

Column

# Reader Rep: When Public Officials Hide Information From The Public

Citizens of Hawaii should demand more transparency of their taxpayer-funded investments.

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By Brett Oppegaard  / About 15 hours ago

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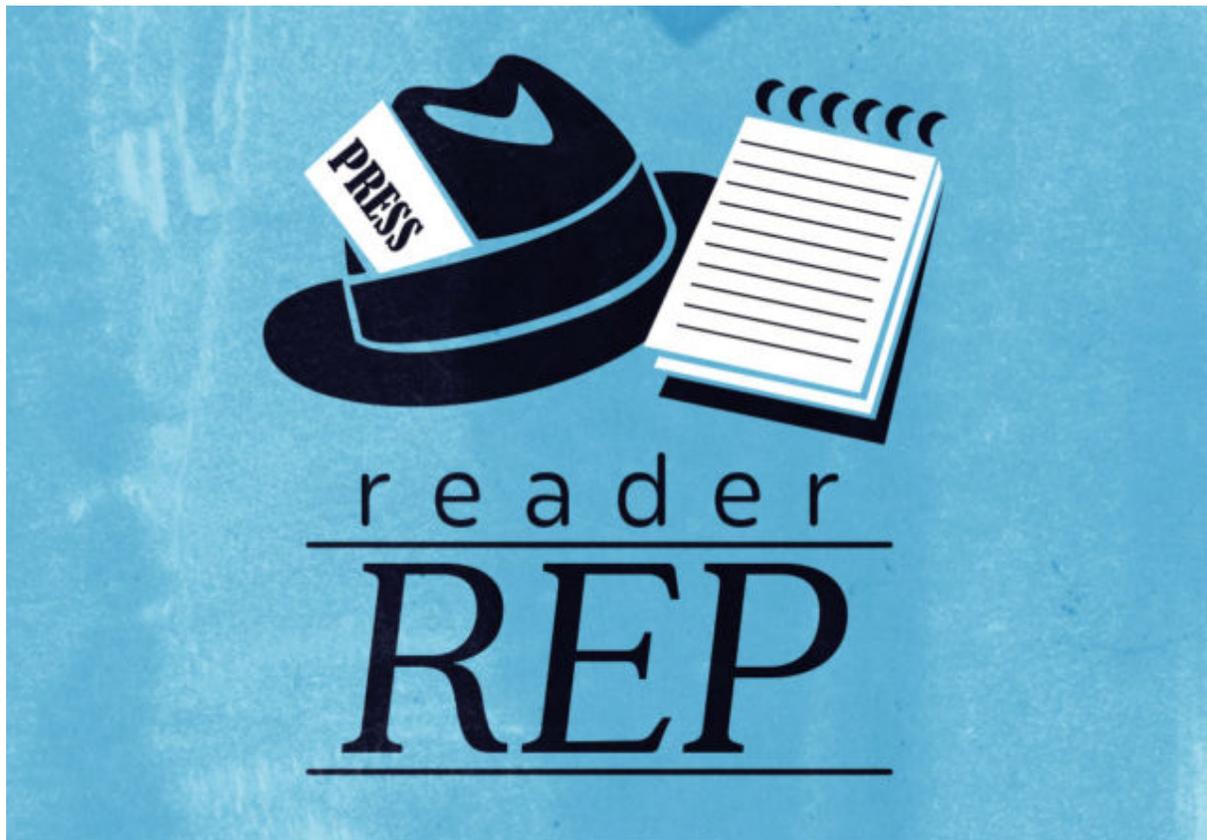
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Hawaii wouldn't even need an [Office of Information Practices](#), if public servants simply followed the open-government intent of [state law](#).

Instead, the [overworked, underfunded and understaffed](#) OIP office sucks up more than \$500,000 a year in additional public funds, including employing five staff attorneys.

It gives the appearance of the state having an established mechanism for ensuring transparency, but its primary job seems to be giving stale and non-binding advice to recalcitrant government employees who insist on keeping public information to themselves, and to their cronies, often as a way to hide misdeeds or curry favors.



In the court of common sense, the lawyerly discourse in these cases blocking public access is laughable.

- **Head slapper No. 1:** Honolulu Mayor Kirk Caldwell uses publicly produced documents (you paid for the workers' salaries, benefits and amenities) to guide major decisions about his plans to spend public resources in 2016. Civil Beat wanted to compare the documents from city departments to the final spending proposals, to see what advice Caldwell heeded (or didn't). The City and County of Honolulu has tried to keep that information from public view.

Here's the punchline in the case, [under review this month](#) by the Hawaii Supreme Court:

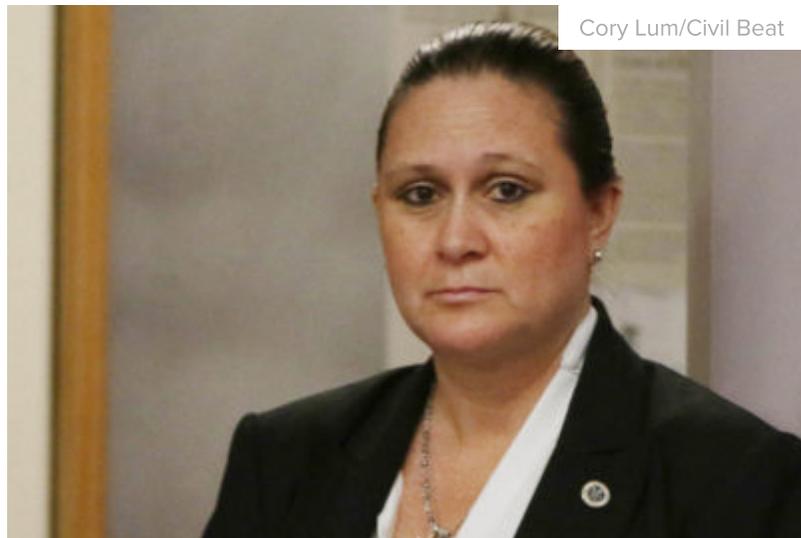
City attorney [Duane Pang](#) argued that government officials need to keep these kinds of secrets so they can perform public business in an ["efficient and effective manner"](#) without any sort of second-guessing from an informed citizenry. He added that policymakers might not be candid with one another, if they thought members of the public might actually read what they wrote.

