

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KATE DOYLE, NATIONAL SECURITY ARCHIVE,
CITIZENS FOR RESPONSIBILITY AND ETHICS IN
WASHINGTON, KNIGHT FIRST AMENDMENT
INSTITUTE AT COLUMBIA UNIVERSITY,

Plaintiffs,

No. 17 Civ. 2542 (KPF)

v.

U.S. DEPARTMENT OF HOMELAND SECURITY,
EXECUTIVE OFFICE OF THE PRESIDENT,

Defendants.

DECLARATION OF CHARLES CHRISTOPHER HERNDON

I, Charles C. Herndon, declare as follows:

1. I am the Director of White House Information Technology (“DWHIT”) and Deputy Assistant to the President. I am the senior officer responsible for the information resources and information systems provided to the President, Vice President and Executive Office of the President. I report to White House Deputy Chief of Staff and Assistant to the President for Operations, and through him to the Chief of Staff and the President. I am part of what is known as the White House Office. This declaration is based on my personal knowledge and upon information provided to me in my official capacity.

2. A number of components make up the Executive Office of the President, including the White House Office (also referred to as the Office of the President). Components of the White House Office include the President’s immediate staff, the White House Counsel’s Office and the Staff Secretary’s Office. The White House Office serves the President in the performance of the many detailed activities incident to his immediate office, and the various

Assistants and Deputy Assistants to the President who aid the President in such matters as he may direct. My role is to ensure the effective use of information resources and systems to the President.

3. On March 19, 2015, President Obama issued a memorandum creating my position, and establishing a Presidential Information Technology Community and an Executive Committee for Presidential Information Technology, of which I am a member. A true and correct copy of this memorandum is attached hereto at Exhibit A.

4. As set forth in the Memorandum, the purpose of creating a Presidential Information Technology Community was to “ensure that information resources and information systems provided to the President, Vice President, and EOP [Executive Office of the President] are efficient, secure, and resilient; establish a model for Government information technology management efforts; reduce operating costs through the elimination of duplication and overlapping services; and accomplish the goal of converging disparate information resources and information systems for the EOP.” Exh. A, Section 1. In particular, it was determined that bringing various systems and resources into a single community under the auspices of the DWHIT would enhance the security of those systems and resources.

5. The Presidential Memorandum instructs that members of the Presidential Information Technology Community enter into any memoranda of understanding as necessary to give effect to the Presidential Memorandum. Accordingly, in September 2015, the Community members entered into a Memorandum of Understanding (MOU) governing its operations. A true and correct copy of that MOU is appended hereto at Exhibit B.

6. The MOU establishes a framework to enable the DWHIT and the Executive Committee of the Presidential Information Technology Community to implement the necessary policies and procedures for operating and maintaining the information resources and information

systems provided to the President, Vice President, and EOP. Exh. B at 1 ¶ 5. It does this by, among other things, identifying the respective roles and responsibilities of the White House Communications Agency, the Office of Administration, the National Security Council, and the U.S. Secret Service (USSS), Exh. B § 2.

7. With regard to the USSS, the MOU states that the USSS shall provide, without limitation, all services which are not otherwise agreed to be provided by any other Party to the MOU, and which USSS employees and agents require in order to perform USSS's protective functions as required by law. Exh. B § 2.08. Among the services provided by the USSS pursuant to the MOU is the management and operation of the Executive Facilities Access Control System (EFACS) and Worker and Visitor Entrance System (WAVES). USSS employees and agents require access to both of these information systems in order to perform the USSS's protective functions with regard to the White House Complex.

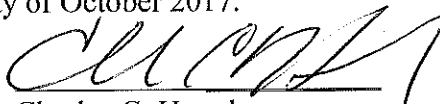
8. In accordance with the MOU, although the USSS operates EFACS and WAVES, including by housing and operating the WAVES servers, it does so on behalf of the President. The President, through the DWHIT, controls and is the business owner of the EFACS and WAVES systems, and the USSS operates those systems as a service provider. In that capacity, the USSS cannot make changes to the systems, or make purchases related to the systems, without consent of the DWHIT.

9. Notwithstanding the USSS's operation of EFACS and WAVES on behalf of the President, the USSS does not maintain ownership, control, or custody of the records generated by the EFACS and WAVES systems. The USSS has limited access to EFACS and WAVES records as necessary to perform its protective functions; however, once a visit is concluded, the USSS may not access EFACS or WAVES records without White House approval. As set forth in the MOU, "[a]ll records created, stored, used, or transmitted by, on, or through the

unclassified information systems and information resources provided to the President, Vice President, and EOP”—including EFACS and WAVES records—“remain under the exclusive ownership, control, and custody of the President, Vice President, or originating EOP component.” Exh. B § 3.01.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 23rd day of October 2017.


Charles C. Herndon