



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

www.atf.gov

May 12, 2021

REFER TO: 2021-0263

Stephen D. Stamboulieh
Stamboulieh Law, PLLC
P.O. Box 428
Olive Branch, MS 38654

VIA Email: Stephen@sdslaw.us

Dear Mr. Stamboulieh:

This responds to your Freedom of Information Act (FOIA) request dated November 23, 2020, and received by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) on the same day, in which you requested records concerning Hunter Biden. You submitted this request on behalf of your client, David Codrea, a writer for Ammoland Shooting Sports News. As you know, my office did initially conduct a search for records responsive to Mr. Codrea's FOIA request, but I have since determined that this was an error because the subject of this particular records request is a third party and a private citizen. Under these circumstances, the request should have been denied categorically without a search due to the substantial privacy interests retained by the subject of Mr. Codrea's request. Indeed, such an approach is standard practice under both the FOIA and Privacy Act. I regret the oversight in this matter and the delay it caused in reaching a final response to your client's FOIA request.

In my view, the denial of Mr. Codrea's records request is required by law under the Privacy Act and the existence of any such material is exempt from disclosure under the FOIA. As you may know, disclosure of records relating to a third party is only permitted with the express authorization and written consent of the third party or a demonstration that the public interest in the disclosure outweighs the personal privacy interests of the third party. Since you have not provided any documentation that would demonstrate your right to access the records of a third party, we cannot confirm or deny the existence of such records or disclose the requested information at this time. Such a disclosure would constitute a violation of the Privacy Act, 5 U.S.C. § 552a, and would reasonably be expected to constitute an unwarranted invasion of personal privacy subject to FOIA Exemptions 6 and 7(C), 5 U.S.C. § 552(b)(6),(b)(7)(C).

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If you obtain consent from the subject, ATF may be able to release responsive documents, should they exist. In order to disclose information to you, you will need to have the individual verify his/her identity as required by Department regulation 28 C.F.R. § 16.41(d). Specifically, if you would like this office to process your request and search for responsive records in this office, the individual will need to either (1) return a completed Form DOJ-361, *Certification of Identity*, to this office, or (2) provide a statement notarized or under penalty of perjury pursuant to 28 U.S.C. § 1746, indicating the individual's full name, place of birth, date of birth, and current address.

Please return either the Form DOJ-361 or the individual's notarized statement, along with your request, to the Information and Privacy Governance Division. You may mail your documents to 99 New York Avenue, NE, Room 4.E-301, Washington, DC 20226. You may also send any documentation to foiamail@atf.gov. Please include the assigned case number in your email.

Alternatively, if you or your client believe you have information that would demonstrate that the public's interest in this subject matter outweighs the privacy interests of the third party at issue, then I am willing to consider that additional information and potentially revisit my decision in this matter. Based on the information I have available to me at this time, however, and after thoughtful consideration, I must deny Mr. Codrea's request. In my view, the privacy interests retained by the subject of your request substantially outweigh any public interest in access to any information that may be located within ATF records about a private person. In light of these considerations, I am administratively closing your request at this time.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaisons, Darryl Webb or Zina Kornegay, at (202) 648-7390, for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Sixth Floor, 441 G Street, NW, Washington, DC 20530, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you

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submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "A. Siple".

Adam C. Siple
Chief

Information and Privacy Governance Division