

***Sent via e-mail and first class mail.***

November 12, 2015

FOIA/PA Mail Referral Unit  
Department of Justice  
Room 115  
LOC Building  
Washington, DC 20530-0001  
MRUFOIA.Requests@usdoj.gov

Re: FOIA Request Regarding Gathering of Information on Oregonians Using #BlackLivesMatter Through Social Media

To Whom it May Concern:

This is a request, by the American Civil Liberties Union Foundation (ACLU) of Oregon, made under the Freedom of Information Act. The ACLU of Oregon defends and promotes civil liberties and the fundamental principles embodied in the Oregon and United States Constitutions.

**I. Background of this request.**

This request generally concerns the use of data collection and analysis tools by federal law enforcement agencies to obtain and aggregate information about the political and social views of Oregonians based on posts on social media and other publicly available websites.

On November 10, 2015, it was publicly revealed that the Criminal Division of the Oregon Department of Justice conducted digital surveillance on Oregonians on social media. It is our understanding that, using the tool DigitalStakeout, the Criminal Division searched the Twitter feeds of Oregonians who used the hashtag Black Lives Matter. While we do not know how many Oregonians were swept into this data collection and analysis program, we do know that Erious Johnson, the Director of the Civil Rights Division, was targeted for a preliminary, and then, a more extensive “threat assessment.”

Earlier this year, documents disclosed in response to Freedom of Information Requests revealed that the Department of Homeland Security was tracking hashtags and other social media associated with Black Lives Matter.<sup>1</sup> The recent revelation about activity by the Criminal Division of the Oregon Department of Justice and the proximity of this event to revelations about the Department of Homeland Security has led the ACLU of Oregon to investigate the connection between various data collection and analysis activities taken by state and federal law enforcement agencies. Not only is this kind of data collection illegal under Oregon law, but it seriously threatens our democracy by chilling First

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<sup>1</sup> George Joseph, *Exclusive: Feds Regularly Monitored Black Lives Matter Since Ferguson*, INTERCEPT, July 24, 2015 at <https://theintercept.com/2015/07/24/documents-show-department-homeland-security-monitoring-black-lives-matter-since-ferguson>.

Amendment speech and activities.<sup>2</sup> Moreover, the Oregon Department of Justice's tracking of those who use the hashtag Black Lives Matter also opens the door to racial profiling because that social movement is Black led.

Accordingly, the ACLU of Oregon seeks records regarding the Department of Justice's—in particular, the Federal Bureau of Investigation—collection and analysis of information on Oregonians using the hashtag Black Lives Matter, or any other hashtag, phrase, word, or search term reflecting a political, religious, or social view, on social media sites.

## **II. Request for records regarding acquisition of social media data.**

We hereby request disclosure of all records in your possession<sup>3</sup> relating to your acquisition of social media data of people in Oregon using the hashtag Black Lives Matter, any variation on that hashtag, and any other hashtag, phrase, word, or search term reflecting a political, religious, or social view. For purposes of the below requests, please assume that the phrase “BlackLivesMatter or any variation on the hashtag” includes, but is not limited to, searches for the following terms: Black Lives Matter, BlackLivesMatter, #BlackLivesMatter, #BLM, and BLM. For purposes of the below requests, please assume that the phrase “FuckThePolice or any variation on the hashtag” includes, but is not limited to, searches for the following terms: Fuck The Police, FuckThePolice, #FuckThePolice, #FTP, and FTP. These requests are time-limited to policies current as of November 10, 2015, and all other documents or data created after July 31, 2014.

In order to assist the public in understanding current Department of Justice (“Department”) policies, procedures, and practices, we request that you provide copies of the following records:

1. All documents reflecting or relating to policies, procedures, and practices describing the Department's collection and analysis of social media data.
2. All documents reflecting or relating to policies, procedures, and practices of management, supervision, or oversight of the use of DigitalStakeout, or any other tools, procedures, or services to collect or analyze social media data.
3. All documents reflecting or relating to the description of DigitalStakeout, or any other data collection or analysis tool, procedure, or service used to obtain, collect, aggregate or analyze social media data, including manuals and instructions.
4. All agreements between the Department and any other local, county, state, or federal agency pertaining to the monitoring, collection, or analysis of information or data from social media.

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<sup>2</sup> ORS 181.575, passed in 1981, squarely prohibits this kind of surveillance by state law enforcement agencies. ORS 181.575 (“No law enforcement agency, as defined in ORS 181.010 (Definitions for ORS 181.010 to 181.560 and 181.715 to 181.730), may collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, organization, corporation, business or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.”)

