

# EXHIBIT 2

***Electronic Frontier Foundation v. Department of Justice,*  
10-cv-4892-DMR (N.D. Calif.)**

U.S. Department of Justice, Criminal Division *Vaughn* Index

BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	EX(S)
CRM-000001 to CRM-000002	March 22 & 27, 2007	Two e-mails from Mark Eckenwiler, Associate Director for Technology in CRM's Office of Enforcement Operations (OEO). <sup>1</sup> The first message was to subscribers to a listserv for attorneys in the Department. The second message was to an attorney in CRM's Narcotics and Dangerous Drugs Section (NDDS). The messages detailed on-going problems being encountered by law enforcement in intercepting communications conducted via a particular Voice over Internet Protocol (VoIP) system; provided guidance for those contemplating seeking approval for a Title III wiretap application for such communications, and described procedures for installing a wiretap and for coordinating after installation. (CRM-000001 contains less than ¼ page of text and CRM-000002 contains approximately ¼ page of text.)	2	0	6 7(C) 7(E)
CRM-000003	November 4, 2010	Two e-mails (approximately ¼ page of text) between Mark Eckenwiler, OEO Associate Director for Technology and an Assistant U.S. Attorney (AUSA) from the Southern District of California. The message concerns the Government's ability to intercept particular types of electronic communications on a particular carrier's system, and identifies limitations on the ability to conduct lawful electronic surveillance in relation to the electronic communications. The discussion was related to/part of an AUSA's handling of a criminal investigation.	1	0	5 (DPP) 7(E)
CRM-000004	March 25, 2010	E-mail (approximately ¼ page of text) from Mark Eckenwiler, OEO Associate Director for Technology to three FBI personnel on March 25, 2010, about lack of a CALEA solution to permit law enforcement to intercept particular types of electronic communications on a particular carrier's system, identifies the problem using a particular electronic surveillance technique to intercept the communications, and reveals efforts to resolve these gaps.	1	0	6 7(C) 7(E)
CRM-000005 to CRM-000007	July 21, 2009 & October 5-6, 2009	E-mails exchanged between Mark Eckenwiler, OEO Associate Director for Technology and a representative of a wireless service provider, describing problems with the Government's ability to lawfully intercept certain electronic communications, efforts by the Government and carrier to address these problems, and a possible solution that the Government could deploy to address the surveillance issue. (Approximately ¼ page of text was withheld from CRM-000005 and CRM-000007, and approximately ½ page of text was withheld from CRM-000006.)	3	0	6 7(C) 7(E)

<sup>1</sup> All requests for Title III wiretaps must be reviewed and approved by OEO's Electronic Surveillance Unit (ESU).

BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	EX(S)
CRM-000008	March 17, 2010	E-mail (approximately ¼ page of text) from Mark Eckenwiler, OEO Associate Director for Technology to an AUSA, that reveals technical limitations on intercepting communications conducted via a particular VoIP system and guidance about alternatives the Government can employ in order to accomplish lawful surveillance.	1	0	7(E)
CRM-000009	April 2, 2008	Two e-mails (approximately ½ page of text) between Mark Eckenwiler, OEO Associate Director for Technology and an attorney in CRM's Computer Crimes and Intellectual Property Section (CCIPS), regarding problems with intercepting communications on particular VoIP systems and possible solutions to those problems.	1	0	6 7(C) 7(E)
CRM-000010	March 16, 2010	One page of personal handwritten notes taken by Mark Eckenwiler, OEO Associate Director for Technology during a "GD-Legis Tech Briefing" ( <i>i.e.</i> , Going Dark Legislation Technical Briefing). A portion of the handwritten notes (about ½ a line of text) was redacted because it reflected a particular surveillance problem.	0	1	5 (DPP) 7(E)
CRM-000012 <sup>2</sup>	March 18, 2010	One page of personal handwritten notes taken by Anita Singh, a Counsel to the Assistant Attorney General for the Criminal Division during a meeting about the "Going Dark" problem. Responsive portions of the notes (totaling six lines of text) were withheld in full because they revealed particular technical issues encountered when conducting or attempting to conduct electronic surveillance on particular types of communication systems.	1	0	5 (DPP) 7(E)
CRM-000013 to CRM-000014	Undated	Approximately 12 lines of text from two pages of a Draft proposed response to language in proposed legislation being crafted within the Department to address particular limitations on the Government's ability to conduct lawfully intercept certain communications. The portions withheld describe limitations faced by the Government in intercepting certain information through wiretaps and details the technological basis and possible solutions for these limitations.	2	0	5 (DPP) 7(E)
CRM-000015 to CRM-000019	Undated	Internal document prepared by CRM-NDDS illustrating several investigative/operational examples where law enforcement had identified drug cartels using technology to circumvent law enforcement efforts to wiretap or conduct electronic surveillance. The document was compiled to assist in discussions about the "going dark" problem and solutions to it. Some of the case descriptions concern on-going investigations. The descriptions also refer to	5	0	5 (DPP) 6 7(A) 7(C) 7(D) 7(E)

<sup>2</sup> The first page of this set of notes – CRM-000011 – was released to plaintiff in full.

BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	EX(S)
		confidential informants/sources, undercover law enforcement agents, targets, and/or witnesses.			7(F)
CRM-000020 to CRM-000027	Undated	PowerPoint presentation entitled "Technological Problems Facing Law Enforcement" prepared by CRM-NDDS detailing various technologies for communicating/technological features that can and have been used to thwart lawful surveillance by law enforcement. The document was compiled for the purpose of training law enforcement personnel about these surveillance problems.	8	0	7(E)
CRM-000028	March 11, 2010	E-mail message from Betty Shave, Assistant Deputy Chief for International Computer Crime in CRM-CCIPS, to Michael DuBose, CCIPS Chief and John Lynch, CCIPS Deputy Chief, suggesting ideas for the Attorney General in preparation for a US/EU ministerial meeting. One of the topics Betty Shave suggested that CCIPS recommend be included was the "going dark" problem, in relation to which she summarized and identified gaps in law enforcement's abilities to conduct lawful electronic surveillance. (The responsive portions CRM withheld consist of approximately 4 lines of text.)	1	0	5 (DPP) 7(E)
CRM-000029	September 30, 2010	Two e-mails (approximately ½ page) exchanged between CRM Principal Deputy Assistant Attorney General Mythili Raman and Deputy Assistant Attorney General Kenneth Blanco, about whether drug cartels are exploiting technical gaps in law enforcement's ability to conduct electronic surveillance in order to avoid detection.	1	0	7(E)
CRM-000030	c. July 29, 2010	Approximately ½ page of information from a Draft document prepared by CRM-CCIPS, as part of developing the Division's response to an initiative proposed by the Digital Due Process organization to limit law enforcement access to electronic evidence. The withheld information, which contains electronically tracked changes by CRM-CCIPS, describes technologies that present significant threats to law enforcement's ability to intercept communications/access information.	1	0	5 (DPP) 7(E)
CRM-000031	July 12, 2010	Approximately 7 lines from a draft ("working") outline of additional resources that CRM's Child Exploitation and Obscenity Enforcement Section (CEOS) would be requesting in order to continue investigating and prosecuting child exploitation crimes despite changes in technology causing challenges to law enforcement's ability to intercept communications/access information. The withheld information identifies particular technologies being used by child predators that impede law enforcement's abilities to conduct lawful surveillance/obtain information. This draft outline was prepared by Paul Almanza, CRM-CEOS Deputy Chief and was included in an e-mail to Damon King, the other CEOS Deputy Chief, in preparation	1	0	5 (DPP) 7(E)

BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	Ex(S)
		for a briefing regarding CEOS's resource request.			
CRM-000032 to CRM-000033	June 8, 2010	Approximately ¼ page of information in an e-mail from Paul Almanza, CRM-CEOS Deputy Chief to CRM's Office of Administration, containing CRM-CEOS's input about additional resources necessary to address difficulties encountered by law enforcement due to "going dark" issues, as part of internal CRM discussions about resource requests. The portions withheld describe the "going dark" issues necessitating the additional resources and describe how new technologies are impeding/precluding law enforcement's ability to conduct lawful surveillance.	2	0	5 (DPP) 7(E)
CRM-000034	June 14, 2010	Another draft version of the document described at <b>CRM-000030</b> . The tracked changes are hidden in this version.	1	0	5 (DPP) 7(E)
CRM-000035	June 14, 2010	Another draft version of the document described at <b>CRM-000030</b> and <b>CRM-000034</b> . This version shows the tracked changes.	1	0	5 (DPP) 7(E)
CRM-000036	May 26, 2010	E-mail from Steve Grocki, CRM-CEOS Assistant Deputy Chief to Paul Almanza and Damon King, CEOS Deputy Chiefs, commenting on legislative proposals being circulated within the Department to address the "going dark" issue. CRM withheld approximately 6 lines of text that describe how new technologies are impeding/precluding law enforcement's ability to conduct lawful surveillance.	1	0	5 (DPP) 7(E)
CRM-000037 to CRM-000038	May 26, 2010	E-mail from Paul Almanza, CRM-CEOS Deputy Chief to Damon King, the other Deputy Chief, Steve Grocki and Alexandra Gelber, CEOS Assistant Deputy Chiefs, and James Fottrell, CEOS Director of the High Technology Investigative Unit, containing draft language for an e-mail to be sent to Andrew Oosterbaan, CEOS Chief, proposing CEOS's response to draft legislative proposals to fix the "going dark" issue, and soliciting comments/suggestions from the recipients. CRM withheld approximately 7 lines of text that is almost identical to the language in <b>CRM-000036</b> .	2	0	5 (DPP) 7(E)
CRM-000039	May 26, 2010	E-mail from Paul Almanza, CRM-CEOS Deputy Chief to Andrew Oosterbaan, CEOS Chief, forwarding the draft comments he proposed that CEOS make regarding draft legislative proposals to fix the "going dark" issue. CRM withheld approximately 7 lines of text that is identical to the language in <b>CRM-000037 to CRM-000038</b> . (The remainder of the information in the document was not responsive to plaintiff's FOIA request.)	1	0	5 (DPP) 7(E)
CRM-000040	May 27, 2010	E-mail from Paul Almanza, CRM-CEOS Deputy Chief to Anita Singh, Counsel to CRM's Assistant Attorney General and an attorney in CRM's Office of Legislation and Policy, containing CRM-CEOS's input and recommendations about CRM's	1	0	5 (DPP) 7(E)

BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	Ex(s)
		response to draft legislative proposals to fix the “going dark” issue. CRM withheld approximately 7 lines of text that is identical to the language in <b>CRM-000037 to CRM-000039</b> .			
CRM-000041	August 21, 2010	E-mail from John Lynch, CRM-CCIPS Deputy Chief to Michael DuBose, CCIPS Chief, briefing Mr. DuBose on a variety of issues. CRM withheld approximately 5 lines of text in which Mr. Lynch expressed his opinions about a briefing for an ambassador regarding a certain communication provider and issues with access communications on its system/devices.	1	0	5 (DPP)
CRM-000042 to CRM-000043	July 12, 2010	<p>Two e-mails exchanged by Paul Almanza, CRM-CEOS Deputy Chief and Steve Grocki, CEOS Assistant Deputy Chief. The initial e-mail is the same one described in <b>CRM-000031</b> – <i>i.e.</i>, a draft (“working”) outline of additional resources that CRM-CEOS would be requesting in order to continue investigating and prosecuting child exploitation crimes despite changes in technology causing challenges to law enforcement’s ability to intercept communications/access information. The withheld information identifies particular technologies being used by child predators that impede law enforcement’s abilities to conduct lawful surveillance/obtain information.</p> <p>This version of CRM-000031 in this e-mail exchange contains additional details describing particular technologies being used by child predators that impede law enforcement’s ability to conduct lawful surveillance/obtain information. (Approximately 11 lines of responsive information were withheld.) This draft outline was originally prepared by Paul Almanza, CRM-CEOS Deputy Chief and was included in an e-mail to Damon King, the other CEOS Deputy Chief, in preparation for a briefing regarding CEOS’s resource request.</p> <p>This e-mail exchange also includes a response from Steve Grocki (containing approximately 3 lines of responsive text that CRM withheld) describing a particular case where sex offenders’ use of particular technology was impeding the Government’s ability to gather evidence and identify child predators.</p>	2	0	5 (AWP) 5 (DPP) 7(E)
CRM-000044	October 4, 2010	Two e-mails (approximately ½ page) exchanged between Mark Eckenwiler, OEO Director of Technology and Anita Singh, Counsel to CRM’s Assistant Attorney General, discussing and expressing their opinions about what recommendation to make to the Assistant Attorney General regarding CRM’s participation in briefings	1	0	5 (DPP)

BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	EX(S)
		about the “going dark” problem.			
CRM-000045	October 4, 2010	Two e-mails (approximately ½ page) exchanged between Richard Downing, CRM-CCIPS Deputy Chief and Anita Singh, Counsel to CRM’s Assistant Attorney General, discussing and expressing their opinions about what recommendation to make to the Assistant Attorney General regarding CRM’s participation in briefings about the “going dark” problem.	1	0	5 (DPP)
CRM-000047 <sup>3</sup>	March 12, 2010	E-mail from Betty Shave, CRM-CCIPS Assistant Deputy Chief to Mary Lee Warren, Thomas Burrows and Kenneth Harris of CRM’s Office of International Affairs on March 12, 2010, containing CRM-CCIPS’s suggestion of ideas for the Attorney General in preparation for a US/EU ministerial meeting, including information about the “going dark” problem. The portion of this e-mail that is responsive to this request is identical to the portion described in <b>CRM-000028</b> . (The responsive portions CRM withheld consist of approximately 4 lines of text.)	1	0	5 (DPP) 7(E)
CRM-000048	October 4, 2010	Two e-mails (approximately ½ page) between DOJ’s Office of Legislative Affairs and Anita Singh, Counsel to CRM’s Assistant Attorney General, regarding CRM’s role in briefings about the “going dark” problem.	1	0	5 (DPP)
CRM-000049	c. August 30, 2010	Portion of a draft chapter from “Transnational Crime Threats” document (approximately ¼ page of text) describing the “going dark” problem. This is a draft internal document, which was circulated for comments, edits, and corrections, and reflects the author’s preliminary views.	1	0	5 (DPP) 7(E)
CRM-000050 to CRM-000052	May 24, 2010	Four e-mails exchanged between a CRM-CCIPS attorney, an AUSA, and an ATF employee, discussing techniques and procedures for addressing an encryption issue encountered on a seized portable USB flash drive. The e-mails originating from ATF were referred to ATF for processing. The e-mails originating from, and withheld by CRM, consist of approximately one-and-a-half pages of text.	3	0	5 (AWP) 6 7(C) 7(E)
CRM-000053 to CRM-000054	May 16, 2007	E-mail (approximately ¼ page) from an AUSA to John Lynch, CRM-CCIPS Deputy Chief, regarding law enforcement’s inability to intercept certain types of communications. The AUSA was seeking the information in furtherance of a case he was working on.	2	0	5 (AWP) 7(E)
CRM-000055	May 13-17,	E-mail chain entitled “24/7 Trace of Threat Email.” The exchange is primarily	1	3	6

<sup>3</sup> CRM-000046 is the first page of Ms. Shave’s e-mail but it does not contain any information about the “going dark” issue. Instead, it addressed other topics about which to brief the Attorney General and/or issues related to the preparation of the briefing materials.



BATES #	DATE	DESCRIPTION	PAGES WIF	PAGES WIP	EX(S)
to CRM-000059 <sup>4</sup>	2010	between a CRM-CCIPS attorney and a Liaison Officer with the Netherlands Police Agency, with the final message forwarding the exchange as a “going dark” example from the CCIPS attorney to Richard Downing, CCIPS Deputy Chief and another CCIPS attorney. The message describes e-mail anonymizing services offered by a particular company and used by someone to threaten a U.S. citizen working abroad, as well as the abilities/limitations on law enforcement’s ability to trace that e-mail.			7(C) 7(E)
CRM-000060	October 1, 2010	Two e-mails (approximately ½ page) exchanged between George Fruchterman, a Deputy Chief in CRM-NDDS and DEA Special Agents and entitled “Going Dark Question.” The e-mail originating from NDDS describes an example of a drug cartel using particular technology to thwart law enforcement, and asks whether DEA has examples of the use of other technologies to do so for use in Department discussions about how to address the “going dark” problem. CRM withheld this information. (The e-mail originating from DEA was referred to DEA for processing and a direct response to plaintiff.) The information withheld here is substantially the same as withheld in <b>CRM-000061</b> .	0	1	5 (DPP) 6 7(C) 7(E)
CRM-000061	September 30, 2010	E-mail from George Fruchterman, CRM-NDDS Deputy Chief, to Arthur Wyatt, NDDS Chief and Julius Rothstein, David Dalton, and Wayne Raabe of NDDS and entitled “Drug cartel question.” CRM withheld approximately 4 lines of text describing an example of a drug cartel using particular technology to thwart law enforcement, and asks whether DEA has examples of the use of other technologies to do so for use in Department discussions about how to address the “going dark” problem. The information withheld here is substantially the same as withheld in <b>CRM-000060</b> .	0	1	5 (DPP) 7(E)

<sup>4</sup> The third page of the e-mail exchange – CRM-000057 – is not responsive to plaintiff’s request. It is a list of server logs.

## ABBREVIATIONS KEY

ATF	Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice
DEA	Drug Enforcement Administration, U.S. Department of Justice
AUSA	Assistant U.S. Attorney
CRM	Criminal Division, U.S. Department of Justice
CEOS	Child Exploitation and Obscenity Section of the Criminal Division, U.S. Department of Justice
CCIPS	Computer Crimes and Intellectual Property Section of the Criminal Division, U.S. Department of Justice
NDDS	Narcotics and Dangerous Drugs Section of the Criminal Division, U.S. Department of Justice
OEO	Office of Enforcement Operations of the Criminal Division, U.S. Department of Justice
WIF	Withheld In Full
RIP	Released In Part