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Via Email

November 2, 2022

Joseph McClellan
Boston Police Department
One Schroeder Plaza
Roxbury Crossing, MA 02120

Dear Mr. McClellan:

We are writing on behalf of The Brennan Center for Justice at New York University, School of Law (“the Brennan Center”) as part of our ongoing effort to gain further insight into the Boston Police Department’s (“BPD”) use of social media monitoring. As you know, the Brennan Center submitted a public records request in January 2020 (B000169-013020) and has been working directly with your office since December 2021 to obtain the information requested.

On August 12, 2022, we provided a list of search terms for BPD to run in its “BRIC management system” as part of the search for responsive documents. During subsequent discussions, you explained that there is no single “BRIC management system,” but rather a collection of databases, across which a search and review using keywords would be extremely burdensome. Given your representations and concurrent offer to respond to written questions, the Brennan Center agreed to hold its database-search request in abeyance. We did ask, however, that BPD respond to Request 12 of the Brennan Center’s public records request and provide a hit count based on the search terms in my August 12 email for the month of June 2020 only. We have yet to receive those responses and would appreciate them at your earliest convenience.

Below please find the Brennan Center’s initial set of written questions to BPD regarding social media monitoring and the subject matter of its public records request. Unless otherwise noted, please provide written responses for the period of January 1, 2014 to present.

Definitions

When responding to the Brennan Center’s written questions, please utilize the following definitions:

“**BPD**” means the Boston Police Department and all bureaus, divisions and/or components thereof.

“**BRIC**” means the Boston Regional Intelligence Center.

“**Social media**” has the meaning attributed to that term in common parlance and includes, but is not limited to, all platforms identified in our August 12 search terms (Twitter, Facebook, Instagram, Snapchat, TikTok, Telegram, Parler, Gab), and also encompasses screenshots and live feeds of videos posted to YouTube.

“**Monitor**” means the use of social media to gather information for law enforcement purposes including, but not limited to, identifying potential threats or leads, reviewing breaking news, collecting individuals’ (e.g., witness, suspect, victim) information, conducting criminal investigations and intelligence, and gauging



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public sentiment. Monitoring may include, for example, tracking hashtags or keywords, and following specific social media accounts.

“Youth Violence Strike Force” means the subgroup of BPD also known as the “Gang Unit.”

Questions for BRIC

The following questions are directed specifically to the operations of the BRIC:

1. Does the BRIC monitor any individuals or groups on an ongoing basis, either through routine or periodic manual review of their social media profiles, automated alerts, or other tracking tools? If so, how were those individuals or groups identified for ongoing review?
2. What factors or criteria would prompt or cause the BRIC to monitor an individual or group’s social media presence, including but not limited to a threat reported by another law enforcement agent or by the target of that threat? Where are those factors or criteria documented?
3. If individuals or groups are monitored by the BRIC using social media, what are the steps taken to do so, and how are those steps documented?
4. How does the BRIC use social media to prepare for upcoming public events?
5. When the BRIC collects information from social media based on a potential threat and determines the threat is not substantiated, where is that fact documented and how long does BRIC retain documentation that the threat is not substantiated? In addition, how long does BRIC retain the information collected from social media in circumstances where a threat is not substantiated?
6. Is information collected by BRIC from social media searchable? If so, what parameters can the BRIC use to retrieve information that it or other components of BPD have previously collected from social media? If not, how is that information stored/maintained and accessed?

Questions for Youth Violence Strike Force

The following questions are directed specifically to the operations of the Youth Violence Strike Force:

7. Does the Youth Violence Strike Force monitor any individuals or groups on an ongoing basis, either through routine or periodic manual review of their social media profiles, automated alerts, or other tracking tools? If so, how were those individuals or groups identified for ongoing review?
8. Does the Youth Violence Strike Force use social media accounts of individuals or groups already being monitored to identify new individuals or groups to monitor? If so, how?
9. What factors or criteria would prompt or cause the Youth Violence Strike Force to monitor an individual or group’s social media presence, including but not limited to a threat reported by another law enforcement agent or by the target of that threat? Where are those factors or criteria documented?



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10. Does the Youth Violence Strike Force target the social media accounts of individuals whose identities are unknown (e.g., where the username or other information on the account does not identify the account owner)? If so, what are the protocols or procedures for identifying and monitoring those accounts?
11. Is information collected by the Youth Violence Strike Force from social media searchable? If so, what parameters can the Youth Violence Strike Force use to retrieve information that it or other components of BPD have previously collected from social media? If not, how is that information stored/maintained and accessed?
12. Does the Youth Violence Strike Force monitor children under the age of 18 on social media? Are the criteria for monitoring minors different than individuals over the age of 18? Is there any age under which the Youth Violence Strike Force applies different criteria for monitoring?
13. Does the Youth Violence Strike Force monitor crime victims on social media? If so, under what circumstances? How is that monitoring documented, and how is the resulting information stored and retained?
14. Does the Youth Violence Strike Force request to see individuals' mobile phones or other devices to look at their social media posts, friend networks, or other social media information?
15. Does the Youth Violence Strike Force request social media passwords from individuals? If so, under what circumstances?
16. Does the Youth Violence Strike Force take referrals from Boston public school teachers or administrators about minors to monitor on social media?
17. Does the Youth Violence Strike Force conduct any training or distribute materials to Boston public school teachers or administrators on minors' use of social media?

Questions for BPD

The following questions are directed to BPD generally, including but not limited to BRIC and the Youth Violence Strike Force:

18. Has any person or group filed a complaint against BPD concerning social media monitoring? If so, please identify those persons or groups.
19. Are BPD officers or agents permitted to create fake or undercover social media accounts for use in investigations?
20. Are BPD officers permitted to use fake or undercover social media accounts to communicate directly with targets of investigation?
21. Are BPD officers permitted to use fake or undercover accounts to communicate directly with victims or witnesses?
22. Are BPD officers permitted to use fake or undercover social media accounts that impersonate an actual person who is known to the individual with whom they are connecting?



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23. If the answers to 19, 20, 21, or 22 are yes, have any individuals or groups contacted using fake or undercover social media accounts on filed complaints against BPD? If so, please identify those persons or groups.

Please do not hesitate to reach out with any questions. We look forward to continuing our productive exchange and to receiving BPD's written responses to these questions.

Sincerely

A handwritten signature in black ink, appearing to read "Dane R. Voris".

Dane R. Voris

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