

MUNICIPALITY OF ANCHORAGE



ASSEMBLY MEMORANDUM

No. AM 912-2023

Meeting Date: November 21, 2023

1 **From: Assembly Chair Constant and Vice Chair Zaletel**

2
3 **Subject: Report of Assembly Inquiry Concerning the April 11 Election**
4 **Complaint and Creation of an ITD Policy.**

5
6 The Assembly recently conducted a legislative inquiry into the facts and
7 circumstances surrounding the creation, posting, and distribution of an internal ITD
8 policy statement and the role that statement played in a complaint filed questioning
9 the integrity of the 2023 Regular Election.

10
11 The Assembly's inquiry was not intended to be, nor did it function as, a criminal
12 investigation. However, to the extent necessary to craft appropriate legislation, the
13 inquiry did conduct additional fact-finding.

14
15 We have prepared the attached report to assist the Assembly in its duty to
16 understand, apply, and propose revisions to the laws that govern the administration
17 and certification of elections. Based on the evidence presented, the report proposes
18 the following findings and recommendations for the Assembly's approval:

19
20 **Finding 1.** The public may be inadequately protected from the possibility of
21 municipal resources being used to interfere with an election.

22 **Recommendation 1.** The Assembly should make misuse of municipal
23 resources for partisan purposes, including to interfere with an election, a
24 misdemeanor crime.

25
26
27 **Finding 2.** Existing election-complaint forms can lead to ambiguity about
28 whether a complainant is seeking to overturn an election.

29 **Recommendation 2.** The Assembly should approve revised complaint forms
30 that require a complainant to specify with particularity the grounds for the
31 complaint, and the relief they are requesting.

32
33
34 **Finding 3.** The Election Commission's role in hearing complaints has evolved
35 beyond Code provisions and should be clarified.

36 **Recommendation 3.** The procedures governing the Election Commission's
37 review of election concerns and complaints should be clarified to make clear
38 that, prior to election certification and absent a specific "request" from the
39 Assembly to investigate a particular issue, the Election Commission's task is to
40 recommend to the Assembly whether the Clerk's resolution of complaint or
41 concern leaves unanswered a genuine issue of such significance and immediacy
42 that the Assembly should not certify the election, or should delay doing so.
43

1
2 **Finding 4.** The scope of the Assembly’s subpoena power should be clarified
3 to eliminate any argument that the power can be exercised for only for a subset
4 of valid purposes.

5 **Recommendation 4.** Municipal Code should be amended to state more
6 clearly that the Assembly may exercise its subpoena powers for any valid
7 legislative purpose.
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10 **Respectfully submitted,**

11
12 Reviewed by: Assembly Counsel’s Office

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14 Respectfully submitted: Christopher Constant, Assembly Chair
15 District 1, North Anchorage

16
17 Meg Zaletel, Assembly Vice Chair
18 District 4, Midtown



ASSEMBLY LEADERSHIP

DATE November 16, 2023

TO Assembly Members, Members of the Public

FROM Christopher Constant, Assembly Chair
Meg Zaletel, Assembly Vice Chair

SUBJECT **Report of Assembly Inquiry Concerning the April 11 Election Complaint and Creation of an ITD Policy**

The creation of policies after a properly conducted election that enable complaints with the power to alter or overturn those election results is hugely destabilizing to voters' faith that the administration can be trusted to keep its thumb off the scale when it comes to overseeing future elections. At the least, the policy and complaint appear to be a tandem effort to sow doubt in election results; at worst, they are a means by which the sitting administration could use its administrative power to try and throw out the results of a duly conducted election. It's a playbook that is seeing increasingly frequent use across the U.S., as partisans who are unable to convince voters seek instead to change the rules — sometimes after the fact — in a desperate bid to change or disqualify the outcome of election contests.

That's about as undemocratic as it gets. And Anchorage residents deserve a full accounting of any attempt to make it happen here.

ANCHORAGE DAILY NEWS Editorial: *Anchorage Residents Deserve To Know: What Was That Shady Municipal Election Complaint About?* (June 17, 2023)¹

Residents of Anchorage were rightly concerned by reports that an election complaint was filed in the April 2023 Anchorage Regular Municipal Election that: (1) quoted, verbatim, the language of an "ITD Policy Statement," not readily available to the public, that had been posted

¹ Available at: <https://www.adn.com/opinions/editorials/2023/06/17/editorial-anchorage-residents-deserve-to-know-what-was-that-shady-municipal-election-complaint-about/>

to an internal website shortly before the complaint was submitted; (2) alleged that the “policy” had been violated; and (3) asserted that the alleged violation could “change the outcome of the election,” possibly “nullifying the results.”

As the body vested by the Anchorage Municipal Charter, Article XI, with the duty and responsibility to run municipal elections; as the body whose employees are delegated the task of conducting municipal elections; and as the body vested by the Municipal Charter with the legislative power to create and revise the ordinances that apply to—and safeguard—our local elections, the Assembly thereafter took up the call to obtain the “full accounting” of what happened here.

This Report outlines the substance of the Assembly’s inquiry. It includes a timeline of key actions and activities, and outlines findings and proposed legislative responses related to: (1) use of municipal resources to interfere with an election; (2) election complaint forms; (3) the processing of election complaints by the municipal Election Commission, and (4) the Assembly’s Subpoena Power. Key documents are provided in appendices.

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EXECUTIVE SUMMARY

At the outset of the Assembly's inquiry, records provided by the Ombudsman and the Administration established:

- that on April 11, 2023 then-director of the IT department Marc Dahl instructed IT staff to publish an "ITD Policy Statement" document regarding "Removable Storage (USB) drives" to an internal municipal webpage, not available to the public,²
- that, shortly after the policy was posted, Marc Dahl emailed a copy of that policy to Sandra "Sami" Graham, a former chief of staff to the mayor, who was then also serving as an election observer,³ and
- that, after receiving the email from Mr. Dahl, Ms. Graham filed on behalf of herself, Daniel Smith and John Henry, an election complaint that quoted the ITD policy statement verbatim; alleged that it had been violated; and listed in the section of the complaint form that called for the complainant to explain how the allegations "would change the outcome of the election if found to be true," that "it is completely possible" that violation of the policy could have led to "altering data . . . thereby nullifying the results of the election."⁴

For its part, the ITD Policy statement:

- was not a valid municipal-wide policy, in as much as it was not adopted in accordance with Municipal Policy and Procedures Document 1-1 (P&P 1-1),⁵

² See Appendix A-4, ITD Policy Statement: Access to or connection of Removable Storage (USB) devices.

³ See Appendix A-3, Email of Marc Dahl to Sami Graham (April 11, 2023 at 2:37pm).

⁴ See Appendix A-5, Sami Graham, Daniel E. Smith, John Henry, Renewed Complaint *Election Commission – Failure to Comply with Law or Alleged Illegal Election Practices* (April 11, 2023).

⁵ See Municipal Operating Policies and Procedures, P&P 1-1 (effective April 8, 1997), available at: <https://www.muni.org/Departments/Assembly/Documents/P%26P%2001-01.pdf>

- consisted of language taken from other draft IT policies, never finalized, that months earlier had failed to pass through the official Municipal Attorney, Office of Management and Budget, Municipal Manager, and Mayoral reviews that must be completed before a document becomes an official and valid “policy and procedure” document,⁶ and
- even if finalized as a valid Municipal Policy and Procedures Document would not have applied to operations at the MOA Election Center, given the Assembly’s long-standing position that, under the principle of separation of powers, the policies, procedures, and directives of the executive branch are only advisory to the legislative branch; and the particular rule, codified in local law, that Election Administrator, who is not an executive-branch employee, is responsible for election-related computer equipment.⁷

The known facts prompted questions regarding whether and to what degree a high-ranking municipal employee, possibly in collaboration with a former high-ranking municipal employee, may have used municipal resources to attempt to influence, or undermine public

⁶ See Appendix B, Municipality of Anchorage, Ombudsman, *Final Investigative Report Concerning Ombudsman Complaint 2023-0550*. Of note, the IT Department completed the P&P 1-1 process as recently as March 14, 2022, when the Mayor signed P&P 28-7, addressing password management.

⁷ See AMC 28.10.020 *Powers and duties of municipal clerk*:

...

- C. Pursuant to Charter § 11.02(a) and notwithstanding any other provision of this Code, the election administrator shall be responsible for the overall administration of municipal elections, including, but not limited to: application of election related information systems, election related systems standards and procedures, acquisitions of election related computer equipment, and related products and services. The election administrator shall receive municipal resources and support from executive branch departments in accordance with subsection 3.20.070G.

confidence in, a municipal election and its results—and whether Anchorage’s existing laws are adequate to address such a scenario. The Assembly undertook to further explore those questions.

To advance its inquiry, Assembly leadership: (1) requested and reviewed public documents,⁸ (2) requested public comment from individuals involved with or likely to have knowledge of the ITD policy or election complaint;⁹ (3) after witnesses declined to voluntarily provide testimony, issued subpoenas to individuals involved with the election complaint and/or ITD Policy: Marc Dahl, Sami Graham, Daniel Smith and John Henry¹⁰; and (4) received testimony from Ms. Graham, Mr. Smith and Mr. Henry.¹¹ Mr. Dahl never testified.

As outlined in fuller detail below, the inquiry resulted in the following proposed findings and policy recommendations:

Finding 1. The public may be inadequately protected from the possibility of municipal resources being used to interfere with an election.

The Ombudsman concluded that the “timing of events . . . supports the conclusion that Dahl initiated and directed the revision and posting of the OIT USB policy to provide support for a challenge to the April 4, 2023 Municipal election.”¹² Because Mr. Dahl refused to testify, the Assembly was unable to further test the Ombudsman’s conclusion. It remains uncontroverted and, in the absence of any evidence to the contrary, the Ombudsman’s conclusion is persuasive.

But whatever Mr. Dahl’s actual motivation, Assembly Leadership believes it must be clear in the local Election Code that municipal resources cannot be used to advance partisan electoral

⁸ See Appendix E.

⁹ See Appendices G, H, I and J.

¹⁰ See Appendix F; *id.*

¹¹ See Appendix K.

¹² See Appendix C, Ombudsman’s Final Investigative Report at 4.

purposes. Doing so is currently prohibited by Anchorage’s Code of Ethics,¹³ but penalties for violating the prohibition are not explicitly defined, and may be inadequate.

Recommendation 1. ***The Assembly should make misuse of municipal resources for partisan purposes, including to interfere with an election, a misdemeanor crime.***

Finding 2. **Existing election-complaint forms can lead to ambiguity about whether a complainant is seeking to overturn an election.**

The “renewed complaint” at issue in this inquiry was filed on a form that required complainants to provide an “explanation of how the concern would change the outcome of the election if found to be true.” The form did not require the complainants to specify the relief they were requesting from the Election Commission or Assembly. This led to significant discussion at the Election Commission about what, precisely, the Election Commission was being asked to do.¹⁴ Before the Election Commission, the lead complainant repeatedly indicated that she believed that the outcome of the election *could* have been affected,¹⁵ but reported to the Assembly that she “never stated that [she] wanted the election to be overturned.”¹⁶

Recommendation 2. ***The Assembly should approve revised complaint forms that require a complainant to specify with particularity the grounds for the complaint, and the relief they are requesting.***

¹³ See AMC 1.15.110 *Political activity*.

¹⁴ See, e.g., Appendix B, Recording of Anchorage Election Commission, Public Session of Canvas at 58, 1:04 (April 20, 2023) https://youtu.be/xl4b96_ZKCs?si=ztdmPyoSyo0IYWJd&t=3525

¹⁵ See *id.* at https://youtu.be/xl4b96_ZKCs?si=ztdmPyoSyo0IYWJd&t=3525 and https://youtu.be/xl4b96_ZKCs?si=gE7x32CntENVjIZ_&t=3944

¹⁶ See Appendix K, Worksession re Assembly Inquiry Concerning April 11 Election Complaint and Creation of ITD Policy (Sept. 29, 2023), available at: <https://www.youtube.com/live/Qgh9w6Xl1ts?si=XBKZr7iAJ-tJly2e&t=4248>

Finding 3.**The Election Commission’s role in hearing complaints has evolved beyond Code provisions and should be clarified.**

Formally, the April 11 election complaint was a “renewed complaint” that was filed with the Election Commission in accordance with the Election Observer’s handbook, which was first adopted by municipal ordinance, and later updated by Assembly resolution; the “renewed complaint” process was created in December 2022. Traditionally, the Election Commission has, in accordance with Anchorage’s local Election Code, adjudicated whether particular ballots should be counted, and generally recommended to the Assembly whether an election should be certified.¹⁷ The Code also anticipates that the Commission may, “[i]f requested by the assembly,” investigate election contests and report to the assembly its findings¹⁸; and the Code anticipates that the Commission might “report [to the Assembly] a failure to comply with the provisions of law or illegal election practices . . . sufficient to change the outcome of the election,” and thereby empower the Assembly to take remedial action.¹⁹ But the Assembly has not clearly established what the Commission is to do with “renewed complaints” and the Commission has only the powers conferred upon it by Code; moreover, the Commission is not well positioned to serve as an effective fact-finder if it is required to do so on the same timeline on which it must adopt its separate “report of the results of the commission’s ballot review.”²⁰

Recommendation 3.

The procedures governing the Election Commission’s review of election concerns and complaints should be clarified to make clear that, prior to election certification and absent a specific “request” from the Assembly to investigate a particular issue, the Election Commission’s task is to recommend to the Assembly whether the Clerk’s resolution of complaint or concern leaves unanswered a genuine issue of such

¹⁷ See, e.g., AMC 28.120.060 Duties; AMC 28.85 Public Session of Canvass.

¹⁸ See AMC 28.120.060A.4.

¹⁹ See AMC 28.85.030D.

²⁰ Cf. AMC 28.85.030 Completion of canvass; report on results.

significance and immediacy that the Assembly should not certify the election, or should delay doing so.

Finding 4. The scope of the Assembly’s subpoena power should be clarified to eliminate any argument that the power can be exercised for only for a subset of valid purposes.

