

EXHIBIT B



U.S. Department of Justice
Civil Division, Federal Programs Branch

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August 30, 2017

Via electronic mail

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Alex Abdo
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Re: *Doyle, et al. v. U.S. Department of Homeland Security*,
No. 17 Civ. 2542 (KPF)

Dear Anne, Alex, and Jameel:

I am writing in response to your letter of August 28, 2017 regarding the preservation of White House visitor logs, as well as your subsequent email of August 29, 2017 requesting the government's position regarding plaintiffs' proposed motion seeking leave to amend the complaint. As noted in my August 24 correspondence, the White House visitor logs that plaintiffs are seeking are being preserved by the White House pursuant to the Presidential Records Act. If the court orders the Secret Service to process those records, the White House Office of Records Management will make those records available to the Secret Service for processing under FOIA.¹ Thus, the parties' dispute is not whether the records are being preserved, but merely *where* they are being preserved. The government, consistent with the D.C. Circuit's decision in *Judicial Watch v. U.S. Secret Service*, 726 F.3d 208 (D.C. Cir. 2013), has been treating those records as White House records. Plaintiffs, of course, are free to disagree with the government's position and the D.C. Circuit's opinion, and this court has already set a briefing schedule to resolve the parties' disagreement. But the mere physical location of those

¹ As noted in my prior correspondence, the government reserves its right to seek appellate review of any such decision, as well as to seek a stay of any such decision pending appellate review.

records pending the court's ultimate resolution of the parties' legal dispute has no bearing on whether the Secret Service will ultimately be able to process plaintiffs' FOIA request, if it is ordered to do so.

For these same reasons, it is unclear why plaintiffs intend to seek leave to amend the complaint in this case to add claims based upon the Federal Records Act and the Presidential Records Act. If the court rules that some or all of the records plaintiffs are seeking are agency records, then the Secret Service will process those records. Moreover, you have not provided us with a proposed amended complaint. Accordingly, we are unable to provide a definitive position on plaintiffs' proposed motion for leave to amend the complaint. However, in light of the limited information you have provided, it appears that the court would lack jurisdiction over the proposed new claims, and thus the government likely would oppose amendment as futile.

Very truly yours,

/s/ Brad P. Rosenberg

Brad P. Rosenberg

cc: Sarah Normand