

September 12, 2018

Jennifer Utrecht  
Scott McIntosh  
Department of Justice  
Civil Division, Appellate Staff  
950 Pennsylvania Ave NW Room 7710  
Washington, DC 20530

**Re: *Knight First Amendment Institute, et al. v. Trump,  
et al., Case No. 17-CV-5205 (NRB)***

Dear Ms. Utrecht and Mr. McIntosh,

We write in response to your email of August 28, 2018, in which you informed us that defendants had unblocked a large number of the Twitter users listed on the spreadsheet we provided to you on August 10, 2018. We are encouraged that defendants have unblocked some of the people who were blocked from the @realDonaldTrump account because they criticized the president or his policies.

Unfortunately, it appears that many people are still blocked from the account. Since we wrote to you on August 10, we have been contacted by dozens of people who were apparently blocked from the account because of the viewpoints they expressed and who are still blocked now. We are attaching to this letter a list of these additional blocked users, along with information we have collected about the tweets that apparently prompted their blocking.<sup>1</sup> We ask defendants to unblock these additional people, and also to unblock all others who have been blocked based on viewpoint.

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<sup>1</sup> We do not represent any of these individuals. They have indicated to us, however, that they are comfortable with our sharing with you the information contained in the attached spreadsheet. The spreadsheet lists each individual's name (unless the individual wishes to remain anonymous), Twitter handle, and, where available, the date of blocking and information about the tweet(s) that the individual believes led to the blocking.

We also ask that you unblock the remainder of the individuals who were included in the spreadsheet we sent to you on August 10. In your letter to us of August 28, you stated that defendants had decided not to unblock (1) people whose accounts were blocked before President Trump's inauguration; and (2) people who were not able to identify the tweet that prompted their blocking. As explained below, however, there is no justification for defendants' continuing to exclude these people from the public forum created by the @realDonaldTrump account.

First, although a private citizen can of course block whomever he would like to block from his social media accounts, Mr. Trump became bound by the First Amendment upon his inauguration as president. His continuing to exclude individuals from the @realDonaldTrump account now, simply because they expressed views years ago that irked him at the time, violates the First Amendment—just as it would violate the First Amendment for a city councilor to exclude individuals from city council meetings simply because they criticized her during her campaign.

Second, while we have encouraged people who have contacted us to identify the tweets that prompted their blocking, the blocked users should not bear the burden of establishing that they were blocked for viewpoint-related reasons. Some of the individuals listed on our August 10 spreadsheet (and on the attached supplemental spreadsheet) do not know precisely which tweets prompted their blocking, or no longer have access to those tweets.<sup>2</sup> Given that they plausibly assert that they were blocked based on their viewpoints, that defendants adopted a practice of blocking individuals based on viewpoint, that defendants have not articulated any other basis for their blocking, and that the Constitution places the burden on the government to justify any infringement of First Amendment rights, we ask that defendants immediately unblock all of these users from the @realDonaldTrump account.

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<sup>2</sup> Some of these individuals have deleted tweets that are over a year old, for example, or were unsure of which tweets prompted the blocking, or have been unable to locate tweets going back a certain length of time.

Thank you in advance for your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine", written over a horizontal line.