The Assembly’s power to issue subpoenas was codified in 1991, and was intended at the time, and is understood today, to be similar in scope to the subpoena power possessed by the Alaska State Legislature.²¹ Members who originally adopted the ordinance wished to clarify that the Assembly had no intent of issuing subpoenas related to purely private matters, and consequently codified that the Assembly may compel by subpoena testimony “relating to a matter involving municipal funds and policy being considered.” In the course of its inquiry, the Assembly authorized, and Assembly leadership issued, four subpoenas, recognizing that the inquiry could and did inform both annual budgeting decisions, and numerous legislative policy considerations. Nevertheless, one of the subpoena recipients, through counsel, questioned whether the testimony sought by the Assembly actually related to “a matter involving municipal funds and policy,” and filed an action in Alaska Superior Court to quash the subpoena.²² That action was later withdrawn when the attorney’s client voluntarily agreed to answer questions at an Assembly worksession, but the dispute certainly could have led to additional delay and unwelcome legal expense.

Recommendation 4. Municipal Code should be amended to state more clearly that the Assembly may exercise its subpoena powers for any valid legislative purpose.

Legislative language to implement these recommendations is provided in the subsequent chapters of the report. Key documents are provided in Appendices.

²¹ See AO 91-15(S).
²² See Appendix H-3.

TIMELINE AND SCOPE OF INQUIRY

Concerns about the apparent involvement of the Municipality's Director of the Office of Information Technology in an election complaint surfaced at the April 20, 2023 Public Session of Canvass conducted by the Anchorage Election Commission, and were reported publicly on May 20, 2023.²³ The Assembly's inquiry began shortly thereafter.

In response to a complaint received by his Office, the Municipal Ombudsman also conducted an investigation and issued a Final Investigative Report on August 17, 2023.²⁴ The issuance of the report brought renewed interest in the topic.²⁵

The Assembly's inquiry consisted of: (1) obtaining and reviewing public records; (2) convening public worksessions, and (3) soliciting and compelling testimony, as detailed below.

I. Invitations to Appear

July 5, 2023

Advanced Notice of Questions to be Addressed at July 21 worksession, and invitation for members of the Administration to participate²⁶

²³ See, e.g. Emily Goodykoontz, *Former Top Aide To Mayor Challenged Anchorage Election Using Policy Quietly Added That Day By City IT Director*, ANCHORAGE DAILY NEWS (May 20, 2023), available at: <https://www.adn.com/alaska-news/anchorage/2023/05/20/former-top-aide-to-mayor-challenged-anchorage-election-using-policy-quietly-added-that-day-by-city-it-director/>

²⁴ See Appendix C.

²⁵ See, e.g., Emily Goodykoontz, *Ombudsman Refers Investigation Of Anchorage Election Challenge To State Office Of Special Prosecutions, Recommends Firing IT Director*, ANCHORAGE DAILY NEWS (August 19, 2023), available at: <https://www.adn.com/alaska-news/anchorage/2023/08/18/ombudsman-refers-investigation-of-an-anchorage-election-challenge-to-state-office-of-special-prosecutions-recommends-firing-it-director/>

²⁶ See Appendix D.

August 24, 2023	Invitation to Marc Dahl to participate in September 8 worksession on Municipal Ombudsman Investigative Report ²⁷
August 30, 2023	Through his attorney, Mr. Dahl declines to participate because "the Ombudsman has invoked the possibility of potential criminal allegations" ²⁸
September 1, 2023	Invitation to Sami Graham to participate in September 8 worksession on Municipal Ombudsman Investigative Report ²⁹

II. Assembly Action

September 12, 2023	Assembly adopts AR 2023-305 <i>A Resolution Of The Anchorage Assembly Approving The Use Of Subpoenas To Compel Testimony And Document Production Pursuant To Anchorage Municipal Code Section 2.30.085 And Authorizing Litigation To Enforce Compliance With Those Legislative Subpoenas</i> ³⁰
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III. Subpoenas

September 21, 2023	Letters and Subpoenas issued to Marc Dahl, Sami Graham, Daniel Smith and John Henry ³¹
September 27, 2023	Attorney for Marc Dahl indicates that Mr. Dahl cannot attend the Sept. 29 worksession because he is out of the country ³²
September 29, 2023	Attorney for Ms. Graham files action to quash subpoena; petition is withdrawn by end of day ³³

²⁷ See Appendix G-1.
²⁸ See Appendix G-2.
²⁹ See Appendix H-1.
³⁰ See Appendix F.
³¹ See Appendices G-3, H-2, I and J.
³² See Appendix G-4.
³³ See Appendix H-3.

IV. Worksessions

July 21, 2023	First Worksession re April 11 Election Complaint and Creation of ITD Policy Statement Regarding Removable Storage Devices; the Mayor’s Chief of Staff and Municipal Manager participate ³⁴
September 8, 2023	Worksession re Findings of Municipal Ombudsman’s Final Investigative Report; the Municipal Ombudsman and Municipal Attorney participate ³⁵
September 29, 2023	Additional Worksession; Daniel Smith and Sami Graham participate, and the municipal HR director participate ³⁶
October 6, 2023	Final worksession; John Henry participates ³⁷

V. Records Requests³⁸

July 10, 2023	Chair requests copies of records the Administration provided to the Ombudsman ³⁹
July 17, 2023	Administration provides responsive documents, with significant redactions ⁴⁰
August 18, 2023	Assembly counsel objects to the redactions ⁴¹
September 6, 2023	Assembly Leadership issues a second public records request (dated September 5) to the Administration ⁴²

³⁴ See Appendix K, <https://www.youtube.com/watch?v=yrejN64cMJM>
³⁵ See Appendix K, <https://www.youtube.com/watch?v=xB1RBNVNBLO>
³⁶ See Appendix K, <https://www.youtube.com/watch?v=Qgh9w6Xl1ts>
³⁷ See Appendix K, <https://www.youtube.com/watch?v=mEakcvL79m8>
³⁸ See generally Appendix E.
³⁹ See Appendix E-1.
⁴⁰ See *id.*
⁴¹ See Appendix E-2.
⁴² See Appendix E-3.

September 7, 2023	The Mayor’s office requests a narrowing and clarification of the public records request ⁴³
September 7, 2023	Assembly counsel clarifies and narrows the public records request ⁴⁴
September 11, 2023	The Mayor’s offices instructs Assembly Counsel to submit separate records requests to the HR and IT departments ⁴⁵
September 11, 2023	In response to July 10 request, Administration waives claims of deliberative process privilege and provides mostly unredacted documents ⁴⁶
September 25, 2023	Assembly counsel confirms that counsel complied with the request to submit additional records requests ⁴⁷
October 6, 2023	Records from the Mayor’s office are provided to Assembly Counsel in the form of a 1,993-page pdf; many of the records appear unrelated to the original request
October 10, 2023	Human Resources Department informs Assembly counsel that it has no responsive records
October 17, 2023	Assembly counsel flags apparent deficiencies in the production and asks follow-up questions ⁴⁸
October 24, 2023	The Mayor’s office responds to the follow-up questions ⁴⁹
October 26, 2023	Assembly counsel responds to the Mayor’s office with renewed requests for information
As of October 31, 2023	The Municipal IT Department continues to review the records request

⁴³ See Appendix E-4.

⁴⁴ See *id.*

⁴⁵ See *id.*

⁴⁶ See Appendix E-5.

⁴⁷ See Appendix E-6.

⁴⁸ See Appendix E-4.

⁴⁹ See *id.*

TBD

Should the Municipal IT Department fail to produce records as requested, the Assembly may take additional action

PROPOSED LEGISLATIVE RESPONSES BY FINDING

I. Use of Municipal Resources to Interfere with an Election

The Ombudsman’s Final Investigative Report noted that the ITD Policy quoted verbatim in the April 11 complaint was: (1) derived from an earlier policy drafting effort that had stalled as of January 2023; (2) renewed on the morning April 11, 2023 at the specific instigation of Marc Dahl, the then-Director of the Municipality’s Office of Information Technology; and (3) transmitted to the primary author of the April 11 election complaint by Marc Dahl approximately one hour after the policy was posted to an internal municipal website, inaccessible to the public.

As shown below, public records confirm this timeline.



Figure 1.0: The January draft is recirculated on the morning of April 11, 2023

From: Dahl, Marc <marcus.dahl@anchorageak.gov>
Sent: Tuesday, April 11, 2023 8:59 AM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: Re: Draft Round 2

I don't see any reference to thumb drives and data exchange on critical infrastructure

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Figure 1.1: Marc Dahl inquires about references to thumb drives

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 9:31 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: Draft Round 2

This is all that's on there...

- a. Access to or connection of Removeable Storage (USB) devices
 - i. Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after devices have been scanned for malware.
 1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)

Figure 1.2: Language regarding thumb drives is highlighted for Mr. Dahl

Date : 4/11/2023 10:09:58 AM
From : "Dahl, Marc" marcus.dahl@anchorageak.gov
To : "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;

Please update to be specific on who performs the scan. For critical infrastructure the scanning needs to be limited to Security, Infrastructure or Network team or pre-registered technically capable delegate

Would also put a requirement for submittal of a formal change management(emergency if needed) and follow IT Change management process if the thumb drive content is to deliver system updates, patches, malware remediation.

Figure 1.3: Mr. Dahl directs that the language be updated to require scans to be performed only by members of the OIT department

Date : 4/11/2023 12:16:00 PM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : Latest Draft for website.
Attachment : image001.png;

Getting close...

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

(Link to Change Management Procedures)

Figure 1.4: The change directed by Mr. Dahl is implemented

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:20 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: ITD Policy Statements

Good afternoon, Heather.

Can you please add a new link on this page....

<https://anchorageak.sharepoint.com/sites/CyberSecurity> called "ITD Policy Statements."

Then on the ITD Policy Statements page I would like to add this language to start off and then we can add other IT policy statements as well. All statements must be approved by the Director prior to posting. This is one Marc would like to put up as soon as possible.

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Figure 1.5: Staff is instructed to post the revised policy as "Marc would like this put up as soon as possible"

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:31 PM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: ITD Policy Statements

Good afternoon Mark,
Sure thing, the new page is at

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

I have added a link in the Additional Information and External Sites listing, please let me know what you would like to have adjusted.

Thank you!

Figure 1.6: The ITD Policy is posted to an internal website by no later than 1:31pm April 11

Date : 4/11/2023 2:37:00 PM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : IT USB Policy
Attachment : image001.png;

Published on the internal IT Security web page [ITD Policy Statements \(sharepoint.com\)](https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx)

ITD Policy Statements

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Figure 1.7: Marc Dahl emails the internally posted ITD policy to Sami Graham at 2:37pm

The Ombudsman concluded that timing of the ITD Policy’s development and publication, coupled with the interactions between Mr. Dahl and Ms. Graham, suggested Mr. Dahl was “directing the development and posting of the policy to provide support for [an] impending election challenge.”⁵⁰ Indeed, Ms. Graham subsequently filed a renewed election complaint that quoted the language Mr. Dahl provided to her verbatim.

EXPLANATION OF EVENTS	<p>EXPLANATION OF ALL EVENTS CREATING THE CONCERN:</p> <p>As an appeal to comments received on Apr. 6, 2023, from Jamie Heinz, and references to MOA ITD practices, according to MOA ITD policy statement</p> <p>Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Dept (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD change management processes and procedures regarding patch management & malware remediation.</p> <p>We believe the clerk's current practices in relation to Thumb drive, statement is a clear violation of the MOA ITD USB Policy Statement</p>
CODE CITATIONS	<p>CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH WERE NOT COMPLIED WITH:</p> <p>MOA ITD USB Policy Statement - regarding election clerk's response #2, dated April 7, '23</p>

Figure 1.8: April 11 renewed complaint, quoting language provided by Mr. Dahl verbatim

Mr. Dahl refused to participate in the Inquiry or otherwise to clarify his motivations, leaving unrebutted the Ombudsman’s reasonable inference that Mr. Dahl intentionally used his position and municipal resources to support a challenge to the April 2023 regular municipal election.

⁵⁰ See Ombudsman’s Report at 5, Appendix C.

Further, in doing so, Mr. Dahl would have, or should have known that the “ITD policy statement” he provided to the complainant was not actually a policy that applied to operations at the MOA Election Center. During his tenure, the Office of Information Technology had, following the requirements of the Municipality’s policy on polices,⁵¹ promulgated at least one policy that genuinely applied to the whole of the municipality,⁵² and the “ITD policy statement” was not so-promulgated. Moreover, local law contains the codified rule that Election Administrator, not ITD, is responsible for election-related computer equipment.⁵³

⁵¹ See P&P 1-1 Municipal Operating Policies and Procedures (effective April 8, 1997).

⁵² See P&P 28-7 Password Management (effective March 14, 2022).

⁵³ See AMC 28.10.020 *Powers and duties of municipal clerk*:

...

- C. Pursuant to Charter § 11.02(a) and notwithstanding any other provision of this Code, the election administrator shall be responsible for the overall administration of municipal elections, including, but not limited to: application of election related information systems, election related systems standards and procedures, acquisitions of election related computer equipment, and related products and services. The election administrator shall receive municipal resources and support from executive branch departments in accordance with subsection 3.20.070G.

Of additional concern, in her statement to the Assembly, Ms. Graham stated that she had contacted Mr. Dahl by phone after April 9 to ask what the “Muni [IT] policy” regarding thumb drives was:

Ms. Graham: The USB policy—when I filed my complaint on the sixth, it was answered on the seventh by Jamie Heinz, saying that she –they were following IT policy.⁵⁴ I don't have the complaint exactly in

⁵⁴ In fact, the April 9 response to Ms. Graham’s April 6 complaint had *not* referenced IT “policies,” but rather simply noted that the thumb drive used at the MOA Election Center is “encrypted and reformatted each year according to Municipal IT *practices*.” See Appendix A (emphasis added):

RESPONSE TO COMPLAINT DATED APRIL 6, 2023, FILED BY SAMI GRAHAM:

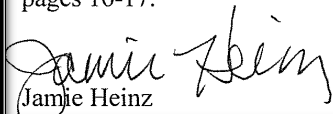
An encrypted thumb drive is inserted in the tabulations computer to download the election results which are thereafter uploaded to another computer for printing.

That thumb drive:

1. Is stored in a wall safe inside a locked room which requires a code and thumb print to open;
2. Is encrypted and reformatted each year according to Municipal IT practices; and
3. Requires a password in order to receive any download of election results.

