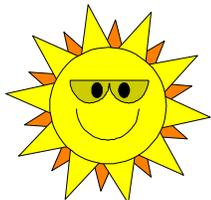


Government Records**Personnel Records vs. Personal Records**

The June 2001 issue of Openline discussed a person's right of access to that person's own **personal** records maintained by State and county government agencies. Also in June, the OIP distributed Guideline No. 2, discussing public requests for access to government employees' **personnel** records.



Since the distribution of the newsletter and the guidelines, the OIP staff attorneys have received numerous calls asking whether the public has a broad right of access to government employees' personnel file. Here are some things to remember about personnel records and personal records.

R Personnel Records

Under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), certain information about State and county employees is made public **by statute**. For example, an employee's business address and dates of employment are public by law.

Other information about a government employee that is not listed in the statute **may** be public, but disclosure depends on whether the public



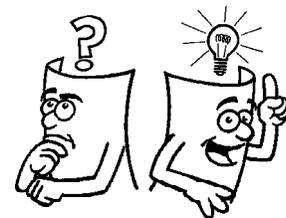
interest in disclosure outweighs the employee's significant privacy interest in the information. The public interest rarely outweighs an employee's significant privacy interest.

In some instances, though, a government employee may have waived the privacy interest. Sometimes the expectation of privacy may be diminished, for example when the person is a high-ranking government employee.

Government agencies should use the OIP's **Guideline No. 2** to respond to public requests for **personnel** records. The OIP's Guideline No. 2 discusses how the UIPA's exceptions, and its requirement of mandatory disclosure of some types of information, apply to personnel records.

R Personal Records

Government collects information about people on a daily basis. One of your rights under the UIPA, whether you're a government employee or a member of the public, is to know what information government collects about you, and to correct it if it is incorrect.



The records that government keeps about you are called "**personal records**." The OIP considers personal records to be a sub-set of the "universe" of government records. Your right of access to your own personal records is governed by Part III of the UIPA. The public's right of access to the "universe" of government records is governed by Part II of the UIPA.

When a person asks for access to his own personal records, government agencies should confirm the **requester's identity**, if public release of the records would be an unwarranted invasion of personal privacy. An agency should grant access and correction rights, under Part III of the UIPA, only to a person seeking to view or correct his own personal record.



If the record is **not** about the person who seeks access to it, then the agency should provide access and copying rights according to Part II of the UIPA. In other words, when a member of the public seeks information about government employees or any other person the government keeps records about, an agency must disclose the information that is made **explicitly** public by law. The rest of the information in the record is also **presumed public**, and must be disclosed, unless an exception to disclosure applies.

One exception to disclosure is for personal privacy. If there is information in the record that carries significant privacy interests, then the agency must apply the "**balancing test**" and weigh the public interest in disclosure against the privacy interest. The public has a legitimate interest in knowing how government operates. If the information reflects upon how government operates, a legitimate public interest exists and must be weighed against the privacy interest. 

In the News

⇒ “In the News” is a new Openline feature. Look here for national and world news about freedom of information and privacy issues.



Hollywood Mystery: Who Stole Florida Police Data?

Identity thieves in Florida have raided the credit histories of the municipal employees of the city of Hollywood, Florida, hitting the police and fire departments, sanitation workers, and others. While arrests have been made in the case, one key fact remains unknown: Where did the thieves get the data?

For the past several weeks, city workers have found bogus credit accounts opened in their names at local merchants and with major banks. The case has snowballed since late June when several dozen police officers discovered the bogus accounts on their credit history. The total loss is expected to reach tens of thousands of dollars.

The thieves apparently obtained a database of employees’ Social Security numbers, dates of birth, and payroll information, but its source is unknown.



“We’re trying to find a common denominator in the data that will pinpoint the theft to a single location,” Lt. Tony Rode, Hollywood police department

spokesman, told *Privacy Times*. Suspicion has fallen on the city’s credit union, on **First Union bank that handles payroll**, and on the city’s **insurance carrier**, located in Savannah, Georgia [emphasis added].

An interagency task force of investigators, including the U.S. Postal Inspector and the Secret Service, have made three arrests in the case so far, including individuals in Hollywood and Jacksonville, Florida.

Officer Rode is also a victim in the case. Someone used his information to obtain a credit card with a \$1,500 line of credit, and had it mailed to an address in Jacksonville. The thieves charged the card to the limit, then closed it 90 days later.

[reprinted from *Privacy Times*, July 6, 2001; P.O. Box 21501, Washington, DC 20009; www.privacytimes.com]

Privacy of Health Care Information

Hawaii’s focus on protecting the privacy of health care information has recently shifted from the state to the national level. New federal regulations, under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), were adopted on April 14, 2001.

The new federal regulation, entitled *Standards for Privacy of Individually Identifiable Health Information* (the Privacy Rule), is substantially similar to Chapter 323C, Hawaii Revised Statutes. To avoid problems with compliance with two laws, the State Legislature repealed Chapter 323C, HRS, relating to the privacy of health care information.



Most health plans and health care providers that are covered by the new federal rule, and certain government agencies, must comply with the new requirements by April 14, 2003.

For more information about the Privacy Rule, visit the federal web site at <http://aspe.hhs.gov/adminsimp/final/pvcguide1.htm>. The Office of Information Practices continues to monitor this important issue.



In the August Openline . . .

The next issue of *Openline* will include a look at the new privacy and freedom of information offices sprouting up in California and other states . . . Agencies like Hawaii’s Office of Information Practices have existed for years in Connecticut, New York, and all the provinces of Canada . . . Now there are more . . . That’s the August topic “in the news.” 📰

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

Fax: (808) 586-1412

Internet: www.state.hi.us/oip

email: oip@state.hi.us