

HAWAII LABOR RELATIONS BOARD

STATE OF HAWAII

In the Matter of	)	Case No. CE-10-504	
)		
United Public Workers,)		
AFSCME, Local 646, AFL-CIO,	)	STIPULATION & ORDER GRANTING	
	)	INTERLOCUTORY RELIEF	
Union,)		
)		
and)		
)		
Ted Sakai, Director,)		
Department of Public Safety,)		
State of Hawaii (2002-015),)		
)		
Respondent.)		
)		
)		
)		
)		

HAWAII
 LABOR RELATIONS BOARD
 02 SEP -3 AM 11:41

(409:213)

STIPULATION & ORDER GRANTING INTERLOCUTORY RELIEF

COME NOW the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW) and Ted Sakai (Respondent) by and through their undersigned counsel and hereby stipulate to the issuance of an order granting interlocutory relief in the above referenced matter on the following terms and conditions:

1. The UPW is an employee organization within the meaning of § 89-2, Hawaii Revised Statutes (HRS), and is the exclusive bargaining representative of institutional, health and correctional employees in bargaining unit 10.

2. Respondent is the director of the Department of Public Safety, State of Hawaii, and is an employer within the meaning of § 89-2, HRS.

3. On and after January 1, 1973 to the present the UPW and the State of Hawaii (together with the several counties) have negotiated approximately twelve successive collective

bargaining agreements applicable to bargaining unit 10 employees.

4. In Section 17, the collective bargaining agreements establish a procedure for the examination, copying, and placement of personnel information in official personnel files and for the purging of "derogatory materials" as follows:

Section 17. Official Personnel File.

17.01 Examine and Copy.

17.01 a. The Employee and/or the Union shall by appointment, be permitted to examine the Employee's personnel file.

17.01 b. The Employee and or the Union shall, upon request, be given a copy of material in the file.

17.02 Placements and Explanation.

17.02 a. No material derogatory to an Employee shall be placed in the Employee's personnel file unless a copy is provided to the Employee.

17.02 b. The Employee shall been given an opportunity to submit explanatory remarks to be included in the file.

17.03 Derogatory and History.

17.03 a. An Employee and/or the Union may request that derogatory material not relevant to the Employee's employment be destroyed after two (2) years.

17.03 b. Derogatory material is defined as material that is detracting from the character or standing of an Employee, expressive of a low opinion of an Employee, degrading, belittling, contemptuous, disparaging, negative, uncomplimentary, and unflattering.

17.03 c. The Employer will determine whether the material is relevant and will decide whether the material will be retained or destroyed from the personnel file. The decision to retain the material shall include the reasons and shall be in writing.

17.03 d. The decision of the Employer shall be subject to Section 15. and processed at Step 2 of Section 15.

17.03 e. The Employee's employment history record shall not be altered.

5. On or about April 6, 1993 the UPW and the department of public safety resolved class action grievances

filed under Section 17 regarding the retention of personnel information in places other than in a singular personnel file by a stipulated arbitration decision and award issued by Wayne Yamasaki (Yamasaki Award). A copy of the award and court confirmation order is attached hereto as Exhibit A.

6. The Yamasaki Award required the department of public safety to maintain at all times derogatory information on bargaining unit employees in a designated personnel file and not to retain secret files containing derogatory materials in violation of Section 17.

7. The Yamasaki Award was confirmed by the circuit court in S.P. No. 98-01640.

8. On October 27, 1994 the department of public safety was cited for civil contempt in S.P. No. 98-01640 for violations of the circuit court order confirming the Yamasaki Award because of the retention of derogatory materials in files maintained by the internal affairs unit outside of the designated personnel files of employees. The court ordered the department of public safety in paragraph 5 d. (1) to retain all completed internal affairs reports in a secure and confidential manner, and in paragraph 5 d. (2) to have all completed internal affairs reports subject to review and inspection by employees and the union and "be destroyed as provided in Section 17.03 of the unit 1 and 10 collective bargaining agreements." A copy of the October 27, 1994 order is attached hereto as Exhibit B.