The printed election results may be compared to the displayed computer results to ensure those results have not been changed.

The Complaint cites AMC Title 28 as authority for the alleged “misconduct.” AMC Title 28 grants authority, and responsibility, for the “overall administration of municipal elections” to the election administrator, including the “application of election related information systems, election related systems standards and procedures . . .” AMC 28.10.020C, *see* AO 2022-98, As Amended, Section 1. There is no “misconduct,” and this Complaint is treated as a suggestion related to administrative or management concerns, *see* Observer’s Handbook (12/6/2022) at pages 16-17.


Jamie Heinz

front of me or the response—but she said she's following—they follow Muni IT policy. But she didn't cite the policy that they followed.

So I contacted Mr Dahl and said, "What's the policy?" And then he said, I'll get back to you.⁵⁵

Ms. Graham stated that she believed that the ITD Policy Statement she received from Mr. Dahl *was* a valid municipal policy, and it was not until the April 20 Public Session of Canvass that she learned of its provenance.⁵⁶

To the extent that Mr. Dahl provided to Ms. Graham a policy that *he knew or should have known*: (a) did *not* apply to operations at the MOA Election Center, but (b) *would be understood by Ms. Graham* to be a municipal-wide policy that applied to election operations, and (c) thereafter would be used by Ms. Graham to submit to the municipal Election Commission a formal *challenge* to election operations, his actions could be understood as deliberately misleading.

Indeed, Ms. Graham's filing of a subsequent complaint on April 14, 2023, based on another email from Mr. Dahl which was wholly unrelated to any IT matter, lend further support to the reasonable inference that Mr. Dahl's actions were motivated by a partisan desire to find any justification to challenge the 2023 regular election.

⁵⁵ See Appendix K, https://www.youtube.com/live/Qgh9w6Xl1ts?si=J_t6BZQXWw99w0Dc&t=3632
⁵⁶ *Id.*

Date : 4/14/2023 11:31:00 AM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : FW: 04182023S Municipal Assembly Agenda - FINAL

See this proposed code update being introduced at the next assembly.

5.A. Ordinance No. AO 2023-45, an ordinance of the Anchorage Assembly amending Anchorage Municipal Code Section (AMC) 2.30.020 to recognize the decision making authority of the assembly with respect to uncodified mayoral directives, policies and procedures, and other uncodified policies and administrative practices as applied to the legislative branch, and amending AMC section 3.50.010 accordingly, Assembly Vice-Chair Constant.

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

From: Sleppy, Karissa M. <karissa.sleppy@anchorageak.gov>
Sent: Friday, April 14, 2023 10:41 AM
Subject: 04182023S Municipal Assembly Agenda - FINAL
Importance: High

Your message is ready to be sent with the following file or link attachments:

04182023S_Final

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Figure 1.9: *Second email of Dahl to Graham*

Mr. Dahl's non-participation in the Inquiry precluded further clarification of this issue, leaving the Ombudsman's conclusion undisputed. This is an area that may warrant further investigation by other authorities.

But the known facts highlight a legislative imperative to ensure: (a) that municipal employees do not use municipal resources for partisan purposes, and (b) that efforts to deliberately mislead election officials are appropriately prohibited.

Today, the Municipal Code of Ethics, codified at AMC 1.15, generally prohibits the use of municipal resources for political or partisan activity:

- C. *Use of municipal resources for political or partisan activity prohibited:* A public servant shall not use or authorize the use of municipal resources for political or partisan activity with the following exceptions and subject to independent APOC requirements:

1. The mayor, school superintendent, member of the assembly, and member of the school board, or their executive designee, may:
 - a. Appear before the assembly, the school board, appointed bodies of the municipality, community councils, civic organizations, and media representatives in support or in opposition to any ballot measure coming before the voters in a municipal election; and
 - b. Incur associated but limited expenses, such as employee time, use of municipal vehicle, and clerical costs.
2. Elected officials may voice their opinions as part of their usual and customary duties with similar limited use of municipal resources.⁵⁷

Persons who believe the provision to have been violated may submit a complaint to the municipal Board of Ethics, which may hold a hearing, and “make recommendations for corrective action.”⁵⁸

Assembly Leadership believes the existing law inadequately protects the public interest in the integrity of municipal elections, and that the consequences for violations may be inadequately specific, given the seriousness of the issue.

Moreover, Assembly Leadership notes the specific absence of local laws to address efforts to deliberately mislead election officials.

A potential legislative response follows. The proposal would make the improper use of municipal resources for political or partisan activity a class A misdemeanor.

Section 1. Anchorage Municipal Code chapter 8.30 could be amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

8.30.180 Election violations.

* * * * *

C. Public employee violations. It shall be a unlawful for any person employed by, or retained under contract with, the municipality to intentionally:

⁵⁷ AMC 1.15.110 *Political Activity.*

⁵⁸ AMC 1.15.160 *Ethics complaint for potential violation.*

1. Use or authorize the use of municipal resources for political or partisan activity subject to exceptions provided under 1.15.110C; or
2. Engage in political activity while at the workplace or in the performance of work duties beyond the extent allowed under 1.15.110E.

D. Violation of this section is a class A misdemeanor.

(AO No. 2017-29(S) , § 57, 6-1-17)

II. Election Complaint Forms

The April 11, 2023 renewed election complaint was submitted on a form entitled "Election Commission –Failure to Comply with Law or Alleged Illegal Election Practices," which was set out in the Assembly-adopted Election Observer's handbook.⁵⁹

The form provided a space for a complainant to explain how the concern raised in the complaint "would change the outcome of the election if found to be true." Although the lead complainant, Ms. Graham, later asserted that she never asked to change the outcome of the election, her April 11, 2023 complaint strongly implied that the results should be called into doubt, stating that failure to follow the quoted ITD Policy may have resulted in data alteration, "thereby nullifying the results of the election":

AFFECTS TO OUTCOME OF ELECTION	EXPLANATION OF HOW THE CONCERN WOULD CHANGE THE OUTCOME OF THE ELECTION IF FOUND TO BE TRUE:
	It is completely possible that the USB device is depositing or altering data, intentionally or unintentionally, not simply retrieving data, thereby nullifying the results of the election. "Critical infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to municipal operations and or resources."

Figure 2.0: April 11 renewed complaint, addressing "nullifying the results of the election" (highlights added)

In its review of the renewed complaint, Election Commissioners noted that it was unclear what they were being asked to do, and identified deficiencies with the form.

Commissioner Leman⁶⁰: My question is, Sami, "what remedy are you seeking?"

⁵⁹ See AR 2022-328 A Resolution Of The Anchorage Municipal Assembly Updating And Amending The Election Observer's Handbook And Associated Forms, available at: <http://www.muni.org/Lists/AssemblyListDocuments/Attachments/855750/AR%202022-328.pdf>

⁶⁰ Commissioner Leman served as Alaska's Lieutenant Governor from 2002-2006.

... If your remedy is 'quit doing that,' you know I can understand that, you know. But I don't see any other, you know—in fact I don't see any other box in there that says what the remedy—what the proposed remedy is.⁶¹

The discussion was not limited to a single Commissioner.

Commissioner Treadwell⁶²: In terms of the direct answer to Loren's question, you're asking us to declare that this was not properly done, and not to do it again next time?

Or are you asking us to overturn the election or not certify the election?

What are you asking us to do?⁶³

At its October 25, 2023 meeting the Election Commission again discussed that the forms could be helpfully amended to require a complainant to specify the relief the complainant is seeking.

Assembly Leadership concurs, and recommends that the Clerk's office incorporate the requested change into a proposed update to the Election Observer's Handbook, for Assembly review and approval.

⁶¹ See Appendix B, https://youtu.be/xl4b96_ZKCs?si=G3UQXfi95hwyaCFY&t=3589

⁶² Commissioner Treadwell served as Alaska's Lieutenant Governor from 2010-2014.

⁶³ See Appendix B, https://youtu.be/xl4b96_ZKCs?si=9wl1Ejiyc58XKP3u&t=3876

III. Processing of Election Complaints by the Election Commission

The Anchorage Election Commission received the April 11, 2023 renewed complaint at its April 20, 2023 Public Session of Canvass.

The Anchorage Election Commission is a five-member volunteer commission, whose primary function has been to, “on or before the third Friday after an election” at the Public Session of Canvass, “declare which ballots will be rejected and which shall be counted.”⁶⁴ In that capacity, the Commission adjudicates the validity of individual ballots, rejecting those ballots submitted by persons not qualified to vote, whose identities cannot be confirmed, or for other reasons set out in law.⁶⁵

At the conclusion of its work, the Election Commission approves and transmits to the Assembly a “report [of] the results of the commission’s ballot review and election results,”⁶⁶ which informs the Assembly’s decision whether to certify the election.

In conducting its work, local Code also invites the Commission or municipal clerk to report to the assembly if it becomes aware of “a failure to comply with the provisions of law or illegal election practices,” that are of sufficient magnitude to “change the outcome of the election”; in that circumstance, the Assembly may “exclude the votes cast where such failure or illegal practices occurred,” or “may declare the entire election invalid and order a new election.”⁶⁷

Using language of that Code provision, the Municipal Clerk’s office in 2022 proposed the creation of the form: “Election Commission – Failure to Comply with Law or Illegal Election

⁶⁴ See AMC 28.85.010 *Public Session of Canvass*.

⁶⁵ See AMC 28.80 *Counting of Ballots*

⁶⁶ See AMC 28.85.040 *Certification of election*.

⁶⁷ *Id.* at .040D.

Practices.”⁶⁸ The form and associated Election Observer Handbook provisions newly invited individuals to present to the Election Commission administrative concerns or allegations of election official misconduct that the individual did not believe had been adequately addressed by the Municipal Clerk or Election Administrator.

⁶⁸ See AR 2022-328 A Resolution Of The Anchorage Municipal Assembly Updating And Amending The Election Observer’s Handbook And Associated Forms (Dec. 6, 2022), available at: <https://www.muni.org/Lists/AssemblyListDocuments/Attachments/855750/AR%202022-328.pdf>

Observer Concerns with Election Administration and Management

Observers are entrusted with challenges to the critical issues of voting and counting. In the course of this primary duty, Observers may raise other concerns:

1. Administrative concerns and management concerns.

a. ~~Administrative~~ Administrative concerns include matters such as storage of supplies, empty boxes, and signage.

b. ~~Management, while management~~ concerns include practices such as issuing special needs ballots requests, improvements in witness verification, staffing concerns, and election volunteers following Election Center protocols.

—~~Informal Resolution.~~

a. ~~Both administrative concerns and management concerns are often addressed informally between observers and the Election Officials. As a result, administrative concerns and management concerns may be handled informally and/or submitted on a suggestion form. To ensure adequate and timely response, suggestions and concerns should be filed immediately after the events giving rise to the concern.~~ should

c.

d. ~~Administrative and management~~ concerns that are not resolved by the Municipal Clerk or Election Administrator and that would change the outcome of the election, if found to be true, may be renewed by the observer or candidate. The renewed concern shall

be submitted to the Election Administrator in writing on a form entitled – “Election Commission – Alleged Failure to Comply with Law or Alleged Illegal Election Practices”. The form must be submitted forty-eight (48) ~~five~~ hours prior to the Public Session of Canvass and requires a) an explanation of all events creating the concern; b) citation(s) to applicable provisions of Anchorage Municipal Code or other law; and c) an explanation of how the concern would change the outcome of the election. This information on the form ensures that, in addition to the observers’ challenges on voting and counting, matters that could change the outcome of the election are available for the Commission’s review.

Figure 3.0: Language added to the Observer’s Handbook in December 2022

Election Official Conduct and Misconduct

Outside of challenging voter eligibility, signature verification, ballot adjudication, observers do not have the right to challenge an act of an election official, yet may file a complaint about election official conduct or alleged misconduct. When an observer witnesses a perceived administrative error or irregularity by an election official, the observer should courteously call it to the Municipal Clerk or designee's attention, or if at a polling location or vote center, to the attention of the chair of the location. Election officials may be removed from the election location for misbehavior or neglect of duty. The observer may be asked to submit a written complaint signed by the candidate, campaign manager, or chairperson of the organization/organized group, using the form provided at the end of this handbook.

~~If unresolved, copies of complaints will be shared with all candidates or organizations/organized groups who have registered observers for a particular race or issue, or if copies are requested.~~

~~Complaints that are not resolved by the Municipal Clerk or Election Administrator~~ ~~if the observer is not satisfied with the action of the Municipal Clerk regarding the complaint, the observer may request that the complaint be brought to the Anchorage Election Commission at the Public Session of Canvass, held on or before the third Friday after Election Day.~~ ~~Administrative and management concerns, which are not resolved by the Municipal Clerk or Election Administrator and that would change the outcome of the election, if found to be true, may be renewed by the observer or candidate. The renewed complaint shall be submitted to the Election Administrator in writing on a form entitled – "Election Commission – Alleged Failure to Comply with Law or Alleged Illegal Election Practices". The form must be submitted forty-eight (48) hours prior to the Public Session of Canvass and requires a) an explanation of all events creating the complaint; b) citation(s) to applicable provisions of Anchorage Municipal Code or other law; and c) an explanation of how the complaint would change the outcome of the election. This information on the form ensures that, in addition to the observers' challenges on voting and counting, matters that could change the outcome of the election are available for the Commission's review.~~ ~~forty-eight (48)~~

Figure 3.1 Language added to the Observer's Handbook in December 2022

The 2022 changes expanded on an earlier change in 2021, which for the first time, invited individuals with unresolved concerns about election-official conduct to submit the concerns to the Election Commission at the public session of canvass:

If the observer is not satisfied with the action of the Municipal Clerk regarding the complaint, the observer may request that the complaint be brought to the Anchorage Election Commission at the Public Session of Canvass, held on or before the third Friday after Election Day.

Figure 3.2 Language added to the Observer's Handbook in 2021

These changes expanded the role of the Election Commission beyond its traditional functions of adjudicating individual ballots, but without providing direction to the Commission about what it is supposed to do with the “renewed [concerns]” and “renewed complaints” it receives. Notably, this expansion took place in the context of a nationwide increase in lawsuits seeking to limit the number of votes counted in elections, with a particularly “marked increase in the number of lawsuits aimed at the minutiae of election administration — the logistical aspects of running an election.”⁶⁹

Moreover, the Election Commission has long had the power to “make such other studies and recommendations relating to elections and perform such other duties as the assembly may assign,” but its codified duties do not include any reference to hearing “renewed concerns” or “renewed complaints”:

AMC 28.120.060 Duties.

