

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BLOOMBERG L.P.,	)	
731 Lexington Ave	)	
New York, NY 10022	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
BUREAU OF ALCOHOL, TOBACCO,	)	
FIREARMS AND EXPLOSIVES,	)	
Chief Counsel	)	
99 New York Avenue, NE	)	
Washington, D.C. 20226	)	
	)	
U.S. DEPARTMENT OF JUSTICE,	)	
950 Pennsylvania Ave NW	)	
Washington, D.C. 20530	)	
	)	
Defendants.	)	

COMPLAINT

1. Plaintiff BLOOMBERG L.P. brings this suit to force Defendants BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES and U.S. DEPARTMENT OF JUSTICE to comply with Plaintiff's FOIA requests and produce specific records generally related to the government's efforts to disrupt firearm smuggling and aggregate ammunition trace data. In violation of FOIA, Defendants failed to issue determinations and failed to produce records responsive to the requests.

PARTIES

2. Plaintiff BLOOMBERG L.P. is the owner and operator of Bloomberg News. Bloomberg's newsroom of more than 2,700 journalists and analysts delivers thousands of stories a day, producing content that is featured across multiple platforms, including digital, TV, radio,

streaming video, print, and live events. BLOOMBERG L.P. made the FOIA request at issue in this case.

3. Defendant BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES (“ATF”) is a component of U.S. DEPARTMENT OF JUSTICE and subject to the Freedom of Information Act, 5 U.S.C. § 552.

4. Defendant U.S. DEPARTMENT OF JUSTICE (“DOJ”) is a federal agency and subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

5. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

MARCH 7, 2023 FOIA REQUEST (GAO AUDIT)

7. On March 7, 2023, BLOOMBERG submitted a FOIA request to ATF for the following records:

[1] Response to GAO Audit of ATF Anti-Smuggling Efforts: [a] Any response letter, report, email, or comments made by ATF to the GAO’s 2021 audit of US policy to deter gun smuggling to Mexico (GAO 21-322 “Firearms Trafficking: U.S. Efforts to Disrupt Gun Smuggling into Mexico Would Benefit from Additional Data and Analysis”); [and] [b] All supplemental records—including but not limited [to] documents, memos, reviews, analyses, transcripts, and reports—used to respond to that audit. The search should include, but not be limited to any analysis of “U.S.-sourced firearms intended for Mexico but seized in the United States” (recommendation 2 of the audit) as well as any discussion about whether such analysis would be conducted;

[2] Aggregate Ammunition Trace Data: A) Part 1 of the NFTCA report released in February 2023 offers a detailed description of the work the National Ballistics Information Network has done tracing ammunition and firearms used in the commission of crimes. ATF’s National Tracing Center also traces and analyzes ballistics evidence for some guns recovered in the U.S. as well as other countries. We request any report, memo, analysis or review that analyzes the type, size, and brand of ammunition used in crime guns during the commission of crimes from Jan. 1, 2014 – Feb. 20, 2023, both domestically and internationally; B) The search should include but not limited to, any reports analyzing and/or aggregating the NIBN Brasstrax and

Matchpoint systems findings and provide aggregate totals of the number of times various ammunition brands were used in crime guns between Jan. 1, 2014 and Feb. 2023, both domestically and internationally. Search terms should include, but not be limited to, Crime gun, National Tracing Center, NTC Connect Program, Ammunition brands, e-trace, NIBIN, Brasstrax, Matchpoint, Winchester, Hornaday, Federal, Speer, Lake City, CCI, Nosler, Bushnell, and Sierra.

A true and correct copy of the FOIA request is attached as Exhibit 1.

8. On March 8, 2023, ATF acknowledged receipt of the request and assigned reference number 2023-00734 to the request. A true and correct copy of the email is attached as Exhibit 2.

9. In the same email, ATF extended the time limit to respond to the request “beyond the ten additional days provided by the statute” due to “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(iii)(I). *Id.*

10. On May 2, 2023, BLOOMBERG sought an estimated date of completion for the request. A true and correct copy of the email correspondence is attached as Exhibit 3.

11. On May 3, 2023, ATF stated only that the request is “still in processing.” *Id.* at 1.

12. On May 3, 2023, BLOOMBERG, once again, asked when ATF expects to complete the request, and ATF never responded. *Id.*

13. As of the date of this filing, in violation of FOIA, Defendants have not issued a determination and have produced no records responsive to the request.