9. On July 15, 2002 UPW filed a prohibited practice complaint against respondent alleging, inter alia, that the department of public safety had willfully violated Section 17.03 of the unit 10 agreement by failing to destroy "derogatory materials" more than two years old (and not relevant to

employment) in internal affairs files kept outside of the official personnel file.

10. At a pre-hearing conference held on August 14, 2002 the parties stipulated and agreed to conduct a review and inspection of all internal affairs files of the department of public safety for the purpose of compliance with Section 17.03 of the unit 10 agreement.

11. On or about August 23, 2002 the parties jointly completed a review of all internal affairs reports retained by the department of public safety relating to the Waiawa Correctional Facility employees which verified that certain internal affairs reports containing "derogatory materials" on bargaining unit 10 employees which are more than two years old and which are not relevant to employment have been improperly retained by respondent in violation of Section 17.03 of the agreement. Exhibit C is a listing of cases pertaining to the Waiawa Correctional Facility employees.

12. The continued retention of the "derogatory materials" more than two years old which are not relevant to employment in internal affairs reports listed in Exhibit C constitutes a violation of Section 17.03 of the unit 10 agreement and is a prohibited practice in violation of § 89-13 (a) (1) and (8), HRS.

13. Pending final determination of a prohibited practice complaint the Hawaii Labor Relations Board pursuant to § 377-9(d), HRS, and administrative rule § 12-48-48 may issue "interlocutory orders which may be enforced as final orders."


14. The parties agree that the UPW has demonstrated a strong likelihood of prevailing on the merits of its prohibited practice complaint dated July 15, 2002, and that unless interlocutory relief is issued employees in bargaining unit 10


at the Waiawa Correction Facility may suffer irreparable harm from the unwarranted disclosure of "derogatory materials" under an outstanding subpoena duces tecum issued by the Hawaii Civil Rights Commission, a copy of which is attached hereto as Exhibit D.

15. The parties further stipulate and agree that enforcement of Section 17.03 promotes public policy favoring collective bargaining in the public sector under chapter 89, HRS.

16. Accordingly, it is hereby stipulated and agreed that respondent be and is hereby enjoined by the Hawaii Labor Relations Board from disclosure or release of "all official and unofficial disciplinary files to all employees employed at the Waiawa Correctional Facility from 1995 to the present which were removed from the personnel files and housed in the Internal Affairs Office" as listed in Exhibit C, unless otherwise ordered by a court of competent jurisdiction and subject to further proceedings before the Hawaii Labor Relations Board.

Dated: Honolulu, Hawaii, August 30, 2002.


Herbert R. Takahashi
Attorney for Complainant UPW


Sarah R. Hiramami
Attorney for Respondent Ted Sakai

Approved and So Ordered:


Brian K. Nakamura, Chair


Chester C. Kunitake, Member


Kathleen Pacuya-Markrich, Member

Order No. 2110

Dated: September 3, 2002

11/16/93

BEFORE ARBITRATOR WAYNE YAMASAKI

STATE OF HAWAII

In the Matter of the Arbitration Between
UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO,
Union,
and
STATE OF HAWAII, DEPT. OF
PUBLIC SAFETY, INTERNAL
AFFAIRS,
Employer.

Grievance regarding use of
black books/File No. CU92-24

In the Matter of the Arbitration Between
UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO,
Union,
and
STATE OF HAWAII, DEPT. OF
PUBLIC SAFETY, UNIT 10,
Employer.

Grievance regarding use of
black books/File No. CU92-30

In the Matter of the Arbitration Between
UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO,
Union,
and
STATE OF HAWAII, DEPT. OF
PUBLIC SAFETY, UNIT 1,
Employer.

Grievance regarding use of
black books/File No. CU92-31

STIPULATED ARBITRATION DECISION AND AWARD

The undersigned arbitrator was selected by the parties pursuant to Section 15 of the Unit 1 and Unit 10 collective bargaining agreements (hereinafter "AGREEMENTS") to consider class action grievances filed by the United Public Workers, AFSCME, Local 646, AFL-CIO (hereinafter "UPW" or "UNION") on or about March 27, 1992, March 31, 1992, and April 23, 1992 at Step 2 with the State of Hawaii, Department of Public Safety (hereafter "EMPLOYER") challenging the Employer's retention of personnel information regarding employees in bargaining Units 1 and 10 in places other than a singular personnel file which are accessible to the employee and the union under the provisions of Section 17 of the Agreements.

