Records (from p. 1)

Guy Baehr, a member of the NJ FOG board, stated, “We all know about the state’s budget crunch, but we believe that adequate enforcement of the new law’s mandate for transparency at all levels of government will ultimately save taxpayers far more than it costs them.”



**New Jersey Gov. James McGreevey** issued an executive order in July to adopt nearly 500

exemptions to disclosure. Following protests from the press and from government watchdog groups, however, the Governor has agreed to retract many of the exemptions.

**Pennsylvania**, meanwhile, has updated its open records law for the first time in 50 years. The revised Right-to-Know Law makes clear that state and local government are responsible for furnishing records to the public.

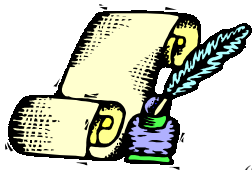
**The Pennsylvania law** establishes deadlines for fulfilling requests and also requires that public records be made available electronically. In addition, the revised law implements a new appeals system. 📄



## Recent OIP Opinion

### Agency Maintenance of Records Submitted by Private Entity

An individual asked the OIP whether an agency subject to the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (“UIPA”), may maintain information about an individual that is generated and submitted by a private entity.



The question applies to the policy of the Department of Public Safety (“PSD”) of incarcerating Hawaii inmates in private mainland prisons. These mainland prisons are alleged to provide the PSD with disciplinary infractions or other detrimental information.

The OIP opined that an agency **may** maintain such information. The UIPA does not impose affirmative obligations on agencies to maintain records. Collection and maintenance of records may be governed by laws outside the UIPA and by the agencies’ policies. [OIP Op. Ltr. 02-05, July 30, 2002] 📄

The OIP opined that an agency **may** maintain such information. The UIPA does not impose affirmative obligations on agencies to maintain records. Collection and maintenance of records may be governed by laws outside the UIPA and by the agencies’ policies. [OIP Op. Ltr. 02-05, July 30, 2002] 📄

## When Is a Person Not a Human Being?

*Q: When is a person not a human being?*

*A: When it’s a legal entity.*

Under the UIPA definitions, a “person” can be an individual, and can also be a legally created entity, such as a corporation, trust, or even a government agency.

Of all these “persons,” however, only a human being is considered an “individual” under the UIPA.

This legal distinction arose again in a recent OIP opinion (OIP Op. Ltr. 02-04, June 26, 2002), which was summarized in the July 2002 *Openline*.



Hawaii’s public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (“UIPA”), includes definitions to distinguish “individuals” from “persons” in section 92F-3:

*“Individual” means a natural person.*

*“Person” means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.*

Statute writers use the word “person” to minimize the verbiage of all those legal entities or “non-natural persons.”

Let’s review. So when is a person not a human being? The answer, as we all know now, is when the “person” is some legal entity. You and I are individuals, or “natural persons,” although we may be part of a legal entity, such as a partnership or association.

Or, put another way, all “individuals” are “persons,” but not all “persons” are “individuals.” Easy! 📄

*Openline* is a monthly publication of the Office of Information Practices, State of Hawaii.

Director: Moya T. Davenport Gray  
 Editor: Michael V. Little  
 Address: No. 1 Capitol District Building  
 250 S. Hotel St., Suite 107  
 Honolulu, Hawaii 96813

Phone: (808) 586-1400

Internet: [www.state.hi.us/oip](http://www.state.hi.us/oip)



Fax: (808) 586-1412

email: [oip@state.hi.us](mailto:oip@state.hi.us)