

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	FOIA Control No. 2022-000602
)	
James Chelmowski	)	FOIA Control No. 2023-000181
)	
On Request for Inspection of Records	)	FOIA Control No. 2023-000326
)	
	)	FOIA Control No. 2023-000461
)	
	)	FOIA Control No. 2023-000872
)	
	)	FOIA Control No. 2023-000874
)	
	)	FOIA Control No. 2023-000894
)	
	)	FOIA Control No. 2024-000303
)	
	)	FOIA Control No. 2023-000876
)	
	)	FOIA Control No. 2024-000227
)	
	)	FOIA Control No. 2024-000256
)	
	)	FOIA Control No. 2024-000409
)	
	)	FOIA Control No. 2024-000787-A
)	
)	FOIA Control No. 2025-000154-A
)	
)	FOIA Control No. 2025-000388-A
)	
)	FOIA Control No. 2022-000445-A
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)	FOIA Control No. 2025-000525-A
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)	FOIA Control No. 2024-000998-A
)	
)	FOIA Control No. 2025-000155-A

MEMORANDUM OPINION AND ORDER

Adopted: March 27, 2026

Released: March 30, 2026

By the Commission:

I. INTRODUCTION

1. We have before us 19 Applications for Review (AFRs) by James Chelmowski challenging various Freedom of Information Act (FOIA) decisions by the Office of General Counsel (OGC) and the Office of the Managing Director (OMD) responding to multiple FOIA requests by

Chelmowski. As the AFRs raise similar—and in some cases verbatim—legal claims, we address these AFRs together for resolution.

2. For the reasons set forth below, we affirm the actions by OGC and OMD and deny twelve AFRs—captioned FOIA Control No. 2022-000602, FOIA Control No. 2023-000181, FOIA Control No. 2023-000326, FOIA Control No. 2023-000461, FOIA Control No. 2023-000872, FOIA Control No. 2023-000874, FOIA Control No. 2023-000894, FOIA Control No. 2024-000787-A, FOIA Control No. 2025-000154-A, FOIA Control No. 2025-000525-A, FOIA Control No. 2024-000998-A, and FOIA Control No. 2025-000155-A. With respect to the remaining seven AFRs—FOIA Control No. 2024-000303, FOIA Control No. 2024-000227-A, FOIA Control No. 2024-000256-A, FOIA Control No. 2024-000409-A, FOIA Control No. 2025-000388-A, FOIA Control No. 2022-000445-A, and FOIA Control No. 2023-000876—we dismiss each with prejudice as procedurally defective.

II. BACKGROUND

3. For more than a decade, Chelmowski has undertaken a sustained effort to obtain documents from the Commission. His earliest engagement with the agency stemmed from a formal complaint filed in 2014 against AT&T Mobility LLC seeking damages related to the company’s alleged failure to port his telephone number.¹ The Commission’s Enforcement Bureau dismissed the complaint as untimely² and denied Chelmowski’s subsequent petition for reconsideration for failure to identify any error warranting reconsideration.³ Instead of filing an AFR to the full Commission pursuant to our rules, Chelmowski prematurely appealed the Enforcement Bureau’s actions to the United States Court of Appeals for the District of Columbia.⁴

4. During the pendency of that litigation, Chelmowski filed his first two FOIA requests with the agency seeking documents concerning informal complaints he made to the Commission.⁵ The Commission’s Consumer and Governmental Affairs Bureau (CGB) responded to the requests and produced responsive documents, redacting only FCC employee names.⁶ Chelmowski filed an administrative appeal of CGB’s action and the Commission produced an additional 87 pages of material. Rather than complying with the agency’s FOIA appeal process as described to him by Commission staff and timely challenging the subsequent production, Chelmowski instead filed motions in his appeal before the D.C. Circuit seeking release of the records.⁷ The D.C. District Court granted the Commission’s motion to dismiss this original appeal and denied Chelmowski’s motion for production of documents for failure to exhaust administrative remedies.⁸ This episode seems to have set in motion a decade-long

¹ Formal Complaint, File No. EB-14-MD-016, Proceeding No. 14-260 (filed Dec. 11, 2014).

² *Chelmowski v. AT&T Mobility LLC*, File No. EB-14-MD-016, Proceeding No. 14-260, Memorandum Opinion and Order, 30 FCC Rcd 7227 (EB 2015) (noting the complaint was time-barred under the two-year statute of limitations).

³ *Chelmowski v. AT&T Mobility LLC*, File No. EB-14-MD-016, Proceeding No. 14-260, Order on Reconsideration, 30 FCC Rcd 11006 (EB 2015) (denying the motion for failure to “identify any material error, omission, or reason warranting reconsideration, and merely repeat[ing] arguments that were fully considered and rejected” previously).

⁴ Petition for Review of Orders of the Federal Communications Commission, *Chelmowski v. FCC*, No. 15-1425, 2016 U.S. App. LEXIS 7000 (D.C. Cir. Apr. 18, 2016).

⁵ FOIA Request No. 2015-000768 (Sept. 11, 2015); FOIA Request No. 2015-000769 (Sept. 11, 2015).

⁶ Letter from Nancy Stevenson, Deputy Chief, Consumer Policy Division, CGB, FCC, to James Chelmowski (Sept. 17, 2015) (on file in FOIA Control Nos. 2015-000768 and 2015-000769).

⁷ Motion for Request for Documents, *James Chelmowski v. FCC*, No. 15-1425, 2016 U.S. App. LEXIS 7000 (D.C. Cir. Apr. 18, 2016); Motion for a Vaughn Index, *James Chelmowski v. FCC*, No. 15-1425, 2016 U.S. App. LEXIS 7000 (D.C. Cir. Apr. 18, 2016).

⁸ *James Chelmowski v. FCC*, No. 15-1425, 2016 U.S. App. LEXIS 7000 (D.C. Cir. Apr. 18, 2016).

series of largely meritless and repetitive filings, which taken together, represent a serious abuse of the Commission's FOIA process.

5. While litigating the Enforcement Bureau's decision and the two original FOIA requests, Chelmowski also initiated a series of lawsuits against AT&T Mobility in federal district court in Illinois to purportedly resolve his porting-related complaint against the carrier. In each case, the Seventh Circuit ultimately ruled against Chelmowski for failure to properly challenge the merits of the district court's rulings.⁹ And when these frivolous attempts failed, Chelmowski "turned to another tactic"—filing FOIA requests with the Commission to seek the documents related to him or his dispute with the carrier,¹⁰ challenging the Commission's responses to the FOIA requests in federal court, and then using these lawsuits "as vehicles for serving third-party subpoenas on AT&T entities."¹¹ These attempts were equally unsuccessful.¹²

6. While these lawsuits proceeded through the judicial process to no avail, Chelmowski continued to return to the Commission for, among other things, all records relating to various permutations of the spelling of his name, and records related to the Commission's responses to his multitude of FOIA requests. Since the initial FOIA requests in September 2015, Chelmowski has submitted at least 110 separate FOIA requests with the Commission. In response to these requests, the Commission has expended thousands of hours of staff resources searching for responsive documents, and over the past seven years alone the Commission has produced approximately 9,300 pages of agency records to Chelmowski.¹³

⁹ *Chelmowski v. AT&T Mobility, LLC*, 615 F. App'x 380 (7th Cir. 2015) (affirming district court's decision to deny Chelmowski's motion to vacate an earlier arbitration award as Chelmowski did not challenge the merits but only lodged complaints about the judge's procedures); *Chelmowski v. AT&T Mobility, LLC*, 678 F. App'x 420 (7th Cir. 2017) (summarily affirming district court's decision to reject Chelmowski's motion to reopen the judgment and affirming a second district court's decision to deny his motion to vacate a second arbitration award involving the same dispute with the carrier).

¹⁰ See, e.g., FOIA Request No. 2016-000345 (Feb. 10, 2016).

¹¹ *Chelmowski v. AT&T Mobility, LLC*, No. 18-1082, 753 F. App'x 398 (7th Cir. 2019). Specifically, Chelmowski served and litigated the subpoenas in the Northern District of Illinois against both the Commission, *Chelmowski v. FCC*, No. 1:16-cv-05587, 2017 U.S. Dist. LEXIS 26540 (N.D. Ill. Feb. 24, 2017), and the carrier, Minute Entry, *Chelmowski v. AT&T Mobility, LLC*, No. 1:17-cv-07070 (N.D. Ill. Dec. 11, 2017), ECF No. 17.

¹² Minute Entry, *Chelmowski v. FCC*, No. 1:16-cv-5587 (N.D. Ill. Aug. 24, 2016), ECF No. 24; Minute Entry, *Chelmowski v. AT&T Mobility LLC*, No. 1:17-cv-07070 (N.D. Ill. Dec. 11, 2017), ECF No. 17. The Seventh Circuit affirmed, finding Chelmowski's appeal frivolous. *Chelmowski v. AT&T Mobility, LLC*, No. 18-1082, 753 F. App'x 398 (7th Cir. 2019).