On December 21, 1992, the parties stipulated to the jurisdiction of the Arbitrator to consider the grievances, and to the arbitrability of the dispute. Walter Harrington, represented the employer and Herbert R. Takahashi represented the Union. The parties agreed to a stipulated decision and order based on the representations of the parties, as follows:

1. The class action grievances filed by the UPW in behalf of Unit 1 and Unit 10 employees is hereby sustained, to the extent provided herein.

2. No employer representative acting in behalf of the State of Hawaii shall be permitted to keep any derogatory information relating to an employee covered by the Unit 1 and Unit 10 collective bargaining agreements except as specified herein and in accordance with Section 17 of the Unit 1 and Unit 10 agreements.

3. It is the intent of the parties to specifically prohibit the retention of "black books" and "secret files" regarding employees in Unit 1 and Unit 10. Therefore, derogatory information (if any) shall be maintained at all times for ready access to the employee and the union in official personnel files.

4. The Employer may maintain more than one personnel file, but one of these files shall be designated at all times as the official personnel file and shall include any derogatory information (if any) pertaining to the employee. The Employer shall inform employees and the union of the location of the official personnel file.

5. The use by the Employer of any derogatory information regarding a Unit 1 and/or Unit 10 employee which is not maintained in the official personnel file in accordance with Section 17 shall be strictly prohibited.

In current and pending investigations for possible disciplinary actions, once the Employer has decided not to take adverse action against the employee, such derogatory information shall not be entered into the employee's personnel file and shall not be used in further administrative disciplinary proceedings.

6. It is expressly understood that the UPW will seek Court confirmation of this stipulated decision and award in accordance with Hawaii Revised Statutes Chapter 658.

DATED: Honolulu, Hawaii, April 6, 1993.

UNITED PUBLIC WORKERS, AFSCME
LOCAL 646, AFL-CIO

By Gary W. Rodrigues
GARY W. RODRIGUES
State Director

STATE OF HAWAII:

DEPARTMENT OF PUBLIC
SAFETY, STATE OF HAWAII

By George W. Sumner
GEORGE W. SUMNER, Director
Department of Public Safety

APPROVED AND SO AWARDED:

Wayne Yamasaki
WAYNE YAMASAKI, Arbitrator

Of Counsel:
TAKAHASHI & MASUI
Attorneys at Law

HERBERT R. TAKAHASHI #1011-0
547 Halekauwila Street, Room 206
Honolulu, Hawaii 96813
Telephone Number: 526-3003

Attorney for Union and Grievants

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E. WONG
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

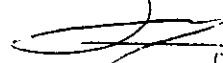
STATE OF HAWAII

In the Matter of the Arbitration)	S.P. No. 93-0164
	)	(Special Proceeding)
)	
Between)	
	)	ORDER GRANTING UNION'S
UNITED PUBLIC WORKERS, LOCAL 646, AFSCME, AFL-CIO,	)	MOTION TO CONFIRM
	)	ARBITRATION AWARD FILED
	)	ON APRIL 12, 1993
Union,)	
)	
and)	
)	
STATE OF HAWAII, DEPARTMENT OF PUBLIC SAFETY, INTERNAL AFFAIRS, UNIT 1 AND UNIT 10, (Class Griev. re: use of black books) (CU92-24, CU92-30, CU92-31),	)	Date: May 11, 1993
	)	Time: 9:00 a.m.
	)	Judge: Wilfred Watanabe
)	
Employer.)	

ORDER GRANTING UNION'S MOTION TO CONFIRM ARBITRATION AWARD FILED ON APRIL 12, 1993

The United Public Workers, AFSCME, Local 646, AFL-CIO's (hereafter "UPW" or "Union") Motion to Confirm Arbitration Award of Arbitrator Wayne Yamasaki having been filed on April 12, 1993, and heard before the Honorable Wilfred Watanabe on May 11, 1993 at 9:00 a.m., Danny J. Vasconcellos appearing on behalf of the Union and Lester Goo, Deputy Attorney General representing the State of Hawaii, Department of Public Safety, Internal Affairs, indicating

I do hereby certify that this is a full true and correct copy of the original.


