

Twitter Sides With Criminal Defendant Over Subpoena

By: Ashley D. Adams

<http://arizonawhitecollarcrimeattorney.com/>

Twitter is siding with the accused in a fight to [block a subpoena](#) of his Tweets and account data. New York City prosecutors are seeking the information to build a disorderly conduct case against Malcolm Harris, who was arrested during an Occupy Wall Street march.

The Manhattan district attorney's wants Harris' Tweets for the period of time around the protest as well as his account data, including the IP addresses used to access the social media site. Harris and Twitter both attempted to quash the subpoena and now are appealing court orders denying their motions.

In its appeal, Twitter contends that the request violates Harris' right to privacy. It argues, "Defendant's Tweets are also protected by the Fourth Amendment to the U.S. Constitution and art. I, § 12 of the New York Constitution because the government admits that it cannot publicly access them, thus establishing that Defendant maintains a reasonable expectation of privacy in these communications."

Twitter also cited the recently decided Supreme Court case *U.S. v. Jones*, which we previously discussed on this blog. It argues that even if the Tweets are publicly available, "the U.S. Supreme Court and the New York Court of Appeals have ruled that public information which would allow [law enforcement](#) to draw mere inferences about a citizen's thoughts and associations are entitled to Constitutional protection, thus establishing that a citizen's substantive communications are certainly entitled to the same protection."

This case is important given that law enforcement increasingly seeks data related to defendants' online activities, particularly with social media. It also highlights the unclear area between law enforcement's need for evidence and an internet user's expectation of privacy.

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