IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PUBLIC CITIZEN, INC.,	)	
Plaintiff,	)	Civil Action No. 17-1669
v.	)	
UNITED STATES SECRET SERVICE,	)	
Defendant.	)	

PLAINTIFF'S AMENDED REPLY TO DEFENDANT'S AMENDED OPPOSITION TO PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTE

OTHER AUTHORITY

INTRODUCTION

In its response to Public Citizen's motion for a temporary restraining order (TRO) and preliminary injunction, the Secret Service admits that, contrary to its initial response to Public Citizen's first FOIA request, the visitor logs at issue in this case—logs of visits to the Office of Management and Budget (OMB), Office of Science and Technology Policy (OSTP), Office of National Drug Control Policy (ONDCP), and Council on Environmental Quality (CEQ)—"'*are* 'agency records' subject to FOIA.'" Am. Opp. 9 (quoting *Judicial Watch, Inc. v. U.S. Secret Service*, 726 F.3d 208, 217 (D.C. Cir. 2013)). The Secret Service also admits that it transferred visitor logs out of its possession, even after they had been requested by Public Citizen. Indeed, the Secret Service's alienation of records is even more egregious than Public Citizen anticipated when it filed its motion: The Secret Service now states that, despite Public Citizen's repeated FOIA requests, it transferred out of its possession all visitor logs from January 20, 2017, through July 31, 2017. *See* Buster Decl. ¶ 22.

Nonetheless, the Secret Service contends that a TRO and preliminary injunction are not required because it has now decided voluntarily to maintain copies of visitor logs it transfers to the White House Office of Records Management (WHORM), and because an unnamed person told it that the WHORM will provide the Secret Service with the records necessary to satisfy a judgment for Public Citizen in this case. As this Court explained in *Citizens for Responsibility & Ethics in Washington (CREW) v. Office of Administration*, however, neither a declaration nor the assurances of counsel "have the force of a Court Order." 565 F. Supp. 2d 23, 30 (D.D.C. 2008). Given the Secret Service's history of regularly transferring the requested records and then deleting its copies, "a Court Order is appropriate to guard against the grave harm [Public Citizen]

would face if it ultimately prevailed . . . but could not access the records responsive to its FOIA requests." *Id.*

The Secret Service also contends that Public Citizen cannot demonstrate a likelihood of success on the merits "because the Secret Service's recordkeeping system prevents it from processing plaintiff's FOIA requests." Am. Opp. 2. This is so, the Secret Service argues, because the visitor logs do not contain a field explicitly stating which agency a visitor is visiting. As the Secret Service concedes in its amended opposition, however, the records *do* contain the name and email address of the person making the appointment, *see* Am. Willson Decl.¶ 7, and the email addresses of employees reflect their component. *Id*. ¶ 9. Thus, the Secret Service can determine directly from the face of the visitor logs which appointments were made by people working for OMB, OSTP, ONDCP, and CEQ.

Moreover, the visitor logs also contain the name of the person being visited, and the Secret Service could easily compare a list of OMB, OSTP, ONDCP, and CEQ employees with the visitee fields. The agency's failure to take reasonable steps to conduct such a comparison violates FOIA's requirement that it engage in "a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." *Oglesby v. U.S. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). And the D.C. Circuit has already rejected an argument nearly identical to the Secret Service's current argument that records reflecting visits to the four agencies should be withheld because the visitors may have also met with people in other White House components. *See Judicial Watch*, 726 F.3d at 233.

Finally, the balance of the equities weighs in Public Citizen's favor. As Public Citizen explained in its opening memorandum, failure to preserve the records will harm both it and the

public's right to access records. In contrast, the Secret Service will not be harmed by an order requiring it to maintain the requested records. Indeed, because the Secret Service has now stated that it will maintain copies of the records, requiring it do so will place no additional burden on it.

In short, all factors of the test for preliminary relief weigh in favor of granting Public Citizen's motion for a TRO and preliminary injunction. Moreover, given the new information in the Secret Service's papers detailing the extent of its alienation of records, the Court should not only require the agency to maintain visitor logs to the four agencies for the duration of this litigation, it should require the Secret Service to take all steps necessary and possible to retrieve from the WHORM a copy of the records it has already transferred.

