

## FOIA Request Letter

---

From State Department FOIA <noreply@mail.foia.state.gov>

To kbaker6@protonmail.com

Date Monday, February 7th, 2022 at 11:45 AM Monday, February 7th, 2022 at 11:45 AM

---

Thank you for filing your FOIA request online on 2/7/2022. Here is a review of your request.

The records I request can be described as follows:

I request all emails sent to or from staff at the United States Embassy in Mexico City between April 1, 2013 and April 30, 2013 that include the term(s) "Hunter Biden" and/or "Hunter" and/or "Robert Biden" and/or "vice president's son" and/or "VP's son." I request the entirety of email threads which the individual responding emails are part of, even if the complete thread was sent or received outside of the date range specified above. Finally, I request then-Ambassador Anthony Wayne's public calendar for the month of April 2013.

The time period of my request is from 04/01/2013 to 04/30/2013

I am A representative of the news media seeking information as part of a news gathering effort and not for commercial use.

I am willing to pay \$25 for my request.

I request a waiver of all fees for this request.

Reason: The responding documents will inform the public through a published news article.

My additional comments are as follows:

N/A

### Contact Information

Mr. Karl J Baker

PRIVATE INFORMATION

F: N/A

kbaker6@protonmail.com

## RE: FOIA Request Letter

---

From foiastatus <FOIAStatus@state.gov>

To kbaker6@protonmail.com

Date Monday, August 29th, 2022 at 6:40 AM Monday, August 29th, 2022 at 6:40 AM

---

Mr. Baker,

This is in reference to your email below regarding the status of Privacy request control number F-2022-04564.

The Office of Information Programs and Services' electronic records system indicates this request remains in process. You will be notified of the results of the Department's search and review efforts in this case when that information becomes available.

If you have any concern or question regarding a FOIA related matter, please contact the FOIA Requester Service Center at 202-261-8484 or send an e-mail to [foiastatus@state.gov](mailto:foiastatus@state.gov).

Sincerely,

U.S. Department of State  
FOIA Requester Service Center

---

**From:** kbaker6@protonmail.com <kbaker6@protonmail.com>

**Sent:** Wednesday, August 24, 2022 10:38 AM

**To:** FOIA Status <FOIAStatus@state.gov>

**Subject:** Fw: FOIA Request Letter

Hi all, I sent off the FOIA forwarded below on Feb 7. The control number is F-2022-04564. Could you please provide an update on this request?

Thank you,

Karl Baker

Sent from Proton Mail mobile

----- Original Message -----

On Aug 24, 2022, 10:31 AM, FOIA Program <[Foiaprogram@state.gov](mailto:Foiaprogram@state.gov)> wrote:

Dear Mr. Baker,

Correspondence regarding the status of a DOS FOIA/PA request, including requests for estimated dates of completion, may be sent via e-mail to [FOIAStatus@state.gov](mailto:FOIAStatus@state.gov) or you may call the FOIA Requester Service Center at (202) 261-8484. Please provide the DOS control number in all correspondence (F-2022-04564).

As a courtesy, I will forward your message to the Requester Service Center for a status update.

Sincerely,

U.S. Department of State  
FOIA Program Manager/FOIA Public Liaison  
Office of Information Programs and Services

---

**From:** [kbaker6@protonmail.com](mailto:kbaker6@protonmail.com) <[kbaker6@protonmail.com](mailto:kbaker6@protonmail.com)>

**Sent:** Tuesday, August 23, 2022 6:27 PM

**To:** [noreply@mail.foia.state.gov](mailto:noreply@mail.foia.state.gov); Robinson, Kellie N <[RobinsonKN@state.gov](mailto:RobinsonKN@state.gov)>

**Subject:** Re: FOIA Request Letter

Hi Kellie,

I sent off the FOIA forwarded below on Feb 7. Could you please provide an update on the status of this request?

Thank you,

Karl Baker

Sent from Proton Mail mobile

----- Original Message -----

On Aug 22, 2022, 12:44 PM, <[kbaker6@protonmail.com](mailto:kbaker6@protonmail.com)> wrote:

Hi all - I sent off the FOIA, forwarded below, on Feb 7. Could you please update me on the status of this request?

Karl Baker

Sent from [ProtonMail](#), encrypted email based in Switzerland.

Original Message

On Monday, February 7th, 2022 at 2:45 PM, State Department FOIA <[noreply@mail.foia.state.gov](mailto:noreply@mail.foia.state.gov)> wrote:

Thank you for filing your FOIA request online on 2/7/2022. Here is a review of your request.

