



Georgia

P.O. Box 77208, Atlanta, GA 30357
770.303.8111 | syoung@acluga.org

February 6, 2019

Sheriff Neil Warren
Cobb County Sheriff's Office
185 Roswell Street NE
Marietta, GA 30090

Via Certified Mail and E-mail

Re: Unconstitutional Censorship on Sheriff Neil Warren's Government Facebook Page

Dear Sheriff Warren:

Our democracy thrives when people can freely criticize elected officials so that the people may best determine whether they should remain in office. The American Civil Liberties Union of Georgia (ACLU-GA) writes on behalf of James Herndon, a Cobb County resident and former Sergeant at the Cobb County Sheriff's Office, who was blocked from posting any comments on Cobb County's official government Facebook page (@neil.warren.58). According to Sergeant Herndon, he posted a comment on the county's government Facebook page last September asserting that the food that your office was selling at a county fair came from an old prison unit that was heavily infested with rats. He reports that his comment was deleted and that he was blocked in response to this post.

Under the First Amendment, government officials cannot, using taxpayer resources, open a government social media page up to public comment and then censor those comments or people that they do not like. Your Facebook page is clearly being used for government purposes, because it publicizes and promotes the work of your office.¹ It then allows some constituents—those that are designated Friends—to post comments in response to your public posts, while blocking other constituents who are not designated Friends. *See* Exhibit A. This virtually guarantees that the only comments being posted on the county's government social media page will be positive; indeed, the comments on your page appear to be nothing but praise.

Courts have been unanimous in ruling that targeted censorship on government social media pages otherwise open for public comment is a violation of the First Amendment, regardless of the government official's position. Indeed, these court rulings have been issued against city officials, county officials, state legislators, a governor, and even the President of the United States. *See Price v. City of New York*, 2018 WL 3117507 (S.D.N.Y. June 25, 2018); *Davison v. Randall*, --- F.3d ---, 2019 WL 114012 (4th Cir. Jan. 9, 2019); *One Wisconsin Now*

¹ Your Facebook page is also advertised as an official page of the Sheriff's Office on your YouTube channel. *See* <https://www.youtube.com/channel/UC6rrsivwDZ-X9HuhJQT5I-A/about>. But even if it were not so advertised, the content of your Facebook page is clearly intended for a government purpose.

v. Kremer, 2019 WL 266292 (W.D. Wis. Jan. 18, 2019); *Leuthy v. LePage*, 2018 WL 4134628 (D. Me. Aug. 29, 2018); *Knight First Amendment Inst. v. Trump*, 302 F. Supp. 3d 541 (S.D.N.Y. 2018).

Your office’s apparent censorship practices also incur significant legal liability. Lawsuits over Facebook censorship has resulted in payments ranging from \$31,000 to \$65,000.²

As social media becomes more integral to the political process and public discourse, government officials must not engage in any form of viewpoint censorship in violation of the First Amendment. As the Supreme Court of the United States has recently said, “[i]t is cyberspace—the ‘vast democratic forums of the Internet’ in general, and social media in particular,” that is “the most important place[] . . . for the exchange of views” in the modern era. *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017).

For these reasons, we ask that you allow any member of the public to post comments on your page (not just prescreened “Friends”). We further recommend that you create two Facebook profiles: one for government purposes and one for personal purposes. A social media page used for government purposes cannot selectively prevent certain segments of the population from posting comments while allowing others to do so. You are, however, free to block whomever you want on your personal social media page.

The ACLU of Georgia is also happy to work with you offline on a social media policy that is consistent with the First Amendment. Just last year, we worked cooperatively with the Wilcox County Sheriff’s Office on formulating a social media policy that passes constitutional muster. We welcome the opportunity to do the same with your office.

Sincerely,



Sean J. Young
Legal Director
ACLU of Georgia

² See <http://www.hawaiiifreepress.com/ArticlesMain/tabid/56/ID/12959/HPD-Ordered-to-Pay-31K-over-Censored-Facebook-Comments.aspx>; <http://www.baltimoresun.com/news/maryland/politics/bs-md-aclu-hogan-facebook-20180402-story.html>.

