



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4311 • Fax: (907) 343-4313 • <http://www.muni.org/assembly>

## Anchorage Assembly Leadership

September 21, 2023

Mr. Daniel Smith



Re: Subpoena to appear and produce documents at September 29 Worksession.

Dear Mr. Smith:

I am writing in connection with the findings of the Municipal Ombudsman's final investigative report concerning the April 11 election complaint you filed in your capacity as an election observer. As I'm sure you know, the Assembly has a duty to understand the circumstances surrounding the events described in the Ombudsman's investigation and to propose amendments to the Anchorage Municipal Code to protect future municipal elections from any possible subversion. As such we are continuing our inquiry into the facts underlying the Ombudsman's report (the "**Inquiry**"). Today, I write to notify you of the Assembly's intent to hold a worksession to address this issue on **September 29, 2023 at 11:15 a.m.** and to direct your attention to the attached **subpoena to appear and produce**.

Additionally, the purpose of this letter is to notify you of your obligation to take reasonable steps to preserve and retain all hard copies and electronically stored information ("ESI") relevant to this Inquiry.

We believe that, among other information, the following information is relevant to this Inquiry and must be preserved:

- (a) Documents and records relevant and related to the creation of the internal Policy Statement created by the IT Department of the Municipality of Anchorage and relied upon in your April 11<sup>th</sup> Complaint;
- (b) Documents and records relevant and related to any election complaint filed in the 2023 Regular Municipal Election;
- (c) Records of communications discussing the 2022 or 2023 Regular Election, including but not limited any communications between or among you, Ms. Graham, and any email address associated with the "anchorageak.gov" domain; and
- (d) Records of communications with or among public officials, including but not limited to the following individuals:

- (i) Dave Bronson;
- (ii) Larry Baker;
- (iii) Kent Kohlhase;
- (iv) Amy Demboski
- (v) Mario Bird;
- (vi) Adam Trombley;
- (vii) Alexis Johnson;
- (viii) Brice Wilbanks; and
- (ix) Marc Dahl

To fulfill your preservation obligation, all ESI must be preserved intact and without modification, and you must take reasonable steps to preserve all hard copy documents and ESI relevant to this Inquiry, including, but not limited to:

- (a) Suspending your data destruction and backup recycling practices.
- (b) Retaining software, hardware, or other information required to access or view the ESI, such as:
  - (i) identification codes;
  - (ii) passwords;
  - (iii) decryption applications;
  - (iv) network access codes;
  - (v) manuals; and
  - (vi) user instructions.
- (c) Taking special action for:
  - (i) archived or deleted ESI;
  - (ii) ESI stored in a database;
  - (iii) computer logs; and

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(iv) metadata, including the date ESI was created, the date ESI was last modified, and the name of the individual who created the ESI.

(d) Taking any other reasonable steps necessary to prevent the destruction, loss, override, or modification of relevant data, either intentionally or inadvertently, such as through modification of your document retention practices.

The foregoing list is not exhaustive, and you must preserve all information relevant to this Inquiry.

Your failure to preserve relevant data may constitute spoliation of evidence, which may subject you to sanctions. We trust that you will preserve for the duration of this Inquiry all relevant hard copy documents and ESI. In the event of a dispute arising out of your failure to preserve documents, we will rely on this letter in court as evidence of our request and notice of your preservation obligations.

We look forward to your attendance at the September 29, 2023 worksession. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "Christopher Constant". The signature is written in a cursive style with a large, sweeping flourish at the end.

Christopher Constant, Assembly Chair



# Municipality of Anchorage

Christopher Constant  
*Chair*

Anna Brawley  
Karen Bronga  
Kevin Cross  
Zac Johnson  
George Martinez



Dave Bronson  
*Mayor*

Meg Zaletel  
*Vice-Chair*

Scott Myers  
Kameron Perez-Verdia  
Felix Rivera  
Randy Sulte  
Daniel Volland

Jamie Heinz, Municipal Clerk

Jasmine Acres, Deputy Municipal Clerk

## SUBPOENA TO APPEAR & PRODUCE DOCUMENTS IN THE NAME OF THE ANCHORAGE ASSEMBLY

Pursuant to the authority provided under Article IV of the Anchorage Municipal Charter, Section 2.30.085 of the Anchorage Municipal Code, and Assembly Resolution 2023-305:

To:  
Mr. Daniel Smith

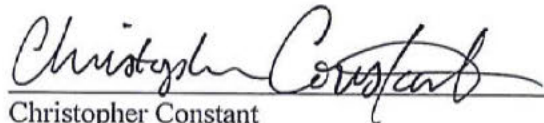


YOU ARE HEREBY ORDERED TO APPEAR before the Anchorage Assembly at **11:15 a.m. on Friday, September 29, 2023**, in the Assembly Conference Room, Suite 155 of City Hall, 632 West 6th Avenue, Anchorage, Alaska, to testify on matters before the Assembly concerning the creation, posting, and transmission of a policy statement regarding the use of USB devices in municipal equipment, and the manner in which that internal policy statement was used to challenge the results of the 2023 Regular Municipal Election.

YOU ARE HEREBY ORDERED TO BRING WITH YOU for the Assembly's examination in a public worksession, and to be accepted into the record, the documents and records listed in the Appendix to this subpoena.

Failure to obey the commands of this subpoena may be punished by contempt proceedings, in addition to any other remedy available by law.

This subpoena is issued this day, September 20, 2023, upon authorization of:



Christopher Constant  
Chair of the Assembly

ATTEST:

  
Municipal Clerk

SUBPOENA TO APPEAR & PRODUCE DOCUMENTS

To: Mr. Daniel Smith

APPENDIX

INSTRUCTIONS

1. The term “communication” shall be interpreted in its broadest sense and means the transmittal of information by any means including oral, written, or electronic.
2. The term “public official” means and includes those people employed by the Municipality of Anchorage in a part-time, full-time, or contract capacity.
3. The term “documents” means and includes, without limitation, all written or graphic matter of every kind and description, however produced or reproduced, whether draft or final, original or reproduction, internal or otherwise, whether stored in tangible, electric, mechanical, or electronic form or representation of any kind.
4. The term “relating to” or “related to” means referring to, reflecting, concerning, or pertaining to in any manner, logically, factually, indirectly, or directly to the matter discussed.
5. Documents, communications, and records must be produced in a form that is reasonably usable, such PDFs or native file.
6. If you object to a request on the ground of privilege, please produce the requested document with redaction of the material over which you claim privilege. Please annotate, either on the document itself or on an accompanying redactions log, uniquely identifying the privilege asserted, and the holder of the privilege making the assertion.

RECORDS REQUESTED

1. Any documents relevant or related to the election complaints filed by Ms. Sami Graham on April 11, 2023, and/or presented by Ms. Graham to the Election Commission at the April 20, 2023 public session of canvass;
2. Any documents relevant or related to the creation, publication, or distribution of the Department of Information Technology Policy Statement Concerning Access To or Connection of Removeable Storage (USB) Devices;
3. Any record of communication or correspondence to, from, between, or among any current or former public official, including but not limited to the Mayor, the Municipal Manager, the Chief of Staff, IT Director any of their deputies, or contract employees, discussing complaints or allegations of misconduct in either the 2022 or 2023 Regular Election; and
4. Records of any communications or correspondence to, from, between, or among any current or former public official, including but not limited to the Mayor, the Municipal Manager, the Chief of Staff, any of their deputies, contract employees or any other municipal employee and Ms. Graham.