

Twitter hands over protester tweets in Occupy case (Update)

September 14 2012, by Alex Katz



In this Oct. 1, 2011 file photo, police arrest protesters on New York's Brooklyn Bridge during march by Occupy Wall Street. Twitter agreed on Friday, Sept. 14, 2012, to hand over about three months' worth of tweets to a judge overseeing the criminal trial of Malcolm Harris, an Occupy Wall Street protester, a case that has become a closely watched fight over how much access law enforcement agencies should have to material posted on social networks. (AP Photo/Stephanie Keith, File)

(AP)—Twitter on Friday agreed to hand over about three months' worth of tweets to a judge overseeing the criminal trial of an Occupy Wall Street protester, a case that has become a closely watched fight over how much access law enforcement agencies should have to material posted on social networks.

Twitter had been threatened with steep fines if it did not comply with a

New York judge's order to turn over the records in the case of Malcolm Harris, who was arrested with hundreds of others in a protest that drew international attention to the movement against economic inequality.

"We are disappointed that Twitter is essentially giving up the fight," Harris' attorney, Martin Stolar, said after Friday's hearing.

Twitter's lawyer, Terryl Brown, called the options it faced—waiving its right to appeal or being in held in contempt of court—"unfair" and "unjust."

The Manhattan district attorney's office said Harris' messages could show whether he was aware of the police orders he's charged with disregarding during a protest on the Brooklyn Bridge.

Twitter had said the case could put it in the unwanted position of having to take on legal fights that users could otherwise conduct on their own.

"One of the things we were happy to see is that Twitter actually took a stand and tried to challenge this—most companies wouldn't go that far," said Hanni Fakhoury, a staff attorney with the Electronic Frontier Foundation, a civil rights group.



In this Oct. 1, 2011 a line of police officers block protesters on New York's

Brooklyn Bridge during a march by Occupy Wall Street. Twitter agreed on Friday, Sept. 14, 2012, to hand over about three months' worth of tweets to a judge overseeing the criminal trial of Malcolm Harris, an Occupy Wall Street protester, a case that has become a closely watched fight over how much access law enforcement agencies should have to material posted on social networks. (AP Photo/Will Stevens, File)

Still, it's a hard argument to make because Twitter by nature is so public, said Joel Reidenberg, a Fordham Law Professor and expert on internet privacy issues.

"The tweets themselves are public information, it's like speaking on a street corner," Reidenberg said. "His claim to privacy on the tweets is pretty weak, frankly."

Harris' trial begins in December. He has pleaded not guilty.

Harris was among more than 700 people arrested when protesters tried to cross the bridge, many on the roadway. Police said demonstrators ignored warnings to stay on a pedestrian path. Harris and others say they thought they had police permission.

Prosecutors want Harris' tweets and user information from Sept. 15 to Dec. 31 that were taken down from the public site. They said the information contradicts Harris' claim that he thought police were allowing the protesters onto the roadway. They said he couldn't claim his privacy rights should shield messages he sent publicly.

The data could give prosecutors a picture of his followers, their interactions through replies and retweets and his location at various points, Stolar said. Harris had argued that seeking the accompanying user

information violated his privacy and free association rights.

Harris said Friday that he did not delete any incriminating tweets. After a certain period of time, tweets are automatically flushed out by the system and placed in the site's stored electronic records, Stolar said.

The social network company stepped in after the judge turned down Harris' request earlier this year to block prosecutors from subpoenaing the information from Twitter Inc.

Twitter's lawyers argued that Harris had every right to fight the subpoena. Its user agreements say users own content they post and can challenge demands for their records. The company argued in a court filing that it would be "a new and overwhelming burden" for Twitter to have to champion such causes for them.

The judge said he would review all the material he ordered turned over and would provide "relevant portions" to prosecutors.

"So Twitter handed over a pile of my tweets that'll stay sealed pending a hearing on the 21st." Harris tweeted after the hearing. "Bummer."

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