

OFFICE OF INFORMATION PRACTICES

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To: Senate Committee on Judiciary and Labor

From: Cheryl Kakazu Park, Director

Date: February 27, 2017, 9:30 a.m.
State Capitol, Conference Room 016

Re: Testimony on S.B. No. 572
Relating to Information Practices

Thank you for the opportunity to submit testimony on this bill. **The Office of Information Practices (“OIP”) supports this bill, which would amend chapter 92F, the Uniform Information Practices Act, to make OIP the agency responsible for adopting rules to protect original agency records, and clarify that agencies are required to follow rules adopted by OIP regarding personal record requests.**

Section 92F-11, HRS, currently permits each agency to individually adopt rules to protect original agency records and prevent “manifestly excessive interference” with agency duties. This bill would instead give OIP the responsibility for adopting such rules for all agencies to follow, thus **promoting uniformity in agency responses to record requests by ensuring that all agencies will follow a single standard.**

This bill would also clarify section 92F-26, HRS, which currently states that once OIP has adopted rules setting out personal record request procedures, each agency must then separately adopt those same rules “insofar as practicable.” As the bill proposes, the section will simply require the agencies to follow those

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rules once adopted by OIP. This, too, will **promote uniformity in agency responses to record requests and avoid the potential inefficiency and expense of having each state and county agency separately adopt the same set of rules.**

Thank you for considering our testimony.

THE CIVIL BEAT
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Senate Committee on Judiciary and Labor
Honorable Gilbert S.C. Keith-Agaran, Chair
Honorable Karl Rhoads, Vice Chair

RE: Testimony Opposing S.B. 572, Relating to Information Practices
Hearing: February 27, 2017 at 9:30 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony on S.B. 572. The Law Center **opposes Section 1 of this bill because it will further remove the Office of Information Practices from its primary mission to rule on disputes about open government in Hawai'i.**

The 1988 Legislature created OIP "to provide a place where the public can get assistance on records questions at no cost and within a reasonable amount of time." Conf. Comm. Rep. No. 112-88, in 1988 House Journal at 818. As the Law Center recently reported, OIP is understaffed and underfunded to accomplish that mission. Breaking Down Hawaii's Broken System for Resolving Public Access Disputes, *available at* <http://www.civilbeatlawcenter.org/resources/>. Thus, it would not be good policy to expand OIP's responsibilities further.

OIP currently is not responsible for preserving records. Such duties more logically fall within the responsibility of the Comptroller through the Department of Accounting and General Services' authority under HRS chapter 94 to address disposition, preservation, and disposal of government records. For OIP to create rules that accommodate the diverse record systems of all State and county agencies would be a massive undertaking. That effort would substantially divert resources from OIP's primary mission assisting the public with UIPA and Sunshine Law disputes.

Moreover, OIP historically has been slow to promulgate rules within its existing authority. It took 10 years for OIP to issue rules on processing record requests. And despite the authority to do so for almost 30 years, it has never promulgated rules concerning records collection practices or records disclosure for research purposes. HRS § 92F-41(14) & (15). Unlike rules on record preservation, rules on record collection and research disclosures, if promulgated, would significantly further the goal of government transparency in Hawai'i.

Thank you again for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for SB572 on Feb 27, 2017 09:30AM*
Date: Friday, February 24, 2017 11:10:52 AM

SB572

Submitted on: 2/24/2017

Testimony for JDL on Feb 27, 2017 09:30AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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