- A. The election commission shall have the following duties:
 - 1. Act in an advisory capacity to the assembly and municipal clerk in the conduct of elections;
 - 2. Study and recommend to the assembly and municipal clerk proposed ordinances relating to elections;
 - 3. Serve as the canvass board for municipal elections;

⁶⁹ See, e.g., *2022 Litigation Report: How Republicans Lost and Voters Won in Court*, (Jan. 9, 2023), <https://www.democracydocket.com/analysis/2022-litigation-report-how-republicans-lost-and-voters-won-in-court/>. The study found that 2020 and 2022 were particularly litigious years for elections, during which it tracked 150 and 175 lawsuits related to voting respectively. The study determined that of the 175 suits filed in 2022, 93 sought to either limit access to the vote or the number of votes counted. Of those 93, 44 challenged Vote by Mail procedures, and 40 challenged Election Administration procedures.

4. If requested by the assembly, investigate election contests and report to the assembly its findings;
5. Make such other studies and recommendations relating to elections and perform such other duties as the assembly may assign;
6. Review and adjudicate the preliminary rejection of questioned and absentee ballots; and
7. Review the results of the election tabulation provided by the municipal clerk's office.

Of note, the Commission may also, "if requested by the Assembly," investigate AMC 28.100 "election contests," which must be submitted by a candidate or at least ten qualified voters, and allege one or more of the following "grounds":

1. Malconduct, fraud or corruption on the part of an election official sufficient to change the result of the election.
2. The person certified as elected is not qualified as required by law.
3. Any corrupt practice as defined by law sufficient to change the result of the election.⁷⁰

Election contests are not submitted to the Election Commission, but to the Municipal Clerk, who routes them to the Assembly; after an election contest, the Assembly must vote "whether to hear [the] contest" and, if so, "it may appoint one or more persons to take evidence concerning the grounds for the contest and report to the assembly."⁷¹ Consistent with AMC 28.120.060A.4., above, the Assembly, presumably, could enlist the Election Commission to undertake the anticipated investigation.

But the "renewed concerns" or "renewed complaints" addressed in the Election Observer Handbook are not themselves "election contests," and must be addressed *at the Public Session of Canvass*, where it will generally be infeasible to engage in a prolonged factfinding or "tak[ing of] evidence."

⁷⁰ AMC 28.100.010.

⁷¹ AMC 28.100.020C.

Assembly Leadership believes the role and procedures governing the Election Commission's review of election contests should be clarified to make clear that, prior to election certification and absent a specific "request" from the Assembly to investigate a particular issue, the Election Commission's task when presented with a complaint or concern is to advise the Assembly whether the Clerk's response to the complaint or concern leaves unresolved an issue that, more likely than not, is both: (a) *genuine*, and (b) *of such significance and immediacy* that the Assembly should not certify the election, or should delay doing so.

Language to that effect could be incorporated into the next approved revision of the Election Observer's Handbook, or codified as follows.

Section 1. Anchorage Municipal Code section 28.120.160 could be amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

AMC 28.120.060 Duties.

- A. The election commission shall have the following duties:
1. Act in an advisory capacity to the assembly and municipal clerk in the conduct of elections;
 2. Study and recommend to the assembly and municipal clerk proposed ordinances relating to elections;
 3. Serve as the canvass board for municipal elections;
 4. If requested by the assembly, investigate election contests and report to the assembly its findings;
 5. In accordance with the Election Observer's Handbook, advise the Assembly prior to the certification of an election's results, whether the Clerk's response to an election concern or complaint leaves unresolved an issue that, more likely than not, is:
 - a. genuine, and
 - b. of such significance and immediacy that the Assembly should not certify the election, in whole or in part, or should delay doing so, in whole or in part.
 - 6[5.] Make such other studies and recommendations relating to elections and perform such other duties as the assembly may assign;
 - 7[6.] Review and adjudicate the preliminary rejection of questioned and absentee ballots; and

8[7.] Review the results of the election tabulation provided by the municipal clerk's office.

IV. Assembly Subpoena Power

The power to investigate has been recognized as an inherent component of “legislative power.”⁷²

⁷² See, e.g., *McGrain v. Daugherty*, 273 U.S. 135, 161, 174 (1927) (emphasis added):

[T]here is no provision expressly investing either house with power to make investigations and exact testimony, to the end that it may exercise its legislative function advisedly and effectively. So the question arises whether this power is so far incidental to the legislative function as to be implied.

In actual legislative practice, power to secure needed information by such means has long been treated as an attribute of the power to legislate. It was so regarded in the British Parliament and in the colonial Legislatures before the American Revolution, and a like view has prevailed and been carried into effect in both houses of Congress and in most of the state Legislatures.

...

The state courts quite generally have held that the power to legislate carries with it by necessary implication ample authority to obtain information needed in the rightful exercise of that power, and to employ compulsory process for the purpose.

For its part, the Assembly formally codified its ability to issue subpoenas in 1991, by enacting AMC 2.30.085 *Subpoena powers*:

- A. Subject to the privileges which witnesses have in courts of this state, the chairman of the assembly, with the approval of a majority vote of the assembly, may:
 - 1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the assembly reasonably believes may be able to give information relating to a matter involving municipal funds and policy being considered; and
 - 2. Compel a person, by subpoena, to produce documents, papers or objects which the assembly reasonably believes may relate to the matter under consideration.
- B. If a person refuses to comply with a subpoena issued under subsection A of this section, the superior court may, on application of the chairman of the assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court for refusal to testify in the court.

When originally introduced, the Assembly member who sponsored the ordinance that led to AMC 2.30.085 noted that it was intended to recognize in the Assembly a subpoena power “similar to what the Alaska Legislature has under State Statutes.”⁷³ The Municipality’s

...
We are of opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. It was so regarded and employed in American Legislatures before the Constitution was framed and ratified.
⁷³ AM 131-91 (Memorandum of Fred Dyson).

Department of Law subsequently recognized that intent, and compared the provision to the statutes governing subpoenas issued by the Legislature, Alaska Statutes chapter 24.25.⁷⁴

After receiving the Department of Law’s memorandum, the sponsor of the ordinance revised his original proposal, which would have recognized the Assembly’s ability to compel testimony from a person “whom the Assembly reasonably believes may be able to give information relating to a municipal matter being considered.”⁷⁵ The revised version, ultimately passed, instead provided testimony may be compelled from any person “whom the assembly reasonably believes may be able to give information relating to a matter involving municipal funds and policy being considered.”⁷⁶ The sponsor explained that he had made the revision to preclude the Assembly from issuing subpoenas about “private business matters” that simply happen to arise in Anchorage:

I inserted the word ‘funds’ ... ‘involving municipal funds’—so [it] has to do with any matter that the city is involved in directly, and it would exclude, by that language, private business matters that happen to reside within the geographical area.⁷⁷

That legislative history is pertinent here. The Assembly authorized subpoenas in support of the Inquiry,⁷⁸ and Assembly Leadership ultimately issued four. The subpoenas plainly addressed “public” issues, and not “private business matters.” And, as noted in an Assembly

⁷⁴ See AM 176-91.

⁷⁵ See AO 91-15.

⁷⁶ See AO 91-15(S) (emphasis added).

⁷⁷ Meeting of Feb. 12, 1991.

⁷⁸ See Appendix F, AR 2023-305 *A Resolution Of The Anchorage Assembly Approving The Use Of Subpoenas To Compel Testimony And Document Production Pursuant To Anchorage Municipal Code Section 2.30.085 And Authorizing Litigation To Enforce Compliance With Those Legislative Subpoenas.*

worksession, the matters being considered in the Inquiry surely had funding and policy implications.⁷⁹

Nevertheless, the legitimacy of one of the issued subpoenas was briefly challenged by counsel for Ms. Graham. Prior to her voluntarily agreeing to appear and answer questions at the Assembly worksession of Sept. 29, 2023, Ms. Graham’s attorney filed a Petition to quash the subpoena that had issued to her.⁸⁰ The essential argument of the petition was: (a) that language in AMC 2.30.085 limits the scope of the Assembly’s power to issue subpoenas regarding public matters to only the subset of public matters that “involv[e] municipal funds and policy,” and (b) that, in the view of Ms. Graham’s counsel, the Inquiry did not do so.⁸¹

Ms. Graham’s agreement to voluntarily testify before the Assembly rendered the Petition moot, and it was subsequently withdrawn. But had Ms. Graham not agreed to participate, resolution of the Petition would almost certainly have led to additional delay and unwelcome legal expense as the matter moved through the courts.

To avoid a possible recurrence in the future, Assembly leadership believes the Assembly should clarify that its subpoena powers may be exercised to aid its investigation into any public matter it is considering.

Further, language should be codified to make clear that, when authorized, the Chair of the Assembly issues subpoenas in the Chair’s official capacity, on behalf of the Assembly—with the consequence that any legal challenge to a subpoena should be brought by filing suit against the Anchorage Municipal Assembly (and not, as possibly occurred in this instance, by filing suit against the Chair in the Chair’s personal capacity).

Language to accomplish these aims follows.

⁷⁹ See Appendix K, Assembly Worksession (Sept. 29, 2023) (introductory comments of Chair), <https://www.youtube.com/watch?v=Qgh9w6Xl1ts>

⁸⁰ See Appendix H-3.

⁸¹ See *id.*

Section 1. Anchorage Municipal Code section 2.30.085 could be amended to read as follows
(the remainder of the section is not affected and therefore not set out):

AMC 2.30.085 Subpoena powers.

- A. Subject to the privileges which witnesses have in courts of this state, the chair[MAN] of the assembly, with the approval of a majority vote of the assembly, may, in the chair's official capacity and on behalf and in the name of the assembly:
1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the assembly reasonably believes may be able to give information relating to a public matter [INVOLVING MUNICIPAL FUNDS AND POLICY] being considered by the Assembly; and
 2. Compel a person, by subpoena, to produce documents, papers or objects which the assembly reasonably believes may relate to a public[THE] matter [under consideration] being considered by the Assembly.
- B. If a person refuses to comply with a subpoena issued under subsection A of this section, the superior court may, on application of the chairman of the assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court for refusal to testify in the court.
- C. A person who seeks to quash or limit a subpoena issued pursuant to this section may file an action against the Anchorage Municipal Assembly in superior court.

CONCLUSION

This Report details the substance of the Assembly's inquiry. It includes a timeline of key actions and activities, and outlines findings and proposed legislative responses related to concerns raised about the potential risks identified through concerns raised during the 2023 regular municipal election. This report, its findings and recommendations, and proposed legislation are now submitted to the Assembly and to the Public to establish as complete a record of facts as possible using the authority granted under the Charter.

Respectfully submitted,



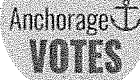
Assembly Chair Christopher Constant
District 1, North Anchorage



Assembly Vice Chair Meg Zaletel
District 4, Midtown

APPENDICES

- Appendix A: Key Documents
1. April 6, 2023 Election Complaint
 2. April 7, 2023 Response to Election Complaint
 3. April 11, 2023 Email of Dahl to Graham
 4. April 11, 2023 Printout of ITD Policy Statement Showing Time Last Modified
 5. April 11, 2023 Renewed Election Complaint
- Appendix B: April 20, 2023 Election Commission, Public Session of Canvass Recording
- Appendix C: August 17, 2023 Ombudsman's Final Investigative Report
- Appendix D: July 5, 2023, Letter Requesting Administration Participation in July 21 Worksession
- Appendix E: Records requests and related correspondence
1. July 10, 2023 Records Request, and Redacted Documents produced in response
 2. August 18, 2023 Objection to Redactions
 3. September 5, 2023 Second Records Request
 4. September and October clarifications by email regarding September 5 Records Request
 5. September 11, 2023 Waiver of Privilege over Documents Produced In Response to July 10 Records Request
 - i. Updated Privilege Log
 - ii. Unredacted Documents Produced in Response to July 10 Records Request
 6. September 25, 2023 Resubmission of September 5 Records Request, Using MOA Form
- Appendix F: AR 2023-305: A Resolution Of The Anchorage Assembly Approving The Use Of Subpoenas To Compel Testimony And Document Production Pursuant To Anchorage Municipal Code Section 2.30.085 And Authorizing Litigation To Enforce Compliance With Those Legislative Subpoenas (Sept. 12, 2023)
- Appendix G: Letter to Marc Dahl, Response from Counsel for Dahl, Letter and Subpoena to Dahl, Response from Counsel
- Appendix H: Letter to Sami Graham, Letter and Subpoena to Graham, Petition to Quash Subpoena
- Appendix I: Letter and Subpoena to Daniel Smith
- Appendix J: Letter and Subpoena to John Henry
- Appendix K: Hyperlinks to Video Recordings of Assembly Worksessions (July 21, Sept 8, Sept. 26, Oct. 6)



Municipality of Anchorage
April 4, 2023 Regular Municipal Election
Complaint Form

OBSERVER INFORMATION	<u>Apr. 6, 2023</u> Date
	<u>Sami Graham</u> Printed Name Of Observer
	<u>Trueblood</u> Name Of Candidate Or Organization/Group Representing

COMPLAINT	SPECIFIC INFORMATION REGARDING ELECTION OFFICIAL CONDUCT OR MISCONDUCT: A thumb drive is used to transfer data from Dominion to an MOA computer. The process is questionable because we are not aware of a publically observable step to verify the thumb drive is actually blank. It is completely possible that the thumb drive is depositing or altering data, intentionally or unintentionally, not simply retrieving data. We request that anytime any device is connected to the Dominion machine, a qualified and mutually agreed upon member of M.O.A. IT dept. be present to supervise.
-----------	---

CODE CITATIONS	CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH CONSTITUTES MISCONDUCT: <u>Title 28. Fair & honest election.</u> <u>The integrity of elections is important to all citizens. 'on handbook' p. 6.</u>
----------------	---

SIGNATURES	<u>Sami Graham</u> Signature of Observer	<u>Apr. 6 '23</u> Date Submitted
	<u>Janice Klein</u> Signature of Municipal Clerk or Designee	<u>4/7/23</u> Date Received

RESPONSE TO COMPLAINT DATED APRIL 6, 2023, FILED BY SAMI GRAHAM:

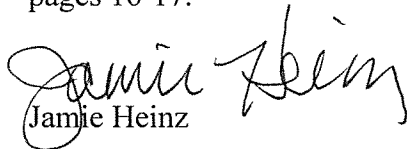
An encrypted thumb drive is inserted in the tabulations computer to download the election results which are thereafter uploaded to another computer for printing.