The records I request can be described as follows:

I request all emails sent to or from staff at the United States Embassy in Mexico City between April 1, 2013 and April 30, 2013 that include the term(s) "Hunter Biden" and/or "Hunter" and/or "Robert Biden" and/or "vice president's son" and/or "VP's son." I request the entirety of email threads which the individual responding emails are part of, even if the complete thread was sent or received outside of the date range specified above. Finally, I request then-Ambassador Anthony Wayne's public calendar for the month of April 2013.

The time period of my request is from 04/01/2013 to 04/30/2013

I am a representative of the news media seeking information as part of a news gathering effort and not for commercial use.

I am willing to pay \$25 for my request.

I request a waiver of all fees for this request.

Reason: The responding documents will inform the public through a published news article.

My additional comments are as follows:

N/A

Contact Information

Mr. Karl J Baker

**PRIVATE INFORMATION**

[kbaker6@protonmail.com](mailto:kbaker6@protonmail.com)

## RE: FOIA Request Letter

---

From foiastatus <FOIAStatus@state.gov>

To kbaker6@protonmail.com

Date Thursday, October 13th, 2022 at 6:31 AM Thursday, October 13th, 2022 at 6:31 AM

---

Mr. Baker,

This is in response to your email below concerning FOIA case number F-2022-04564.

The Office of Information Programs and Services' electronic records system indicates that this request remain in process and has an estimated date of completion (EDC) of August 30, 2024. Please note, EDCs are estimates and are subject to change. If the request can be completed prior to the EDC, a response will be sent sooner.

If you have any concern or question regarding a FOIA related matter, please contact the FOIA Requester Service Center at 202-261-8484 or send an e-mail to [foiastatus@state.gov](mailto:foiastatus@state.gov).

Sincerely,

U.S. Department of State  
FOIA Requester Service Center

---

**From:** kbaker6@protonmail.com <kbaker6@protonmail.com>

**Sent:** Thursday, September 15, 2022 3:50 PM

**To:** FOIA Status <FOIAStatus@state.gov>

**Subject:** RE: FOIA Request Letter

How long will it take to determine and send out an estimated date of completion?

-Karl

Sent from [ProtonMail](#), encrypted email based in Switzerland.

----- Original Message -----

On Wednesday, September 14th, 2022 at 10:53 AM, FOIA Status <[FOIAStatus@state.gov](mailto:FOIAStatus@state.gov)> wrote:

Mr. Baker,

The Office of Information Programs and Services is in receipt of your inquiry below. We are working diligently to provide an estimated date of completion for your case. We will follow-up with you as soon as that information is available.

Thank you for your continued patience.

Regards,

U.S. Department of State  
FOIA Requester Service Center

---

**From:** [kbaker6@protonmail.com](mailto:kbaker6@protonmail.com) <[kbaker6@protonmail.com](mailto:kbaker6@protonmail.com)>

**Sent:** Monday, September 12, 2022 9:07 PM

**To:** FOIA Status <[FOIAStatus@state.gov](mailto:FOIAStatus@state.gov)>

**Subject:** RE: FOIA Request Letter

All,

Could you please inform me whether State intends to comply with this request and provide an estimated date of completion?

Best,  
Karl Baker

Sent from [ProtonMail](#), encrypted email based in Switzerland.

----- Original Message -----

On Monday, August 29th, 2022 at 9:40 AM, FOIA Status <[FOIAStatus@state.gov](mailto:FOIAStatus@state.gov)> wrote:

Mr. Baker,

This is in reference to your email below regarding the status of Privacy request control number F-2022-04564.

The Office of Information Programs and Services' electronic records system indicates this request remains in process. You will be notified of the results of the Department's search and review efforts in this case when that information becomes available.

If you have any concerns or questions regarding a FOIA-related matter, please contact the FOIA Requester Service Center at 202-261-8484 or send an e-mail to [foiastatus@state.gov](mailto:foiastatus@state.gov).

Sincerely,

U.S. Department of State  
FOIA Requester Service Center

**TREVOR C. SERINE**

*ATTORNEY AND COUNSELOR AT LAW*

30 WEST THIRD STREET  
MEDIA, PENNSYLVANIA 19063

ADMITTED IN PA & NJ  
E-MAIL: TCS@SERINELAW.COM

PHONE: 484-448-6426  
FAX: 610-892-7412

September 26, 2022

Appeals Officer  
Appeals Review Panel  
Office of Information Programs and Services (IPS)  
U.S. Department of State  
2201 C Street NW, Room 5420 (HST)  
Washington, D.C. 20520

**RE: Appeal of FOIA Request No. F-2022-04564**

Dear FOIA Appeals Officer:

I represent Karl Baker in this matter. This letter constitutes an administrative appeal under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of Mr. Baker to the Appeals Officer of the U.S. Department of State regarding the failure of the agency's Office of Information Programs and Services to meet its FOIA obligations with regard to providing a timely response to Mr. Baker's request, F-2022-04564.