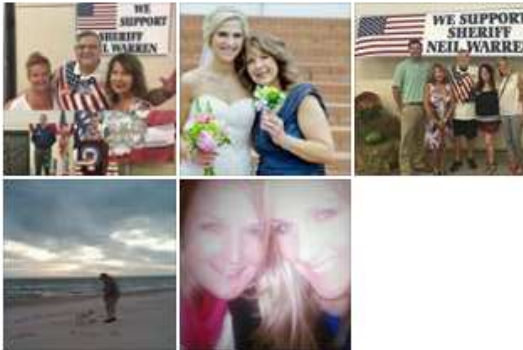
EXHIBIT A



Neil Warren Timeline Recent

Intro

- Sheriff at Cobb County Sheriff's Office
- Worked at Cobb County Sheriff's Office
- Worked at State of Georgia
- Worked at Cobb County Government
- Studied at Kennesaw State University
- Studied at Brenau University
- Went to Robert L. Osborne High School
- Lives in Marietta, Georgia
- From Canton, Georgia
- Married to Penny Easley Warren
- Joined January 2011



Photos



Neil Warren

January 9 at 7:32 PM

Good Evening Friends!

We have received strong support from Whitlock Avenue to Pennsylvania Avenue on this letter and we are united with other law enforcement agencies in supporting our concerns.

I appreciate everyone supporting me on this to help make our country safe. God Bless! 🇺🇸

Neil



COBB COUNTY SHERIFF'S OFFICE

PUBLIC SAFETY BLDG. 1000 • 400 BURNING WOODS • MARIETTA, GA 30067
TELEPHONE (770) 424-6000 • FAX (770) 424-6047

NEIL WARREN
SHERIFF

MILTON H. BECK
CHIEF DEPUTY

As one of more than 3,000 Sheriffs across this nation, I am painfully aware of the continuing loss of the innocent American lives and the escalating numbers of overdoses and drug-related deaths caused by members of Congress refusing to fund border security initiatives.

The intentional indifference of those who are more interested in their personal political agenda than our public safety needs undermines law enforcement's ability to fulfill our promise to keep our citizens, communities and nation safe.

Last week, we learned of the coldblooded murder of a police officer by a criminal illegal alien that was protected by Sanctuary policies. During that same week, three innocent people were murdered by an illegal alien in Minnesota, and a 5-year-old child was raped in Pennsylvania by another criminal illegal alien. These horror stories are happening on a regular basis in virtually every state across our nation.

For more than 20 years, we have been asking Congress to provide funding to stop the flow of illegal immigration and the carnage, trauma, and suffering it brings to our neighborhoods.

As one of America's Sheriffs who is deeply committed to my oath and promise to protect my citizens and legal residents from harm, I am, like most Americans, fed up with Congress's refusal to do their jobs and fund the border wall.

This is not about party affiliation. This is about ongoing threats to the residents of our communities. My fellow Sheriffs and I have our boots on the ground focused on the decline in the quality of life of our communities.

I stand united with my brothers and sisters in demanding that you immediately pass legislation to fund the wall and make the safety and welfare of American citizens your top priority. America's Sheriffs will not stand silently while the people we're sworn to protect are put in harm's way.

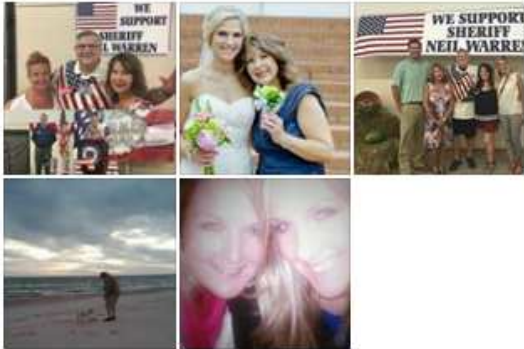
Neil Warren
Sheriff
Cobb County, Georgia



Neil Warren Timeline Recent

Married to Penny Easley Warren

Joined January 2011



Photos



Friends

English (US) · Español · Português (Brasil) · Français (France) · Deutsch



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Neil Warren
Sheriff
Cobb County, Georgia

"TO PROTECT AND SERVE"

403

58 Comments 86 Shares

Like

Share

View 50 more comments

4 of 54



Margaret Brittain Millar So very proud of you!!!!

Like · 1w



Cathy Wike-Cook Neil Warren I am proud to call you my friend. You are doing a great job protecting the citizens of Cobb County. Keep up the good work.

Like · 1w



Lonnie Ayers Great Letter! Not bad for an OHS grad. Keep up the good works

Like · 1w



Lea Puett Proud to be a citizen of Cobb County

Like · 1w