That thumb drive:

1. Is stored in a wall safe inside a locked room which requires a code and thumb print to open;
2. Is encrypted and reformatted each year according to Municipal IT practices; and
3. Requires a password in order to receive any download of election results.

The printed election results may be compared to the displayed computer results to ensure those results have not been changed.

The Complaint cites AMC Title 28 as authority for the alleged “misconduct.” AMC Title 28 grants authority, and responsibility, for the “overall administration of municipal elections” to the election administrator, including the “application of election related information systems, election related systems standards and procedures . . .” AMC 28.10.020C, *see* AO 2022-98, As Amended, Section 1. There is no “misconduct,” and this Complaint is treated as a suggestion related to administrative or management concerns, *see* Observer’s Handbook (12/6/2022) at pages 16-17.


Jamie Heinz

April 7, 2023

Gave copy to Sami Graham

R. Duane
4/7/23

Date : 4/11/2023 2:37:00 PM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : IT USB Policy
Attachment : image001.png;

Published on the internal IT Security web page [ITD Policy Statements \(sharepoint.com\)](#)

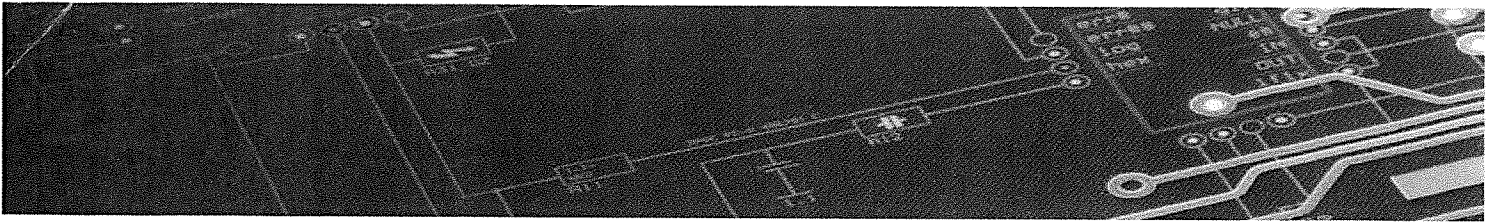
ITD Policy Statements

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov



ITD Policy Statements

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2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

4/11/2023
@ 4PM

All Files Sites News Images

Filters File type ▾ Last modified ▾



ITD Policy Statements

...

Cyber Security

Holland, Heather M. modified 2 hours ago

Access to or connection of Removeable Storage (**USB**) devices Personnel must not insert any unauthorized **USB** device into any piece...



SME Approved Hardware Standards

...

Information Technology Department

Gotowicki, Denita R. modified on December 6, 2019

...Active Mini Dis Port to Dis Port **USB** to Ethernet EJS-00002 \$33.99 EJS-00002 \$33.99...



Product Codes (UNSPSC)

...

IT Procurement & Contract Management

Holland, Heather M. modified on January 4, 2018

...43211500 Computers Desktop, Laptops 43211600 Computer accessories Keyboards, Mice, **USB**, DVD 43211900 Computer displays Monitors...



IT Hardware Standards List

...

Information Technology Department

Gotowicki, Denita R. modified on June 13, 2018

...**USB** to Ethernet EJS-00002 \$33.99 EJS-00002 \$33.99...



Display board issues

...

Information Technology Department

Holland, Heather M. modified on September 24, 2019

...Take a mouse downstairs and plug it into one of the **USB** ports of the computer....



SAP IT Product Codes

...

Information Technology Department

Gotowicki, Denita R. modified on January 4, 2018

...43211500 Computers Desktop, Laptops 43211600 Computer accessories Keyboards, Mice, **USB**, DVD

43211900 Computer displays Monitors...



Product Codes (UNSPSC)

Customer Support

Holland, Heather M. modified on January 4, 2018

...43211500 Computers Desktop, Laptops 43211600 Computer accessories
Keyboards, Mice, **USB**, DVD 43211900 Computer displays Monitors...



cisco-ip-phone-8800_series

Customer Support

Holland, Heather M. modified on December 10, 2015

Cisco IP Phone 8800 Series User Guide First Published: July 13, 2015 Americas
Headquarters Cisco Systems, Inc. 170 West Tasman...



Poster2

Cyber Security

Holland, Heather M. uploaded on September 3, 2019

...Do not connect any personal or untrusted **USB** devices...

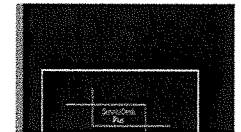


ServiceDesk Plus Procedure Steps Guide

Customer Support

Rath, Jeremy L. modified on May 11, 2021

...This example, for "other" for this category we entered **USB** webcam....



cisco-ip-phone-8800_series

Information Technology Department

Holland, Heather M. modified on December 10, 2015

Cisco IP Phone 8800 Series User Guide First Published: July 13, 2015 Americas
Headquarters Cisco Systems, Inc. 170 West Tasman...

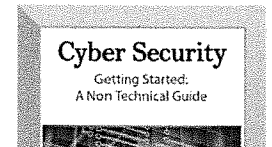


Getting_Started

Cyber Security

Holland, Heather M. modified on August 22, 2013

Getting Started: A Non Technical Guide Cyber Security For additional copies or to
download this document, please visit: <http://...>



MOA-Cloud-Computing-Guidelines-2018



Information Technology Department

von Siebenthal, Kerry L. modified on August 8, 2018

Microsoft Word - UA Cloud Computing Guidelines 2016.docx Municipality of Anchorage...Guidelines for the Use of 3rd Party or Cloud...

Cloud Computing
Guidelines

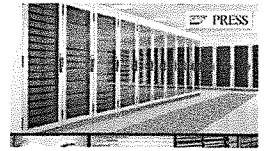


SAP Administration - Practical Guide

Information Technology Department

Jensen, Sean P modified on May 8, 2015

SAP PRESS is a joint initiative of SAP and Rheinwerk Publishing. The knowhow offered by SAP specialists combined with the...





Municipality of Anchorage
April 4, 2023 Regular Municipal Election

Election Commission - Failure to Comply with Law or Alleged Illegal Election Practices

OBSERVER INFORMATION	April 11, 2023 Date
	Sami Graham / DANIEL E. SMITH / JOHN HENRY Printed Name Of Observer
	Trueblood Name Of Candidate Or Organization/Group Representing

EXPLANATION OF EVENTS	<p>EXPLANATION OF ALL EVENTS CREATING THE CONCERN:</p> <p>As an appeal to comments received on Apr. 6, 2023, from Jamie Heinz, and references to MOA ITD practices, according to MOA ITD policy statement</p> <p>Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from The Information Technology Dept (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD change management processes and procedures regarding patch management & malware remediation.</p> <p>We believe the clerk's current practices in relation to</p>
-----------------------	---

CODE CITATIONS	<p>CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH WERE NOT COMPLIED WITH:</p> <p>MOA ITD USB Policy Statement - regarding election clerk's response #2, dated April 7, '23</p> <p style="text-align: right;">Policy Statement</p>
----------------	---

AFFECTS TO OUTCOME OF ELECTION	<p>EXPLANATION OF HOW THE CONCERN WOULD CHANGE THE OUTCOME OF THE ELECTION IF FOUND TO BE TRUE:</p> <p>It is completely possible that the USB device is depositing or altering data, intentionally or unintentionally, not simply retrieving data, thereby nullifying the results of the election.</p> <p>"Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to municipal operations and or resources."</p>
--------------------------------	--

SIGNATURES	<p><i>Sabri N. Khan</i> <i>Paul Smith</i> <i>John King</i></p> <p>Signature of Observer Apr. 11, 2023</p> <p>Date Submitted</p>
	<p>Signature of Municipal Clerk or Designee Date Received</p>

Appendix B

Recording of Election Commission's April 20, 2023

Public Session of Canvass

Available at:

https://youtu.be/xl4b96_ZKCs?si=ztdmPyoSYo0IYWJd



August 17, 2023

Final Investigative Report Concerning Ombudsman Complaint 2023-0550

COMPLAINT

On April 26, 2023, following the April 20th Anchorage Election Commission's Public Session of Canvass and Adoption of the Election Canvass Report, a constituent contacted the Ombudsman. The constituent questioned, based on comments by the Election Administrator and other members of the election team during the Commission meeting, whether the Director of the Municipality's Office of Information Technology had developed and posted an OIT USB policy in order to provide support for an election observer's challenge of the April 4, 2023 Municipal election, with the intent of overturning the election results.

FINDINGS

The complaint involving the Director of the Municipality of Anchorage's Office of Information Technology is **JUSTIFIED**.

BACKGROUND AND TIMELINE

April 26, 2023, a constituent contacted the Ombudsman to express their concerns regarding the alleged actions of the Director of the Municipality's Office of Information Technology (OIT). The constituent had listened to the April 20th Anchorage Election Commission's (Commission) Public Session of Canvass and Adoption of the Election Canvass Report. During the meeting an election observer discussed an election challenge they had filed with the Commission regarding the use of USB drives by the election team. Based on comments made by the Election Administrator and other members of the election team, the constituent questioned if the Director had developed and posted an OIT USB policy to provide support for the election challenge. The policy had been posted on the OIT intranet the same day that the challenge was filed.

During his investigation, the Ombudsman reviewed relevant emails, memoranda, policies, codes, photos, and videos. The Ombudsman reviewed 1,500+ documents that were provided in response to his records request, which did not contain the redactions that were in the documents provided to the Assembly Chair and the media. The Ombudsman also spoke with multiple members of OIT staff, and former members of OIT staff.

The Ombudsman determined that for several years, across multiple administrations and Directors, OIT had an internal policy that required that OIT staff could not insert USB drives into

MOA equipment unless the drives were scanned by OIT personnel. This policy was internal to OIT and did not have MOA-wide applications. MOA Policy & Procedure 1-1, signed by Mayor Mystrom on April 8, 1997, requires that the development of any policy with MOA - wide applications be developed through a collaborative process involving all department directors and department policy coordinators, and the Office of Management & Budget (OMB), which is tasked with assigning a P&P number to the final, posted document, that has been signed by the Mayor. P&P 1-1 also requires that any new policy must include procedures for implementing the policy, and that MOA employees be informed regarding the policy.

During his review, the Ombudsman determined that the requirements of P&P 1-1 were not followed in developing the OIT USB policy that was posted on the OIT intranet at 1:28 pm on April 11, 2023. The OMB Director informed the Ombudsman that she was unaware of the policy's existence until she was contacted by the Ombudsman. The OIT Chief Information Security Officer (CISO) acknowledged to the Ombudsman that the policy posted on the OIT Policy Statements page was an internal OIT policy and was not an MOA-wide policy.

To assist in understanding the chain of events related to this matter, the Ombudsman developed a timeline –

- Fall 2022: OIT staff hold discussions regarding turning a long-standing OIT internal policy that requires that any USB drive inserted into any MOA asset be scanned by OIT staff into an MOA-wide policy. A draft policy is developed (28-41) that includes language that states “Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after devices have been scanned for malware.” The conversation goes dormant in January 2023.
- 03/22/2023: The MOA Records Specialist emailed a link to Policy & Procedure 1-1 to the OIT Director, Marc Dahl. P&P 1-1 outlines the process for developing policies and procedures with MOA-wide applications. Policy & Procedure 1-1 was signed by Mayor Mystrom on April 8, 1997.
- 04/06/2023: Sami Graham, an election observer with the Trueblood campaign, filed a complaint regarding the 04/04/2023 Municipal election. Graham expresses concerns that a thumb drive is used to transfer data from Dominion equipment to an MOA computer. She stated that there is no way to know if the thumb drive is blank. The complaint form stated that “We request that anytime any device is connected to the Dominion machine a qualified and mutually agreed upon member of M.O.A. IT dept. be present to supervise”.
- 04/07/2023: MOA Election Administrator Jamie Heinz responds to Graham’s complaint, and notes that the Election’s thumb drives 1. Are stored in a wall safe inside a locked room which requires a code and thumb print to open; 2. Are encrypted and reformatted each year according to Municipal IT practices; and 3. Require a password to receive any download of election results. Heinz determined that there was no “misconduct”, and that the complaint would be treated as a suggestion related to administrative or management concerns.

- 04/11/2023: The morning of April 11, 2023, Dahl contacts the CISO to restart the conversation regarding developing a USB policy. At 8:42 am, the CISO emails the January 2023 policy draft to Dahl. Dahl and the CISO exchange several emails regarding the language for the policy. Dahl noted that he did not see any reference to thumb drives and data exchange on critical infrastructure – language is added to the draft policy. After the language is added Dahl directs that the revised policy be posted on the OIT intranet page.
- 04/11/2023: A new OIT “Policy Statements” page is created, and the USB policy is posted on the MOA intranet at 1:28 pm. An OIT employee was instructed to create the page and post the policy by the CISO, at the behest of Director Dahl –
Access to or Connection of Removeable Storage (USB) devices
Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.
 1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
 2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.
- 04/11/2023: At 2 pm, Dahl emails the posted policy and an intranet page link to himself, from his MOA email address to his MOA email address.
- 04/11/2023: Graham, who filed the original election complaint, signed in at the MOA Election Center at 2:34 pm and subsequently filed a handwritten document on behalf of herself and two other election observers for the Trueblood campaign, John Henry and Daniel Smith. The header on the document, which would go to the Election Commission, read “Election Commission – Failure to Comply with Law or Alleged Illegal Election Practices”. The document quoted, word for word, the internal OIT policy that had been posted 66 minutes earlier on OIT’s internal MOA intranet page, whose existence was only known to three MOA employees at that time, and that was not publicly posted or accessible. The election challenge document stated that “It is completely possible that the USB device is depositing or altering data, intentionally or unintendedly, not simply retrieving data, thereby nullifying the results of the election”.
- 04/11/2023: At 2:37 pm, Dahl emails the policy and intranet link to Graham, who had filed the 04/06/2023 election complaint, and who subsequently filed the election challenge on 04/11/2023.
- 04/12/2023: Director Dahl is captured on the security video cameras at the MOA Election Center picking up one of the election observer complainants, John Henry, at 11:27 am, and then dropping him off at the Election Center at 1:12 pm.
- 04/14/2023: At 11:31 am, Dahl emails information to Graham regarding an item for the 04/18/2023 Special Assembly Meeting agenda, AO 2023-45, which would recognize the decision-making authority of the assembly with respect to uncodified mayoral

directives, policies, and procedures, and other uncodified policies and administrative practices as applied to the legislative branch.