Jameel Jaffer  
Katherine Fallow  
Carrie DeCell  
Alex Abdo  
Knight First Amendment Institute  
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475 Riverside Drive, Suite 302  
New York, NY 10115  
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	Name	Twitter Handle	Date Blocked	Link to Tweet that Preceded the Block
1	Adam Wolf	@AdamWolf77		Provided large range of search results: <a href="https://twitter.com/search?ft=tweets&amp;vertical=default&amp;q=from%3Abuffalopundit%20%40realdonaldrum%20since%3A2013-12-31%20until%3A2014-03-31&amp;src=typd&amp;lang=en">https://twitter.com/search?ft=tweets&amp;vertical=default&amp;q=from%3Abuffalopundit%20%40realdonaldrum%20since%3A2013-12-31%20until%3A2014-03-31&amp;src=typd&amp;lang=en</a>
2	Alan J. Bedenko	@buffalopundit	3/14/14	
3	Alex Goodman	@ThisKidneyLife	2012	<a href="https://twitter.com/andyignore/status/871864415322128384?lang=en">https://twitter.com/andyignore/status/871864415322128384?lang=en</a>
4	Andy Signore	@andyignore	6/4/17	<a href="https://twitter.com/AngelaBelcamino/status/895256505359925248">https://twitter.com/AngelaBelcamino/status/895256505359925248</a>
5	Angela Belcamino	@angelabelcamino	8/9/17	<a href="https://twitter.com/lynch660/status/92466662940178432">https://twitter.com/lynch660/status/92466662940178432</a>
6	Barbara Lynch	@lynch660	2/17	<a href="https://twitter.com/Tooda/status/877373245166469120">https://twitter.com/Tooda/status/877373245166469120</a>
7	Benjamin Davis	@Tooda	6/20/17	<a href="https://twitter.com/bpatton81/status/911549149576859653?s=19">https://twitter.com/bpatton81/status/911549149576859653?s=19</a>
8	Billie Patton	@bpatton81	9/23/17	
9	Billy Port	@williamgport	"When [Trump] was a candidate"	
10	Chad Fowler	@chadfowler	10/3/17	<a href="https://twitter.com/chadfowler/status/915191118601613312">https://twitter.com/chadfowler/status/915191118601613312</a>
11	Dana Goldberg	@dgcomedy	6/20/17	<a href="https://twitter.com/DGComedy/status/887863773150625794">https://twitter.com/DGComedy/status/887863773150625794</a>
12	David Lemmink	@dlemmink	8/24/17	<a href="https://twitter.com/dlemmink/status/900694771278032896">https://twitter.com/dlemmink/status/900694771278032896</a>
13	Dominique Hamilton	@underrated_dom	8/4/17	<a href="https://twitter.com/underrated_dom/status/893483140815171585?s=21">https://twitter.com/underrated_dom/status/893483140815171585?s=21</a>
14	Don Moynihan	@domoyn		Deleted
15	Edward Hardy	@EdwardTHardy	7/9/17	<a href="https://twitter.com/EdwardTHardy/status/884020861451329541">https://twitter.com/EdwardTHardy/status/884020861451329541</a>
16	Elizabeth West	@Limeylizzie	2012	<a href="https://twitter.com/Limeylizzie/status/260483126323736577">https://twitter.com/Limeylizzie/status/260483126323736577</a>
17	Ellen Brodsky	@NewsHoundEllen	9/6/13	<a href="https://twitter.com/search?i=&amp;q=investigation%20from%3ANewsHoundEllen%20to%3ArealDonaldTrump&amp;src=typd">https://twitter.com/search?i=&amp;q=investigation%20from%3ANewsHoundEllen%20to%3ArealDonaldTrump&amp;src=typd</a>
18	Eric Uhm	@EricUhm	2015	<a href="https://twitter.com/EricUhm/status/646087887688204288?s=19">https://twitter.com/EricUhm/status/646087887688204288?s=19</a> <a href="https://twitter.com/EricUhm/status/646804434849284096?s=19">https://twitter.com/EricUhm/status/646804434849284096?s=19</a> <a href="https://twitter.com/EricUhm/status/647070616143663104?s=19">https://twitter.com/EricUhm/status/647070616143663104?s=19</a> <a href="https://twitter.com/EricUhm/status/621368524049616896?s=19">https://twitter.com/EricUhm/status/621368524049616896?s=19</a>
19	Erich McElroy	@erichmcelroy	6/6/17	<a href="https://twitter.com/erichmcelroy/status/871722518557724677">https://twitter.com/erichmcelroy/status/871722518557724677</a>
20	Geoffrey Sorensen	@Gsorensen	10/13/17	<a href="https://twitter.com/GSorensen/status/919013461622960128">https://twitter.com/GSorensen/status/919013461622960128</a>
21	Harold Itzkowitz	@Harolditz	1/17	
22	Heidi Verne	@hayouli	7/18/17	<a href="https://twitter.com/hayouli/status/887300119854551040">https://twitter.com/hayouli/status/887300119854551040</a>
23	Howard P. Forman	@thehowie	10/16/17	<a href="https://twitter.com/thehowie/status/918433194181058560">https://twitter.com/thehowie/status/918433194181058560</a>
24	Jake Bathman	@daysleft4trump	6/9/17	<a href="https://twitter.com/Daysleft4Trump/status/873183458411130881">https://twitter.com/Daysleft4Trump/status/873183458411130881</a>
25	James Kordis	@jim72182	8/7/17	<a href="https://twitter.com/jim72182/status/893499112942850048?s=21">https://twitter.com/jim72182/status/893499112942850048?s=21</a>
26	Jennifer Quinlan	@jilfirefly	3/2015	
27	Joshua Albert	@jpeglshua	8/31/17	Deleted
28	Julia Reiss	@thereisspiece	6/13/17	<a href="https://twitter.com/thereisspiece/status/874822410478002176">https://twitter.com/thereisspiece/status/874822410478002176</a>
29	Kathy Foschi	@eyesopen52		
30	Ken Klippenstein	@kenklippenstein	6/2017	
31	Kevin Thompson	@kevth	10/1/16	