• **Head slapper No. 2:** Honolulu Deputy Prosecuting Attorney Katherine Kealoha – under federal investigation for corruption and abuse of power – still has her job, but that’s not the most ridiculous part.

Civil Beat recently requested to see [materials in her personnel file](#), such as her resume, cover letter and employment application, plus documentation of what positions she has held in the office, her salary and benefits (which you pay) as well as any letters of promotion, commendation or disciplinary actions taken against her, all of which generally are considered public records because of her public employment.

Once she learned of this request, though (who tipped her?), her attorney, [Kevin Sumida](#), filed an injunction against the city to stop the release of the documents (after public officials already had agreed to provide them). Sumida comically tried to disparage Civil Beat in that recent complaint by calling the [national-, regional- and state-award-winning](#) nonprofit a [“purported news organization”](#).

When making his far-fetched primary arguments for “constitutional” protection of such information, Sumida conceived of a reviewer of the file being able to possibly look at the amount of sick leave Kealoha has taken and “reverse engineer” that amount to determine what (if any) medical condition she might or might not have. That would be quite a diagnostic feat, worthy of an honorary medical degree, at least.



Katherine Kealoha is a high-level public employee. Does that give you the right to see items from her personnel file that are generally considered public records? Her attorney says no.

So let's do a quick recap: Kealoha applied for and accepted a top job in a public agency (all application materials therefore should be public); your taxes paid her salary and benefits in various positions (so you should, by state law, be able to know what those positions were and how much they cost taxpayers); in a prominent public leadership position, she might have been commended or disciplined (you also have the right to know the highlights and lowlights of how she performed).

- **Head Slapper No. 3:** I'm still waiting (424 days and counting) on my OIP request to learn which high-level deputies in the state's Sheriff Division [lacked proper training and potentially have been bungling cases](#) for decades. When I first started writing this column, I naively thought making such an OIP request would be an "efficient and effective manner" of compelling a public agency to comply with clearly articulated state law. Ha!

[Hawaii News Now reporter Keoki Kerr revealed](#) on April 7 (2016!) that several deputies were poorly trained and perpetually negligent in their duties. Kerr declined to name the deputies, and this happened so long ago that [Kerr](#) left the field and since has celebrated his first anniversary working in public relations for the Hawaii State Teachers Association.

The journalistic task he left unfinished was to report the names of the deputies. Until we get those names, we don't know exactly how deep and serious this societal problem is. If Kerr's reporting is correct, then those deputies should be held publicly accountable; if Kerr's reporting is incorrect, then HNN should retract the story and be held publicly accountable.

The law, [92F-12\(a\)\(14\)](#), clearly and unequivocally states we are entitled to know who works for us, especially those we arm with lethal weapons and entrust to protect our communities. That means, upon request, the Department of Public Safety should readily provide employee names, job titles, job descriptions, etc., which is the basic sort of information also being requested of Kealoha.

**I'm still waiting (424 days and counting) on my OIP request to learn which high-level deputies in the state's Sheriff Division lacked proper training and potentially have been bungling cases for decades.**

The absurdity of the Sheriff Division's stonewalling position on this request was illustrated when [Brian Black](#), attorney for the [Civil Beat Law Center for the Public Interest](#), created a comparative request with the U.S. Secret Service.

Black asked for equivalent information, on the federal level, of the "current division chief or agent in charge of the [Uniformed Services Division](#)." That person provides security for the White House complex, the vice president's Naval Observatory residence, the Treasury Department building and for foreign diplomats in Washington, D.C. Black also asked for the name of the "current division chief or agent in charge of the [Presidential Protection Division](#)," which guards the president and vice president of the United States and their families, former presidents, foreign heads of state and major presidential and vice presidential candidates.

That [resources-strapped](#) federal agency complied less than two months later, at no charge. So what is the super-duper-secretive state Sheriff Division hiding from us? And what are other noncompliant public agencies keeping from us?

Recent OIP reports, ranging from [formal opinion letters](#) to [informal opinion letter summaries](#), provide hints at the depths of the issues. Ultimately, though, if most people just nonchalantly allow this sort of illicit behavior to

continue, our government will be increasingly obscured from public oversight and detached from its original intent and purposes.

Journalists are doing their part, by asking for information like this, and publishing what they get, as a way to help inform the community. Citizens of Hawaii should demand more transparency of their taxpayer-funded investments. Yet this situation really rests on the shoulders of all of you public servants out there, at all levels of government.

You can choose to stymie public discourse through all manners of behaviors, and weaken our democracy, or you can actively and persistently accommodate an open and free exchange of public information.

Follow the intent of state law. Really, think about it: Whose side are you on?

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## About the Author



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