Clerk, C.

no objection to the motion, and the Honorable Wilfred Watanabe having read the moving papers, and being fully advised,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Union's Motion to Confirm Arbitration Award of Arbitrator Wayne Yamasaki is hereby granted. Accordingly, the State of Hawaii, Department of Public Safety shall comply with the Stipulated Arbitration Decision and Award.

There are no remaining parties and/or issues.

DATED: Honolulu, Hawaii, _____.

/s/ Wilfred Watanabe (Seal)
Judge of the above-entitled Court

APPROVED AS TO FORM:

Lester M. Goo

LESTER GOO
Deputy Attorney General
for the State of Hawaii,
Department of Public
Safety, Internal Affairs

(633:12:11)

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

1994 OCT 27 AM 8:19

M. TANAKA
CLERK

Of Counsel:
TAKAHASHI, MASUI & VASCONCELLOS
Attorneys at Law

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STANFORD H. MASUI #1801-0
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Telephone Number: 526-3003

Attorneys for Union

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

In the Matter of the Arbitration,	)	S.P. No. 93-0164
	)	(special proceeding)
Between)	
United Public Workers, AFSCME, Local 646, AFL-CIO,	)	STIPULATION CITING THE STATE OF HAWAII, DEPARTMENT OF PUBLIC SERVICE IN CONTEMPT OF COURT AND AWARDING SANCTIONS AND ORDER
Union,)	
and)	
State of Hawaii, Department of Public Safety, Internal Affairs, Unit 1 and Unit 10, (Glass grievances re: use of black books) (CU92-24 and CU92-30, CU92-31),	)	Dates: September 9, 1994 October 28, 1994
Employer.	)	Time: 9:30 a.m. Judge: Melvin Soong

(450:25)

STIPULATION CITING THE STATE OF HAWAII, DEPARTMENT OF PUBLIC SAFETY IN CONTEMPT OF COURT AND AWARDING SANCTIONS

Comes now, the United Public Workers, AFSCME, Local 646, AFL-CIO (hereafter "UPW") and State of Hawaii, Department of Public Safety, by and through their undersigned representatives and/or counsel and hereby stipulate as follows:

EXHIBIT B

1. On April 6, 1993, Arbitrator Wayne Yamasaki entered a Stipulated Arbitration Decision and Award pursuant to the Unit 1 and Unit 10 collective bargaining agreements between the UPW and the State of Hawaii. Said decision and award, prohibited the preparation and retention of derogatory information (i.e. in what are referred to as "black books" or "secret files") on unit 1 and unit 10 employees outside of their official personnel files (and not accessible to said employees), required the State of Hawaii to designate and inform employees and the union which files were "official personnel files", and proscribed the use of such derogatory materials against any employee. The Decision and Award specifically provided in relevant portions:

2. No employer representative acting in behalf of the State of Hawaii shall be permitted to keep any derogatory information relating to an employee covered by the Unit 1 and Unit 10 collective bargaining agreements except as specified herein and in accordance with Section 17 of the Unit 1 and Unit 10 agreements.
3. It is the intent of the parties to specifically prohibit the retention of "black books" and "secret files" regarding employees in Unit 1 and Unit 10. Therefore, derogatory information (if any) shall be maintained at all times for ready access to the employee and the union in official personnel files.
4. The Employer may maintain more than one personnel file, but one of these files shall be designated at all times as the official personnel file and shall include any derogatory information (if any) pertaining to the employee. The Employer shall inform employees and the union of the location of the official personnel file.
5. The use by the Employer of any derogatory information regarding a Unit 1 and/or Unit 10 employee which is not maintained in the official personnel file in accordance with Section 17 shall be strictly prohibited. (Emphasis added).

2. On May 21, 1993 the Court in the above entitled action confirmed the arbitration award and ordered the State of Hawaii "to comply with the Stipulated Arbitration Decision and Award".

