

AMENDED NOTICE TO REQUESTER

TO: Audrey McAvoy
The Associated Press

FROM: Donna Fujimoto-Saka, Office of the Governor of Hawai'i
808-586-0034, GovOffice.UIPA@hawaii.gov

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: 1/18/18 (original request) and 2/6/18 (clarification)

DATE OF AMENDED NOTICE: 2/13/18

DATE OF ORIGINAL NOTICE: 2/2/18

GOVERNMENT RECORDS YOU REQUESTED

See attached request and clarification.

THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:

Will be granted in its entirety.

Cannot be granted. Agency is unable to disclose some of the requested records for the following reason:

- Agency does not maintain the requested records (text messages, instant messages, records of cell or office phone calls). HRS §92F-3
Other agency that is believed to maintain records:
- Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: _____
- Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

Remaining requested records will be granted in part and denied in part, **OR** Is denied in its entirety.

Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.

(Describe the portions of records that the agency will not disclose.)

RECORDS OR
INFORMATION WITHHELD

APPLICABLE
STATUTES

AGENCY
JUSTIFICATION

See Agency Justification on page 4.

REQUESTER'S RESPONSIBILITIES:

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested. If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request

and the agency shall have no further duty to process your request. Once the agency begins to process your request, you may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

METHOD & TIMING OF DISCLOSURE:

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days after this notice or after receipt of any prepayment required. HAR § 2-71-13(c). If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

Method of Disclosure:

- Inspection at the following location: _____
- As requested, a copy of the record(s) will be provided in the following manner:
 - Available for pick-up at the following location: _____
 - Will be mailed to you.
 - Will be transmitted to you by other means requested: electronically by email

Timing of Disclosure: All records, or the first increment if applicable, will be made available or provided to you:

- On _____, 20____.
- After prepayment** of 50% of fees and 100% of costs, as estimated below.

For incremental disclosures, each subsequent increment will be disclosed within 20 business days after:

- The prior increment (if one prepayment of fees is required and received), or
- Receipt of each incremental prepayment, if prepayment for each increment is required.

Records will be disclosed in increments because the records are voluminous and the following extenuating circumstances exist:

- Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
- Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
- Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- A natural disaster or other situation beyond agency's control prevents agency from responding to the request within 10 business days.

ESTIMATED FEES & COSTS AND PAYMENT:

FEES: For personal record requests under Part III of chapter 92F, HRS, the agency may charge you for its costs only, and fee waivers do not apply.

For public record requests under Part II of chapter 92F, HRS, the agency is authorized to charge you fees to search for, review, and segregate your request (even if a record is subsequently found to not exist or will not be disclosed in its entirety). The agency must waive the first \$30 in fees assessed for general requesters, OR in the alternative, the first \$60 in fees when the agency finds that the request is made in the public interest. Only one waiver is provided for each request. See HAR §§ 2-71-19, -31 and -32.

COSTS: For either personal or public record requests, the agency may charge you for the costs of copying and delivering records in response to your request, and other lawful fees and costs.

PREPAYMENT: The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. If a prepayment is required, the agency may wait to start any search for or review of the records until the prepayment is received by the agency. Additionally, if you have outstanding fees or costs from previous requests, including abandoned requests, the agency may require prepayment of 100% of the unpaid balance from prior requests before it begins any search or review for the records you are now seeking.

The following is an itemization of what you must pay, based on the estimated fees and costs that the agency will charge you and the applicable waiver amount that will be deducted:

For public record requests only:

Fees: Search	Estimate of time to be spent: <u>.5</u> hours (\$2.50 for each 15-minute period)	\$ <u>5</u>
Review & segregation	Estimate of time to be spent: <u>77</u> hours (\$5.00 for each 15-minute period)	\$ <u>1,540</u>
Fees waived	<input type="checkbox"/> general (\$30), OR <input checked="" type="checkbox"/> public interest (\$60) (Only one waiver per request)	<\$ <u>60</u> >
Other	_____	\$
	(Pursuant to HAR §§ 2-71-19 & 2-71-31)	
Total Estimated Fees:		\$ <u>1,485</u>