¹³ See, e.g., Letter from Christopher Santini, Special Counsel, FCC, to James Chelmowski (Mar. 26, 2025) (FOIA Control No. 2025-000696); Letter from Christopher Santini, Special Counsel, FCC, to James Chelmowski (Feb. 6, 2025) (FOIA Control No. 2025-000004); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Dec. 5, 2024) (FOIA Control No. 2025-000201); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Oct. 28, 2024) (FOIA Control No. 2024-000998); Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelmowski (Aug. 30, 2024) (FOIA Control No. 2023-000599); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (July 10, 2023) (FOIA Control No. 2023-000349); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (June 27, 2023) (FOIA Control No. 2023-000214); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Feb. 13, 2023) (FOIA Control No. 2022-000706); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Dec. 14, 2022) (FOIA Control No. 2022-000445); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Oct. 26, 2022) (FOIA Control No. 2022-000641); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Apr. 29, 2022) (FOIA Control No. 2022-000344); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Sept. 30, 2024) (FOIA Control No. 2021-000214); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (July 26, 2022) (FOIA Control No. 2021-

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7. Notwithstanding these disclosures, Chelkowski lodged 46 separate appeals in the intervening decade seeking Commission review of his various FOIA decisions. Additionally, Chelkowski also initiated five federal lawsuits against the agency alleging various misconduct related to the processing of his FOIA requests.¹⁴ All of these lawsuits failed¹⁵ and several resulted in the court imposing sanctions on Chelkowski.¹⁶ In processing these frivolous lawsuits, courts repeatedly chided Chelkowski for “consum[ing] a huge amount of Government and judicial resources” in furtherance of this “ill-conceived quest.”¹⁷

8. During this time, Chelkowski sent more than 3,000 emails to Commission staff that, *inter alia*, accused staff of various improprieties, subjected staff to derision, and declared that he would not act in good faith when dealing with staff.¹⁸ These communications were routinely abusive and have continued to present.¹⁹

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000214); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (May 20, 2022) (FOIA Control No. 2021-000214); Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Apr. 18, 2022) (FOIA Control No. 2021-000214); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Feb. 10, 2022) (FOIA Control No. 2021-000214); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Feb. 24, 2021) (FOIA Control No. 2021-000214); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Oct. 7, 2021) (FOIA Control No. 2021-000214); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Aug. 20, 2021) (FOIA Control No. 2021-000214); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Oct. 25, 2021) (FOIA Control No. 2021-000658); Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelkowski (May 20, 2021) (FOIA Control No. 2021-000341); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Mar. 29, 2019) (FOIA Control No. 2019-000171); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (Nov. 2, 2018) (FOIA Control No. 2019-000014); Letter from Elizabeth Lyle, Assistant General Counsel, FCC, to James Chelkowski (July 9, 2018) (FOIA Control No. 2018-000734).

¹⁴ Complaint, *Chelkowski v. FCC*, No. 1:16-cv-05587 (N.D. Ill. Feb. 25, 2016); Complaint, *Chelkowski v. United States*, No. 1:17-cv-01394 (D.D.C. July 13, 2017); Complaint, *Chelkowski v. FCC*, No. 1:22-cv-03200 (D.D.C. Oct. 14, 2022); Complaint, *Chelkowski v. FCC*, No. 1:23-cv-14491 (N.D. Ill. Oct. 4, 2023); Complaint, *Chelkowski v. FCC*, No. 1:23-cv-15596 (N.D. Ill. Nov. 2, 2023).

¹⁵ *Chelkowski v. FCC*, No. 1:16-cv-05587, 2017 U.S. Dist. LEXIS 26540 (N.D. Ill. Feb. 24, 2017) (granting the Commission’s motion for summary judgment); *Chelkowski v. United States*, No. 1:17-cv-01394, 2021 U.S. Dist. LEXIS 135501 (D.D.C. July 21, 2021) (granting Commission’s motion for summary judgement); *Chelkowski v. FCC*, No. 1:22-cv-03200, 2024 U.S. Dist. LEXIS 245646 (D.D.C. Mar. 4, 2024) (granting Commission’s motion for summary judgment); Order, *Chelkowski v. FCC*, No. 1:23-cv-14491 (N.D. Ill. Mar. 19, 2024) (granting Commission’s motion to dismiss because case was duplicative of other litigation in D.C. district court); *Chelkowski v. FCC*, No. 1:23-cv-15596, 2024 WL 6864162 (N.D. Ill. Apr. 15, 2024) (same).

¹⁶ Specifically, the Seventh Circuit sanctioned Chelkowski \$5,000 for “persistence in pursuing frivolous appeals,” Order, *Chelkowski v. AT&T Mobility*, No. 18-1082 (7th Cir. Feb. 5, 2019), ECF No. 43, and subsequently directed clerks in all federal courts in the Seventh Circuit to “return unfiled any papers submitted either directly or indirectly by or on his behalf” for failure to pay the sanction. Order, *Chelkowski v. AT&T Mobility*, No. 18-1082 (7th Cir. Mar. 4, 2019), ECF No. 46. This followed multiple warnings by the district court that his “history of litigation with AT&T . . . reflects an ongoing patten of using litigation to harass AT&T and may lead to sanctions in the future.” Minute Entry, *Chelkowski v. AT&T Mobility*, No. 1:17-cv-07070 (N.D. Ill. Nov. 8, 2017), ECF No. 13.

¹⁷ Order, *Chelkowski v. United States*, No. 17-1394, 2021 U.S. Dist. LEXIS 135501 (D.D.C. Aug. 25, 2021), ECF No. 105 (denying motion to alter or amend grant of summary judgment in favor of the United States on 16 FOIA and Privacy Act requests).

¹⁸ See, e.g., Email from James Chelkowski, to Mike Hennigan, Attorney Advisor, CGB, FCC (Mar. 16, 2016 9:15 AM EDT); Email from James Chelkowski, to Mark Stephens, Managing Director, OMD, FCC (June 25, 2017 5:55 PM EDT); Email from James Chelkowski, to Benish Shah, OMD, FCC (Feb. 15, 2018 12:14 PM EST); Email from James Chelkowski, to Stephanie Kost, OMD, FCC (Oct. 21, 2020 5:15 PM EDT); Email from James Chelkowski,

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9. In short, Chelmowski’s dealings with the Commission over the past decade have strayed well beyond the type of reasonable and good faith interactions expected under the FOIA.²⁰ They are repetitive and meritless, and Chelmowski has represented in writing that he would no longer act in good faith with Commission.²¹ Chelmowski’s antagonistic conduct has created a significant burden on agency staff, government resources, and ultimately the American taxpayer, without any meaningful advancement of the FOIA’s intended purposes of transparency and openness. We are thus compelled to emphasize our expectation that all current and future requestors—including Chelmowski—will proceed respectfully and in good faith. Therefore, and consistent with Commission precedent, the Commission reserves the right to take administrative action to ensure the Commission’s FOIA process is available and responsive to all Americans where a requester has a demonstrated history of submitting frivolous and vexatious filings.²²

10. The above notwithstanding, we now address nineteen appeals Chelmowski has filed between 2021 and 2025, including eleven AFRs that relate to a series of similar requests previously consolidated for review, as well as eight AFRs related to other independent FOIA requests filed by Chelmowski.²³ For completeness, each AFR and underlying FOIA request is described briefly below.

A. Consolidated Request No. 2021-000214

11. It is Chelmowski’s practice to file numerous FOIA requests for records about himself and the Commission’s responses to his FOIA requests. As a result, many of his FOIA requests are substantially similar in character and tend to yield overlapping results. Section 0.461(e)(4) of our rules authorizes the Commission to consolidate multiple requests by the same requestor for disposition under

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to Leslie Smith, Privacy Act Officer, FCC (Oct. 28, 2020 4:59 PM EDT); Email from James Chelmowski, to Office of Commissioner Carr (Jan. 5, 2021 3:25 PM EST); Email from James Chelmowski, to Office of the Chairman (Jan 5, 2021 3:22 PM EST); Email from James Chelmowski, to William Knowles-Kellett, Attorney Advisor, EB, FCC (Jan. 11, 2021 9:00 AM EST); Email from James Chelmowski, to Brendan McTaggart, Attorney Advisor, FCC (Oct. 1, 2024 9:25 AM EDT); Email from James Chelmowski, to Christopher Santini, Special Counsel, FCC (Oct. 13, 2024 10:07 AM EDT); Email from James Chelmowski, to Stephanie Kost, OMD, FCC (Feb. 18, 2025 4:39 PM EST); Email from James Chelmowski, to Stephanie Kost, OMD, FCC (June 2, 2025 3:42 PM EDT).

¹⁹ See, e.g., Email from James Chelmowski, to Adam Candeub, General Counsel, FCC (Jan. 16, 2026 9:06 AM EST).

²⁰ The purpose of the FOIA is to provide “a means for citizens to know what their Government is up to.” *Nat’l Archives & Recs. Admin. v. Favish*, 541 U.S. 157, 171 (2004) (internal citations omitted). It is not intended to provide unlimited means to “consume[] a huge amount of Government . . . resources on [an] ill-conceived quest[.]” *Chelmowski v. United States*, No. 17-1394, 2021 U.S. Dist. LEXIS 135501 (D.D.C. Aug. 25, 2021), ECF No. 105; see also *Rosiere v. United States*, 673 F. App’x 834 (10th Cir. 2016) (affirming dismissal of complaint where litigant filed more than 80 repetitious and overlapping FOIA requests within six months, as well as eight lawsuits in six jurisdictions, and noting that an action may be deemed to be malicious or frivolous if it “is plainly abusive of the judicial process” or is “repetitious litigation of virtually identical causes of action”). Nor is it “intended to reduce government agencies to full-time investigators on behalf of requestors,” *Assassination Archives & Rsch. Ctr. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1989), that are merely on “fishing expeditions” of agency files. *Immanuel v. Sec’y of the Treasury*, No. 94-0884, 1995 WL 464141, at *1 (D. Md. Apr. 4, 1995).

²¹ Email from James Chelmowski, to Christopher Santini, Special Counsel, FCC (Oct. 13, 2024 10:07 AM EDT) (explicitly declaring that he is “ceasing [his] good faith” towards the Commission).

²² See, e.g., *Warren C. Havens*, File No. 852997-853009, Memorandum Opinion and Order, 27 FCC Rcd 2756 (2012) (*Havens Order*).

²³ This *Memorandum Opinion & Order* addresses the 19 Chelmowski AFRs that we believe are pending before us. Given his numerous, overlapping, and often indecipherable appeals, some of which have been closed for administrative reasons and some of which have been withdrawn by Chelmowski, it has proven difficult to ascertain with certainty precisely which of his FOIA AFRs remain active at this time.

such circumstances²⁴ and the Commission accordingly consolidated 21 related FOIA requests from Chelkowski under a single control number—Control No. 2021-000214.²⁵

12. Under Control No. 2021-000214, the Commission produced responsive documents to Chelkowski on a rolling basis, with the eighth production occurring on September 30, 2024. By that time the Commission had produced to Chelkowski approximately 4,658 pages of responsive documents.

