



Case No. 2022-00062-FOIA-OS

November 29, 2021

***Sent via email:***

Ms. Sara Cooke  
MuckRock News  
120450-78280936@requests.muckrock.com

Dear Ms. Cooke:

This clarification letter is in response to your October 25, 2021, Freedom of Information Act (FOIA) request. Specifically, you requested the following:

- “1) All records of scientific laboratory tests, under a microscope, analyzing and identifying the COVID-19 (SARS-CoV-2) virus from isolated samples extracted from a human being. This sample must be taken directly from a human being, where the patient sample was not first combined with any other source of genetic material or contamination.*
  - 2) All records of scientific laboratory tests, under a microscope, analyzing and identifying the COVID-19 delta variant (SARS-CoV-2) virus from isolated samples extracted from a human being. This sample must be taken directly from a human being, where the patient sample was not first combined with any other source of genetic material or contamination.*
  - 3) All communication (electronic email, mail, phone call transcripts etc...) sent to Governor Charles D. Baker and/or Department of Public Health of Massachusetts in regards to COVID-19 (SARS-CoV-2) and COVID-19 delta variant (SARS-CoV-2).*
- I am unable to find proof of the above. Please ensure your response includes the specific criteria requested above of laboratory tests, under a microscope, from isolated samples.”*

The FOIA allows the public to request access to "reasonably described" existing agency records (subject to any applicable FOIA exemptions to disclosure). This means you must describe the category of records you are seeking or the actual document(s), and provide sufficient details to permit a search with reasonable effort, utilizing existing indices and search tools.

In accordance with [Title 45 Code of Federal Regulations Subtitle A, Subpart B – How to Request Records under FOIA](#), HHS outlined what must be contained in FOIA requests to allow staff to locate requested records with a reasonable amount of effort. As set out in HHS FOIA [Regulations](#),

“..... a written description of the records you seek in sufficient detail to enable our staff to locate them with a reasonable amount of effort. The more information you provide, the better possibility we have of finding the records you are seeking. Information that will help us find the records would include:

- (1) The agencies, offices, or individuals involved;
- (2) The approximate date(s) when the records were created;
- (3) The subject, title, or description of the records sought; and
- (4) Author, recipient, case number, file designation, or other reference number, if available.”

This letter is to obtain clarification regarding the subject matter of your FOIA request.

Unfortunately, you have not described the records with enough specificity to allow us to continue with the processing of your request. Specifically for parts (1) and (2) of your request, please identify some or all of the following parameters: a) the agencies, offices, or individuals involved; b) the approximate date(s) when the records were created; c) the subject, title, or description of the records sought; and d) Author, recipient, case number, file designation, or other reference number, if available.

The Office of the Chief Information Officer reports due to technology constraints, HHS cannot run a blind search against all users in HHS or an operating/staff division. Electronic searches run against our live email system and a search against all HHS employees would crash our system.

Regarding the search terms, we would need the domain names for each entity in the list so that we could identify emails to or from a custodian to those entities. For example, “emails to or from Jane Doe (Jane.Doe@hhs.gov) and @organization.org or @commercial\_entity.com” with specific key words and date ranges.

If we get **any or all of the above referenced items (a)-(d)**, we can run the search. If all the parameters (timeframes, key words, etc.) are the same, we can run the search against multiple custodians simultaneously.

At this time, we have placed your request in “tolled” status. Therefore, please clarify and describe the records you are seeking, by sending an email to Emily Blitzer, of my staff, at FOIARequest@hhs.gov.

After you further advise us what records you are seeking, we can begin to process your FOIA request.

HHS “may deny your request for other reasons, including that a request does not reasonably describe the records sought” in accordance with the HHS FOIA [Regulations](#) cited in paragraph three. If you have not contacted our office within 30 business days from the date of this letter, your request will be administratively closed. Therefore, no action on your part is needed, if you no longer have a need for the records.

Sincerely yours,



Arianne Perkins  
Director  
FOI/Privacy Acts Division