PROCEDURAL BACKGROUND

Public Citizen filed this case on August 17, 2017, based on the Secret Service's withholding of visitor logs and other records documenting visits to OMB, OSTP, ONDCP, and CEQ and its policy or practice of withholding such records. Because the Secret Service denied Public Citizen's first FOIA request for records documenting visitors to the four agencies on the ground that it had transferred the requested records out of its possession without preserving a copy, on the same day Public Citizen filed its complaint, it also filed a motion for a TRO and preliminary injunction ordering the Secret Service to maintain a copy of all visitor logs and other records documenting visits to the four agencies from January 20, 2017, onward. The Court ordered the Secret Service to respond to Public Citizen's motion by August 22, 2017. The Secret Service filed an opposition to Public Citizen's motion, with declarations, on the night of August 22, 2017. On August 24, 2017, Public Citizen filed a reply to the Secret Service's opposition.

After Public Citizen filed its reply, the Secret Service filed a notice with the Court stating that one of the declarations it submitted, the declaration of William Willson, might contain

factual mistakes about the fields in the visitor logs system and that the Secret Service intended to correct the mistakes. On August 25, 2017, the Secret Service filed an amended declaration by Mr. Willson that listed a greater number of fields contained in the visitor log system than had been included in his original declaration. Of particular relevance, the declaration disclosed for the first time that the records contain a field containing the email address of the appointment requester, *see* Am. Willson Decl. ¶ 7, and that the information in that field "would reflect the component of the requestor." *Id*. ¶ 9.

At the same time that it filed the amended declaration, the Secret Service filed a new opposition to Public Citizen's motion that updates the background section to account for the corrected declaration, and that includes a rewritten section about Public Citizen's likelihood of success on the merits. Because the Secret Service has supplied new facts and altered its legal argument since Public Citizen filed its reply, Public Citizen is filing this amended reply.

ARGUMENT

I. Public Citizen Has Demonstrated a Likelihood of Irreparable Harm.

The Secret Service's response to Public Citizen's motion confirms that the Secret Service has already started transferring the records at issue out of its possession. According to the Secret Service, it has already transferred all visitor log records from January 20, 2017, through July 31, 2017. Buster Decl. ¶ 22.[1] At the time of many of the transfers, there was ongoing litigation over

[1] The Secret Service's papers are unclear about whether the agency has a backup copy of some of the records on its server. William Willson states in his declaration that records are ordinarily auto-deleted from the Secret Service's server after 60 days. *See* Am. Willson Decl. ¶ 6. According to Robert P. Buster, the auto-delete function was shut down effective August 19, 2017. *See* Buster Decl. ¶ 21. Thus, the Secret Service should still have a copy on its server of records from the sixty days preceding August 19—that is, from June 20, 2017, onward. However, Mr. Buster's declaration states that "[t]he Secret Service no longer has in its possession the after-visit WAVES records for January 20, 2017, through July 31, 2017." *Id*. at ¶ 22.

the withholding of visitor logs. *See Doyle, et al. v. DHS*, No. 17 Civ. 2542 (S.D.N.Y., filed Apr. 10, 2017). The Secret Service's most recent transfer of responsive records was on or about August 4, 2017, *see* Am. Willson Decl. ¶5, while two of Public Citizen's FOIA requests were still awaiting an initial response from the agency.

Despite admitting that it has regularly been ridding itself of the records at issue, the Secret Service asserts that Public Citizen "has not established that it has or will suffer irreparable injury." Am. Opp. 11. The Secret Service makes three arguments in support of its assertion, all of which lack merit.

First, the Secret Service contends that Public Citizen will not suffer irreparable harm because the WHORM is treating the records as though they are subject to the Presidential Records Act, under which records "become subject to potential disclosure no later than twelve years after the officeholder leaves office." *Id*. at 13. The Secret Service's suggestion that Public Citizen would not be irreparably harmed if it were required to wait until twelve years after President Trump leaves office to obtain records that it was legally entitled to receive after twenty working days demonstrates a fundamental misunderstanding of FOIA and the values it enshrines. "The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978). The public cannot hold "the governors accountable" if it cannot receive agency records until a decade or more after those governors have left office.