13. With the eighth production, the Commission informed Chelkowski that the remaining volume of records potentially responsive to only seven of the twenty-one consolidated FOIA requests exceeded 70,000 records.²⁶ The Commission informed Chelkowski further that the staff time required to process these requests, as consolidated, would impose an undue burden on agency resources and invited him to refine the parameters of his requests in a manner that does not present an undue burden for the agency.²⁷ Chelkowski declined the Commission's repeated invitations and, by letter dated January 8, 2025, the Commission denied his remaining FOIA requests, as consolidated under Control No. 2021-000214, on the grounds that they pose an undue burden on the Commission.²⁸

14. Despite the consolidation of some of his FOIA requests, Chelkowski filed AFRs of Commission responses to his requests on an individual basis. These AFRs related to Consolidated Control No. 2021-000214 are described below.

15. *FOIA Control No. 2023-000326* is an appeal of Chelkowski's FOIA request, Control No. 2022-000445, seeking communications by 23 named FCC staff members discussing Chelkowski himself.²⁹ OGC consolidated this request with Control No. 2021-000214 and undertook to produce responsive records on a rolling basis.³⁰ As part of its first production, OGC released 386 pages of responsive records subject to tailored redactions of inter-agency records normally considered privileged pursuant to Exemption 5 (including staff discussions and draft rulemaking documents that were protected from disclosure by the deliberative process privilege, the attorney-client privilege, and the attorney work

²⁴ 47 CFR § 0.461(e)(4) ("Multiple FOIA requests by the same or different FOIA requesters may be consolidated for disposition.").

²⁵ Specifically, the Commission consolidated FOIA Control Nos. 2021-000461, 2022-000241, 2022-000445, 2023-000895, 2024-000091, 2024-000240, 2024-000377, 2024-000525, 2024-000787, 2024-000987, 2024-001068, 2024-001069, 2025-000062, 2025-000136, 2025-000155, 2025-000207, 2025-000227, 2025-000229, 2025-000239, and 2025-000480 with FOIA Control No. 2021-000214. See Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Jan. 8, 2025) (on file in FOIA Control No. 2025-000525-A).

²⁶ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Jan. 8, 2025) (on file in FOIA Control No. 2025-000525-A).

²⁷ *Id.*

²⁸ An agency need not fulfill a request that "requires an unreasonably burdensome search." *Am. Fed'n of Gov't Emps. v. Dep't of Com.*, 907 F.2d 203, 209 (D.C. Cir. 1990) (*AFGE*); see also *Nat'l Sec. Council v. CIA*, 969 F.3d 406, 410 (D.C. Cir. 2020) ("[W]hen a request as drafted would require an agency to undertake an unreasonably burdensome search, the agency can decline to process the request."). The "search" burden includes the burden on the agency to not only locate, but "review, redact, and arrange for inspection a vast quantity of materials." *AFGE*, 907 F.2d at 209.

²⁹ FOIA Request No. 2022-000445, FOIAonline Request (May 9, 2022) (on file in FOIA Control No. 2023-000326).

³⁰ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Dec. 14, 2022) (on file in FOIA Control No. 2023-000326).

product privilege)³¹ and sensitive personnel information (including names, addresses, contact information and leave plans) or medical files pursuant to Exemption 6.³²

16. On appeal Chelmowski challenges the reasonableness of the Commission's search for records and OGC's withholdings and redactions pursuant to FOIA Exemptions 5 and 6. He also raises challenges to the form of OGC's response.³³

17. *FOIA Control No. 2023-000874* is an appeal of OMD's response to Chelmowski's FOIA request, Control No. 2023-000792, seeking all records concerning any and all FOIA requests and appeals Chelmowski filed in 2015 and 2016.³⁴ OMD closed the request as duplicative because it determined that the Commission's response to this request would be encompassed by its response to consolidated Control No. 2021-000214 that was being processed on a rolling basis.³⁵

18. On appeal, Chelmowski disputes OMD's finding that Control No. 2023-000792 was duplicative of previous requests. Chelmowski also denies that he received documents responsive to this request in response to any earlier requests.³⁶

19. *FOIA Control No. 2023-000894* is an appeal of OMD's response to Chelmowski's FOIA request, Control No. 2023-000492, seeking all records regarding his earlier FOIA request, Control No. 2017-000633.³⁷ OMD closed the request as duplicative because it determined that the Commission's response to this request would be encompassed by its response to consolidated Control No. 2021-000214 that was being processed on a rolling basis.³⁸

20. On appeal, Chelmowski disputes OMD's finding that Control No. 2023-000492 was duplicative of previous requests and denies that he received documents responsive to this request in response to any earlier requests. Chelmowski otherwise claims that OMD's response is part of a larger scheme to conceal the facts related to the agency's processing of the underlying FOIA requests.³⁹

21. *FOIA Control No. 2024-000227-A* is an appeal of OMD's response to Chelmowski's FOIA request, Control No. 2024-000083, seeking all documents related to Chelmowski himself, prior FOIA requests, and pending FOIA litigation involving Chelmowski.⁴⁰ OMD closed Control No. 2023-000083 as duplicative because the Commission's response to this request was provided in response to

³¹ *Id.* We note that in each response letter described below pertaining to FOIA Exemption 5, OGC and/or OMD staff provided similar rationales for withholding and/or redacting information; these descriptions are omitted from subsequent summaries of Chelmowski's filings for brevity.

³² *Id.* We again note that in each response letter described below pertaining to FOIA Exemption 6, OGC and/or OMD staff also provided similar rationales for withholding and/or redacting information; these descriptions are likewise omitted from subsequent summaries of Chelmowski's filings.

³³ Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023).

³⁴ FOIA Request No. 2023-000792, FOIAonline Request (Aug. 30, 2023) (on file in FOIA Control No. 2023-000874).

³⁵ Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelmowski (Sept. 19, 2023) (on file in FOIA Control No. 2023-000874).

³⁶ Application for Review, FOIA Control No. 2023-000874 (Sept. 21, 2023).

³⁷ FOIA Request No. 2023-000492, FOIAonline Request (Apr. 12, 2023) (on file in FOIA Control No. 2023-000894).

³⁸ Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelmowski (Sept. 29, 2023) (on file in FOIA Control No. 2023-000894).

³⁹ Application for Review, FOIA Control No. 2023-000894 (Sept. 29, 2023).

⁴⁰ FOIA Request No. 2024-000083 (Nov. 13, 2023) (on file in FOIA Control No. 2024-000227-A).

consolidated Control No. 2021-000214.⁴¹ On appeal Chelmowski merely restates his original request for records and provides no legal challenge to OMD's response.⁴²

22. FOIA Control No. 2024-000409-A is an appeal of OMD's response to Chelmowski's FOIA request, Control No. 2023-000871, seeking all documents related to several previous FOIA requests.⁴³ OMD closed the request as duplicative because it determined that the Commission's response to this request would be encompassed by its response to consolidated Control No. 2021-000214.⁴⁴ On appeal Chelmowski merely restates his original request for records and provides no legal challenge to OMD's response.⁴⁵

23. FOIA Control No. 2024-000787-A is an appeal of OGC's response to Chelmowski's FOIA request, Control No. 2024-000787, seeking all emails and attachments between June 2020 and the date of the request containing Chelmowski's last name.⁴⁶ OGC consolidated this request under consolidated Control No. 2021-000214, and produced 1,070 pages of responsive records (in addition to the 3,588 pages previously produced under the rolling production for the consolidated matter), with certain information segregated by redactions pursuant to FOIA Exemptions 5 and 6.⁴⁷ On appeal, Chelmowski alleges the Commission improperly withheld responsive documents.⁴⁸

24. FOIA Control No. 2025-000154-A is an appeal of Chelmowski's FOIA requests, Control Nos. 2024-000629 and 2024-000788, seeking all emails located in a June 2020 search responsive to an earlier FOIA request, "details of this search," and emails and attachments from a certain agency employee's files related to the same June 2020 search.⁴⁹ OGC consolidated the two FOIA requests under consolidated Control No. 2021-000214, produced four pages of responsive material, and withheld an additional ten pages pursuant to Exemption 5.⁵⁰ On appeal, Chelmowski generally alleges that OGC improperly withheld in full all responsive documents.⁵¹

25. FOIA Control No. 2025-000388-A is a second appeal of OGC's response to Chelmowski's FOIA request, Control No. 2024-000787, seeking emails and attachments containing his last name.⁵² As described above, OGC consolidated the request under consolidated Control No. 2021-

⁴¹ Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelmowski (Jan. 25, 2024) (on file in FOIA Control No. 2024-000227-A).

⁴² Application for Review, FOIA Control No. 2024-000227-A (Jan. 26, 2024).

⁴³ FOIA Request No. 2023-000871 (Sept. 21, 2023) (on file in FOIA Control No. 2024-000409-A).

⁴⁴ Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelmowski (Nov. 15, 2023) (on file in FOIA Control No. 2024-000409-A).

⁴⁵ Application for Review, FOIA Control No. 2024-000409-A (Feb. 7, 2024).

⁴⁶ FOIA Request No. 2024-000787 (Aug. 28, 2024) (on file in FOIA Control No. 2024-000787-A).

⁴⁷ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Sept. 30, 2024) (on file in FOIA Control No. 2024-000787-A). Specifically, OGC consolidated FOIA Request No. 2024-000787 seeking emails containing the requestor's last name between June 2020 and the date of the request, with FOIA Control No. 2021-000214, FOIA Control No. 2022-000445, and FOIA Control No. 2023-000895, which also sought emails containing the requestor's last name but for earlier time periods.

⁴⁸ Application for Review, FOIA Control No. 2024-000787-A (Dec. 20, 2024).