3. In derogation of the Court order of May 21, 1993, officials of the Department of Public Safety:

a. On and after June 16, 1993 maintained more than one personnel file on its bargaining unit 1 and bargaining unit 10 employees and failed to inform said employees that their "official personnel file" would be located at 919 Ala Moana Boulevard, Room 110, Honolulu, Hawaii 96814, where derogatory matters about them would be accessible and subject to appropriate response under Section 17 of the collective bargaining agreement.

b. On and after May 21, 1993 retained reports and files (i.e. of investigations by the internal affairs unit of the Department) regarding employees of bargaining unit 10, containing derogatory materials, outside of official personnel files of said employees (including but not limited to reports on Ryan Cadirao, Eliseo Coloma, Ronald Maae, Curtis Kim, Daniel Lake, Steven Kalama, and Jesse White).

c. On or about May 12, 1994 and thereafter, utilized said reports and files of investigations of the internal affairs unit of the Department of Public Safety to determine whether to provide legal assistance to employees in one or more civil action where employees were sued for alleged misconduct while in the course and scope of their employment.

4. For the aforementioned violations of the Court order of May 21, 1993 the Department of Public Safety is hereby adjudged in civil contempt of Court and shall pay forthwith to the UPW sanctions in the amount of \$15,000.

5. It is further stipulated and agreed that the Department of Public Safety shall:

a. Within 90 days of the date of this stipulation and order remove, discard, and destroy all completed internal affairs reports not maintained in the official personnel files of bargaining unit 1 and 10 employees.

b. Hereafter inform all affected employees in bargaining unit 1 and unit 10 whenever internal affairs reports are being placed in the personnel files of affected employees.

c. Prepare an employee notification form which:

(1) Informs all bargaining units 1 and 10 employees of the existence of any and all completed internal affairs reports retained by the department on the affected employee.

(2) Identifies the custodian of all internal affairs reports and the location of the reports.

(3) A copy of said form shall be provided to the affected employee and a copy kept in the official personnel file of said employee.

d. All completed internal affairs reports retained by the Department:

(1) Shall be in one central location with the Department of Public Safety (i.e. a central depository), where all

completed internal affairs reports shall be kept in a secure and confidential manner.

(2) Shall be subject to review, inspection and copying by the affected employee and be destroyed as provided in Section 17.03 of the units 1 and 10 collective bargaining agreements. The Union shall have the right to review, inspect and copy any and all information as provided in Section 15.09.

(3) No employee shall be subject to disciplinary or any other adverse personnel action based in whole or in part upon any internal affairs report which has been completed and which is retained by the Department of Public Safety in the manner described herein, except for the disposition taken at the completion of the internal affairs report and when said report is placed in the central depository.

6. It is further stipulated and agreed by and between the parties hereto that in the event of further violations of the April 6, 1993 arbitration award, the May 21, 1993 Court order, and this Stipulation and Order, the State of Hawaii, Department of Public Safety shall be assessed attorney's fees and costs as determined by the Court, to be payable to the United Public Workers.

7. To insure compliance with the April 6, 1993 arbitration award and the May 21, 1993 Court order, it is further stipulated and agreed as follows:

a. The Department of Public Safety shall provide a copy of the April 6, 1993 arbitration award, the May 21, 1993 Court

order, and this Order to all supervisors of bargaining units 1 and 10 employees.

b. Within 90 days from this Stipulation and Order the Department of Public Safety shall notify bargaining unit 1 and 10 employees of the location of their official personnel files by and through bulletin board notices and shall inform employees that they have access to and may review internal affairs reports and files pertaining to them in accordance with Section 17 of the collective bargaining agreement.

DATED: Honolulu, Hawaii, OCT 26 1994.