- 04/14/2023: Graham files another election complaint that references AO 2023-45 and states that the ordinance, “written by Christopher Constant – a candidate in the current election – is a direct response to the appeal dated Apr. 11. It changes the processes and procedures of an election during the middle of an election.”
- 04/16/2023: MOA Election Coordinator, Jamie Heinz responds, via email, to Graham’s 04/14/23 complaint. The subject line is “2nd Appeal Re. Thumb Drive” –
“This email is in response to your second appeal regarding the thumb drive, which was filed on Friday, April 14th. In this second appeal, you note AO 2023-45 as item 5.A. on the Special Meeting Agenda for Tuesday, April 18th. Please note that the items up for public hearing at the April 18th meeting were introduced at the April 7th Special Meeting. Attached, you will find an email stating that the agenda deadline for items to be submitted to the Clerk’s Office for inclusion in the April 7th Special Meeting was noon on Wednesday, April 5th. Also attached you will find an email, sent out at 10:57 a.m. on Thursday, April 6th, which provides the entire packet of materials for the April 7th Special Meeting. You will see included in the packet, item 6.A., AO 2023-45.

This ordinance was in the works and submitted to the Clerk’s Office before noon on Wednesday, April 5th which is before your initial complaint was submitted the afternoon of April 6th and the timeline is purely coincidence.”

- 04/20/2023: The Anchorage Election Commission held their Public Session of Canvass and Adoption of the Election Canvass Report. Agenda item 5.C.a, under New Business, was *The Election Commission – Failure to Comply with Law or Alleged Illegal Election Practices* re MOA ITD USB POLICY STATEMENT. This was the election challenge filed by Graham, Henry, and Smith. After hearing from Graham and Heinz, the Commission votes to deny the election challenge.
- 04/26/2023: A constituent, who had listened to the 04/20/2023 Commission meeting, contacted the Ombudsman with their concerns regarding the actions of Dahl related to the development and posting of the OIT USB policy on the OIT intranet on April 11th.

ANALYSIS AND CONCLUSIONS

During his investigation of this matter, the Ombudsman considered all of the documents and records that were available to him, the statements of witnesses and OIT employees and former employees, his personal observations of Dahl at the MOA Election Center during the April 5, 2022 Municipal Election ballot tabulation processing and the May 26, 2022 Logic and Accuracy Testing for the June 21, 2022 Special Election, and the timeline of events, before making a determination. The key factor for the Ombudsman was the timing of events, which supports the conclusion that Dahl initiated and directed the revision and posting of the OIT USB policy to provide support for a challenge of the April 4, 2023 Municipal election that was filed by election observers with the Trueblood campaign.

Multiple governmental, business, and private organizations have implemented USB drive policies like the USB policy developed and posted on the OIT intranet page on April 11th - the Ombudsman acknowledges that many organizations consider such policies to be a best practice. However, documents show that Dahl restarted the conversation regarding the draft OIT USB policy on the morning of April 11th, after Graham had submitted an election complaint on April 6th that referenced the use of USB drives. The documents also show that Dahl had requested that the policy be revised to include a reference to thumb drives and the exchange of information on critical infrastructure, and that the policy be posted on the OIT intranet that same day – the day that Graham subsequently filed an election complaint that cited, word for word, the OIT policy that only three MOA employees were aware of, and that was not available to the public or publicly posted. Documents also show that Dahl emailed the policy to Graham on April 11th, the day that her election complaint was filed.

On April 14th, Dahl emailed Graham to inform her regarding an ordinance, 2023-45, that was being heard at a Special Assembly Meeting on April 18th. The same day, April 14th, Graham filed an election challenge that claimed that AO 2023-45 had been introduced in response to her April 6th election challenge, although the draft ordinance had been submitted to the Clerk's Office on April 5th. Dahl's emails to Graham demonstrate that he was acquainted with Graham and was feeding her information to assist her in formulating challenges to the April 4th Municipal election. Video surveillance recordings from the Election Center that show Dahl picking up and dropping off John Henry at the Election Center on April 12th, demonstrate that he is acquainted with Henry, who, along with Graham and Daniel Smith, submitted the April 11th election challenge on behalf of the Trueblood campaign.

Any reasonable person can connect the dots – there is no way to dismiss the timeline of events as merely coincidental – the timeline and supporting documents demonstrate that Dahl was acquainted with at least two of the three Trueblood election observers who filed the election challenge on April 11th, and that the dormant OIT USB policy development discussion was restarted on April 11th at the instigation of Dahl, who directed that the final policy be posted on the OIT intranet page that same day. The timeline, and Dahl's email to Graham demonstrate that Dahl was directing the development and posting of the policy to provide support for the impending election challenge. As an executive with the Municipality, Dahl has an obligation to remain politically neutral in the performance of his official duties – an obligation that he failed to meet multiple times regarding Graham's election challenges.

The Ombudsman's personal observations of Dahl's actions at the Election Center in 2022 demonstrate that Dahl has trouble separating his personal political beliefs from his role as an executive with the Municipality of Anchorage – the inability of any Municipal executive to separate their personal political beliefs from their professional role is problematic for the Municipality and Mayoral Administration that they serve.

AMC 28.80.015.B states that "All ballot tabulation processing using a software application shall be under the supervision of the municipal clerk and observance by at least one of the following selected by the municipal clerk:

1. Internal Auditor or designee.
2. IT director or designee.
3. Municipal ombudsman or designee.”

The Clerk invited the Internal Auditor, IT Director, and Ombudsman to observe the ballot tabulation processing at the Election Center on the evening of April 5, 2022. The Internal Auditor and Ombudsman arrived and joined the Clerk and elections staff in front of the election computers – the IT Director arrived and effusively greeted the election observers and joined them, rather than sitting with the other official Municipal ballot tabulation observers. The Director discussed the election with the election observers, while representing the Municipality as an official ballot tabulation observer. The Ombudsman was troubled by the actions of the Director and later that evening expressed his concerns to the Clerk and Election Administrator – the Ombudsman believed that it was inappropriate for the Director to be discussing the election and expressing partisan political opinions to election observers, while serving as an official Municipal ballot tabulation observer. The Ombudsman discussed filing a complaint with the Ethics Board but decided not to file.

The Ombudsman and Internal Auditor were invited to observe the May 26th, 2022 Logic and Accuracy Testing at the MOA Election Center, for the June 21, 2022 Special Election. Shortly after they arrived, Dahl arrived – he was present as a member of the public and was not representing the MOA. Dahl was provided with a yellow lanyard to wear around his neck – yellow signified that he was a member of the public and that he had to stay on the “yellow brick road”, a pathway outlined in yellow that circles the core area of the Election Center. Persons with yellow lanyards must stay on the outlined pathway. Dahl kept crossing the pathway’s boundary, entering areas of the Election Center that were off-limits to persons with yellow lanyards. The Clerk warned Dahl several times to stay on the pathway – when he thought that the Clerk was not looking, Dahl walked over to the reception desk, took off his yellow lanyard, reached across the reception desk to get a different colored lanyard, and put that lanyard around his neck. That lanyard provided greater access to areas within the Election Center. The Clerk observed Dahl’s actions and told him that he could not assign himself a different color of lanyard – he was present as a member of the public and he needed to wear a yellow lanyard.

An executive with the MOA told the Ombudsman that Dahl had commented to him, at work, that the April 2022 Municipal election had been “rigged”. Dahl’s comments, actions at the election center, and his actions regarding the April 11th development and posting of the OIT USB policy demonstrate a pattern of behavior that is troubling and that needs to be addressed – his actions and inability to separate his personal political views from his role as an executive with the MOA has damaged the reputation of OIT and has eroded the trust of MOA employees in the ability of OIT to be impartial and neutral. Given the wide-ranging access that OIT staff has to MOA facilities and systems, it is imperative that MOA employees have confidence in OIT’s ability to be impartial and neutral – the actions of Dahl as OIT Director have negatively impacted the hardworking, dedicated OIT employees who come to work everyday doing the best they can to keep the MOA functioning smoothly – they, and the public deserve better.

Based on the available evidence and the actions of the OIT Director, the Ombudsman finds this complaint regarding the Municipality of Anchorage, Office of Information Technology, Director to be **JUSTIFIED**.

Based on the investigation of this case, the Municipal Ombudsman recommends:

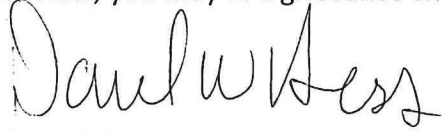
- That the Administration terminate Marc Dahl’s employment with the Municipality of Anchorage. His actions have damaged the reputation of the Municipality’s Office of Information Technology and has undermined the trust of other Municipal departments, agencies, and employees that is necessary for the department to accomplish its mission. His actions have also damaged the reputations of the hardworking, dedicated OIT personnel who were simply following the directives of their department director. ***The Administration did not provide a response to this recommendation.***
- That Anchorage Municipal Code be revised to apply the restrictions regarding participation in Municipal elections that apply to the Ombudsman’s Office to the directors of all Municipal departments, utilities, and enterprises. ***The Administration did not provide a response to this recommendation.***
- That the Assembly and Administration work together to develop and implement in Municipal Code penalties for tampering or attempting to tamper with Municipal elections. As a Home Rule Municipality that encompasses 40% of the state’s population, the Municipality should not have to rely on state statutes regarding tampering or attempting to tamper with our election. ***The Administration responded – “The Administration will work with the Assembly to develop and implement Municipal Code addressing tampering or attempting to tamper with Municipal elections.”***
- That the Administration implement and require annual ethics training for all Municipal employees. The company that currently provides our mandatory annual online training has an optional ethics module. ***The Administration responded – “The Administration recommends that all Municipal employees – from both the Executive Branch/Administration and Legislative Branch/Clerk’s Office/Assembly – receive annual ethics training, to include proper interaction between Municipal employees who work on critical election infrastructure and the public.”***

The Ombudsman reasonably believes that there may have been a violation of state election statutes and will be forwarding a copy of the Final Investigative Report to the State of Alaska, Office of Special Prosecutions.

The Administration was provided with a copy of the preliminary investigative report on July 25, 2023. The Administration’s written response was received on August 17, 2023. Their responses to the Ombudsman’s recommendations were incorporated into the final report, and their comments are appended to the report. The Administration, at the request of the Ombudsman, provided a copy of the preliminary report to Dahl on July 31, 2023, to allow him an opportunity to provide comments – he has not submitted any comments regarding the preliminary report.

Based on these findings and these recommendations, this case is closed.

If you object to the Ombudsman's decision to decline, discontinue, or close this investigation or review, you may file a grievance with the Ombudsman as specified in A.M.C. 2.60.165.

A handwritten signature in black ink that reads "Darrel W. Hess". The signature is written in a cursive style with a large, prominent "D" at the beginning.

Darrel W. Hess
Municipal Ombudsman



MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

DATE: August 17, 2023

TO: Darrel W. Hess, Ombudsman

FROM: Mario Bird, Chief of Staff *MLB*
Kent Kohlhase, Municipal Manager *KK*

SUBJECT: Preliminary Investigative Report Concerning Ombudsman Complaint
2023-0550

Please accept this as the Administration's response to the draft Ombudsman's report 2023-0550 dated July 24, 2023. The Administration is supportive of the process and would like to recognize that the Administration and its employees have cooperated to the fullest extent asked by the Ombudsman. The Administration agrees that Election integrity is critical to the legitimacy of the government and the public trust.

After reviewing the Ombudsman's preliminary report, the Administration appreciates the level of detail that went into the process. Please see our comments and areas of identified response below.

1. The Director of the Municipality of Anchorage's Office of Information Technology (OIT) did not follow Policy & Procedure 1-1, specifically regarding the publication of the revised OIT policy that appeared on the OIT intranet page on or about April 11, 2023. Though the process used by the IT Director was improper, the Administration will introduce an updated MOA-wide policy that accomplishes many of the OIT policy goals, including protection of MOA OIT assets, especially screening for malware that can enter an MOA system through a thumb drive or other standalone device.
2. The Administration recommends that all Municipal employees – from both the Executive Branch/Administration and Legislative Branch/Clerk's Office/Assembly – receive annual ethics training, to include proper interaction between Municipal employees who work on critical election infrastructure and the public.
3. The Administration will introduce a personnel policy or code change which applies to Municipal employees working on critical infrastructure during elections, specifically addressing appropriate limitations on communication between such employees and public or partisan vote observers.

4. The Administration will work with the Assembly to develop and implement Municipal Code addressing tampering or attempting to tamper with Municipal elections.
5. The Administration respectfully requests that the final report adhere to AMC 2.60.145 by removing any identifying information for municipal witnesses (excluding the subject employee).
6. Per the Ombudsman's request, Mr. Marc Dahl was provided a copy of your preliminary report on July 31, 2023, so that he may also provide comments. We ask that the Ombudsman's office please communicate directly with Mr. Dahl going forward. Please feel free to directly contact Mr. Dahl at: [REDACTED] should you wish to do so.

Thank you for receiving the comments of the Administration. It is respectfully requested that these comments be attached to the final report consistent with the Municipal Code. Here ends the comments of the Administration.