⁴⁹ FOIA Request No. 2024-000629 (July 8, 2024) (on file in FOIA Control No. 2025-000154-A); FOIA Request No. 2024-000788 (Aug. 28, 2024) (on file in FOIA Control No. 2025-000154-A).

⁵⁰ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Sept. 26, 2024) (on file in FOIA Control No. 2025-000154-A).

⁵¹ Application for Review, FOIA Control No. 2025-000154-A (Oct. 22, 2024).

⁵² FOIA Request No. 2024-000787 (Aug. 28, 2024) (on file in FOIA Control No. 2025-000388-A).

000214, and disclosed documents on a rolling production.⁵³ On appeal, Chelmowski again alleges that the Commission illegally withheld responsive documents in an attempt to conceal agency misconduct.⁵⁴

26. FOIA Control No. 2022-000445-A is an appeal of OGC's response to Chelmowski's FOIA request, Control No. 2022-000445, seeking communications by 23 named FCC staff members regarding Chelmowski himself.⁵⁵ OGC consolidated this request under consolidated Control No. 2021-000214, with document productions made on a rolling basis.⁵⁶ Chelmowski's appeal merely restates his original request for documents.⁵⁷

27. FOIA Control No. 2025-000525-A is an appeal of OGC's response to Chelmowski's FOIA request, Control No. 2025-000136, seeking emails related to a declaration filed in pending litigation related to an earlier FOIA request.⁵⁸ OGC consolidated this request under consolidated Control No. 2021-000214, subject to the rolling production in that matter.⁵⁹ On appeal, Chelmowski argues, among other things, that the FCC waived its right to withhold responsive records because they were identified in public court filings.⁶⁰ He also claims that the decision to consolidate 21 of his FOIA requests unlawfully "expanded" those prior requests to "fraudulent[ly] . . . conceal . . . corruption, fraud, perjury, torts, malfeasance, [and] criminal acts."⁶¹

28. FOIA Control No. 2025-000155-A is an appeal of OGC's response to Chelmowski's FOIA request, Control No. 2025-000155, seeking records that constituted a decision on various previous AFRs.⁶² OGC consolidated this request under consolidated Control No. 2021-000214, subject to the rolling production in that matter.⁶³ On appeal, Chelmowski repeats his demand for certain records related to previous FOIA appeals and otherwise maintains the unsubstantiated allegation that the Commission illegally withheld responsive documents to conceal misconduct.⁶⁴

B. Additional FOIA Requests

29. As the Consolidated Request was being processed, Chelmowski simultaneously filed additional FOIA requests that did not fit squarely within consolidated Control No. 2021-000214. Chelmowski now appeals eight of these requests which are briefly described below.

30. FOIA Control No. 2022-000602 is an appeal of the response by OGC and OMD to Chelmowski's FOIA request, Control No. 2022-000344, seeking all communications and "facts"

⁵³ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Sept. 30, 2024) (on file in FOIA Control No. 2025-000388-A).

⁵⁴ Application for Review, FOIA Control No. 2025-000388-A (Dec. 20, 2024).

⁵⁵ FOIA Request No. 2022-000445 (May 9, 2022) (on file in FOIA Control No. 2022-000445-A).

⁵⁶ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Dec. 14, 2022) (on file in FOIA Control No. 2022-000445-A).

⁵⁷ Application for Review, FOIA Control No. 2022-000445-A (Dec. 20, 2024).

⁵⁸ FOIA Request No. 2025-000136 (Oct. 16, 2024) (on file in FOIA Control No. 2025-000525-A).

⁵⁹ Email from Brendan Taggart, Attorney Advisor, OGC, to James Chelmowski (Nov. 21, 2024 2:26 PM) (on file in FOIA Control No. 2025-000525-A).

⁶⁰ Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025).

⁶¹ *Id.*

⁶² FOIA Request No. 2025-000155 (Oct. 4, 2024) (on file in FOIA Control No. 2025-000155-A).

⁶³ Email from Brendan Taggart, Attorney Advisor, OGC, to James Chelmowski (Nov. 21, 2024 2:26 PM) (on file in FOIA Control No. 2025-000155-A).

⁶⁴ Application for Review, FOIA Control No. 2025-000155-A (Feb. 4, 2025).

concerning the Commission's decision to delegate authority to the General Counsel to dismiss FOIA applications for review that are untimely, repetitious, or fail to articulate specific grounds for review.⁶⁵ OGC and OMD identified an estimated 109 responsive email chains, of which OGC produced three email chains and withheld the remaining email chains pursuant to FOIA Exemption 5.⁶⁶

31. On appeal Chelkowski challenges the Commission's search as unreasonable. He also challenges OGC's application of FOIA Exemption 5 and argues that OGC improperly redacted his name from the responsive records notwithstanding his express consent to disclose such personal information.⁶⁷

32. *FOIA Control No. 2023-000181* is an appeal of OGC's response to Chelkowski's FOIA request, Control No. 2022-000641, seeking all communications concerning an earlier FOIA request, Control No. 2021-000214.⁶⁸ In response to Control No. 2022-000641, OGC identified and produced 71 responsive email chains that had not been produced in response to Control No. 2021-000214.⁶⁹ The 71 records were redacted to segregate material protected under Exemptions 5 and 6 of the FOIA.

33. On appeal Chelkowski challenges the reasonableness of the Commission's search for records. He also challenges OGC's withholdings and redactions pursuant to FOIA Exemptions 5 and 6. Chelkowski also objects to the fact that the records produced to him did not include communications from or amongst certain named senior agency officials that he expects should have been included.⁷⁰

34. *FOIA Control No. 2023-000461* is an appeal of OGC's response to Chelkowski's FOIA request, Control No. 2022-000706, seeking records concerning an earlier FOIA request, FOIA Control No. 2021-000026.⁷¹ In response to Control No. 2022-000706, OGC produced 243 pages of responsive records and withheld an additional 35 pages of documents pursuant to Exemptions 5 and 6.⁷² OGC also stated that because the request overlapped extensively with other previous requests—including Control No. 2021-000214—its search had been tailored to avoid unnecessary duplication and processing time.⁷³

35. On appeal Chelkowski challenged the reasonableness of the Commission's search because it did not identify communications from certain named senior agency officials that Chelkowski believes should have been included. Chelkowski also argues more generally that OGC did not produce all responsive records.⁷⁴

⁶⁵ FOIA Request No. 2022-000344, FOIAonline Request (Mar. 14, 2022) (on file in FOIA Control No. 2022-000602).

⁶⁶ Letter from Jeffrey S. Steinberg, Assistant General Counsel, to James Chelkowski (Apr. 29, 2022) (on file in FOIA Control No. 2022-000602).

⁶⁷ Application for Review, FOIA Control No. 2022-000602 (July 14, 2022).

⁶⁸ FOIA Request No. 2022-000641, FOIAonline Request (July 29, 2022) (on file in FOIA Control No. 2023-000181). The underlying FOIA request, FOIA Control No. 2021-000214, sought emails held by senior agency officials and Commission staff concerning the requestor. *See* FOIA Request No. 2021-000214, FOIAonline Request (Jan. 27, 2021).

⁶⁹ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Oct. 26, 2022) (on file in FOIA Control No. 2023-000181).

⁷⁰ Application for Review, FOIA Control No. 2023-000181 (Dec. 12, 2022).

⁷¹ FOIA Request No. 2022-000706, FOIAonline Request (Sept. 2, 2022) (on file in FOIA Control No. 2023-000461).

⁷² Letter from Jeffrey S. Steinberg, Assistant General Counsel, to James Chelkowski (Feb. 13, 2023) (on file in FOIA Control No. 2023-000461).

⁷³ *Id.*

⁷⁴ Application for Review, FOIA Control No. 2023-000461 (Mar. 31, 2023).

36. *FOIA Control No. 2023-000872* is an appeal of OGC’s response to Chelmowski’s FOIA request, Control No. 2023-000214, seeking all communications regarding the Commission’s response to an earlier FOIA request.⁷⁵ In response to Control No. 2023-000214, OGC produced 107 pages of responsive records identified by OGC, the agency’s Information Technology staff, and the Office of the Inspector General.⁷⁶ The records were redacted to segregate material protected by Exemptions 5 and 6 of the FOIA.

37. On appeal Chelmowski challenges the Commission’s redactions from the material produced. Chelmowski asserts that the Commission “cannot redact facts in these emails” and “must produce non-exempt responsive records even if those records provide facts of . . . malfeasant and/or fraudulent acts.”⁷⁷

38. *FOIA Control No. 2024-000303-A* is an appeal of OMD’s response to Chelmowski’s FOIA request, Control No. 2023-000599, seeking all records concerning certain previous FOIA requests and appeals.⁷⁸ In response to Control No. 2023-000599, OMD produced 284 pages of responsive records and withheld an additional 200 pages pursuant to the deliberative process privilege and the attorney work product privilege under Exemption 5 and pursuant to Exemption 6.⁷⁹ On appeal, Chelmowski merely restates his original request.⁸⁰

39. *FOIA Control No. 2023-000876* is an appeal of OGC’s response to Chelmowski’s FOIA request, Control No. 2023-000475, seeking records related to several of his previous FOIA requests.⁸¹ In response to Control No. 2023-000475, OGC produced 58 pages of responsive records redacted in part under FOIA Exemption 5 and Exemption 6.⁸²

40. On appeal—which Chelmowski filed approximately a month before OGC made its production in Control No. 2023-000475—Chelmowski seemingly restates his original request for records and does not identify any purported legal error.⁸³

41. *FOIA Control No. 2024-000256-A* is an appeal of OMD’s response to Chelmowski’s FOIA request, Control No. 2024-000225, seeking a FCC FOIA Guide referenced in the FCC FOIA Directive.⁸⁴ OMD produced the FCC FOIA Guide to Chelmowski as requested.⁸⁵ On appeal Chelmowski again restates his original request for records and provides no legal challenge to OMD’s response.⁸⁶

⁷⁵ FOIA Request No. 2023-000214, FOIAonline Request (Dec. 29, 2022) (on file in FOIA Control No. 2023-000872).