Second, the Secret Service claims Public Citizen will not suffer irreparable harm if the records are transferred to the WHORM because it has been "assured" by an unnamed person that the WHORM will provide it with the records necessary to satisfy a judgment in Public Citizen's

favor. *See* Buster Decl. ¶ 22. The Secret Service has not provided a sworn declaration from a WHORM official assuring the Court that the WHORM will provide the records necessary to satisfy a judgment, nor does the Secret Service explain how it will enforce the unidentified person's promise to provide the records. The second-hand statement from an unidentified person relied on by the Secret Service does not come close to ensuring that Public Citizen and the public will be protected from the harm of the Secret Service's continued transfer. Thus, this statement does not obviate the need for a TRO and preliminary injunction.

Finally, the Secret Service announces that a court order requiring it to maintain copies of the visitor logs is unnecessary because it has now decided voluntarily to maintain those records "during the pendency of this litigation." Am. Opp. 13. As this Court recognized in *CREW*, however, neither an agency declaration nor the assurances of agency counsel "have the force of a Court Order." 565 F. Supp. 2d at 30. The Secret Service has so far shown a willingness to transfer records even when they are the subject of a pending FOIA request and even when litigation over visitor logs is ongoing. Furthermore, the agency initially told Public Citizen that the requested visitor logs were subject to the Presidential Records Act, even though the D.C. Circuit had held the exact opposite in a case against the Secret Service less than four years before, and the Secret Service's declarant demonstrated a lack of knowledge of the fields included within the visitor log system, leading the Secret Service to make inaccurate statements in its original opposition. Given the Secret Service's history of transferring records out of its possession, the apparent lack of effective communication within the agency about the records, and the irreparable harm to Public Citizen if the records are not maintained, an order requiring the agency to maintain the records is appropriate. Moreover, given the extent of the Secret Service's alienation of records, *see* Buster Decl. ¶ 22, the Court should not only order the agency

to maintain a copy of visitor logs to the four agencies going forward, it should also order the Secret Service to take all available steps to retrieve copies of the records it already transferred to the WHORM to ensure that the Secret Service will be able to satisfy a final judgment in Public Citizen's favor.

II. Public Citizen Is Likely To Succeed on the Merits.

As Public Citizen explained in its opening memorandum, because the D.C. Circuit has already held that, "subject to any applicable exemptions, the Secret Service may not withhold [visitor logs] that reveal visitors to those offices within the White House Complex that are themselves subject to FOIA," *Judicial Watch*, 726 F.3d at 233-34, Public Citizen is extremely likely to succeed on the merits of its claims. Despite its initial claim to the contrary, *see* Rosenbaum Decl. Ex. B, the Secret Service now agrees that the records at issue are agency records subject to FOIA, *see* Am. Opp. 14.

Nonetheless, the Secret Service contends that Public Citizen is unlikely to succeed on the merits because the Secret Service "has no way to identify records responsive to plaintiff's request, or to distinguish such records from records that are not subject to FOIA." *Id*. at 1. According to the Secret Service, it cannot segregate the responsive records from non-responsive records because none of the fields in the visitor log records "identifies whether a record relates to a visit to a PRA Component or a FOIA Component." *Id*. at 15. As Mr. Willson explains in his amended declaration, however, the visitor logs do contain a field containing the email address of the person who requested the appointment, and the email address "reflect[s] the component of the requestor." Am. Willson Decl. ¶ 9. In other words, the email address of an OMB employee shows the employee works at OMB, the email address of an OSTP employee shows the employee works at OSTP, the email address of an ONDCP employee shows the employee works

at ONDCP, and the email address of a CEQ employee shows the employee works at CEQ. *See, e.g.*, Second Rosenbaum Decl. ¶¶ 6-9. Thus, from the face of the records themselves, the Secret Service can tell which appointments were made by employees of the four agencies.

The Secret Service nevertheless asserts that it cannot identify which visitor log records represent visits to the four agencies, arguing that "[e]ven identifying the person requesting the visit . . . would not necessarily resolve the question of whether the visitor record is subject to FOIA," because, "[f]or example, a visitor may be admitted to visit by an employee of OMB, but the meeting may be with members of both OMB and White House Counsel's Office." Am. Opp. 15. The D.C. Circuit addressed a nearly-identical argument in *Judicial Watch*. There, the Secret Service argued that "there may be some visitors whose appointments are with FOIA-subject agencies, but who later walk over to the White House Office and meet with the President or his staff." 726 F.3d at 233. The D.C. Circuit agreed that, to the extent the records would reveal that visitors met with the President or his staff, they were not agency records. The court explained, however, that it had "received no indication that [visitor log] records for such visitors would reveal that they had meetings anywhere other than at the locations of their scheduled visits." *Id*. Thus, it was unwilling to declare that all of the visitor logs could be withheld on that basis, and it left it to the district court to determine whether any specific records might be subject to withholding on that basis.[2] Likewise, here, there is no indication that the visitor log records for a visitor who was admitted to visit an employee of OMB, but then met with both OMB and White

