



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Hawai'i

BY EMAIL AND CERTIFIED MAIL

June 26, 2019

Dwight Nadamoto
Acting Prosecuting Attorney
Department of the Prosecuting Attorney
1060 Richard Street
Honolulu, Hawai'i 96813

Sandra K. Kint
Director
Honolulu Prosecutor's Safe House
sandra.kint@honolulu.gov

Paul S. Aoki
Acting Corporation Counsel
Department of the Corporation Counsel
City and County of Honolulu
530 South King Street, Room 110
Honolulu, Hawai'i 96813
paoki@honolulu.gov

Re: Retaliation against Residents of the Honolulu Prosecutor's Safe House

Dear Ms. Kint and Messrs. Nadamoto and Aoki:

Several current and former residents of the Honolulu Prosecutor's Safe House ("**HPSH**"), including Ms. Carol Hood, have contacted the ACLU of Hawai'i Foundation ("**ACLU of Hawai'i**") with credible information about mismanagement, abuse, and constitutional violations that have taken place at HPSH. A non-exhaustive list of the violations of residents' rights includes (1) suspicionless and warrantless searches of the residents' apartments, communications, and belongings, (2) suspicionless and warrantless drug and alcohol testing, (3) arbitrary restrictions on the residents' ability to leave the facilities, (4) arbitrary restrictions on the residents' ability to communicate with the outside, (5) failure to provide adequate mental and medical care to residents, (6) termination of benefits without due process, and (7) retaliation against residents for reporting

Re: Retaliation against Residents of the Honolulu Prosecutor's Safe House

June 26, 2019

Page 2 of 2

such abuse. The breadth and reach of these violations are corroborated not only by the multiple, independent, and consistent accounts of current and former residents but also by documents, including the Resident Agreement and electronic communications with HPSH staff. Under the "unconstitutional conditions" doctrine, HPSH cannot "exact waivers of rights [from resident] as a condition of [residency], even when those [residency] benefits are fully discretionary." *U.S. v. Scott*, 450 F.3d 863, 866 (9th Cir. 2006) (holding that warrantless searches, including drug testing, imposed as a condition of pretrial release, required showing of probable cause, despite defendant's pre-release consent). Yet the waiver of constitutional rights is precisely what HPSH has been exacting from domestic violence survivors as a condition to living in what is supposed to be a safe place and environment.

We understand that HPSH is scheduled to close at the end of August. In the meantime, the First Amendment prevents HPSH and its staff from retaliating against residents for collaborating with investigations and communicating with the media about HPSH mismanagement and abuse. *Soranno's Gasco, Inc. v. Morgan*, 874 F.2d 1310, 1319 (9th Cir. 1989) ("It could hardly be disputed that . . . an individual ha[s] a clearly established right to be free of intentional retaliation by government officials based upon that individual's constitutionally protected expression.")¹ Retaliation may include terminating someone's residency or limiting other benefits at HPSH for talking to investigators, public officials, or the media. We have serious concerns about retaliation because we understand that residents were recently terminated following their collaboration with State and Federal investigations. HPSH residents should be supported and not retaliated against as they safely transition out of HPSH. We will be monitoring HPSH's treatment of its residents and will take swift and appropriate action, if necessary.

Please do not hesitate to contact me at (808) 522-5908 or mcaballero@acluhawaii.org, if you have any comments or questions. Please also acknowledge receipt of this letter within seven days from receipt.

Sincerely yours,



Mateo Caballero
Legal Director

cc: Attorney General Clare E. Connors (clare.e.connors@hawaii.gov)
Honolulu City Council Chair Ikaika Anderson (ianderson@honolulu.gov)

¹ Retaliation under the present circumstances violates other civil and criminal laws, including Hawaii's Landlord-Tenant Code and obstruction of justice statutes.