

ROBERT BRIAN BLACK 7659
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
brian@civilbeatlawcenter.org
Telephone: (808) 531-4000
Facsimile: (808) 380-3580

Electronically Filed
FIRST CIRCUIT
1CCV-21-0001329
14-NOV-2022
10:48 AM
Dkt. 52 OGDP

Attorney for Plaintiff
Honolulu Civil Beat Inc.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

HONOLULU CIVIL BEAT INC.,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC SAFETY,

Defendant.

CIVIL NO. 1CCV-21-1329
(Other Civil Action)

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

HEARING MOTION

JUDGE: Honorable John M. Tonaki
TRIAL DATE: NONE
HEARING DATE: October 25, 2022
HEARING TIME: 9:30 a.m.

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Honolulu Civil Beat Inc. (Civil Beat) filed its Motion for Summary Judgment on August 30, 2022, pursuant to Hawai'i Rules of Civil Procedure 56 and 57, and a reply memorandum in support of that motion on October 20, 2022. Defendant Department of Public Safety (Department) filed a memorandum in opposition to the motion on October 17, 2022. The parties were heard on Tuesday, October 25, 2022, at 9:30 a.m. in the Circuit Court of the First Circuit before the Honorable John M. Tonaki.

Plaintiff was represented by R. Brian Black. Defendant was represented by deputy attorney general Lisa M. Itomura. The Court has carefully reviewed the motion, the memoranda in support and opposition, and the exhibits and declarations, and has heard and considered oral arguments on the motion presented by counsel. Based on the record, Civil Beat's motion is hereby GRANTED IN PART AND DENIED IN PART.

The Court finds that there is no genuine issue of material fact in dispute.

In general, under the Uniform Information Practices Act (Modified), Hawai`i Revised Statutes (HRS) chapter 92F (UIPA), autopsy and toxicology reports prepared by coroners pursuant to HRS chapter 841 are public records that must be disclosed on request. The names of deceased individuals are a part of the process that results in the preparation of coroner reports and therefore are public as well. Similarly, autopsy and toxicology reports prepared by coroners in other jurisdictions pursuant to statutory authority are likewise public records. OIP Op. No. F15-01; OIP Op. No. 91-32. The U.S. Department of Health and Human Services' Privacy Rule under the federal Health Insurance Portability and Accountability Act of 1996 allows covered entities to disclose protected health information when "required by law", including when required by freedom of information laws such as the UIPA. 45 C.F.R. § 164.512(a); 65 Fed. Reg. at 82,482, 82,597.

IT IS ORDERED that, pursuant to the UIPA, the Motion is GRANTED in that the Department must disclose from the requested records concerning individuals who died in the Department's custody in 2020 and 2021: (1) the names of individuals who have died in the Department's custody; and (2) autopsy reports received from county

coroners. The Motion is DENIED in that the Department is not required to disclose information regarding an individual's medical treatment while in the Department's custody.

DATED: Honolulu, Hawai`i, November 14, 2022.

/s/ John M. Tonaki



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

/s/ Lisa M. Itomura _____
CRAIG Y. IHA
LISA M. ITOMURA
Deputy Attorneys General for Defendant
Department of Public Safety