MARCH 21, 2023 FOIA REQUEST (AGGREGATE TRACE DATA)

14. On March 21, 2023, BLOOMBERG submitted a FOIA request seeking aggregate firearms trace data from the National Tracing Center and other records, including but not limited to records referencing foreign countries’ use of the eTrace system. A true and correct copy of the FOIA request is attached as Exhibit 4.

15. On March 30, 2023, ATF acknowledged receipt of the request and assigned reference number 2023-00795 to the request. A true and correct copy of the email acknowledging receipt of the request is attached as Exhibit 5.

16. In the same email, ATF extended the time limit to respond to the request “beyond the ten additional days provided by the statute” due to “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B)(iii)(I). *Id.*

17. As of the date of this filing, in violation of FOIA, Defendants have not issued a determination and have produced no records responsive to the request.

**COUNT I – MARCH 7, 2023 FOIA REQUEST (GAO AUDIT),
ATF’S FOIA VIOLATION: FAILURE TO ISSUE A DETERMINATION**

18. The above paragraphs are incorporated by reference.

19. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

20. Defendant ATF is a component of DOJ and a federal agency subject to FOIA.

21. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

22. Defendant ATF has failed to issue a complete determination within the statutory deadline.

**COUNT II – MARCH 7, 2023 FOIA REQUEST (GAO AUDIT),
ATF’S FOIA VIOLATION: FAILURE TO CONDUCT A REASONABLE SEARCH**

23. The above paragraphs are incorporated by reference.

24. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

25. Defendant ATF is a component of DOJ and a federal agency subject to FOIA.

26. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

27. Defendant ATF has failed to conduct a reasonable search for records responsive to the request.

**COUNT III – MARCH 7, 2023 FOIA REQUEST (GAO AUDIT),
ATF’S FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

28. The above paragraphs are incorporated by reference.

29. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

30. Defendant ATF is a component of DOJ and a federal agency subject to FOIA.

31. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

32. Defendant ATF has failed to produce all non-exempt records responsive to the request.

**COUNT VI – MARCH 21, 2023 FOIA REQUEST (AGGREGATE TRACE DATA),
ATF’S FOIA VIOLATION: FAILURE TO ISSUE A DETERMINATION**

33. The above paragraphs are incorporated by reference.

34. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

35. Defendant ATF is a component of DOJ and a federal agency subject to FOIA.

36. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

37. Defendant ATF has failed to issue a complete determination within the statutory deadline.

**COUNT V – MARCH 21, 2023 FOIA REQUEST (AGGREGATE TRACE DATA),
ATF’S FOIA VIOLATION: FAILURE TO CONDUCT AN ADEQUATE SEARCH**

38. The above paragraphs are incorporated by reference.

39. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

40. Defendant ATF is a component of DOJ and a federal agency subject to FOIA.

41. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

42. Defendant ATF has failed to conduct a reasonable search for records responsive to the request.

**COUNT VI – MARCH 21, 2023 FOIA REQUEST (AGGREGATE TRACE DATA),
ATF’S FOIA VIOLATION: FAILURE TO PRODUCE RECORDS**

43. The above paragraphs are incorporated by reference.

44. BLOOMBERG’s FOIA request seeks the disclosure of agency records and was properly made.

45. Defendant ATF is a component of DOJ and a federal agency subject to FOIA.

46. Included within the scope of the request are one or more records or portions of records that are not exempt under FOIA.

47. Defendant ATF has failed to produce all non-exempt records responsive to the request.

WHEREFORE, Plaintiff asks the Court to:

- i. declare that Defendants have violated FOIA;
- ii. order Defendants to conduct a reasonable search for records responsive to the requests;

- iii. order Defendants to issue a complete determination for all requests at issue in this case;
- iv. order Defendants to produce all non-exempt requested records or portions of records promptly;
- v. enjoin Defendants from withholding non-exempt public records under FOIA;
- vi. award Plaintiff attorneys' fees and costs; and
- vii. award such other relief the Court considers appropriate.

Dated: May 9, 2023

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

Attorneys for Plaintiff
BLOOMBERG L.P.

Matthew Topic, D.C. Bar No. IL0037
Stephen Stich Match, D.C. Bar No. MA0044
Merrick Wayne, D.C. Bar No. IL0058
LOEVY & LOEVY
311 N. Aberdeen, Third Floor
Chicago, IL 60607
(312) 243-5900
foia@loevy.com