[2] On remand in *Judicial Watch*, the Secret Service did not argue that any records should be withheld because they would indicate that the visitor also met with the President or his staff. *See* Def.'s Second Mot. for Summ. J., *Judicial Watch, Inc. v. U.S. Secret Service*, No. 1:09-cv-2312-BAH, ECF No. 37 (filed Mar. 24, 2014).

House Counsel staff, would reveal that the visitor met with anyone other than the OMB employee. As Mr. Willson emphasizes in his amended declaration, "there is no field to indicate the attendees at a meeting." Am. Willson Decl. ¶ 10. To the extent that any visitor log record might contain that information, the Secret Service can argue that that particular record should be redacted. But the possibility that visitors met with people besides those the visitors were admitted to see does not justify withholding all of the visitor logs.

The Secret Service also argues that the fact that it knows which visitor appointments were made by employees of OMB, OSTP, ONDCP, and CEQ does not permit it to tell which visits were to those agencies because not all employees have authorization to request visitors, and if someone does not have such authorization, he or she might ask someone in another agency within the White House to make the appointment on his or her behalf. *See* Am. Opp. 15-16. The Secret Service provides no information about how many White House employees lack authorization to admit visitors, or about how often people in the components that advise and assist the President ask employees of other components for help setting up appointments. In other words, the Secret Service gives no evidence that the scenario it discusses is real. And, of course, the Secret Service's argument does not apply to any records in which the visit requester's name and the visitee's name are the same. *See* Am. Willson Decl. ¶ 7 (explaining that the visitor logs include fields indicating both the name of the person who made the appointment and the name of the person being visited). For those records, the Secret Service can conclusively determine from the face of the visitor logs that the visitor was visiting one of the four agencies at issue.[3]

[3] The Secret Service's argument likewise would not apply to any records in which the person making the appointment worked for OMB, OSTP, ONDCP, or CEQ and the visitee name was

Moreover, an agency "is required to perform more than a perfunctory search in response to a FOIA request." *Ancient Coin Collectors Guild v. U.S. Dep't of State*, 641 F.3d 504, 514 (D.C. Cir. 2011). To fulfill its obligations under FOIA, the agency must conduct a search that is "reasonably calculated to uncover all relevant documents." *Id.* (quotation marks and citation omitted). Thus, if an agency looks at a collection of records and cannot immediately tell whether they are responsive to a FOIA request, it cannot simply deny the request. Rather, it must make "a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." *Oglesby*, 920 F.2d at 68. Here, even where the name of the person making the appointment and the name of the visitee differ, the Secret Service could easily determine which records reflect visits to employees of OMB, OSTP, ONDCP, and CEQ by comparing the visitee names with the names of people who work for those offices. Such a comparison would be simple, and would be reasonably calculated to uncover the relevant documents.

Although it did not explicitly say so, the Secret Service suggested in its original opposition that it does not know who works for the four agencies at issue in this case, or even the location of those agencies' offices within the White House Complex. *See, e.g.*, Opp. 17 (stating that "third parties (such as the White House) [might] retain employment information that could shed light on whether individuals making visit requests at the White House Complex were employed by FOIA components"). To the extent that is the Secret Service's argument, it defies belief. "As part of its function to provide security to for the White House Complex, the Secret Service monitors and controls access to the Complex." Buster Decl. ¶ 6. Thus, it lets employees of the FOIA components into the White House Complex on a daily basis. The Secret Service's

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left blank. These records would not reveal that the visitee met with anyone outside one of the four agencies.

papers do not discuss the process by which people who work in the White House Complex receive a pass that allows them entry in the White House Complex, or the Secret Service's role in that authorization process. It seems unlikely, however, that the Secret Service is not provided, as part of the process, with basic information about the employee, such as the agency for which the employee will be working.