⁷⁶ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Jun. 27, 2023) (on file in FOIA Control No. 2023-000872).

⁷⁷ Application for Review, FOIA Control No. 2023-000872 (Sept. 21, 2023).

⁷⁸ FOIA Request No. 2023-000599, FOIAonline Request (June 1, 2023) (on file in FOIA Control No. 2024-000303-A).

⁷⁹ Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelmowski (Aug. 30, 2023) (on file in FOIA Control No. 2024-000303-A).

⁸⁰ Application for Review, FOIA Control No. 2024-000303-A (Nov. 6, 2023).

⁸¹ FOIA Request No. 2023-000475 (Apr. 5, 2023) (on file in FOIA Control No. 2023-000876).

⁸² Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Oct. 26, 2023) (on file in FOIA Control No. 2023-000876).

⁸³ As discussed *infra*, requestor filed an untimely application for review on September 21, 2023. *See* Application for Review, FOIA Control No. 2023-000876 (Sept. 21, 2023).

⁸⁴ FOIA Request No. 2024-000225 (Jan. 26, 2024) (on file in FOIA Request No. 2024-000256-A).

42. *FOIA Control No. 2024-000998-A* is an appeal of OGC's response to Chelkowski's FOIA request, Control No. 2024-000998, seeking all system manager communications related to the processing of every one of his FOIA requests between 2015 and 2024.⁸⁷ OGC produced 1,864 pages of responsive documents redacted pursuant to Exemption 5 and Exemption 6.⁸⁸ On appeal Chelkowski makes generalized allegations that the Commission illegally withheld and concealed responsive documents.⁸⁹

III. DISCUSSION

43. The AFRs before us present similar and often identical objections to OGC's and OMD's responses to Chelkowski's numerous FOIA requests and we therefore consider these AFRs jointly in the interest of conserving agency resources.⁹⁰ Chelkowski's arguments on appeal can be organized largely into three general categories addressed below. In Part III.A, we address his various claims that OGC and OMD did not make good-faith efforts to search for records responsive to his FOIA requests. In Part III.B, we address his claims that OGC and OMD did not properly segregate non-exempt material from exempt material. In Part III.C, we address various objections to the decision to consolidate many of his FOIA requests under consolidated Control No. 2021-000214 and the resulting impacts on the timing and format of OGC's and OMD's productions.⁹¹ For avoidance of doubt, we also address miscellaneous arguments raised by Chelkowski in Part III.D. Finally, in Part III.E, we address several procedural infirmities with seven of the AFRs.

44. Our review of the records confirms that staff in OGC and OMD made good-faith efforts to search for records responsive to Chelkowski's FOIA requests as required by the statute and properly disclosed non-exempt material and withheld or redacted exempt material as required. We also confirm the reasonableness of staff's decision to consolidate Chelkowski's many duplicative and overlapping FOIA requests under consolidated Control No. 2021-000214, and staff's decision to utilize a rolling production schedule. Finally, we find that Chelkowski's remaining claims are without merit. For the reasons set forth below, we deny or dismiss the captioned AFRs in their entirety.

A. OGC and OMD Made Good-Faith Efforts to Search for Records Responsive to Chelkowski's FOIA Requests

45. Chelkowski challenges the sufficiency of the record searches conducted by OGC and OMD staff primarily on the grounds that the searches did not return responsive correspondence from and

(Continued from previous page) _____

⁸⁵ Letter from Vanessa Lamb, Associate Managing Director, FCC, to James Chelkowski (Feb. 1, 2024) (on file in FOIA Control No. 2024-000256-A).

⁸⁶ Application for Review, FOIA Control No. 2024-000256-A (Feb. 1, 2024).

⁸⁷ FOIA Request No. 2024-000998 (Sept. 23, 2024) (on file in FOIA Control No. 2024-000998-A).

⁸⁸ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Oct. 28, 2024) (on file in FOIA Control No. 2024-000998-A).

⁸⁹ Application for Review, FOIA Control No. 2024-000998-A (Jan. 17, 2025).

⁹⁰ 47 CFR § 0.461(e)(4).

⁹¹ We acknowledge that Chelkowski, as with many individuals in the FOIA context, are not represented by counsel in their applications for review. As a matter of fairness, we attempt to construe the unrepresented requestor's submissions "liberally" and "read to raise the strongest arguments that they suggest." *Story v. FCC*, No. 24-cv-00625, 2024 U.S. Dist. LEXIS 172771, at *3 (N.D.N.Y. Sept. 24, 2024) (quoting *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 477 (2d Cir. 2006)).

among certain agency officials,⁹² and did not result in the disclosure of certain documents Chelmowski believes to exist.⁹³ Chelmowski's arguments are without merit.

46. The Commission respects the FOIA as an important mechanism “for citizens to know what their Government is up to.”⁹⁴ Thus, in addition to the millions of records it proactively releases to the public,⁹⁵ the Commission receives and processes many hundreds of FOIA requests each year.⁹⁶ But administering the FOIA requires significant agency resources and “FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters.”⁹⁷ Consequently, the FOIA requires agencies to make a “good-faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested.”⁹⁸ The “focus of the adequacy inquiry is not on the results,”⁹⁹ and does not turn on “whether there might exist any other documents possibly responsive to the request.”¹⁰⁰ The adequacy of the search is an inquiry grounded in the particular circumstances of the case.¹⁰¹

47. Upon review of the record, we find that the searches conducted by OGC and OMD staff readily satisfy the strict standards of the FOIA. Staff identified appropriate custodians for each query, crafted reasonable search terms, identified the systems most likely to contain responsive records, applied the search terms across the record systems and custodians, and reviewed the results of that search for responsiveness and privilege on a page-by-page, line-by-line basis. This is the core of a reasonable search.

48. That these searches did not return responsive correspondence from or among certain agency officials, or did not result in the disclosure of certain documents Chelmowski believes to exist is not the consequence of an unreasonable search. Indeed, it is entirely reasonable that the search did not identify records described by Chelmowski—namely communications among the General Counsel and Commissioners. For example, Commissioners and the Commission's General Counsel rely on their staff to act on FOIA requests and appeals, and, as a practical matter, may not have had records Chelmowski is seeking in their individual custody. In any event, the absence of such documents is not evidence that the searches were legally infirm.

⁹² See, e.g., Application for Review, FOIA Control No. 2023-000181 (Dec. 12, 2022) (arguing the search was inadequate because the response did not include any communications from the General Counsel, Chairwoman, or Commissioners related to the disposition of the underlying FOIA appeal and application for review); Application for Review, FOIA Control No. 2023-000461 (Mar. 31, 2023) (same).

⁹³ See Application for Review, FOIA Control No. 2023-000872 (Sept. 21, 2023) (arguing the search was not adequate because the response did not include documents from the underlying FOIA request, Control No. 2022-000445).

⁹⁴ *NARA v. Favish*, 541 U.S. 157, 171-72 (2004).

⁹⁵ 2025 Chief FOIA Officers Report of the Federal Communications Commission at 1 (2025), available at <https://www.fcc.gov/sites/default/files/chief-foia-officer-report-2025.pdf>.

⁹⁶ *Id.*

⁹⁷ See *Assassination Archives & Rsch. Ctr. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1989).

⁹⁸ *Nat'l Mag. v. U.S. Customs Serv.*, 71 F.3d 885, 890 (D.C. Cir. 1995).

⁹⁹ *Hornbostel v. U.S. Dep't of the Interior*, 305 F. Supp. 2d 21, 28 (D.D.C. 2003).

¹⁰⁰ *Steinberg v. DOJ*, 23 F.3d 548, 551 (D.C. Cir. 1994).

¹⁰¹ *Davis v. DOJ*, 460 F.3d 92, 103 (D.C. Cir. 2006).

49. Chelkowski also asserts the records searches were unreasonable because staff did not inspect every Commission information repository.¹⁰² This argument fails. It is settled that there is no requirement that an agency search every record system.¹⁰³ An agency is required to make a good-faith search using methods which can be reasonably expected to produce the information requested, which OGC and OMD staff did. Commission staff identified and searched all the Commission's systems, including e-mails and the FOIA online database that were "likely to produce responsive documents."¹⁰⁴

50. Finally, Chelkowski's complaint that the OGC and OMD response letters did not provide the total number of responsive documents is likewise without merit.¹⁰⁵ The disclosure of an estimated number of documents in its response letters rather than an exact count is not evidence that the search was not legally sufficient and cannot support Chelkowski's speculation that the agency failed to conduct a thorough search. Rather, the estimates were intended to provide Chelkowski insight into the full scope of responsive documents to aid understanding of the search the agency conducted, as required by statute.¹⁰⁶

B. OGC and OMD Released All Reasonably Segregable, Non-Exempt Material Responsive to Chelkowski's FOIA Requests

51. We also understand Chelkowski to be arguing on appeal that OGC and OMD did not release all reasonably segregable, non-exempt material responsive to his FOIA requests as required by the FOIA. In this regard, Chelkowski makes various assertions to the effect that the agency "illegally withheld . . . responsive records"¹⁰⁷ and otherwise asserts that the agency has no right to withhold documents.¹⁰⁸ He contends that the agency "cannot redact facts in these emails produced."¹⁰⁹ Additionally, he claims the agency failed to conduct a line-by-line, document-by-document review to support its decision to withhold material.¹¹⁰ Finally, he points out that the FOIA does not permit agencies

¹⁰² See Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023) (alleging the agency failed to search email systems); Application for Review, FOIA Control No. 2023-000181 (Dec. 12, 2022) (alleging agency failed to produce all records in FOIAonline system); Application for Review, FOIA Control No. 2023-000461 (Mar. 31, 2023) (same).

¹⁰³ *Oglesby v. U.S. Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).

