

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELEC. FRONTIER FOUND.,

Plaintiff,

v.

DEPT' OF JUSTICE,

Defendant.

Civil Action No. 07-0656 (JDB)

ORDER

Pursuant to the conference with the Court held on July 29, 2009, the June 2, 2009 Joint Status Report, and the entire record in this case, it is hereby **ORDERED** as follows:

1. By not later than September 30, 2009, defendant Department of Justice ("DOJ") shall select 300 pages of records to be used as part of a sample for purposes of a Vaughn index or declaration. For each page selected, DOJ shall provide a reasonable description of the material, including the following information:
 - a. The specific document request category that applies -- i.e., A through J, see Compl. ¶ 10.
 - b. The applicable FOIA exemption(s).

The sample must be representative of the approximately 40,000 pages of records at issue in this case. Hence, all relevant document categories and FOIA exemptions should be included in the sample and in roughly the same proportion as would be found in the complete set of responsive documents -- i.e., if request category A accounts for approximately 10% of all responsive documents, then it should also make up roughly the same amount of the sample; if FOIA Exemption

1 accounts for approximately 60% of all claimed exemptions, then it should also comprise roughly the same percentage of the sample, etc.

2. Plaintiff Electronic Frontier Foundation ("EFF") shall select 100 pages of records to complete the sample by not later than October 30, 2009; this portion of the sample should also be representative as described above.
3. DOJ's motion for summary judgment and supporting Vaughn index or declaration is due by not later than December 4, 2009. EFF's opposition and cross-motion for summary judgment is due by not later than January 8, 2010. DOJ's reply and opposition is due by not later than January 22, 2010. EFF's reply is due by not later than February 5, 2010.

SO ORDERED.

/s/ John D. Bates
JOHN D. BATES
United States District Judge

Dated: July 30, 2009