



December 13, 2016

Mayor Walsh
City of Boston

Commissioner Evans
Boston Police Department

Dear Mayor Walsh and Commissioner Evans,

We, the undersigned community, civil rights, civil liberties, and religious organizations, respectfully ask you to cancel the request for proposals by the City of Boston for “acquiring technology and services of social media threats for the Boston Police Department.” We believe it would be unwise and counterproductive for the city to spend \$1.4 million for social media surveillance software for use by our police department.

Spending scarce taxpayer dollars on surveillance of online speech and associations frustrates the BPD’s mission of community-oriented policing, threatens our civil rights and liberties, and undermines public safety.

We are concerned that social media surveillance software will be unfairly focused on people of color, Muslims, and dissidents—if not today, then under future mayors and different police commissioners. Unwarranted surveillance of peaceful protest groups by the BPD in the recent past and civil rights violations in other cities with similar programs underscore our concerns.

BPD documents obtained in 2012 through public records requests show that police intelligence officials working for the Boston Regional Intelligence Center compiled dossiers on peaceful activists from groups like Veterans for Peace and Codepink.^[1] People were subjected to surveillance on the basis of their First Amendment-protected expression. Their opinions, associations and political ideas were observed and noted, recorded and “databanked,” and may have been shared with other government offices. Dissidents were labeled “extremists,” although there was no indication that these peace groups engaged in or planned to engage in violence. We are not aware of any subsequent changes to BPD policies that would strengthen civil liberties protections and guard against such intrusions.

In New York City, the police department has used social media monitoring programs to punish young Black people purely for their associations. For example, Harlem youth Jelani Henry was wrongfully arrested and held on murder charges for nearly two years.^[2] Henry had never before been convicted of a crime, but nonetheless became a target of police suspicion based largely on his “Likes” and photos on Facebook. After he refused to accept a plea deal to spend 20 years in prison, he sat in Rikers jail for 19 months while prosecutors combed through his social media looking for “evidence.” He spent 9 months locked in solitary confinement while at Rikers. Ultimately, he was released on bail and the charges against him were dropped.

Our concerns about police use of new technologies to monitor social media have been heightened by Commissioner Evans's recent statements would seem to suggest that the BPD would track people who express views on social media that "were alarming to us"—that, for example, expressions of frustration or anger about the treatment of Muslims could be appropriate grounds for a police intelligence investigation.^[3]

The First Amendment to our Constitution and article XVI of our Massachusetts Constitution's Declaration of Rights protect the right of free speech, free expression of our opinions, our frustrations and outrage. People often make controversial, bombastic, stupid statements online. Those are not indicators that a person is likely to act violently.^[4] They should not be grounds for police surveillance and dossier compilations. Constant government surveillance chills political speech and associations. Studies show that people are less likely to voice their unpopular opinion if they think the government is watching.^[5] Authorizing the purchase of new software will hugely expand BPD's online surveillance capabilities and allow them to focus on persons or groups considered suspicious because of their political or religious views. The city should not facilitate this type of abuse—if not by this BPD, then by future police and city leaders.

No less important than the civil liberties and civil rights issues at stake is the fact that dragnet spying does not keep the public safe.^[6] Undertaking broad surveillance of people's social media postings and compiling dossiers on individuals who are not engaged in actual criminal activity is a waste of law enforcement resources. In fact, overbroad surveillance of the sort the software sought by the Department is designed to conduct may actually dull law enforcement's ability to spot true threats to public safety. Adding more hay to the haystack makes it more difficult, not less, to find the dangerous needle.

Boston should be a model of constitutional and community-based policing for the nation, always protecting civil rights, civil liberties, and public safety. We respectfully urge you to withdraw the proposal to acquire this costly surveillance software. The City of Boston can make much wiser investments in other positive programs to keep its people safe, healthy, and free.

Sincerely,

ACLU of Massachusetts
American Friends Service Committee
Arlington Street Church - Social Action Committee
Bill of Rights Defense Committee/Defending Dissent Foundation
Black and Pink
Boston Student Advisory Council (BSAC)
Brazilian Women's Group
CAIR Massachusetts
Charles Hamilton Houston Institute for Race and Justice
Digital Fourth / Restore The 4th - Boston
Fight for the Future
Jewish Voice for Peace – Boston
Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA)
Massachusetts Pirate Party

Massachusetts Transgender Political Coalition
Muslim Justice League
No Drones Eastern Massachusetts
TwoCircles.net
Union of Minority Neighborhoods
Unitarian Universalist Mass Action Network
Youth on Board

cc: Members of the Boston City Council

^[1] ACLU of Massachusetts and National Lawyers Guild, “Policing Dissent: Police Surveillance of Lawful Political Activity in Boston,” October 2012.

^[2] Ben Popper, “How the NYPD is using social media to put Harlem teens behind bars,” December 2014, *The Verge*.

^[3] Tori Bedford, “Commissioner Evans Defends Social Media Monitoring: ‘We’re Not Going To Snoop On Anybody,’” November 2016, *WGBH*.

^[4] Faiza Patel, “Rethinking Radicalization,” 2011, The Brennan Center for Justice, NYU Law School.

^[5] Hugh Handeyside, “To the Government, Your Latest Facebook Rant Is Raw Intel,” September 2016, ACLU.

^[6] Ryan Singel, “Data-mining for terrorists not ‘feasible,’ DHS-funded study finds,” October 2008, *Wired Magazine*. Michael Isikoff, “NSA program stopped no terror attacks, says White House panel member,” December 2013, *NBC News*; Privacy and Civil Liberties Oversight Board, “Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court,” January 2014.