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January 21, 2020

Neil Warren
Cobb County Sheriff
185 Roswell Street
Marietta, GA 30090
Neil.Warren@cobbcounty.org

VIA EMAIL

Re: Alleged Water Contamination at the Cobb County Detention Center

Dear Sheriff Warren:

The ACLU of Georgia writes to you regarding a complaint we received about a possible water contamination that left people detained at the Cobb County Detention Center without drinking water. The complaint alleges that on Saturday, January 18, 2020, the water in the Detention Center “smell[ed] and taste[d] of a fuel or gas mixture” and that “no other clean water was made available for drinking or showers.”

We are writing to learn whether the water at the Detention Center was or remains contaminated with unsafe and potentially lethal toxins. To the extent there is no supply of potable water available, people detained in your custody are at a substantial risk of serious harm. The Sheriff’s Office has the responsibility to provide safe and humane conditions for the people in its custody. Failure to do so not only violates incarcerated people’s basic human rights; it also potentially violates the Eighth and Fourteenth Amendments of the U.S. Constitution.

As discussed below, the Eighth and Fourteenth Amendments entitle people sentenced to confinement and those detained pre-trial to be free from cruel and unusual punishment.

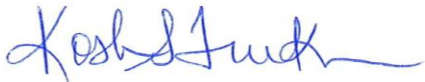
First, the Supreme Court of the United States has established that people who have been convicted and sentenced to confinement enjoy protections under the Eighth Amendment: “[W]hen the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general wellbeing. . . . Contemporary standards of decency require no less.” *Helling v. McKinney*, 509 U.S. 25, 31-32 (1993). The Eighth Amendment guarantees that incarcerated people will not be “deprive[d] . . . of the minimal civilized measure of life's necessities.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). Clean water to drink, to prepare food, and to maintain basic hygiene is one of the most vital of life’s necessities.

Second, people detained pre-trial are guaranteed protections under the Fourteenth Amendment “at least as great as the Eighth Amendment protections available to a convicted prisoner.” *City of Revere v. Massachusetts Gen. Hosp.*, 463 U.S. 239, 244 (1983). Therefore, the Sheriff’s Office may not impose conditions on a person detained pre-trial that would otherwise violate a convicted person’s Eighth Amendment rights. *Hamm v. DeKalb Cnty*, 774 F.2d 1567 (1985). The deprivation of a basic human necessity, such as clean water, potentially violates the very minimum standard of care and due process required under Fourteenth Amendment.

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A failure to remedy this alleged water contamination exposes the Sheriff’s Office to liability under the U.S. Constitution. We urge you to conduct a full investigation into the water contamination at the Cobb County Detention Center and perform appropriate comprehensive medical examinations of each person who may have been affected after consuming toxins in the water.

Sincerely,



Kosha S. Tucker
Staff Attorney
American Civil Liberties Union Foundation of Georgia