



March 11, 2015

Mark Zuckerberg
Facebook, Inc.
156 University Avenue
Palo Alto CA 94301
Via Fax 650-543-480

Dear Mr. Zuckerberg,

We write to express our deep concerns about Facebook's suicide prevention program and the lack of safeguards in place to guarantee that errors in the system don't cause reputational, bodily or other harm to consumers.

A Northern California man recently contacted Consumer Watchdog with a harrowing tale of being committed to a mental institution because of a post he made exercising his First Amendment rights and a "welfare check-in" call that Facebook facilitated or made under Facebook's new suicide prevention program.

This man's case demonstrates the pitfalls of your ill-conceived program, which we ask that you discontinue until adequate safeguards are in place.

On the first day of this program, and in response to it, a Northern California man posted to his account, as a social experiment, a post indicating his discontent with his bank and his desire to commit suicide. He informed his concerned Facebook "friends" that this was an experiment when they contacted him with concerns about his post. Nonetheless a call was made to the police either by Facebook or another Facebook member who was not his friend. The man was locked out of his account until he read suicide prevention literature. Police came to his house when he was not home. When he went to the police station to discuss a traffic notice they had placed on his car, which the police claimed was unrelated, he was asked about the Facebook post. He was handcuffed and imprisoned for 40 hours in a mental health facility where blood was drawn, because he acknowledged the post, even though he stated it was a First Amendment experiment, then transferred and "locked down" in a hospital for another 30 hours. At the County mental institution, he was forced to witness disturbing events that traumatized him.

Police have strict duties to act on "welfare check-ins" or they will be liable for bad results. Facebook facilitated this man's loss of freedom for 70 hours and other innocent victims will be caught in Facebook's web if you do not improve the suicide prevention program's procedures.

One concern Consumer Watchdog has includes the possibility that some people could commit suicide as a direct result of the actions that Facebook takes to prevent it. Imagine a teenager erroneously tagged as suicidal in an act of bullying, or a post made by one teenager on another's computer that leads to such a tag and the teenager being locked out of their account. For young people, such an unconscionable act may do more to prompt them to commit suicide than the lack of an "intervention."

Facebook's new suicide prevention tool makes the company liable for unprevented member suicides and "false positives" (as in the example above) under California's Voluntary Assumption of Duty rule.

As you know, Facebook announced the suicide prevention program on February 25th. Facebook Product Manager and Community Operations Safety Specialist Rob Boyle described in detail how the tool works in a video. Mr. Boyle explained that once a concerned user flags a post to bring it to Facebook's attention, the user is presented with four options to proceed, one of which is to request Facebook to take a look at the post.

From there, Facebook will evaluate the post and do one of either two things: 1) If it deems the post "worrisome but not imminent," Facebook will send resources to the poster such as a connection to a free confidential chat line or self-care tips; or 2) If Facebook thinks there is an "imminent threat" [Facebook] will reach out and find local law enforcement agencies to do a "welfare check." Facebook will then "follow-up" with the person who flagged the post, but Facebook has not specified what would be in the "follow-up" or whether it would take any other further action. The Northern California man's experience suggests the follow-up is highly inappropriate and unhelpful.

The suicide prevention process is open to havoc and abuse. Moreover, Facebook will be liable for much of it in the form of monetary damages.

California follows the Voluntarily Assumed Duty rule, also known as the "Good Samaritan" rule. The rule states that, "a volunteer who, having no initial duty to do so, undertakes to provide protective services to another, will be found to have a duty to exercise due care in the performance of that undertaking if one of two conditions is met: either (a) the volunteer's failure to exercise such care increases the risk of harm to the other person, or (b) the other person reasonably relies upon the volunteer's undertaking and suffers injury as a result."

Facebook has opened itself up to liability under the Voluntarily Assumed Duty rule because, by providing the suicide prevention tool with every account, users will rely on Facebook to ensure not only that the tool operates, but also that Facebook will implement the tool services swiftly and adequately to save lives. Facebook is essentially putting the suicide prevention tool on the same level as an emergency 911 service call.

Facebook volunteered to provide the suicide prevention services when it did not otherwise have a duty to do so, but failure to now provide those services reasonably will make Facebook liable. For example, a concerned friend may see a distraught post, opt to notify Facebook through the suicide prevention tool and then assume that Facebook will take over the burden of helping the suicidal user. If not for the tool, and Facebook's volunteering to take over the role of emergency service provider, that concerned friend may have opted

instead to call the police directly. If Facebook failed to act reasonably in carrying out the suicide prevention services, Facebook essentially would have denied the suicidal user the chance of receiving help from actual emergency responders or from the user's real-life concerned friend, thus possibly increasing the risk of harm to the distraught user.

Likewise, distraught and suicidal users may rely on the tool functioning properly when they post distressed or troubled statuses, believing that services may be on their way in response to their post. In this example, the poster reasonably relies upon Facebook's promise to provide a functioning suicide prevention tool, and assumed Facebook was a safe forum to receive help merely by posting an alarming status.

Facebook risks that the suicide prevention services might cause harm unrelated to the potential suicide. Some examples of potential harm include: on-line bullying by users abusing the tool, false-positives, account lockouts, reputation damage in the event of privacy breaches, or other harms yet to be found.

Facebook does not outline any safety mechanisms to protect users against misuse of the suicide prevention tool, or safety mechanisms in the event that the tool fails to operate. Facebook could be liable in the event that either the tool fails to function, or the tool functions as planned, but leads to unintended harmful consequences to either the poster, or the user who flagged the post.

In the Star Trek television series a rule called "the prime directive" operated to ensure that technologically advanced peoples did not interfere in the development of societies that they did not fully understand because unforeseen issues could create more problems than they solve. The prime directive is a parable for the arrogance of the technologically advanced, who believe they can solve all the world's ills and wind up making them worse.

Facebook should heed the warning of the prime directive because there are some problems, like suicide, that well-intentioned technologists can nonetheless exacerbate. We call upon you to suspend the suicide prevention program until it is fully protective of the rights of all individuals and contains safeguards against abuse.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Court". The signature is fluid and cursive, with a large initial "J" and a stylized "Court".

Jamie Court
President, Consumer Watchdog