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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JAY MICHAUD,  
  
Defendant.

CASE NO. CR15-5351RJB  
  
ORDER GRANTING IN PART  
MOTION TO COMPEL  
DISCOVERY

This matter comes before the court on the Defendant’s Motion to Compel Discovery (Dkt. 54). The court has reviewed the documents filed in support of and in opposition to the motion, has considered the argument of counsel on December 14, 2015, and is familiar with the records and files herein. For the following reasons, the motion should be granted in part.

It appears to the court, and the court finds, that information requested is material to preparing the defense in this case.

The plaintiff should provide the following to defense counsel:

- The number of Child Pornography pictures that were posted on the site between February 20 and March 4, 2015;

- 1 • The number of Child Pornography videos that were posted on the site during that  
2 time period;
- 3 • The number of links to Child Pornography pictures and videos that were posted  
4 on the site during that time period;
- 5 • The number of Child Pornography pictures that were viewed and the number of  
6 Child Pornography videos that were viewed during that time period;
- 7 • The number of Child Pornography pictures that were downloaded and the number  
8 of Child Pornography videos that were downloaded during that time period;
- 9 • The number of visitors to the site between February 20 and March 4, 2015, and  
10 the number of total visits (recognizing that distinct visitors may have visited the  
11 site more than once).
- 12 • Some measure of the length of the visits (e.g., total time all visitors were  
13 connected to the site; average time visitors were connected to the site);
- 14 • A summary of any measures that were taken by the FBI or other law enforcement  
15 entities to block access to the pictures, videos and links available on or through  
16 the site between February 20 and March 4, 2015;
- 17 • The reasons the site was shut down on March 4 (rather than earlier or later); and
- 18 • All documents relating to review and authorization of the FBI's administrative  
19 control of the site by the Department of Justice or other governmental agencies  
20 that were involved in the "Website A" investigation and deployment of the NIT as  
21 issue in our case.

1            Provided however, if the plaintiff cannot produce the exact picture, video and link totals  
2 listed above with reasonable effort, the plaintiff should provide a good faith estimate of the  
3 totals.

4            Provided further, that the government need not provide to defense counsel any documents  
5 under the above requirement that constitute reports, memoranda, or other internal government  
6 documents made by an attorney for the government or other government agent in connection  
7 with investigating or prosecuting this case FRCP 16(a)(2).

8            The subject material should be submitted to the defense by the plaintiff on or before  
9 January 8, 2016.

10           IT IS SO ORDERED.

11           The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
12 to any party appearing *pro se* at said party's last known address.

13           Dated this 14<sup>th</sup> day of December, 2015.

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15           

16           ROBERT J. BRYAN  
17           United States District Judge