¹⁰⁴ *Id.*

¹⁰⁵ See, e.g., Application for Review, FOIA Control No. 2022-000344 (July 14, 2022) (asserting search was not adequate because agency only reported an "estimated" number of records); Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023) (alleging the agency concealed the total number of records).

¹⁰⁶ 5 U.S.C. § 552(a)(6)(F) ("In denying a request for records, in whole or in part, an agency shall make a reasonable effort to estimate the volume of any requested matter the provision of which is denied, and shall provide any such estimate to the person making the request . . ."). See also *Mobley v. DOJ*, 845 F. Supp. 2d 120, 123-24 (D.D.C. 2012) ("The plain text of the statute does not require agencies to provide a list of withheld documents, but only to make a reasonable effort to estimate the volume of the documents withheld.").

¹⁰⁷ See Application for Review, FOIA Control No. 2022-000602 (July 14, 2022); Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023); Application for Review, FOIA Control No. 2025-000154-A (Oct. 22, 2024).

¹⁰⁸ Application for Review, FOIA Control No. 2024-000787-A (Dec. 20, 2024).

¹⁰⁹ See, e.g., Application for Review, FOIA Control No. 2023-000181 (Dec. 12, 2022) (also alleging "many redactions" are facts describing the agency's processing of FOIA and Privacy Act requests and appeals); Application for Review, FOIA Control No. 2023-000461 (Mar. 31, 2023) (same); Application for Review, FOIA Control No. 2023-000872 (Sept. 21, 2023) (same).

¹¹⁰ See Application for Review, FOIA Control No. 2022-000602 (July 14, 2022); Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023).

to withhold non-exempt responsive records even if they contain evidence of agency misconduct,¹¹¹ or to destroy responsive materials containing evidence of misconduct.¹¹²

52. Chelmowski's wholly self-constructed claims have no merit. Put simply, the FOIA provides that any person has a right, enforceable in court, to obtain access to federal agency records subject to the FOIA, except to the extent that any portions of such records are protected from public disclosure by one of nine exemptions.¹¹³ The FOIA's "broad provisions favoring disclosure, coupled with the specific exemptions, reveal and present" a workable balance between the right of the public to know and the need of the Government to protect certain information.¹¹⁴

53. Our review of the record confirms that OGC and OMD have released all segregable, non-exempt material responsive to Chelmowski's FOIA requests as required by the statute. The documents withheld and the redactions applied by OGC and OMD protect material covered by Exemptions 5 and 6 of the FOIA. To the extent there is any factual material included in the redacted information, we agree with OGC and OMD that its release would reveal the nature of the exempt deliberative material.

54. Further, in each instance in which OGC or OMD withheld or produced redacted versions of records responsive to Chelmowski, staff explained in detail its rationale for withholding or redacting material protected under FOIA Exemptions 5 or 6. It explained the scope of each exemption and confirmed that the withheld or redacted records contained material that is either privileged as attorney/client communications or as part of the agency's deliberative process protected under FOIA Exemption 5,¹¹⁵ or is private, personnel information protected under Exemption 6.¹¹⁶

55. Indeed, these response letters detailed thoroughly the fact that OGC and/or OMD staff reviewed each potentially responsive document line-by-line to determine whether an exemption applied and whether non-privileged material could be segregated, and staff withheld or redacted only those

¹¹¹ See, e.g., Application for Review, FOIA Control No. 2022-000602 (July 14, 2022) (alleging the agency "must produce non-exempt responsive records even if these records provide facts of FCC malfeasant and/or fraudulent acts"); Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023) (same); Application for Review, FOIA Control No. 2023-000181 (Dec. 12, 2022) (same); Application for Review, FOIA Control No. 2023-000461 (Mar. 31, 2023) (same); Application for Review, FOIA Control No. 2023-000872 (Sept. 21, 2023) (same); Application for Review, FOIA Control No. 2023-000894 (Sept. 29, 2023) (same); Application for Review, FOIA Control No. 2023-000874 (Sept. 21, 2023) (same); Application for Review, FOIA Control No. 2025-000154-A (Oct. 22, 2024); Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025); Application for Review, FOIA Control No. 2024-000998-A (Jan. 17, 2025); Application for Review, FOIA Control No. 2025-000155-A (Feb. 4, 2025) (alleging the agency illegally withheld responsive documents the requestor believed existed). Additionally, Chelmowski makes variations of this same argument by asserting that the agency has a duty to cease fraudulent acts and must report attorney misconduct allegedly concealed in responsive records. Application for Review, FOIA Control No. 2024-000787-A (Dec. 20, 2024). There is simply no evidence in the record of misconduct by OGC and OMD staff in processing Chelmowski's various filings.

¹¹² See, e.g., Application for Review, FOIA Control No. 2023-000894 (Sept. 29, 2023) (stating the agency "cannot delete or destroy any of the responsive records even if those records provide facts of FCC malfeasant and/or fraudulent acts"); Application for Review, FOIA Control No. 2023-000874 (Sept. 21, 2023) (same).

¹¹³ See 5 U.S.C. §§ 552 (a)(3), (a)(4)(B), (b), (c).

¹¹⁴ *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 152 (1989).

¹¹⁵ Exemption 5 protects "inter-agency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). Courts have construed this language "to exempt those documents, and only those documents, normally privileged in the civil discovery context." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975).

¹¹⁶ Exemption 6 protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

records containing information protected under a FOIA exemption. For example, OGC and OMD withheld records including memoranda and cover emails from FCC attorneys related to litigation,¹¹⁷ deliberations involving the review by agency decisionmakers of staff advice and recommendations on policy,¹¹⁸ email attachments containing draft FOIA response letters that were exchanged in the course of the deliberative process,¹¹⁹ and documents relaying the staff's understanding of internal FCC processes, legal assessments, and judgments regarding then-pending FOIA inquiries,¹²⁰ all of which squarely falls within FOIA Exemption 5. Likewise, OGC and OMD redacted portions of documents that included telephone numbers, email addresses, street addresses, employee leave plans and other personal information of agency staff.¹²¹ These redactions are clearly contemplated by Exemption 6. In short, the record supports each of OGC and OMD's justifications for invoking the relevant exemptions and Chelkowski's challenge fails.

56. Chelkowski does not contend in any meaningful sense that the withheld or redacted material is not eligible for protection under FOIA Exemptions 5 and 6. Rather, he seems to be taking the more general position that the Commission has no legal right to withhold or redact documents even to protect material covered by a FOIA exemption. Chelkowski's argument is plainly wrong; the FOIA expressly authorizes agencies to protect from release information that falls within the scope of one of nine exemptions.

57. To the extent Chelkowski is raising a specific concern about the material withheld and redacted under FOIA Exemption 5, he suggests that OGC and OMD erred by withholding or redacting records when the records included non-exempt statements of fact. This argument is unpersuasive. The presence of factual statements in a record does not in-and-of-itself preclude an agency from withholding that record under a FOIA exemption. It is settled that, while agencies should take steps to segregate non-exempt factual material from exempt material, this is not always feasible where non-exempt and exempt material are inextricably intertwined in a record. Agencies may therefore withhold records where it is not feasible to segregate non-exempt from exempt material.¹²²

58. Contrary to Chelkowski's assertion, the record reflects that OGC and OMD did consider the feasibility of segregating and disclosing non-exempt material and withheld non-exempt material only where it is inextricably intertwined with exempt material.¹²³ We agree with OGC's and OMD's judgments.

¹¹⁷ See, e.g., Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Jan. 8, 2025) (on file in FOIA Control No. 2025-000525-A).

¹¹⁸ See, e.g., Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Apr. 29, 2022) (on file in FOIA Control No. 2022-000602).

¹¹⁹ See, e.g., Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Oct. 26, 2022) (on file in FOIA Control No. 2023-000181).

¹²⁰ See, e.g., Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Dec. 14, 2022) (on file in FOIA Control No. 2023-000326).

¹²¹ See, e.g., Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Oct. 26, 2022) (on file in FOIA Control No. 2023-000181).

¹²² *Mead Data Cent., Inc. v. Dep't of the Air Force*, 566 F.2d 242, 260 (D.C. Cir. 1977).

¹²³ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Apr. 29, 2022) (on file in FOIA Control No. 2022-000602) ("The withholdings made are consistent with our responsibility to determine if any segregable material can be released. To the extent non-exempt material is not released, it is inextricably intertwined with exempt material.").

59. Chelmowski also raises several arguments related to litigation involving Chelmowski and previous FOIA requests.¹²⁴ Specifically, he asserts the agency is required to provide all responsive records related to litigation,¹²⁵ seemingly on the mistaken assumption that the agency waived any right to withhold documents used in litigation under FOIA Exemption 5.¹²⁶ Exemption 5 encompasses traditional evidentiary privileges, including the attorney work-product privilege which covers documents or memoranda prepared by an attorney in preparation or contemplation of litigation.¹²⁷ As such, Exemption 5 may be invoked where disclosure “would reveal . . . attorneys’ thought processes and litigation strategy and would reveal the agency’s deliberations.”¹²⁸ As Exemption 5 was specifically crafted to address responsive records that might be developed in the course of litigation, Chelmowski’s argument that we are required to disclose all such responsive records is contradicted by the operation of FOIA Exemption 5.¹²⁹

60. Moreover, with respect to the claim that the agency has waived any applicable privileges by using certain documents in litigation, we note that the attorney work-product doctrine applies to specific documents and the “release of certain documents” does not waive the applicability of that doctrine “as to other documents.”¹³⁰ That is, even if a final agency document was provided in litigation, privileges such as attorney work product may still attach to drafts of such documents and thus qualify for protection under FOIA Exemption 5.

61. Chelmowski’s assertion that the agency’s withholdings were inadequate because OGC and OMD failed to provide a detailed “Vaughn Index” of withheld documents fails as a matter of law. The “Vaughn Index” catalog is specific to the FOIA litigation context and is not required as part of an initial FOIA response.¹³¹

62. Finally, we understand Chelmowski to allege that, because the Commission did not produce records that Chelmowski believes to exist, it follows that the Commission or its staff must have engaged in some form of malfeasance or otherwise covered up agency misconduct. This insinuation is baseless. Chelmowski provides no cognizable support for this bald assertion; neither does the record now before us. In short, there is no evidence to suggest that the Commission or its staff withheld or redacted

¹²⁴ See Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025); Application for Review, FOIA Control No. 2024-000998-A (Jan. 17, 2025).