Moreover, in addition to looking at information it receives as part of the issuance of authorized passes, the Secret Service could identify employees of the four agencies at issue by other means. As Mr. Willson explains in his amended declaration, for example, the email addresses of OMB, OSTP, ONDCP, and CEQ reveal the agencies in which the employees work. Am. Willson Decl. ¶ 9; *see also* Second Rosenbaum Decl. ¶¶ 6-9. Thus, to the extent any employees of OMB, OSTP, ONDCP, or CEQ have emailed the Secret Service, the Secret Service knows where the employees work.

In any event, regardless of whether the Secret Service itself has records showing who works for the agencies at issue, other entities have that information, including the four agencies themselves.[4] The Secret Service could easily ask those agencies for a list of their employees. The Secret Service does not claim ever to have done so. Instead, the Secret Service suggests that the Court does not have authority to require the Secret Service to obtain the information necessary to identify which records are responsive to Public Citizen's requests, because "a court's jurisdiction in FOIA cases is limited to enjoining an agency from improperly withholding agency records."

[4] Because OMB, OSTP, ONDCP, and CEQ know whom they employ and are not subject to the Presidential Records Act, the Secret Service's discussion of "involv[ing] PRA Components in the further processing of this FOIA request," Am. Opp. 17, is inapposite. Likewise inapposite is the Secret Service's contention that "requir[ing] PRA Components to segregate those WAVES records that are subject to FOIA from those that are not could impose . . . separation-of-powers concerns." *Id*. at 18. Public Citizen is not asking components of the White House that are not subject to FOIA to search for and release records. Rather, it is asking the Secret Service—an agency that *is* subject to FOIA—to search for and release agency records, as required by FOIA.

Am. Opp. 16-17. It is well-settled, however, that a court can order an agency to conduct an adequate search. *See, e.g.*, *Campbell v. U.S. Dep't of Justice*, 164 F.3d 20, 29 (D.C. Cir. 1998) (remanding for agency to conduct additional search). When an agency fails to conduct such a search and consequently fails to release responsive agency records, it is improperly withholding those records.

The Secret Service contends that "nothing in FOIA requires [it] to obtain . . . information from third parties, be it the White House, another agency, or a public library." Am. Opp. 17. To the contrary, "FOIA demands . . . a reasonable search tailored to the nature of a particular request," *Campbell*, 164 F.3d at 28, and the D.C. Circuit has recognized that reasonable efforts to respond to FOIA requests can include obtaining information from outside sources, *see Davis v. Dep't of Justice*, 460 F.3d 92 (D.C. Cir. 2006).

In *Davis*, the FBI withheld audiotapes under FOIA exemption 7(C), which exempts from disclosure law enforcement records whose release "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). Because privacy interests may be reduced when a person is dead, the government is required, when it is withholding information on privacy grounds, to make "a reasonable effort to ascertain life status." *Davis*, 460 F.3d at 98 (quotation marks and citation omitted). As with the general requirement that agencies adequately search for records, the "adequacy of an agency's search [to determine if an individual is still alive] is measured by a standard of reasonableness, and is dependent upon the circumstances of the case." *Id*. at 103 (quotation marks and citation omitted). In *Davis*, the FBI had taken three steps to determine whether the speakers on the tapes it was withholding were still alive: It had relied on "institutional knowledge, as well as *Who Was Who*, a book of famous individuals [who have died]"; when birth dates were revealed in the responsive records, it

assumed the person was no longer living if the date indicated that the person would be over 100 years old; and when social security numbers were revealed in the responsive records, it checked the Social Security Death Index to determine if the person was still alive. *Id*. at 98-101. The D.C. Circuit found these efforts insufficient, and remanded to permit the agency either "to conduct a further search or to explain satisfactorily why it should not be required to do so." *Id*. at 105.

The court explained that the proper inquiry in determining whether the agency undertook reasonable efforts was "whether the Government has made reasonable use of the information readily available to it, and whether there exist reasonable alternative methods that the Government failed to employ." *Id*. at 98 (quotation marks and citation omitted); *see also id*. (looking at whether the agency "has, or has ready access to, data bases that could resolve the issue" (quotation marks, citation, and italics omitted)). With regard to the FBI's internal records, the court criticized the FBI for "refus[ing] to look anywhere but in the tapes themselves to discover the speakers' birth dates or social security numbers." *Id*. at 101. "This meant," the court explained, that "even if those personal identifiers were present in other FBI records, the FBI would not have found them." *Id*. With regard to outside records, the court questioned why the FBI had limited itself to searching *Who Was Who*. "Why," it asked "doesn't the FBI just Google the two names?" *Id*. at 102. "Surely, in the Internet age, a 'reasonable alternative' for finding out whether a prominent person is dead is to use Google (or any other search engine) to find a report of that person's death." *Id*.

