

VIA EMAIL

December 22, 2020

To Whom It May Concern:

You are requested and required to search all agency email records for any responsive to my request. I cannot know who the emails were sent to, but you can.

Please note that a district court in DC recently ruled against the Central Intelligence Agency for the same email search policy:

The CIA spends much of its energy denying the existence of any such policy, presumably because it cannot credibly dispute that such a policy violates the FOIA. By its express terms, section 552(a)(3) sets forth only one standard for the categorical rejection of a request for records based on its substance: that the documents sought are not “reasonably described.” See 5 U.S.C. § 552(a)(3)(A); see also *Dale v. IRS*, 238 F.Supp.2d 99, 104 (D.D.C. 2002) (holding that an agency can refuse to process “broad, sweeping [FOIA] requests lacking specificity”). It is well established that, in order to “reasonably describe” the records sought for the purpose of this statutory provision, a FOIA request must be such that “a professional employee of the agency who was familiar with the subject area of the request [could] locate the record with a reasonable amount of effort.” *Kenney v. U.S. Dep’t of Justice*, 603 F. Supp. 2d 184, 188 (D.D.C. 2009); see also *MacLeod v. U.S. Dep’t of Homeland Sec.*, No. 15cv1792, 2017 WL 4220398, at *12 (D.D.C. Sept. 21, 2017).

This means that the FOIA does not authorize the CIA to deny a FOIA email request categorically, simply and solely because the request does not reference the sender... Cf. S. Rep. No. 93-854, at. 10 (1974) (noting that Congress intended the “reasonably described” language to be interpreted liberally, and that this standard “should not be used to obstruct public access to agency records”).

All things considered, then, this Court easily finds that there is no genuine dispute that the CIA has employed a policy of categorically refusing to process MuckRock’s FOIA requests for email records that do not specify “to” and “from” recipients, time frame, and subject, and it concludes that this policy violates the FOIA.

Muckrock, LLC v. Cent. Intelligence Agency (D.D.C. 2018) 300 F. Supp. 3d 108 (emphasis added)

Any continued refusal to search agency records on the grounds you have noted will result in immediate litigation to compel compliance.

Sincerely,
Justin McLaughlin