¹²⁵ See Application for Review, FOIA Control No. 2024-000998-A (Jan. 17, 2025).

¹²⁶ See Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025).

¹²⁷ *Hickman v. Taylor*, 329 U.S. 495, 509-10 (1947).

¹²⁸ *Wolfson v. United States*, 672 F. Supp. 2d 20, 30 (D.D.C. 2009).

¹²⁹ On one occasion, Chelmowski describes specific documents referenced in a declaration filed in the aforementioned FOIA litigation and argues the agency must provide these responsive documents. See Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025). OGC and OMD, however, did not disclose any documents in response to this request because the scope of the request created an undue burden for the agency. See Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Jan. 8, 2025) (on file in FOIA Control No. 2025-000525-A). The argument raised is therefore moot.

¹³⁰ *Mobil Oil Corp. v. EPA*, 879 F.2d 698, 701 (9th Cir. 1989); see, e.g., *Jud. Watch, Inc. v. DOJ*, No. 22-5209, 2023 WL 4397354, at *4 (D.C. Cir. July 7, 2023) (holding that FBI affidavits filed in litigation do not waive exemptions as to records underlying affidavits); *Shinnecock Indian Nation v. Kempthorne*, 652 F. Supp. 2d 345, 363-69 (E.D.N.Y. 2009) (disagreeing with plaintiff’s assertion that disclosure of certain attorney work-product in redacted document compels disclosure of entire document).

¹³¹ See *Khine v. DHS*, 943 F.3d 959, 967 (D.C. Cir. 2019) (“[W]e do not require the agency at this stage . . . to provide a document-by-document Vaughn index, which this court has recognized is a ‘judicial rule’ that ‘governs litigation in court and not proceedings before the agency.’” (quoting *NRDC v. NRC*, 216 F.3d 1180, 1190 (D.C. Cir. 2000))); *Schwarz v. U.S. Dept of Treasury*, 131 F. Supp. 2d 142, 147 (D.D.C. 2006).

documents that contained evidence of fraud or malfeasance by the agency and the agency adheres to all document retention requirements as proscribed by law.

C. OGC and OMD Reasonably Consolidated Chelmowski's Duplicative and Overlapping FOIA Requests Under Consolidated Control No. 2021-000214 and Their Rolling Production Process Was Appropriate

63. As noted above, it is Chelmowski's practice to submit numerous FOIA requests many of which relate to either Chelmowski himself or the agency's disposition of one of his numerous FOIA requests. As a consequence, addressing Chelmowski's FOIA requests frequently requires Commission staff to untangle and resolve multiple levels of interlocking FOIA requests¹³² and addressing his numerous FOIA requests becomes increasingly laborious over time, placing significant burdens on Commission resources. OGC and OMD, therefore, have taken several administrative actions to try and reduce the burdens of administering so many overlapping FOIA requests by consolidating 21 related requests under Control No. 2021-000214, utilizing a rolling production to comply with the breadth of the intricate requests, and dismissing those FOIA requests that would result in duplicative searches and productions.

64. Chelmowski is apparently dissatisfied with OGC's and OMD's administrative actions and believes that these decisions are grounds for Commission review separate and apart from his challenges to the lawfulness of the search and the productions themselves. We disagree.

65. *Consolidation.* Chelmowski asserts that the decision to consolidate 21 of his FOIA requests unlawfully "expanded" those prior requests to "fraudulent[ly] . . . conceal . . . corruption, fraud, perjury, torts, malfeasance, [and] criminal acts."¹³³ Chelmowski's statements are unsupported and cannot be credited.¹³⁴

66. It is indisputable that Chelmowski's habit of filing many FOIA requests on virtually the same subject in conjunction with other FOIA requests and demanding records regarding the administration of those same FOIA requests placed increasing and wholly unreasonable administrative burdens on Commission staff. When staff contacted Chelmowski to try and address the situation,¹³⁵ Chelmowski neither constructively addressed the undue burden that his requests presented for the agency nor even denied that they posed an undue burden.¹³⁶ Instead, he responded hostilely with unsubstantiated, and wholly self-constructed, allegations of misconduct on the part of Commission staff.¹³⁷

67. As discussed above, we find no basis to fault OGC and OMD staff's administration of Chelmowski's numerous FOIA requests. The decision to consolidate Chelmowski's FOIA requests was entirely consistent with the requirements of the FOIA and the Commission's own rules. We therefore

¹³² For example, FOIA Request No. 2023-000475 sought records related to a FOIA appeal, Control No. 2023-000326, which itself sought records related to a previous FOIA request, Control No. 2022-000445.

¹³³ Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025).

¹³⁴ We also note that the Commission does not view favorably casual and unsupported allegations of "corruption, fraud, perjury, torts, malfeasance, [and] criminal acts" on the part of its staff. Application for Review, FOIA Control No. 2025-000525-A (Jan. 15, 2025). The Commission is entertaining Chelmowski's substantive disagreements with the actions of its staff, but it does not condone such unsubstantiated and disrespectful statements about its staff.

¹³⁵ See, e.g., Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Sept. 30, 2024).

¹³⁶ Email from James Chelmowski, to Brendan McTaggart, Attorney Advisor, FCC (Dec. 3, 2024 12:02 PM EST); see Email from James Chelmowski, to Brendan McTaggart, Attorney Advisor, FCC (Dec. 4, 2024 6:47 AM EST); see also Email from James Chelmowski, to Brendan McTaggart, Attorney Advisor, FCC (Dec. 5, 2024 7:11 AM EST); Email from James Chelmowski, to Brendan McTaggart, Attorney Advisor, FCC (Dec. 6, 2024 4:48 PM EST).

¹³⁷ *Id.*

confirm the decision to consolidate 21 of Chelmowski's FOIA requests and to dismiss the consolidated requests as unduly burdensome.

68. *Rolling Production.* Chelmowski appears to challenge the speed at which the Commission has responded to his various FOIA requests. Specifically, he complains the FOIA requires agencies to make responsive documents available immediately and seemingly alleges the agency has failed to produce documents promptly.¹³⁸ On other occasions, Chelmowski argues that OGC and OMD is using the Commission's FOIA appeal and application for review process to delay producing responsive records that he alleges were required to be disclosed by a date certain.¹³⁹ These arguments are without merit.

69. The FOIA provides that "upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request"¹⁴⁰ but stops short of imposing a strict timeline for disclosure. Courts have acknowledged that after processing the FOIA requests, agency staff may require additional time to redact, duplicate or assemble production.¹⁴¹ Likewise, for voluminous record requests, courts have approved the use of rolling productions if necessary to adhere to the promptness requirement.¹⁴² As OGC and OMD described in the response letters, the scope of the requests and the expansive universe of responsive materials made completion of the search and the production of all documents by the date of the response infeasible. The resulting rolling production balanced an efficient use of agency staff resources with the ability to timely disclose documents to Chelmowski.

70. *Duplicative Requests.* Additionally, Chelmowski challenges OMD's findings that certain of his requests are duplicative of earlier requests and its decision to administratively close certain FOIA requests accordingly.¹⁴³ Relatedly, for requests where OMD did not close a request as duplicative, but OGC or OMD did withhold from production records that had been previously produced to Chelmowski, he denies having received such previously produced records.¹⁴⁴

71. The record here demonstrates otherwise. In Control No. 2023-000874, Chelmowski initially sought records related to four other FOIA requests filed in 2015 and 2016¹⁴⁵ and in Control No. 2023-000894, Chelmowski sought records related to a 2017 FOIA request.¹⁴⁶ OMD, thereafter, determined that these two requests overlapped wholly with two other FOIA requests—namely, Control Nos. 2021-000214 and 2022-000445—which sought all agency records between 2011 and 2022 that mentioned Chelmowski by name.¹⁴⁷ It is reasonable that a comprehensive search for Chelmowski's last

¹³⁸ See Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023).

¹³⁹ See Application for Review, FOIA Control No. 2023-000894 (Sept. 29, 2023); Application for Review, FOIA Control No. 2023-000874 (Sept. 21, 2023).

¹⁴⁰ 5 U.S.C. § 552(a)(6)(C)(i).

¹⁴¹ *Citizens for Resp. & Ethics in Wash. v. FEC*, 711 F.3d 180, 189 (D.C. Cir. 2013).

¹⁴² *S. Yuba River Citizens League v. Nat'l Marine Fisheries Serv.*, Case No. 06-2845, 2008 WL 2523819 (E.D. Cal. June 20, 2008).

¹⁴³ See Application for Review, FOIA Control No. 2023-000894 (Sept. 29, 2023); Application for Review, FOIA Control No. 2023-000874 (Sept. 21, 2023).

¹⁴⁴ See Application for Review, FOIA Control No. 2023-000894 (Sept. 29, 2023); Application for Review, FOIA Control No. 2023-000874 (Sept. 21, 2023).

¹⁴⁵ FOIA Request No. 2023-000792, FOIAonline Request (Aug. 30, 2023) (on file in FOIA Control No. 2023-000874).

¹⁴⁶ FOIA Request No. 2023-000492, FOIAonline Request (Apr. 12, 2023) (on file in FOIA Control No. 2023-000894).

name in any documents over an 11-year period would also uncover any documents related to Chelkowski's FOIA submissions for a subset of those years and we agree with OMD's determination that these FOIA requests were duplicative.¹⁴⁸

D. Chelkowski's Remaining Substantive Arguments Fail

72. The AFRs also raise certain arguments that pertain only to an individual FOIA request. We find these arguments equally unconvincing and address them in turn below.

