



January 10, 2012

Via U.S. mail

Jodie F. Maesaka-Hirata
Director, Department of Public Safety
919 Ala Moana Boulevard, Room 400
Honolulu, HI 96814

Bert Matsuoka
Chair, Hawaii Paroling Authority
1177 Alakea St.
Honolulu, HI 96813

Re: Open Records Request

Dear Director Maesaka-Hirata and Chair Matsuoka:

Enclosed is a request to access government records (identical requests are being sent to PSD and HPA). Please feel free to contact me at 808-522-5908 or dgluck@acluhawaii.org if you have any questions about this request.

In short, our goal in submitting this request is to learn the number of inmates granted parole or probation for "compassionate" reasons, such as advanced age or medical condition, from January 1, 2009 to the present, and to obtain PSD's and HPA's policies and procedures for making these determinations. As far as we know, one inmate was granted such release in 2011 (Delbert Wakinekona). We are not aware of any other inmates released for medical/advanced age reasons in the past three years.

We are mindful that your offices are not required to create new documents under the UIPA. However, if you (or those in your offices) know the numbers of individuals granted any kind of "compassionate" release, and will inform our office as to those numbers, we will consider that portion of our request satisfied (and/or will officially withdraw this portion of our request if that is your preference). Our goal is to obtain this information with the least burden on you and your staff.

Post Office Box 3410
Honolulu, Hawaii 96801
T: 808 • 522-5900
F: 808 • 522-5909
E: office@acluhawaii.org
www.acluhawaii.org

OFFICERS AND DIRECTORS
BARBARA A. ANKERSMIT
PRESIDENT

VANESSA Y. CHONG
EXECUTIVE DIRECTOR

The language of these requests was based on the 2010 House Bill 1981 testimony of Director Frank and HPA Director Tufono, available at http://www.capitol.hawaii.gov/session2010/Testimony/HB1981_TESTIMONY_PBS_01-28-10_.pdf. We respect and understand that all names and other private data within the records themselves will be redacted.

Thank you in advance for your assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. Gluck', written in a cursive style.

Daniel Gluck
Senior Staff Attorney

REQUEST TO ACCESS A GOVERNMENT RECORD

DATE: January 10, 2012

TO: Jodie F. Maesaka-Hirata, Director of Department of Public Safety

FROM: Daniel M. Gluck
Name or Alias
ACLU of Hawaii, P.O. Box 3410, Honolulu, HI 96801
Phone: (808) 522-5908 e-mail: dgluck@acluhawaii.org
Contact Information

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORDS:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

- From January 1, 2009 to the present, all records relating to the reduction of minimum term and/or granting of parole based on (1) an inmate's status as elderly and/or (2) an inmate's serious debilitating medical condition for which treatment is not available in prison or a terminal disease wherein competent medical authorities indicate death is imminent. This includes, but is not limited to, all records relating to a medical doctor's recommendation to reduce a minimum term and all records relating to the endorsement by the Director of the Department of Public Safety ("PSD") to the Hawaii Paroling Authority of a medical doctor's recommendation.
- All policies and procedures relating to the consideration of reduction of minimum term and/or granting of parole for advanced age, medical condition, and/or any other "compassionate" reason.

I WOULD LIKE: (please check one or more of the options below)

- To inspect the government record.**
- A copy of the government record:** (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.
- Pick up at agency (date and time): _____
- Mail
- Fax (toll free and only if available)
- Other, if available (please specify): _____
- If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.
- Electronic Audio Other (please specify): However the records are maintained
- Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

FEES FOR PROCESSING RECORD REQUESTS

You may be charged fees for the services that the agency must perform when processing your record request, including fees for making photocopies and other lawful fees. **The first \$30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over \$30 will be charged to you.** Fees are as follows:

Search for a Record	\$2.50 for 15 minutes
Review and Segregation of a Record	\$5.00 for 15 minutes

WAIVER OF FEES IN THE PUBLIC INTEREST

Up to \$60 of fees for searching for, segregating and reviewing records may be waived when the waiver would serve the public interest as described in section 2-71-32, Hawaii Administrative Rules. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are:

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in *extenuating circumstances* the agency must respond within 20 business days from the date of your request. If you have questions about the response time, you may contact the agency's UIPA contact person. If you are not satisfied with the agency's response, you may call the Office of Information Practices at 808-586-1400.

REQUESTER'S RESPONSIBILITIES

You have certain responsibilities under §2-71-16, Hawaii Administrative Rules. You may obtain a copy of these rules from the Lieutenant Governor's Office or from the Office of Information Practices. These responsibilities include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees, if assessed.

ACLU of Hawaii Foundation Request to Access Government Records

Request for Waiver of Fees in the Public Interest

January 10, 2012

Pursuant to section 2-71-32 of the Hawaii Administrative Rules, the American Civil Liberties Union of Hawaii Foundation ("ACLU") hereby requests a waiver of \$60 of the fees that may be assessed under section 2-71-31. The ACLU is a nonprofit, public-interest law firm; our mission is to protect individual freedoms guaranteed under the federal and state constitutions. The ACLU has been engaged in legal action and public education in Hawaii since 1965 on issues affecting constitutional rights.

Public dissemination of the information contained in these documents will contribute significantly to public knowledge and understanding of Department of Public Safety's and Hawaii Paroling Authority's practices relating to the compassionate release of inmates for medical reasons and/or age. The ACLU has frequently been at the forefront of monitoring and litigating prison reform initiatives and has no commercial interest in the documents requested. These documents are not readily available in the public domain. Furthermore, the ACLU intends to publicize this information in advance of anticipated discussion of prison reform issues during the 2012 legislative session. As a public-interest organization, the ACLU has both the primary intention and the actual ability to disseminate this information in an appropriate manner: the ACLU has approximately 2,000 members state-wide, and is able to disseminate this information to our members via our newsletter, our Facebook page (which has over 2,200 "friends"), our website (which received over 3,000 hits in October 2011 alone), and our Twitter feed (which has over 600 followers).

Requester respectfully asks that, if the total fees for this request (including copying charges) are anticipated to exceed \$150.00, Respondent notify Requester and obtain express written permission to proceed with the request.