**Factual and Procedural History**

On February 7, 2022, Karl Baker, an independent journalist based in Wilmington, Delaware submitted a FOIA request to the U.S. Department of State via FOIAOnline (hereinafter, the "Request").

The Request sought certain public records pertaining to Robert Hunter Biden's visit to Mexico City in April, 2013, during which time he was scheduled to meet with Ambassador Anthony Wayne.

Specifically, the Request sought "all emails sent to or from staff at the United States Embassy in Mexico City between April 1, 2013 and April 30, 2013 that include the term(s) "Hunter Biden" and/or "Hunter" and/or "Robert Biden" and/or "vice president's son" and/or "VP's son." "I request the entirety of email threads which the individual responding emails are part of, even if the complete thread was sent or received outside of the date range specified above." "Finally, I request then-Ambassador Anthony Wayne's public calendar for the month of April, 2013." The Request sought a fee waiver, as the targeted records were exclusively for the purpose of newsgathering.



U.S. Department of State  
September 26, 2022  
Page 2

On February 7, 2022, Mr. Baker received an email from FOIA <noreply@mail.foia.state.gov> acknowledging receipt of the Request. The email provided no reference number for the Request, did not indicate whether the Request would be placed onto a simple or complex processing track, and did not provide guidance on a response time.

Mr. Baker received **no** subsequent communication from the State Department until **August 24, 2022** - one day after he sent an email to Kellie N. Robinson seeking an update about the status of the Request. The response came in the form of an unsigned email from FOIA Program <Foiaprogram@state.gov>, which directed Mr. Baker to instead email FOIAStatus@state.gov. The response also provided a reference number for the Request as F-2022-04564. Note that **over six (6) months** expired without so much as a status update.

On August 24, Mr. Baker emailed [FOIAStatus@state.gov](mailto:FOIAStatus@state.gov) to again ask about the status of the request. On August 29, 2022, a response stated, "The Office of Information Programs and Services' electronic records system indicates this request remains in process." The State Department again provided no guidance regarding a response time for the Request.

On September 12, Mr. Baker **again** emailed FOIAStatus@state.gov to inquire whether the State Department "intends to comply with this request" and to request "an estimated date of completion." On September 14, response from FOIAStatus@state.gov stated, "We are working diligently to provide an estimated date of completion for your case."

Thereafter, on September 15, and **again** on September 26, Mr. Baker emailed [FOIAStatus@state.gov](mailto:FOIAStatus@state.gov) seeking to know when the department would provide an estimated date of completion. To date, **no response has been supplied whatsoever.**

### Argument

FOIA requires the State Department to make a determination regarding a public records request within twenty business days of its receipt. *5 U.S.C. § 552(a)(6)(A)(i)*.

This determination "must be more than just an initial statement that the agency will generally comply with a FOIA request and will produce non-exempt documents and claim exemptions in the future." *Citizens for Resp. & Ethics in Washington v. Fed. Election Comm'n*, 711 F.3d 180, 188 (D.C. Cir. 2013). The agency "must at least (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the 'determination' is adverse." *Id.*

U.S. Department of State  
September 26, 2022  
Page 3

In “unusual circumstances,” FOIA permits an agency to extend the timeline for making a determination by no more than “ten working days,” and the agency must notify the requester of such an extension in writing “setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B)(i).

### **Application**

In this case, the State Department failed to make a “determination” concerning Mr. Baker’s Request, and it did not reveal a date a determination would be communicated. Furthermore, the State Department did not invoke unusual circumstances in any of its communications, including its initial email to Mr. Baker on February 7 acknowledging receipt of the Request.

Following that initial email, Mr. Baker received no further communication for **198 days!**

Only after a request for an update did the State Department on August 29, 2022 respond in the most generic terms with no actionable information, stating only that “this request remains in process. You will be notified of the results of the Department’s search and review efforts in this case when that information becomes available.” When pressed for an estimated date of completion, the State Department on September 14 said “We are working diligently to provide an estimated date of completion for your case.”

The agency did not respond to a follow-up question seeking to know when it would provide an estimated date of completion. To date, the State Department has not provided an estimated date of completion.

### **Conclusion**

By failing to provide a timely response with respect to Mr. Baker’s Request within the statutory deadline, the State Department is in violation of its obligations under FOIA. Mr. Baker respectfully requests that you direct the agency to make a determination with respect to the Request as soon as possible, but in any case no more than twenty (20) business days from the date this administrative appeal is received.

Rest assured that if this request is not honored within the twenty (20) day time frame as mention above, we will have little choice but to engage in litigation to obtain same. I can be reached at the above-listed contact information if you have other questions or concerns.

Very truly yours,



**TREVOR C. SERINE**

cc: Mr. Karl Baker