

Dan Mollway

From: Dennis.T.Ihara@hawaii.gov
Sent: Tuesday, May 22, 2007 4:40 PM
To: HSEC-Users
Subject: Fw: Computer Confiscation

Aloha Dan: This was the first e-mail sent by Dep. AG Chow. I believe the administration is attempting to cover this up. Will call you.

Dennis

----- Forwarded by Dennis T Ihara/DLNR/StateHIUS on 05/22/2007 04:38 PM -----

Linda L Chow/AG/StateHIUS

To Dennis T Ihara/DLNR/StateHIUS@StateHIUS

cc Dennis M Naganuma/AG/StateHIUS@StateHIUS, Robert K

Masuda/DLNR/StateHIUS@StateHIUS, Sonia Faust/AG/StateHIUS@StateHIUS

05/18/2007 11:20 AM

Subject Re: Computer Confiscation [Link](#)

To clarify, I did not say that you only needed to make a request to be able to confiscate the computers, I believe I said that to do it administratively that DLNR should request advice from the AGs office as to whether it could be done and how it should be done. When I spoke w/ Mr. Naganuma about this issue I specifically stated that I was not familiar with this area of law and could not give a definitive answer whether it could be done w/out abridging the employees' privacy rights, but that at first glance it seemed that it should be possible. In order to give a more definitive answer, more research needs to be done.

If you would like to pursue confiscation of a specific employee's computer, please send a memo to my supervisor, Sonia Faust, explaining what you would like to do. That way we can keep better track of your request to see that it gets addressed in a timely manner.

Linda L.W. Chow
Deputy Attorney General
Land Transportation Division

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Dennis T Ihara/DLNR/StateHIUS

To Linda L. Chow/AG/StateHIUS@StateHIUS

cc Robert K Masuda/DLNR/StateHIUS@StateHIUS, Dennis M

Naganuma/AG/StateHIUS@StateHIUS

05/18/2007 11:00 AM

Subject Computer Confiscation

I have been informed that to confiscate Carl and Nicole's computers need a request from me/Bob. I am hereby making such request. I think both computers should be taken at the same time to prevent tampering. Mahalo.

Dennis

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Dan Mollway

From: Dennis.T.Ihara@hawaii.gov
Sent: Tuesday, May 22, 2007 4:38 PM
To: HSEC-Users
Subject: Fw: Computer Confiscation

Aloha Dan: I made a request to Linda Chow, Dep. AG, because AG investigator Naganuma told me to simply make a request. What you see below is one of two that Chow sent me. Before answering her, I wanted to speak to Naganuma, but he doesn't answer my calls. Plze. review this and I will call you later. Mahalo.

Dennis

----- Forwarded by Dennis T Ihara/DLNR/StateHIUS on 05/22/2007 04:34 PM -----

Dennis T Ihara/DLNR/StateHIUS

To Dennis M Naganuma/AG/StateHIUS

cc

05/22/2007 11:19 AM

Subject Fw: Computer Confiscation

Dennis: I have been attempting to call you because I want to answer this. Plze. give me a call or I will write whatever. This AG doesn't immediately answer e-mails and now that she's on the spot, she gets nippy. If I do not hear from you by day's end, I will draft a reply anyway. Mahalo.

Dennis

----- Forwarded by Dennis T Ihara/DLNR/StateHIUS on 05/22/2007 11:17 AM -----

Linda L Chow/AG/StateHIUS

To Dennis T Ihara/DLNR/StateHIUS@StateHIUS

cc Dennis M Naganuma/AG/StateHIUS@StateHIUS, Robert K Masuda/DLNR/StateHIUS@StateHIUS, Sonia

Faust/AG/StateHIUS@StateHIUS

05/18/2007 11:59 AM

Subject Re: Computer Confiscation [Link](#)

Dennis:

After having done some quick research in this area, I would like to modify my prior response. There is one case on point that has examined the issue of an employee's expectation of privacy in his computer files and e-mail. Specifically the court said:

In general, a court should consider four factors: (1) does the corporation maintain a policy banning personal or other objectionable use, (2) does the company monitor the use of the employee's computer or e-mail, (3) do third parties have a right of access to the computer or e-mails and (4) did the corporation notify the employee, or was the employee aware, of the use and monitoring

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policies?

Please incorporate all possible information pertaining to these questions when you send your request, including division, department, and state policies regarding these issues. Specific information regarding the use of the computer by the individual employee in relation to other employees would also be helpful as the determination of the extent of an employee's privacy interest is made on a case by case basis on the facts of that case .

Linda L.W. Chow
Deputy Attorney General
Land Transportation Division

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