APPROVED AS TO FORM:

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO



HERBERT R. TAKAHASHI
Attorney for Union


By 
GARY W. RODRIGUES, State
Director

APPROVED AS TO FORM:

STATE OF HAWAII, DEPARTMENT OF
PUBLIC SAFETY



LESTER GOO
Deputy Attorney General,
State of Hawaii
Attorney for Employer

By 
George Iranon, Director

APPROVED AND SO ORDERED:

Melvin Soong

Judge of the above-entitled Court

Exhibit C

The following is a listing of "all official and unofficial disciplinary files for all employees at the Waiawa Correctional Facility from 1995 to the present which were removed from the personnel files and housed in the Internal Affairs Office" and which contain improperly retained "derogatory materials" under Section 17 of the unit 10 collective bargaining agreement:

INTERNAL AFFAIRS (IA) WCF FILES

FILE #	CASE #	NAME	OFFENSE	COMMENTS
101	95-0142		SOC G, I, B9	
102	98-0402		SOC G	
103	97-1205		SOC A, B, E7, E10, I, C6, D12	
104	99-0113		SOC A2, A7, C8	
105	99-0112		SOC A2, A7, C8	
106	99-0111		SOC A2, A7, C8	
107	99-0116		SOC E10	
108	99-0125		SOC E7, G, I, D12	
109	99-0109		SOC A2, A7, C8	
110	99-0110		SOC A2, A7, C8	
111	99-0101		SOC A2, A7, C8	
112	99-0119		SOC A2, A7, C8	
113	99-0122		SOC E10	
114	99-0124		SOC E7, H, C3, D12	
115	99-0121		SOC A2, A7, C8	
116	99-0114		SOC A2, A7, C8	
117	99-0115		SOC E10	
118	99-0123		SOC E10, G, I, H	
119	99-0118		SOC A2, A7, C8	
120	99-0120		SOC A2, A7, C8	
121	99-0117		SOC A2, A7, C8	
122	97-1113		SOC A, B, E, F, H, I, A7, B9	
123	98-0403		SOC D, E, A6,	
124	97-1214		SOC G, I, C3, D12	
125	98-0303		SOC H, C4	
126	97-1206		SOC A, E2, E10, G, I, A7, B9, D12	
127	98-0401		SOC G, H	
128	99-0606		Unsubstantiated	
129	WCF Case		Unsubstantiated	
130	00-0111		SOC A, G, I, B9	

EXHIBIT C

File Number	Case Number	Date Opened	Date Closed
1	ADM-0214	11/18/94	03/25/98
2	ADM-0452	12/07/95	03/25/95
3	ADM-0686	04/03/97	08/06/97
4	ADM-0703	04/16/97	08/06/97
5	ADM-0797	07/25/97	09/28/98
6	ADM-0869	12/24/97	01/05/98
7	ADM-0975	05/04/98	11/04/98
8	ADM-0976	05/04/98	10/15/98
9	ADM-1014	06/04/98	06/15/99
10	ADM-1046	07/21/98	08/20/98
11	ADM-1047	07/21/98	08/20/98
12	ADM-1048	07/21/98	08/20/98
13	ADM-1049	07/21/98	08/20/98
14	ADM-1093	10/12/98	03/03/99
15	ADM-1158	12/30/98	06/02/99
16	ADM-1176	02/18/99	08/19/99
17	ADM-1199	03/29/99	06/14/99
18	ADM-1200	03/29/99	06/18/99
19	ADM-1201	03/29/99	06/22/99
20	ADM-1202	03/29/99	06/15/99
21	ADM-1203	03/29/99	06/14/99
22	ADM-1204	03/29/99	06/18/99
23	ADM-1205	03/29/99	06/14/99
24	ADM-1206	03/29/99	06/14/99
25	ADM-1207	03/29/99	07/19/99
26	ADM-1208	03/29/99	06/14/99
27	ADM-1209	03/29/99	06/14/99
28	ADM-1210	03/29/99	06/14/99
29	ADM-1211	03/29/99	06/14/99
30	ADM-1212	03/29/99	06/18/99
31	ADM-1213	03/29/99	03/29/99
32	ADM-1214	03/29/99	06/14/99
33	ADM-1215	03/29/99	01/21/00
34	ADM-1216	03/29/99	06/22/99
35	ADM-1285	08/06/99	08/06/99
36	ADM-1319	09/14/99	10/18/99
37	ADM-1392	05/12/00	08/17/00
38	ADM-1398	05/30/00	08/17/00
39	ADM-1403	06/09/00	02/20/01
40	ADM-1405	06/09/00	09/27/00
41	ADM-1419	07/28/00	09/27/00
42	ADM-1423	08/22/00	12/06/00
43	ADM-1424	08/22/00	12/06/00