73. *Chelkowski's Personal Information – FOIA Control No. 2022-000602.* Chelkowski asserts that the agency "cannot conceal the Requester's name and personal identification in the responsive records when he provided permission to disclose under the Privacy Act."¹⁴⁹ Chelkowski's argument on this point is a mere two sentences and does not articulate a legal error that would warrant review of OGC's actions in response to Control No. 2022-000602. We note nevertheless that a waiver of rights under the Privacy Act by Chelkowski is not necessarily controlling for purposes of the FOIA as the Privacy Act and FOIA are different statutes with different procedures, requirements, and standards. We also note that even if OGC improperly redacted Chelkowski's name, any such redaction would have been harmless error. Chelkowski is no doubt well aware of his own name and other identifying information, such that redacting that information would not mask any information unknown to him.

74. *Disclosure of the Right to Appeal – FOIA Control No. 2023-000326.* Chelkowski alleges that the corresponding response letter was legally deficient—and therefore could not represent a final disposition of his request—because it failed to contain boilerplate language regarding Chelkowski's right to appeal, the right to seek Office of Government Information Service mediation, and the right to consult the FCC FOIA Public Liaison.¹⁵⁰ We acknowledge the FOIA counsels that the response to any request for records must include the described notices.¹⁵¹ However, given the voluminous nature of the instant request, the response letter in question was only an *initial* response letter and clearly indicated that OGC would "provide a full legal analysis . . . in a response accompanying the final production in this matter."¹⁵² As the request in Control No. 2022-000445 was being processed on a rolling basis, it was not ripe for appeal and therefore the notice requirements would have been premature. Even assuming, however, that the appeal rights language should have been included in this initial response, their omission was harmless error; Chelkowski, having filed numerous appeals previously, had actual notice of these rights and indeed exercised them by filing the instant AFRs.

75. *Fee Waivers – FOIA Control No. 2024-000998-A.* Chelkowski argues that the agency "cannot demand me to pay for the same documents located and reviewed" in previous requests.¹⁵³ As Chelkowski is aware, the FOIA and the Commission's rules require that in most cases when the Commission receives a request for documents, it will "assess charges that recover the full direct cost for searching for, reviewing and duplicating the records sought"¹⁵⁴ unless Chelkowski requests a fee

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¹⁴⁷ FOIA Request No. 2022-000445, FOIAonline Request (May 9, 2022) (on file in FOIA Control No. 2023-000326).

¹⁴⁸ As to Chelkowski's allegation that he has not received responsive documents as part of previous responses, we note that over a four-year period, OGC and OMD produced 4,548 pages of responsive documents. Letter from Jeffrey S. Steinberg, Assistant General Counsel, to James Chelkowski (Jan. 8, 2025) (on file in FOIA Control No. 2025-000525-A). An additional 2,400 pages were withheld under FOIA Exemption 5. *See id.*

¹⁴⁹ *See* Application for Review, FOIA Control No. 2022-000602 (July 14, 2022).

¹⁵⁰ *See* Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023).

¹⁵¹ 5 U.S.C. § 552(6).

¹⁵² Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelkowski (Dec. 14, 2022) (on file in FOIA Control No. 2023-000326).

¹⁵³ *See* Application for Review, FOIA Control No. 2024-000998-A (Jan. 17, 2025).

waiver.¹⁵⁵ The record in this matter indicates that, consistent with agency practice, OGC staff, upon receipt of the initial request, estimated that the search time required to fulfill the original request would result in fees of \$244.58.¹⁵⁶ As this was in excess of Chelmowski's initial \$25.00 fee authorization provided in the request, OGC staff engaged Chelmowski to clarify the request and discuss the estimated fees.¹⁵⁷ Only "[a]fter receiving the necessary clarification regarding both the nature of [the] request and [Chelmowski's] willingness to authorize additional fees" did OGC undertake the search for responsive records.¹⁵⁸ As discussed above, OGC and OMD took pains to ensure that they did not produce duplicative records. Moreover, Chelmowski offers no evidence that the cost estimate to which he agreed included costs associated with producing duplicative records.¹⁵⁹

E. Seven of Chelmowski's AFRs Are Fatally Defective

76. Finally, we also dismiss seven of Chelmowski's AFRs as procedurally defective. Generally, our rules delegate authority to the General Counsel to summarily dispense with FOIA AFRs which are untimely, repetitious or fail to articulate specific grounds for review.¹⁶⁰ Given that Chelmowski's other AFRs are now before the Commission and to safeguard agency staff resources, we now also address those AFRs which are procedurally infirm.

77. First, we note that four of the AFRs, Control Nos. 2024-000303-A, 2024-000227-A, 2024-000256-A, and 2024-000409-A, fail to concisely and plainly state the questions presented for review and fail to specify the factors which warrant Commission consideration required by section 1.115(b)(2) of our rules.¹⁶¹ Indeed, these AFRs do not identify any potential error on the part of OGC and OMD but merely restate the original corresponding FOIA request in full.¹⁶² We thus dismiss these four applications for review under section 1.115(b)(2).¹⁶³

78. Two other AFRs are dismissed as duplicative of two other AFRs that are denied herein. Specifically, Control No. 2025-000388-A is an appeal of Chelmowski's FOIA request Control No. 2024-000787, which Chelmowski had also appealed under Control No. 2024-000787-A.¹⁶⁴ Likewise, Control

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¹⁵⁴ 47 CFR § 0.470(a)(1)(i).

¹⁵⁵ 47 CFR § 0.470(e).

¹⁵⁶ Letter from Jeffrey S. Steinberg, Assistant General Counsel, FCC, to James Chelmowski (Oct. 28, 2024) (on file in FOIA Control No. 2024-000998-A).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* We also note that the fees cover agency staff resources spent conducting the *search* for responsive materials. 47 CFR § 0.470. To the extent Chelmowski is alleging the agency required payment for the search of duplicative records, this is the result of his decision to request documents related to his previous FOIA requests. Any fees incurred in this cyclic proceeding are Chelmowski's to bear.

¹⁵⁹ See Email from James Chelmowski, to Stephanie Kost, FOIA Public Liaison, FCC (Oct. 2, 2024 12:41 PM EDT).

¹⁶⁰ 47 CFR § 0.251(j).

¹⁶¹ 47 CFR § 1.115(b)(2).

¹⁶² See Application for Review, FOIA Control No. 2024-000303-A (Nov. 6, 2023) (identical to FOIA Request No. 2023-000599 (June 1, 2023) (on file in FOIA Control No. 2024-000303-A)); Application for Review, FOIA Control No. 2024-000227 (Jan. 26, 2024) (identical to FOIA Request No. 2024-000083 (Nov. 13, 2023) (on file in FOIA Control No. 2024-000227)); Application for Review, FOIA Control No. 2024-000256 (Feb. 1, 2024) (identical to FOIA Request No. 2024-000225 (Jan. 26, 2024) (on file in FOIA Request No. 2024-000256)); Application for Review, FOIA Control No. 2024-000409 (Feb. 7, 2024) (identical to FOIA Request No. 2023-000871 (Sept. 21, 2023) (on file in FOIA Control No. 2024-000409)).

¹⁶³ 47 CFR § 0.251(j).

No. 2022-000445-A is an appeal of his FOIA request Control No. 2022-000445, which he had appealed under Control No. 2023-000326.¹⁶⁵ The issues raised in Control Nos. 2025-000388-A and 2022-000445-A are identical to the issues raised in Control Nos. 2024-000787-A and 2023-000326. We address the merits of Control Nos. 2024-000787-A and 2023-000326 above and thus dismiss Control Nos. 2025-000388-A and 2022-000445-A as duplicative.¹⁶⁶

79. Finally, Chelmowski's AFR in Control No. 2023-000876 is dismissed as untimely. Chelmowski's underlying FOIA request was submitted April 5, 2023 and OGC responded October 26, 2023. Chelmowski, however, filed an AFR, Control No. 2023-000876, on September 21, 2023, a month prior to OGC's response. Given there was no agency action to challenge, Chelmowski cannot have raised any cognizable claim of error with respect to that response. Therefore, we dismiss Control No. 2023-000876 as untimely.¹⁶⁷

IV. ORDERING CLAUSES

80. For the foregoing reasons, IT IS ORDERED that the Applications for Review submitted in FOIA Control No. 2022-000602, FOIA Control No. 2023-000181, FOIA Control No. 2023-000326, FOIA Control No. 2023-000461, FOIA Control No. 2023-000872, FOIA Control No. 2023-000874, FOIA Control No. 2023-000894, FOIA Control No. 2024-000787-A, FOIA Control No. 2025-000154-A, FOIA Control No. 2025-000525-A, FOIA Control No. 2024-000998-A, and FOIA Control No. 2025-000155-A ARE EACH DENIED; and

81. IT IS FURTHER ORDERED that the Applications for Review submitted in FOIA Control No. 2024-000303-A, FOIA Control No. 2024-000227-A, FOIA Control No. 2024-000256-A, FOIA Control No. 2024-000409-A, FOIA Control No. 2025-000388-A, FOIA Control No. 2022-000445-A, and FOIA Control No. 2023-000876 ARE EACH DISMISSED WITH PREJUDICE.

82. The following officials are responsible for this action: Chairman Carr and Commissioners Gomez and Trusty.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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¹⁶⁴ Compare Application for Review, FOIA Control No. 2025-000388-A (Dec. 20, 2024), with Application for Review, FOIA Control No. 2024-000787-A (Dec. 20, 2024).

¹⁶⁵ Compare Application for Review, FOIA Control No. 2022-000445-A (Dec. 20, 2024), with Application for Review, FOIA Control No. 2023-000326 (Feb. 8, 2023). Additionally, we note that FOIA Control No. 2022-000445-A does not raise any arguments on appeal but is also a mere restatement of the underlying FOIA request, FOIA Control No. 2022-000445. As described above, this serves as an additional basis for dismissal of the AFR.

¹⁶⁶ 47 CFR § 0.251(j).

¹⁶⁷ *Id.*