For public or personal record requests:

Costs: Copying	Estimate of # of pages to be copied: 100 (@ \$ <u>0.05</u> per page, pursuant to HRS § 92-21)	\$ <u>5</u>
Delivery	Postage	\$
Other	_____	\$
Total Estimated Costs		\$ <u>5</u>

TOTAL ESTIMATED FEES AND COSTS from above: \$1,490

- The estimated fees and costs above are for the first incremental disclosure only. Additional fees and costs, and no further fee waivers, will apply to future incremental disclosures.
- PREPAYMENT IS REQUIRED** (50% of fees + 100% of costs, as estimated above) **\$ 747.50**
- UNPAID BALANCE FROM PRIOR REQUESTS** (100% must be paid before work begins) **\$**

TOTAL AMOUNT DUE AT THIS TIME \$ 747.50

Payment may be made by: cash
 personal check payable to Office of the Governor, State of Hawai'i
 other _____

For questions about this notice or the records being sought, please contact the agency person named at the beginning of this form. Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies, and a requester must seek records directly from the agency it believes maintains the records. If the agency denies or fails to respond to your written request for records or if you have other

questions regarding compliance with the UIPA, then you may contact OIP at (808) 586-1400, oiip@hawaii.gov, or 250 South Hotel Street, Suite 107, Honolulu, Hawaii 96813.

AGENCY JUSTIFICATION (for partial disclosure of requested records):

The emails may contain information which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy pursuant to section 92F-13(1), Hawaii Revised Statutes. Also, the emails may contain information which is protected under the Executive Privilege and/or the deliberative process privilege and falls within the exception for “[g]overnment records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function” pursuant to section 92F-13(3), Hawaii Revised Statutes. To the extent that information contained within the requested records is protected under these exceptions, or any of the exceptions to disclosure listed in section 92F-13, Hawaii Revised Statutes, such information shall be segregated from the records prior to disclosure.

From: [McMillan, Cindy](#)
To: [McAvoy, Audrey](#); [Leong, Jodi C](#)
Cc: [Thiessen, Mark](#); [Jones, Caleb](#); [GovOffice.UIPA](#)
Subject: RE: Open records request regarding false alarm missile alert
Date: Thursday, January 18, 2018 1:43:39 PM

Hi Audrey – Copying GovOffice.UIPA so our team can get on this.

Did you also make this request to HIEMA?

clm

From: McAvoy, Audrey [mailto:amcavoy@ap.org]
Sent: Thursday, January 18, 2018 1:41 PM
To: Leong, Jodi C <Jodi.C.Leong@hawaii.gov>; McMillan, Cindy <Cindy.McMillan@hawaii.gov>
Cc: Thiessen, Mark <mthiessen@ap.org>; Jones, Caleb <CJones@ap.org>
Subject: Open records request regarding false alarm missile alert

Hi Cindy and Jodi,

Under the state open-records law, the Uniform Information Practices Act, The Associated Press requests the following information:

All written communications (including emails, text messages and instant messages) and phone records (including the numbers of all incoming and outgoing landline and cellphone calls) between state, local and federal agencies regarding the false alarm missile alert from 8 a.m. to 11:59 p.m. on Saturday, Jan. 13, 2018.

I request expedited treatment because I am a journalist engaged in newsgathering and the subjects are of urgent public interest. I also ask that, because the information is in the public interest and not for commercial use, any fees be waived.

I ask that responsive records be released on a rolling basis _ that is, as they are available, rather than all at once. I prefer to receive documents in electronic form and be notified by email at the following addresses: amcavoy@ap.org, mthiessen@ap.org, cjones@ap.org, jkelleher@ap.org.

Thank you for your prompt consideration of this request.

