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**Electronically Filed
FIRST CIRCUIT
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

HONOLULU CIVIL BEAT INC.,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC SAFETY,

Defendant.

CIVIL NO. _____
(Other Civil Action)

COMPLAINT; SUMMONS

JUDGE: NONE

TRIAL DATE: NONE

COMPLAINT

Plaintiff Honolulu Civil Beat Inc. (Civil Beat), for its Complaint against
Defendant Department of Public Safety (Department), alleges as follows:

PARTIES

1. Plaintiff Civil Beat is a news outlet registered to do business in Hawai'i as a nonprofit corporation and dedicated to public affairs reporting about Hawai'i on the Internet at civilbeat.org.

2. Defendant Department of Public Safety is a "department" or "other instrumentality of state or county government," within the definition of "Agency"

under the Hawai'i Revised Statutes (HRS) § 92F-3, that is headquartered at 1177 Alakea Street, Honolulu, Hawai'i.

JURISDICTION AND VENUE

3. The court has jurisdiction over this action to compel disclosure of public records under the Uniform Information Practices Act (UIPA) pursuant to HRS §§ 92F-15(a) and 603-21.5(3).

4. Venue is proper in this court pursuant to HRS §§ 92F-15(e) and 603-36(5) for any one of the following: the request for records was made in this circuit; upon information and belief, the requested records are maintained in this circuit; the Defendant is headquartered in this circuit; the claim for relief arose in this circuit; and the Defendant is domiciled in this circuit.

FACTUAL BACKGROUND

5. HRS § 92F-11(a) provides: "All government records are open to public inspection unless access is restricted or closed by law."

6. By e-mail dated March 31, 2021, Civil Beat requested "all notices of inmate deaths for calendar years 2020 and 2021 under HRS 841-3" and "all reports regarding deaths in custody that occurred in 2020 and 2021 pursuant to 42 USC 13727, including the completed DOJ Form DCR-1A or equivalent and any reported updates to submitted forms."

7. On April 9, 2021, the Department denied access to all identifying information in the documents requested on March 31 based solely on Health Insurance Portability and Accountability Act of 1996 (HIPAA) restrictions.

8. On September 23, 2021, Civil Beat requested “[a]ll investigation reports received from coroners in 2020 and 2021 that identify cause of death for individuals who died in the custody of the Department of Public Safety, including without limitation autopsy reports or inquest reports.”

9. On October 5, 2021, the Department denied access to all documents requested on September 23 based solely on HIPAA.

10. The Defendant’s stated reason for nondisclosure does not justify withholding identifying information from statutorily required notices regarding the deaths of individuals entrusted to the Department’s custody.

11. The Defendant has denied Civil Beat its right to access government records pursuant to UIPA.

12. Civil Beat is entitled to an order directing Defendant to disclose all information sought in its March 31 and September 23, 2021 requests.

DEMAND FOR RELIEF

Based on the foregoing, Civil Beat respectfully requests that this court:

A. Give precedence, in accordance with HRS § 92F-15(f), to this case on the docket over all other cases, assign it for hearing and trial or for argument at the earliest practicable date, and expedite it in every way;

B. Enter an order directing Defendant to disclose all information sought in the March 31 and September 23, 2021 requests for records;

C. Award Civil Beat reasonable attorney’s fees and all other expenses reasonably incurred in the litigation, pursuant to HRS § 92F-15(d); and

D. Grant such other and further relief as it deems reasonable and just.

DATED: Honolulu, Hawai'i, October 29, 2021

/s/ Robert Brian Black
ROBERT BRIAN BLACK
Attorney for Plaintiff

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT		CASE NUMBER
PLAINTIFF HONOLULU CIVIL BEAT INC.		VS. 	DEFENDANT(S) DEPARTMENT OF PUBLIC SAFETY
PLAINTIFF'S NAME & ADDRESS, TEL. NO. Robert Brian Black Civil Beat Law Center for the Public Interest 700 Bishop Street, Suite 1701 Honolulu, HI 96813 (808) 531-4000			
<p>TO THE ABOVE-NAMED DEFENDANT(S)</p> <p>You are hereby summoned and required to file with the court and serve upon</p> <p>Robert Brian Black</p> <hr/> <p>plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.</p> <p>THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.</p> <p>A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.</p>			
The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: http://www.courts.state.hi.us		Effective Date of 28-Oct-2019 Signed by: /s/ Patsy Nakamoto Clerk, 1st Circuit, State of Hawai'i <div data-bbox="1252 1520 1409 1675" data-label="Image"> </div>	
<div data-bbox="71 1705 203 1829" data-label="Image"> </div> In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on OAHU- Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402, at least ten (10) working days prior to your hearing or appointment date.			