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

July 5, 2023

Mayor Dave Bronson
632 W. 6th Ave., Suite 850
Anchorage, AK 99501

Re: Advance Notice of Questions to be Addressed at July 21 Worksession—
*April 11 Election Complaint and Creation of ITD Policy Statement Regarding
Removable Storage Devices*

Mayor Bronson:

The Assembly has scheduled a worksession for Friday, July 21 to discuss the election complaint received by the Municipality on April 11, 2023.¹ The complaint quoted, verbatim, from a purported municipal “ITD Policy Statement” that was created and published only on a non-public municipal website mere hours before the complaint was submitted.² Exactly how the authors of the election complaint came to have a copy of the “policy” has generated significant public interest.³

We invite representatives of your administration to attend the worksession.

¹ See Sami Graham, Daniel E. Smith, John Henry, Renewed Election Complaint (April 11, 2023), attached as Exhibit A. Compare MUNICIPALITY OF ANCHORAGE, MUNICIPAL CLERK’S OFFICE, [Election] *Observer’s Handbook* at 17 (Oct. 13, 2022) (“Complaints that are not resolved by the Municipal Clerk or Election Administrator and that would change the outcome of the election, if found to be true, may be renewed by the observer or candidate. The renewed complaint shall be submitted to the Election Administrator in writing on a form entitled – ‘Election Commission – Alleged Failure to Comply with Law or Alleged Illegal Election Practices’.”); see also AR 222-328 *A Resolution of The Anchorage Municipal Assembly Updating and Amending the Election Observer’s Handbook and Associated Forms*.

² See, ITD Policy Statement and List Showing Uploaded Time and Date (April 11, 2023), attached as Exhibit B. See also Emily Goodykoontz, *Former Top Aide To Mayor Challenged Anchorage Election Using Policy Quietly Added That Day By City IT Director*, ANCHORAGE DAILY NEWS (May, 20, 2023), available at: <https://www.adn.com/alaska-news/anchorage/2023/05/20/former-top-aide-to-mayor-challenged-anchorage-election-using-policy-quietly-added-that-day-by-city-it-director/>

³ See, e.g., Editorial, *Anchorage Residents Deserve To Know: What Was That Shady Municipal Election Complaint About?* ANCHORAGE DAILY NEWS (June 17, 2023), available at: <https://www.adn.com/opinions/editorials/2023/06/17/editorial-anchorage-residents-deserve-to-know-what-was-that-shady-municipal-election-complaint-about/>

To ensure that the worksession is maximally productive, we wish to provide you and your administration with advance notice of the topics we wish to cover.

1. **Origin of the Purported Policy.** The purported “ITD Policy Statement” referenced by the renewed election complaint was not an official municipal operating policy or procedure. Official municipal policies and procedures must, among other things, be reviewed and approved by the Office of Management and Budget, the Municipal Attorney, the Municipal Manager, and signed by the Mayor.⁴ The policy was also unworkable in practice and, if applied to processes at the Election Center, would have needlessly added risk to the security protocols that ensure the integrity of local elections.⁵

The first topic that the Assembly wishes to explore is how the “ITD Policy Statement” was developed:

- Was the Statement drafted through any kind of a deliberative process? If so, what did that process entail?
- Who was involved in the development of the Statement?
- What persons were involved in posting the statement to the Municipality’s internal website?

⁴ See Municipality of Anchorage, P&P No. 1 *Municipal Operating Policies and Procedures* (Dec. 17, 1996) at § 7(c)(6) (“OMB will forward the final document to the Municipal Attorney for legal review, the Municipal Manager for review and then to the Mayor for signature”).

⁵ A thumb drive is currently used to transport vote counts from the municipality’s scanning, adjudication, and tabulation system, which is “air gapped,” to municipal computers that are used to report election results. When it was first procured, the thumb drive was obtained from and formatted by the municipal IT department and encrypted.

To ensure that the thumb drive could not be subsequently tampered with, the drive is stored in a locked safe, in a locked room that requires a code and thumb print to open, and the password for the thumb drive is known to an extremely limited number of individuals.

To ensure that the thumb drive is merely moving vote counts from one machine to another, and not otherwise having an effect on the election process, vote totals are displayed on the ballot-scanning machine both before and after the thumb drive is inserted (and can be observed not to have changed after the thumb drive is inserted); and published election results are seen to correspond to the totals displayed on the ballot-scanning machine.

Last, to ensure that the ballot-scanning machine is itself correctly displaying accurate vote counts, the Municipality conducts a “risk limiting audit.” As further detailed in the memorandum attached to AM 324-2023 (*see* page 395-404), the audit entails hand counting randomly selected ballots in batches (using dice to seed a random-number generator), and comparing the results of the hand count to totals reported by the machine. In the 2023 municipal election, 3,200 ballots were randomly selected for hand counting, and “the hand count and machine count of those ballots was identical.” AM 324-2023 at 402.

2. Extent of Administration Involvement in the Complaint. The renewed election complaint was submitted by your former chief of staff, Sami Graham, and two other individuals,⁶ and the content of the complaint has led members of the public to conclude that the complaints must have been in communication with the municipal information technology department. As the Anchorage Daily News editorial board put it:

There are surely a number of explanations for how Bronson administration ally and former chief of staff Sami Graham came to file an election complaint that cited a computer policy only hours old that didn't exist in any public form, but the simplest one is that the complaint was the result of coordination between Graham and administration officials. And the circumstances of that seeming coordination are cause for grave concern.

. . . the real red flag about the IT policy is that there's no reason Graham and her compatriots should have known it even existed. It had been added to the municipality's internal network by municipal IT director Marc Dahl on April 11, only two hours before Graham's complaint was filed, and the policy was not accessible by the public. None of the people making the complaint had any means of accessing the policy, but they somehow quoted it verbatim.

Also notable: The policy didn't exist at the time Graham said municipal elections employees had violated it (April 6 and 7), and Heinz said no elections personnel had been made aware of its existence before the complaint.⁷

The second topic the Assembly wishes to explore is whether and how municipal employees communicated (and/or coordinated) with the complainants about the "ITD Policy Statement" and/or the election complaint:

- What non-municipal employees were informed about the existence (or substance) of the "ITD Policy Statement," prior to April 12?
- What contact did the complainants have with municipal staff, such that they were aware of the "ITD Policy Statement" and its exact language? Who was involved in the communications, and when and how did they occur?

To the extent that any such communications were conducted by email or otherwise memorialized, the Assembly requests copies of the emails and memorializations, all of which are likely to be non-confidential public records.

⁶ See Exhibit A.

⁷ See Editorial, above at n.3.

3. Management Awareness. The final topic that the Assembly wishes to explore is the extent to which municipal management was aware that the ITD Policy Statement was being developed, or discussed with complainants.

- Were you, or any member of the Mayor's office, aware of the ITD Policy Statement before the Statement was posted on April 11?
- To what extent, if any, were you, or any member of the Mayor's office, involved in the development of the ITD Policy Statement?
- Were you, or any member of the Mayor's office, aware of the April 11 election complaint that referenced the ITD Policy Statement before the complaint was submitted?
- To what extent, if any, were you, or any member of the Mayor's office, involved in the development of the April 11 election complaint that referenced the ITD Policy Statement?

* * *

* * *

* * *

Thank you for your attention to this matter. We hope the Administration will participate in the worksession on Friday, July 21, from 10:00am to 11:30am. If you have any questions, we would be happy to discuss.

Sincerely,



Christopher Constant, Chair



Meg Zaletel, Assembly Vice Chair

Cc: Anne Helzer-Municipal Attorney
Kent Kohlhasse - Municipal Manager
Mario Bird - Chief of Staff
Philippe Brice - Acting ITD Director
Anchorage Assembly

From: [Constant, Christopher](#)
To: [Helzer, Anne](#)
Cc: [Gates, Dean T.](#); [Hurt, Matthew P.](#); [Heasley, Brandi M.](#); [Willoughby, Jessica B.](#)
Subject: Records Request
Date: Monday, July 10, 2023 12:38:22 PM

Hi Anne,

I am not sure the exact protocol for making this request. I am seeking copies of the records provided to the Ombudsman relating to communications between Sami Graham, Mark Merchant, Heather Holland, and Marc Dahl. I understand I need to make this request to the department head. I am hoping you will facilitate this for me. We have a worksession on Friday July 21 and the communications are timely. The specific search terms are below.

Very respectfully,

Christopher Constant

The specific terms were as follows and are incorporated as the terms of this request:

MOA Email Inboxes – To, From, or Between these email addresses that contain any of the keywords listed below

- Marcus.Dahl@anchorageak.gov
- Mark.Merchant@anchorageak.gov
- Heather.Holland@anchorageak.gov

External Email Inboxes – To, From, or Between the MOA email addresses listed above and the external email addresses listed below

- Alaskangraham@yahoo.com
- Alaskansam@yahoo.com

Date Range

- March 15, 2023 – April 23, 2023

Keywords

- USB, Policy, Election, Trueblood, Appeal, Challenge, Clerk, Commission, Thumb Drive, Dominion, Computer

Additional Information Requested

- Any text messages between Marc Dahl's MOA cell phone and 907-230-9034 between March 15, 2023 and April 23, 2023

Date : 1/10/2023 1:05:09 PM

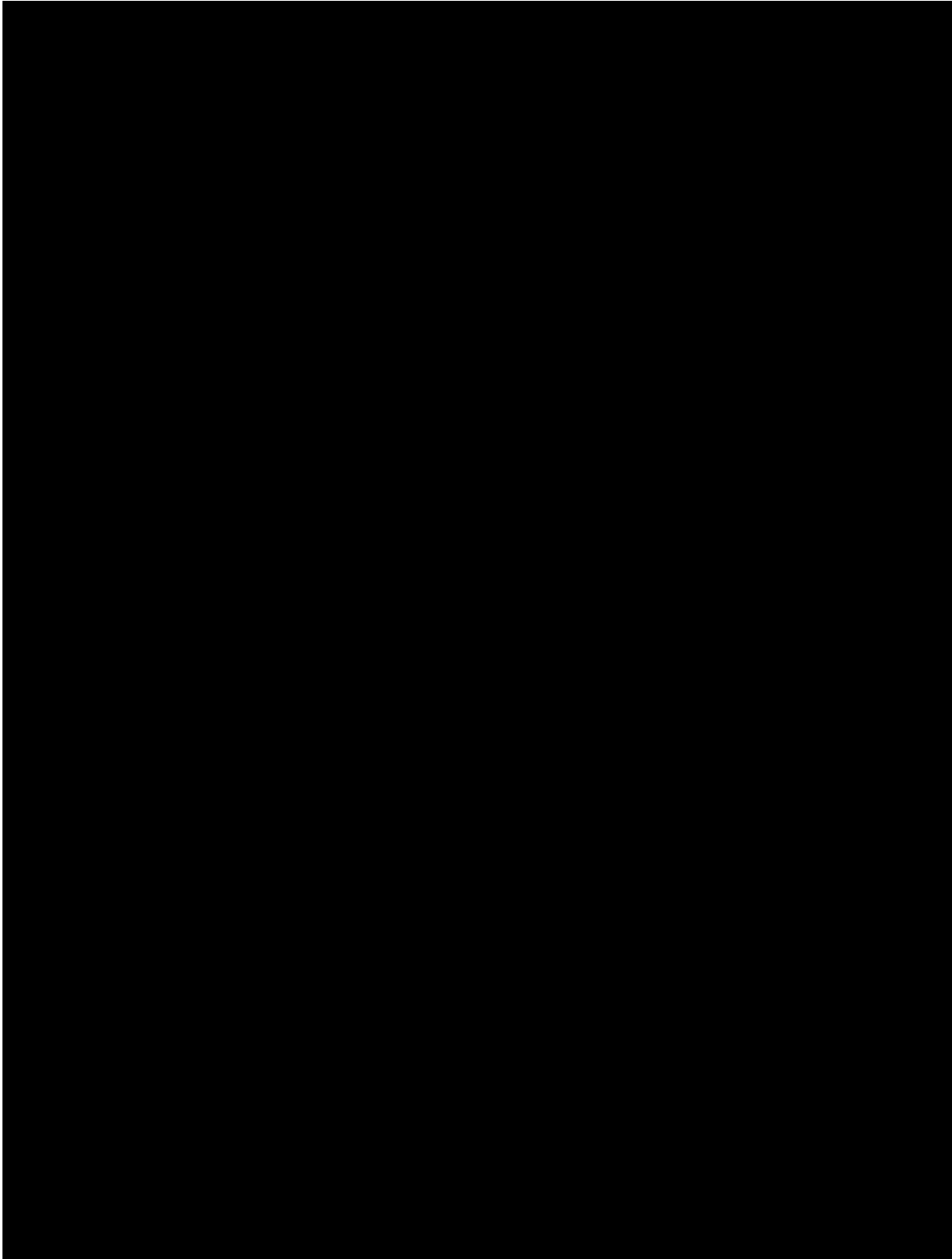
From : "Merchant, Mark A."