<sup>3</sup> For purposes of this request, “your possession” should be read to include all departments of the Oregon Department of Justice including the Oregon TITAN Fusion Center.

5. All documents reflecting or relating to information about the purchase or acquisition of, or subscription to, DigitalStakeout or any other social media data collection or analysis tools, procedures, or services, and related equipment or software, including identification of the equipment, software, or tools acquired, the amount of funds expended, and the nature of the acquisition (whether by expenditure or receipt of operating funds, loans, grants, or gifts).
6. All current policies and procedures describing employees' use of DigitalStakeout or any other social media data collection or analysis tools, procedures, or services and the data collected or analyzed by the use of social media data collection or analysis tools, procedures, or services.
7. All documents that describe the data currently collected by the Department's use of social media data collection or analysis tools, procedures, or services, including descriptions of the information fields maintained, used, or stored by the social media data collection or analysis tools, procedures, or services and related systems.
8. All documents reflecting or relating to the data collected or analyzed regarding Erious Johnson.
9. All documents reflecting or relating to the data collected or analyzed regarding Teresa Raiford.<sup>4</sup>
10. All documents reflecting or relating to the data collected or analyzed on any member of the public using the hashtag BlackLivesMatter or any variation on the hashtag, phrase, word or search term. This includes all documents pertaining to the use of that data, and the sharing or dissemination of that data with any other local, county, state, or federal agency or employee.
11. All documents reflecting or relating to the data collected or analyzed on any member of the public using the hashtag FuckThePolice or any variation on the hashtag, phrase, word or search term. This includes all documents pertaining to the use of that data, and the sharing or dissemination of that data with any other local, county, state, or federal agency or employee.
12. All documents reflecting or relating to the data collected or analyzed on any member of the public using the hashtag DontShootPDX or any variation on the hashtag, phrase, word or search term. This includes all documents pertaining to the use of that data, and the sharing or dissemination of that data with any other local, county, state, or federal agency or employee.
13. All documents reflecting or relating to the data collected or analyzed on any member of the public using any hashtag, phrase, word or search term. This includes all documents

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<sup>4</sup> For purposes of this request, "Teresa Raiford" should be read to include Teresa Mazique or any alternative name used.

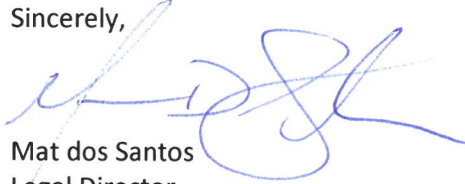
pertaining to the use of that data, and the sharing or dissemination of that data with any other local, county, state, or federal agency or employee.

14. All documents reflecting or relating to the Department's decision to use the hashtag BlackLivesMatter, or any variation on the hashtag, phrase, word or search term, and any reason for use of the hashtag, phrase, word or search term, in conducting threat assessments.
15. All documents reflecting or relating to the Department's decision to use the hashtag FuckThePolice, or any variation on the hashtag, phrase, word or search term, and any reason for use of the hashtag, phrase, word or search term, in conducting threat assessments.
16. All documents reflecting or relating to the use of any hashtag or other social media identifier and any reason for the use of the hashtag, phrase, word or search term in conducting threat assessments.
17. All documents reflecting or relating to the description of a threat assessment.
18. All current Department policies and procedures reflecting or relating to the submission or dissemination of the data collected or analyzed on any member of the public using any hashtag or other social media identifier to other state, local, or federal agencies.
19. All current Department policies and procedures reflecting or relating to the storage, retention, and destruction of data used or stored by DigitalStakeout, or any other social media data collection or analysis tools, procedures, or services and related systems.
20. All user level data controls, including activity logs, user analytics, user activity rules, alerts, or any other log reflecting the use of DigitalStakeout by the Department.
21. All documents reflecting or relating to the use of DigitalStakeout's "Intelligent Discovery" mechanisms, any categories used, how those categories are detected by the tools, and how those "detections" are integrated into the workflow of the investigators.

We ask that any of the requested records available in electronic form be provided in that form. Because the ACLU of Oregon is a non-profit public interest organization, we request a fee waiver.

Thank you for your prompt attention to this matter. Please furnish all applicable records electronically to me at [mdossantos@aclu-or.org](mailto:mdossantos@aclu-or.org). If a fee is required, please inform me of the fee prior to collection so we can determine whether to proceed or narrow the requests. If you have any questions or believe that a narrower response to what is requested would provide us with the information we are seeking, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mat dos Santos', with a stylized flourish at the end.

Mat dos Santos  
Legal Director  
ACLU of Oregon