

Governor Appoints New Director: Les Kondo

On February 11, Governor Linda Lingle named Leslie H. Kondo director of the Office of Information Practices.

Kondo is a graduate of Northwestern University and the University of Hawaii William S. Richardson School of Law.



OIP Director Les Kondo

Petrus and McCorrison Miho Miller Mukai, and was a law clerk for former Chief Justice Herman T. F. Lum of the Hawaii Supreme Court.

Governor Lingle's Endorsement

In making the appointment, Governor Lingle said, "I have confidence in Les' legal abilities and judgment to ensure that the people of Hawaii have fair and open access to government records and public information, while protecting the privacy and rights of individuals and organizations."

The Governor also said, "Les will play a key role in our efforts to restore the public's trust in government and to encourage public involvement and input in the democratic process."

Trust, Honesty, and Openness

Following his appointment, Kondo said, "This position is about trust, honesty, and openness, and I look forward to working with the administration and the public to make government information accessible."

See Kondo, p. 2

2003 Legislative Update

Bills Affecting Information Practices

During the 2003 Session of the Hawaii State Legislature, the Office of Information Practices has been reviewing and monitoring 279 bills that could affect government's information practices in Hawaii.

Here are some of the bills that have crossed over from House to Senate, or Senate to House.

For current information about their status, text of bills, hearings, and committee reports, consult the Legislature's web site at www.capitol.hawaii.gov.



SB 1605 SD1: The original version required government agencies to designate a UIPA compliance officer, required the OIP to train employees, and required agencies to obtain certification from the OIP that they are in compliance with the UIPA. The Senate Committee on Judiciary and Hawaiian Affairs made amendments in accordance with the OIP's testimony, including: (1) adding language to clarify that the agency designee will be trained by the OIP and be responsible for the agency's compliance with the UIPA; (2) deleting sections requiring agencies to obtain OIP certification; and (3) deleting language requiring the OIP's director to certify agency compliance with the UIPA.

SB 1636 SD1 requires a county "vision team" to comply with all of chapter 92, Hawaii Revised Statutes (Part I of chapter 92 is the "Sunshine Law"). A "vision team" is a group created by a county to provide a vision in spending public money on public facilities and improvements. The bill clarifies when the Sunshine Law applies to hybrid public-private organizations.

SB 1229 SD1 helps to clarify the law as to the circumstances under which a nonprofit corporation is subject to the Sunshine Law.

SB 802 SD1 permits agencies to charge a maximum of 25 cents per page for photocopy charges, unless the item copied is larger than 8-1/2 x 14 inches (an agency is then authorized to charge more if the agency establishes a rule pursuant to chapter 91).

SB 685 prohibits voters' social security numbers from appearing in poll books.

SB 41 requires that all subcontracts and partnership agreements entered into by a contractor using public funds are subject to public inspection in accordance with the UIPA.

SB 427 SD1 authorizes access to government records by remote electronic means and permits agencies to charge for labor costs if new programming and information technology services are required for data compilation or extraction.

Kondo (from p. 1)

Third Director for OIP

Kondo becomes the third director in the history of the OIP, which was created by the Legislature in 1988 to administer Hawaii's new public records law, the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA").

Governor John Waihee appointed Kathleen A. Callaghan as the OIP's first director in 1988. In May 1995, Governor Benjamin Cayetano named Moya T. Davenport Gray as the agency's second director (see Staff Update on this page).

Welcome!

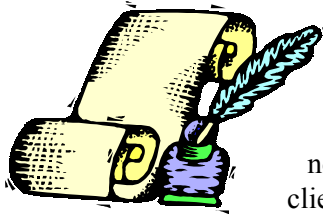
The OIP's staff members congratulate Les and wish him great success in his new position. 📧



Recent OIP Opinion

Attorney-Client Privilege

A letter from the Maui County Office of the Prosecuting Attorney ("Maui Prosecutor") to the Chair of the Department of Land and Natural Resources ("DLNR")



written in response to a question from the Chair regarding possible violations of the law by a non-government entity is not protected by the attorney-client privilege.

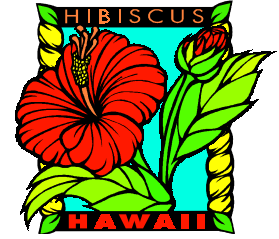
The DLNR and the Maui Prosecutor do not have an attorney-client relationship under Rule 503, Hawaii Rules of Evidence, Chapter 626, Hawaii Revised Statutes.

Further, the Maui Prosecutor has no authority under the Maui County Charter to act as an attorney representing the DLNR; thus, no attorney-client privilege can attach to information shared between them.

To be protected from public disclosure under the UIPA, a government record has to fall into one of the exceptions to disclosure at section 92F-13, Hawaii Revised Statutes. [OIP Op. Ltr. No. 02-13, December 31, 2002] 📧

Staff Update

The OIP bids aloha to its second director, **Moya T. Davenport Gray**.



Gray, who was appointed in 1995 by Governor Cayetano, served through two physical moves (from Kapuaiwa to Leiopapa a Kamehameha in 1996, then to No. 1 Capitol District in 2000) and one administrative move (from the Department of the Attorney General to the Office of the Lieutenant Governor in 1998).

Gray also served through one significant added responsibility (Sunshine Law in 1998) and one major budget cut (1998), which, as with many agencies, required trying to do more with less.

The OIP's achievements during these years include the following:

- adopting **administrative rules** to help the public gain access to State and county government records, and continuing to administer Hawaii's open records law;

- working with government and the public to help keep the **Sunshine Law** and open meetings a vital part of open government;

- working with the public and private sectors in Hawaii's attempts to protect the **privacy of medical records**; and

- creating the OIP's web site, publishing detailed annual reports, training agencies and the public, and other **efforts to keep government and the public informed**.

The OIP thanks Moya for her years of service and wishes her well in her future endeavors! 📧

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