Davis demonstrates that the reasonable efforts required of an agency in determining whether to release records can include both looking at other records in its own possession and at outside sources. *See id*. at 101 (explaining that one of the flaws in the FBI's methodology was that it "refused to look anywhere but in the [responsive records] themselves" for the speakers'

birth dates and social security numbers). The court explained that, "[i]n determining whether an agency's search is reasonable, a court must consider the likelihood that it will yield the sought-after information, the existence of readily available alternatives, and the burden of employing those alternatives." *Id*. at 105. Here, the Secret Service did not take advantage of any of the readily available methods of figuring out which records reflect visits to OMB, OSTP, ONDCP, or CEQ. Instead, it "has been completely passive on the issue," *id*. at 99 (quotation marks and citation omitted), refusing to release responsive records even when it is clear from the face of the record that the person being visited works in one of the four agencies. Because the Secret Service has not taken reasonable steps to determine which visitor logs reflect visits to OMB, OSTP, ONCP, and CEQ, the agency has violated FOIA's requirement that it engage in a reasonable search.

Finally, the Secret Service suggests that it is not problematic for it to withhold the visitor logs at issue because Public Citizen "can always seek visitor information from those entities within the White House Complex that are subject to FOIA." Am. Opp. 18. When Public Citizen submitted FOIA requests to OMB, OSTP, ONDCP, and CEQ seeking visitor logs and other records documenting visitors to those four agencies, however, three of the four agencies responded that they had located no responsive records. *See* Second Rosenbaum Decl. ¶¶ 2-4. The fourth agency responded that it did not keep a log of visitors, but it provided a list of visitors that it compiled by asking the heads of components within the agency to prepare lists of their components' visitors "to the best of their recollection." *Id*. ¶ 5. The agency warned that the list it provided might be both incomplete and over-inclusive. *Id*. The agencies' claims that they do not keep visitor logs is not surprising given that the Secret Service, rather than the agencies, maintains the visitor logs at issue here. Indeed, the Secret Service concedes that OMB, OSTP,

ONDCP, and CEQ "would not have WAVES and ACR records." Am. Opp. 18. Nothing in FOIA allows an agency to withhold responsive agency records based on its belief that the requester should instead have requested *different* records from a *different* agency. As the D.C. Circuit has held, records of visits to OMB, OSTP, ONDCP, and CEQ are agency records, subject to FOIA, and, thus, the Secret Service must conduct an adequate search to identify and release them.

III. The Balance of Equities and Public Interest Weigh in Favor of Relief.

As Public Citizen explained in its opening memorandum, both it and the public will suffer irreparable harm if the records at issue in this case are not preserved by the Secret Service. In contrast, the Secret Service will not be harmed if it is required to maintain the records at issue. Accordingly, the balance of the equities weighs in favor of relief.

The Secret Service contends that requiring it to preserve the records at issue would place an "unwarranted burden on the White House, because it would be required to identify the responsive records at a time when it is entirely unclear that plaintiff will ever prevail in its suit." Am. Opp. 19. Even assuming for the sake of argument that identifying the responsive records was a "burden," the requested relief would place no such requirement on either the Secret Service or the White House. The Secret Service could comply with the relief requested in Public Citizen's motion by maintaining a copy of all visitor logs, as it states it is currently doing. Buster Decl. ¶ 21. Indeed, the fact that the Secret Service has agreed voluntarily to maintain copies of the records at issue in this case only further demonstrates that requiring it to do so by court order will not cause it any harm.

CONCLUSION

The Court should grant plaintiff's motion for a temporary restraining order and preliminary injunction and order the Secret Service to maintain a copy of all visitor logs and

other records documenting visitors to OMB, OSTP, ONDCP, and CEQ from January 20, 2017, forward until this lawsuit is resolved. Moreover, the Court should order the Secret Service to immediately take all available steps to retrieve from the WHORM a copy of all visitor logs and other records documenting visitors to OMB, OSTP, ONDCP, and CEQ since January 20, 2017, that the Secret Service has already transferred to the WHORM.

Dated: August 28, 2017

Respectfully submitted,

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