Thank you,

Audrey



ASSOCIATED PRESS

Audrey McAvoy

Reporter

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Bureau 808-536-5510

State Capitol 808-528-5409

Mobile 808-341-3752

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From: [McAvoy, Audrey](#)
To: [GovOffice.UIPA](#)
Cc: [Thiessen, Mark](#); [Jones, Caleb](#)
Subject: RE: Notice to Requester
Date: Tuesday, February 6, 2018 4:57:16 PM

Hi Donna,

Thank you for the additional information. We would like to narrow our request to cover the emails of the following four people:

Gov. David Ige
Chief of Staff Mike McCartney
Administrative Director Ford Fuchigami
Communications Director Cindy McMillan

Would you please provide us with a revised estimate? Please also let us know how many emails you estimate there are and how much time you estimate you would need per email.

Thank you very much,

Audrey

AP



Audrey McAvoy
Reporter
Honolulu Bureau

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Mobile 808-341-3752

From: GovOffice.UIPA [mailto:GovOffice.UIPA@hawaii.gov]
Sent: Tuesday, February 06, 2018 1:32 PM
To: McAvoy, Audrey <amcavoy@ap.org>; GovOffice.UIPA <GovOffice.UIPA@hawaii.gov>
Cc: Thiessen, Mark <mthiessen@ap.org>; Jones, Caleb <CJones@ap.org>
Subject: RE: Notice to Requester

Dear Ms. McAvoy:

Thank you for your email. To arrive at the estimate, we obtained the total number of emails from one senior staff member for Jan. 13th, then determined the amount of time that a staff member spent reviewing and segregating a smaller segment of the relevant emails, and used those numbers as a multiplier.

Mahalo,

Donna N. Fujimoto-Saka
Senior Special Assistant
Office of the Governor, State of Hawaii

From: McAvoy, Audrey [<mailto:amcavoy@ap.org>]
Sent: Monday, February 5, 2018 3:50 PM
To: GovOffice.UIPA <GovOffice.UIPA@hawaii.gov>
Cc: Thiessen, Mark <mthiessen@ap.org>; Jones, Caleb <CJones@ap.org>
Subject: RE: Notice to Requester

Hi Donna,

Thank you very much.

Just so I understand, what constituted a sample period of time for the purposes of your calculations?

Thank you,

Audrey

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From: GovOffice.UIPA [<mailto:GovOffice.UIPA@hawaii.gov>]
Sent: Monday, February 05, 2018 3:32 PM
To: McAvoy, Audrey <amcavoy@ap.org>; GovOffice.UIPA <GovOffice.UIPA@hawaii.gov>
Cc: Thiessen, Mark <mthiessen@ap.org>; Jones, Caleb <CJones@ap.org>
Subject: RE: Notice to Requester

Dear Ms. McAvoy:

Thank you for your email. Our team took a sample period of time and used it as a multiplier to arrive at an estimate for the records spanning the length of time that you requested.

Mahalo,

Donna Fujimoto-Saka
Senior Special Assistant
Office of the Governor, State of Hawaii

From: McAvoy, Audrey [<mailto:amcavoy@ap.org>]
Sent: Monday, February 5, 2018 2:01 PM
To: GovOffice.UIPA <GovOffice.UIPA@hawaii.gov>
Cc: Thiessen, Mark <mthiessen@ap.org>; Jones, Caleb <CJones@ap.org>
Subject: RE: Notice to Requester

Dear Donna,

Thank you for your response to my records request.

I have one question – what is the 223-hour time estimate for review and segregation based on? Or, phrased differently, what figures did you use in your calculations to arrive at that estimate?

Thank you,

Audrey

AP



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Bureau 808-536-5510
State Capitol 808-528-5409
Mobile 808-341-3752

From: GovOffice.UIPA [<mailto:GovOffice.UIPA@hawaii.gov>]
Sent: Friday, February 02, 2018 6:41 PM
To: McAvoy, Audrey <amcavoy@ap.org>
Cc: GovOffice.UIPA <GovOffice.UIPA@hawaii.gov>
Subject: Notice to Requester

Dear Ms. McAvoy:

Please see attached for the Office of the Governor's response to your government records request received on January 18, 2018. Please acknowledge receipt of this response. If you have any

questions, please contact me.

Thank you,

Donna Fujimoto-Saka
Senior Special Assistant
Office of the Governor
State of Hawai'i

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