ADMINISTRATIVE WCF FILES

HAWAII CIVIL RIGHTS COMMISSION
WILLIAM D. HOSHIJO, Executive Director
HOAITHI P. NGUYEN #7045
830 Punchbowl Street, Room 411
Honolulu, Hawaii 96813
(808) 586-8636

HAWAII CIVIL RIGHTS COMMISSION

STATE OF HAWAII

In the Matter of	)	DOCKET No. 10244
)	
WILLIAM D, HOSHIJO, as Executive	)	FIRST AMENDED INVESTIGATION
Director of the Hawai'i Civil Rights	)	SUBPOENA FOR PRODUCTION OF
Commission,	)	DOCUMENTS
)	
Complainant)	
)	
v.)	
)	
STATE OF HAWAII, DEPARTMENT)	
OF PUBLIC SAFETY, WAIAWA)	
CORRECTIONAL FACILITY,)	
)	
Respondent.)	
<hr/>)	

HAWAII CIVIL RIGHTS COMMISSION, STATE OF HAWAII

TO: STATE OF HAWAII, DEPARTMENT OF PUBLIC SAFETY,
WAIAWA CORRECTIONAL FACILITY
Ted Sakai, Director
919 Ala Moana Blvd, Suite 114
Honolulu, Hawai'i 96814

Bryan C. Yee, Esq.
STATE OF HAWAII, DEPARTMENT OF THE ATTORNEY GENERAL
PUBLIC SAFETY, HAWAIIAN HOME LANDS AND HOUSING DIVISION
465 South King Street, Room B-2
Honolulu, Hawaii 96813-2913

YOU ARE REQUIRED AND DIRECTED to produce and permit the inspection and copying of any and all records as indicated in "Exhibit 1" attached hereto, at the repository where such records are kept and maintained in your normal course of business on Monday, April 22, 2002 at 9:00 a.m. The inspection of the above requested records will continue from day to day until completed. You may designate another person or persons to produce the requested documents, as necessary, if they are authorized to represent you and competent to respond to the requirements of this subpoena.

This SUBPOENA is issued pursuant to Hawaii Revised Statutes §368-3(2) and (3). Failure to obey this subpoena shall result in enforcement proceedings in the state Circuit Court pursuant to Hawaii Revised Statutes §368-3(3).

DATED: Honolulu, Hawaii, APR 17 2002

HAWAII CIVIL RIGHTS COMMISSION
STATE OF HAWAII

By: 
WILLIAM D. HOSHIJO
Executive Director

INSTRUCTIONS

1. In producing the documents and other things requested, you are requested to furnish all documents known or available to you, regardless of whether these

DEFINITIONS

For the purpose of these production requests, the following definitions apply:

1. "Document" means any and all written, typewritten, printed, or graphic matter (and all copies containing any additional matter) of any kind or nature however produced or reproduced, any form of collected data for use with electronic data processing equipment, and any mechanical or electronic visual or sound recordings, including, without limitation, any tapes and discs, now or formerly in your possession, custody or control. It includes, but is not limited to, any logs, files, letters and other correspondence, investigation or other reports, handwritten or other notes, memoranda, calendar or diary entries, agendas, bulletins, summaries, telegrams, teletypes, computer printouts magnetic tapes, disks, microfilm, video tapes, slides and microfiche.

2. "Or" shall be construed either conjunctively or disjunctively to bring within the scope of this discovery any information that might otherwise be construed to be outside its scope.

3. "Relate" or "relating" mean, without limitation, construing, defining, concerning, embodying, reflecting, regarding, identifying, stating, referring to, dealing with, or in any way pertaining to.

4. "Respondent", as named in the Complaint, Docket No. 10244 means: The person or company responding to the complaint of discrimination in Docket No. 10244,

STATE OF HAWAII, DEPARTMENT OF PUBLIC SAFETY, WAIAWA
CORRECTIONAL FACILITY.

DOCUMENTS TO BE PRODUCED

1. All official and unofficial disciplinary files for all employees employed at the Waiawa Correctional Facility from 1995 to the present which were removed from the personnel files and housed in the Internal Affairs Office.

EXHIBIT 1