32	Kristina Wong	@mskristinawong	6/18/17	<a href="https://twitter.com/mskristinawong/status/876394956503617540">https://twitter.com/mskristinawong/status/876394956503617540</a>
33	Mandie K. Roberts	@InertAlien	11/19/17	<a href="https://twitter.com/InertAlien/status/932392017539289088">https://twitter.com/InertAlien/status/932392017539289088</a>
34	Megan Ackerman	@MissMeganEmily	12/2/15	<a href="https://twitter.com/MissMeganEmily/status/672191189148282881">https://twitter.com/MissMeganEmily/status/672191189148282881</a>
35	Molly Jong-fast	@MollyJongFast	7/17	
36	Patrishia Young	@SouthernChaos		Deleted
37	Paul Equale	@paulequale	4/23/16	<a href="https://twitter.com/paulequale/status/724021370204610560?s=21">https://twitter.com/paulequale/status/724021370204610560?s=21</a>
38	Robert Maguire	@RobertMaguire_	6/24/17	<a href="https://twitter.com/RobertMaguire_/status/878342527685939200">https://twitter.com/RobertMaguire_/status/878342527685939200</a>
39	Roland Scahill	@rolandscahill	1/27/17	<a href="https://twitter.com/rolandscahill/status/824969049608167425">https://twitter.com/rolandscahill/status/824969049608167425</a>
40	Rosie O'Donnell	@rosie	7/24/17	
41	Ryan Knight	@ProudResister	10/27/17	<a href="https://twitter.com/proudresister/status/923661393735254016?s=21">https://twitter.com/proudresister/status/923661393735254016?s=21</a>
42	Shaf Patel	@ShafPatel	4/21/18	<a href="https://twitter.com/ShafPatel/status/987529697289474048">https://twitter.com/ShafPatel/status/987529697289474048</a>
43	Slade Douglas	@sladeouglas	6/23/17	<a href="https://twitter.com/sladedouglas/status/878413595259711491?s=21">https://twitter.com/sladedouglas/status/878413595259711491?s=21</a>
44	Tony Posnanski	@tonyposnanski	6/6/17	<a href="https://twitter.com/tonyposnanski/status/872044408685948933?s=21">https://twitter.com/tonyposnanski/status/872044408685948933?s=21</a>
45	William Legate	@williamlegate	6/24/17	<a href="https://twitter.com/williamlegate/status/878715726143438848">https://twitter.com/williamlegate/status/878715726143438848</a>
46	Zack Hunt	@zaackhunt	8/10/17	<a href="https://twitter.com/ZaackHunt/status/895454279309438976">https://twitter.com/ZaackHunt/status/895454279309438976</a>
47		@sicksadtrump		
48		@TopRopeTravis	1/8/18	<a href="https://twitter.com/topropetravis/status/950371687580753920?s=21">https://twitter.com/topropetravis/status/950371687580753920?s=21</a>
49		@AJMeader	11/17	<a href="https://twitter.com/ajmeader/status/936123792425963520">https://twitter.com/ajmeader/status/936123792425963520</a>
50		@andreabakes	10/12/17	<a href="https://twitter.com/andreabakes/status/918419083594534912?s=21">https://twitter.com/andreabakes/status/918419083594534912?s=21</a>
51		@Autarkh	7/26/17	<a href="https://twitter.com/Autarkh/status/890363450529955840">https://twitter.com/Autarkh/status/890363450529955840</a>