



August 3, 2011

Darryl D. Perry  
Kauai Police Department  
3990 Kaana St., Ste. 200  
Lihue, HI 96766

Re: Open Records Request

Dear Chief Perry:

Enclosed is a request to access government records. Please feel free to contact me at 808-522-5905 or [lt@acluhawaii.org](mailto:lt@acluhawaii.org) if you have any questions about this request. Thank you in advance for your assistance.

Sincerely,

Laurie A. Temple  
Staff Attorney

Post Office Box 3410  
Honolulu, Hawaii 96801  
T: 808 • 522-5900  
F: 808 • 522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

**OFFICERS AND DIRECTORS**  
BARBARA A. ANKERSMIT  
PRESIDENT

VANESSA Y. CHONG  
EXECUTIVE DIRECTOR

# REQUEST TO ACCESS A GOVERNMENT RECORD

DATE: August 3, 2011

TO: Darryl D. Perry, Chief of Police, Kauai Police Department

FROM: Laurie A. Temple  
Name or Alias  
ACLU of Hawaii, P.O. Box 3410, Honolulu, HI 96801  
Phone: (808) 522-5905 e-mail: lt@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 RECORD:

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.

We hereby request disclosure of all records in your possession relating to your acquisition of cell phone location records. This request encompasses records regarding real-time tracking and records regarding where cell phones have been in the past, and it encompasses all available methods of locating cell phones, including "cell site," triangulation, and GPS. This request includes but is not limited to the following records:

- Policies, procedures and practices you follow to obtain cell phone location records
- Data retention policies, detailing how long cell phone location records are kept, databases in which they are placed, and agencies (federal, state and local) with which they are shared
- The use of cell phone location records to identify "communities of interest" (detailing those persons who have been called, or called by a target) in investigations
- The use of cell phone location records to identify all of the cell phones at a particular location
- Your use of "digital fences" (systems whereby you are notified whenever a cell phone comes within a specific geographic area)
- The legal standard (e.g. probable cause, relevance) you proffer to obtain cell phone location records
- Judicial decisions and orders ruling on your applications to obtain cell phone location records
- Statistics regarding your use of cell phone location records, including the number of emergency requests for which no court order was obtained
- The form in which cell phone location records are provided (hard copy, through specific online databases)

- Communications with cell phone companies and providers of location-based services regarding cell phone location records, including
  - company manuals, pricing, and data access policies
  - invoices reflecting payments for obtaining cell phone location records
  - instances in which cell phone companies have refused to comply with a request or order

**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

August 3, 2011

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 the Kauai Police Department's use of cell phone location records. The ACLU has no commercial interest in the documents requested. These documents are not readily available in the public domain. As a public-interest organization, the ACLU has both the primary intention and the actual ability to disseminate widely this information to the public at large.

Requester respectfully asks that, if the total fees for this request (including copying charges) are anticipated to exceed \$250.00, Respondent notify Requester and obtain express written permission to proceed with the request.