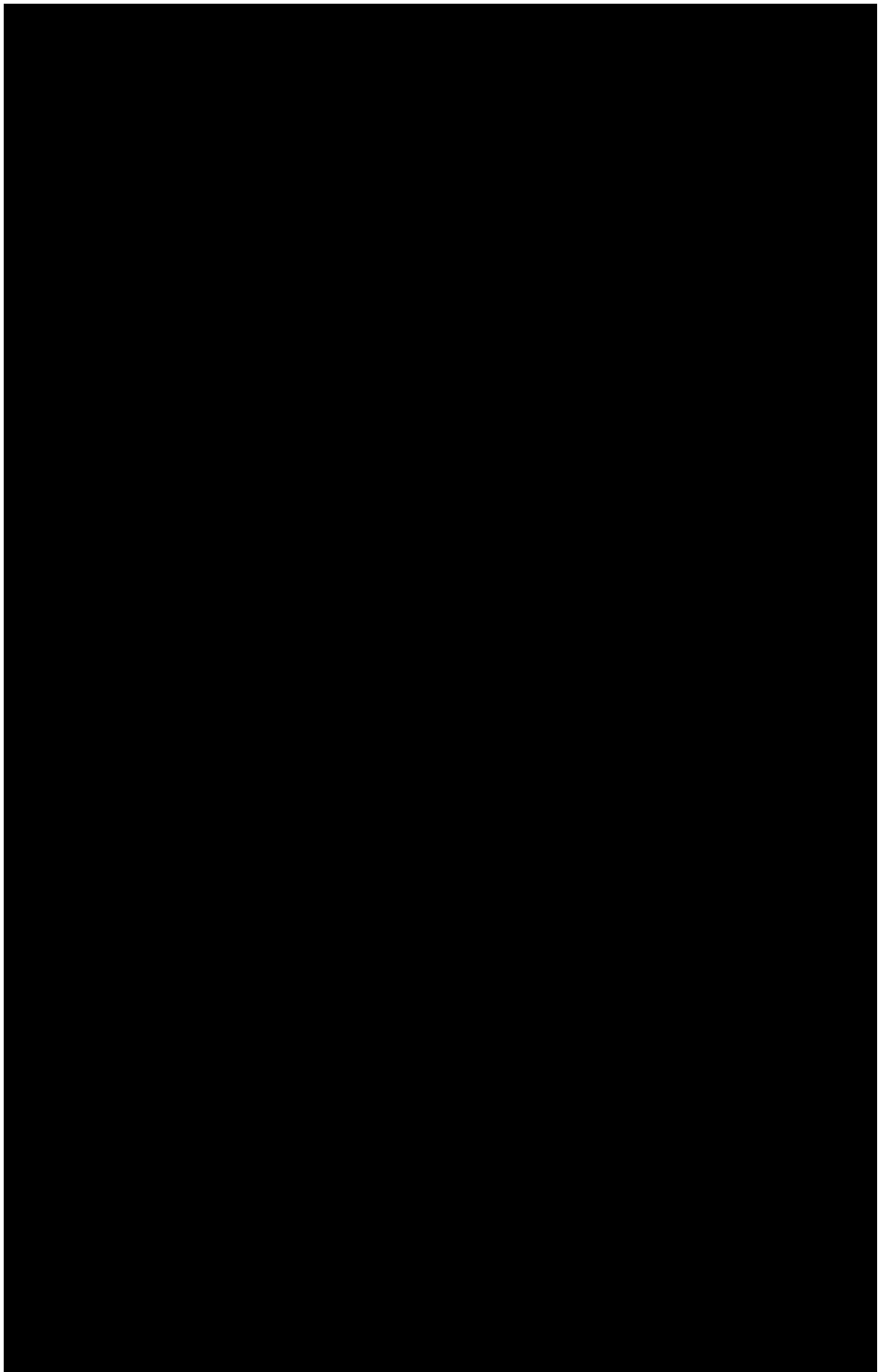
To : "Dahl, Marc"

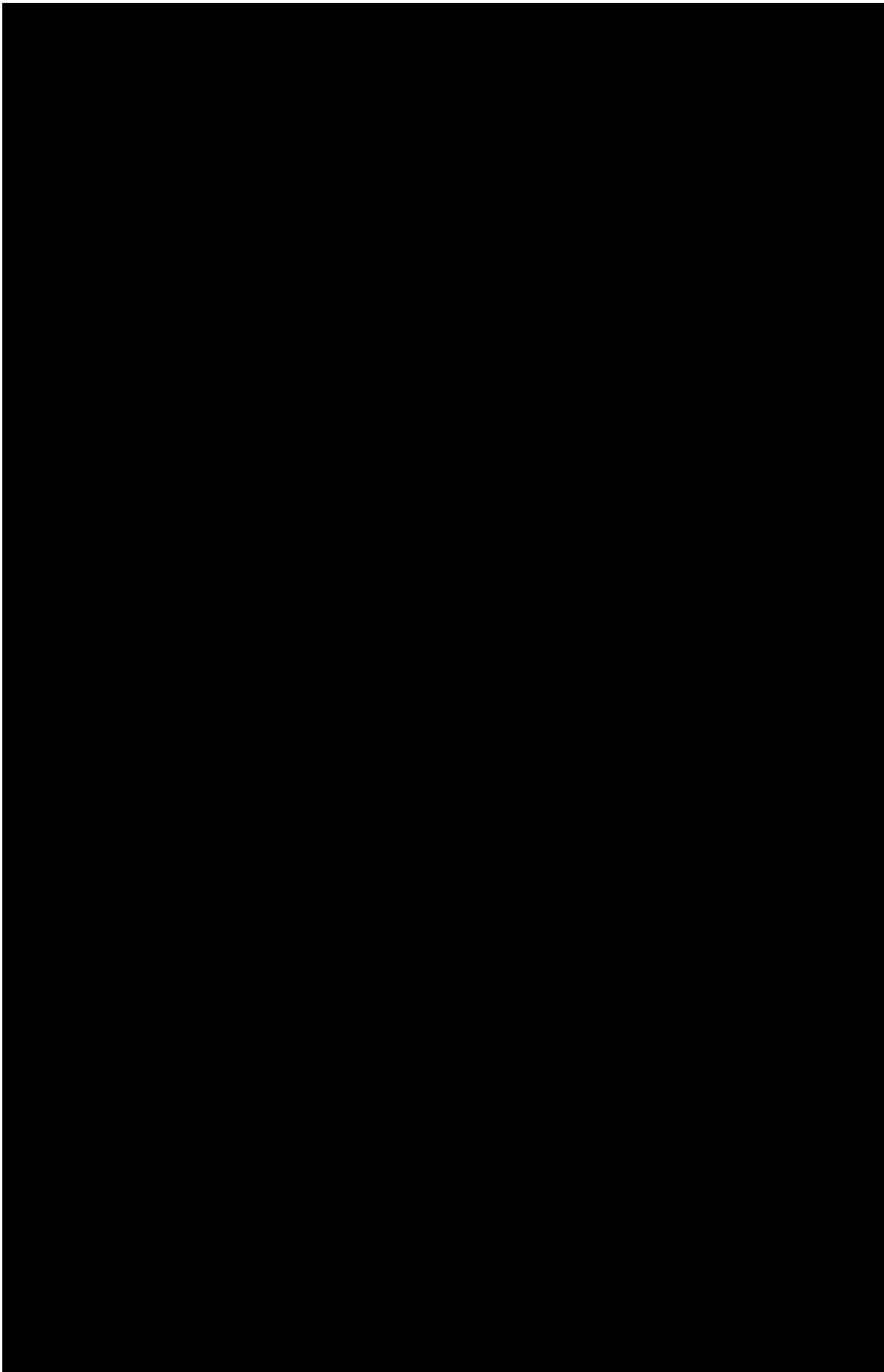
Cc : "Plant, Anna L."

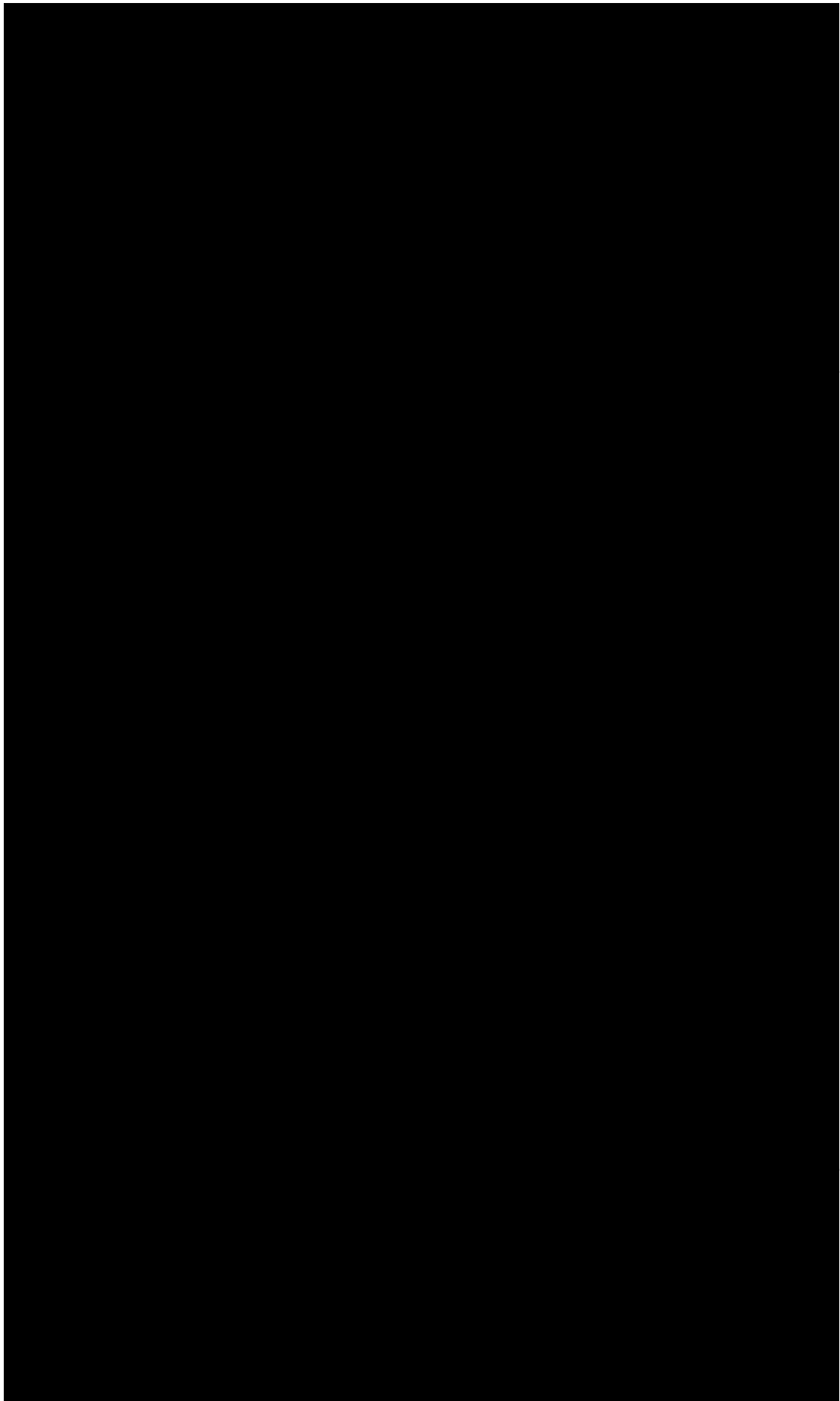
Subject : FW: Policy - 28-10

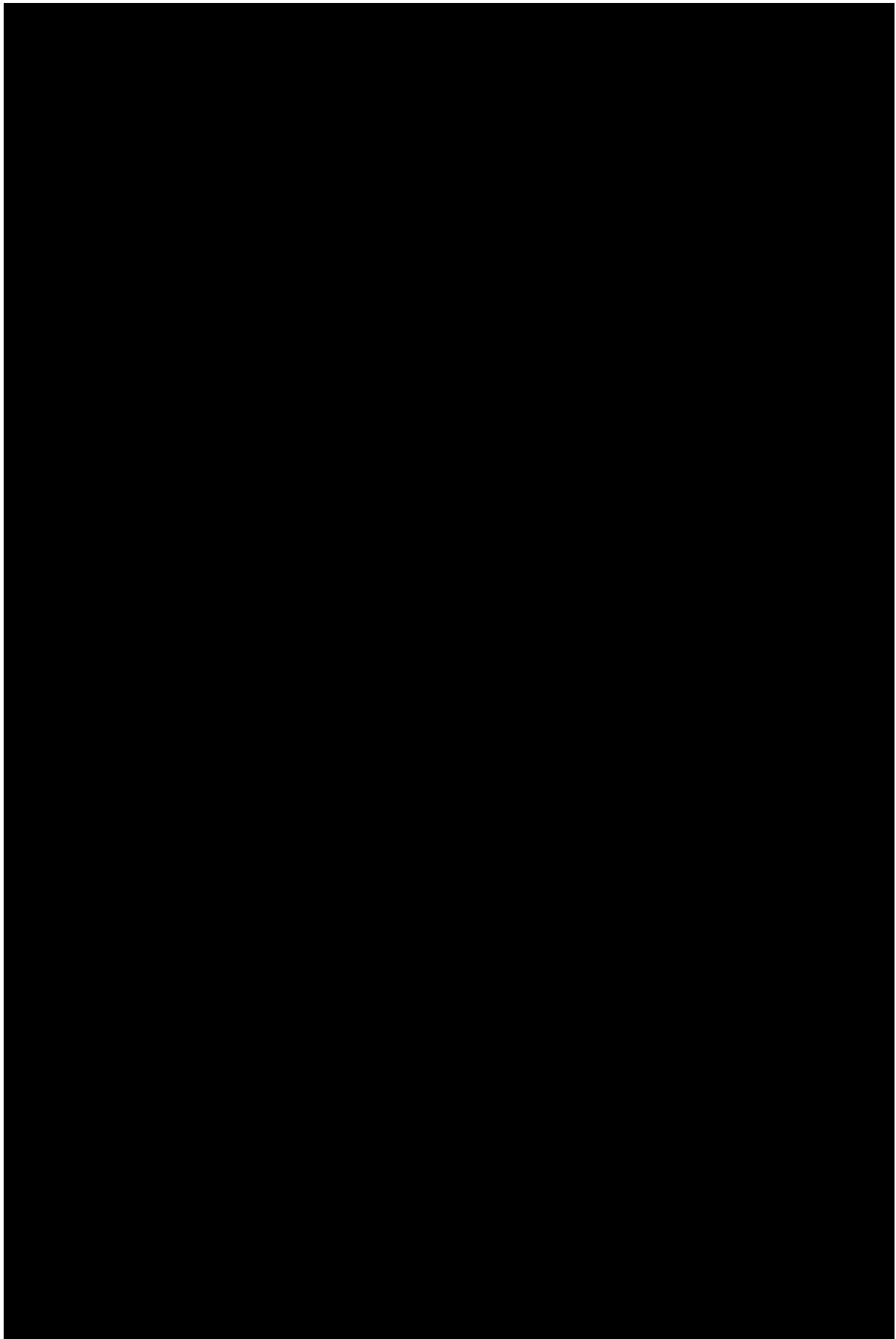
Attachment : PP 28-7 Password Management 101521.doc;PP 28-10 Protection of Personal or Confidential Information 091421 - Final.doc;image001.jpg;














 MUNICIPALITY OF ANCHORAGE O P E R A T I N G P O L I C Y / P R O C E D U R E	P&P No. 28-7	Page 1 of 3
	Effective Date: August 1, 2018	
Subject: Password Management	Supersedes No. Updated	Dated:
	Approved by:	

1. PURPOSE

To ensure that proper password controls are applied to all Municipality of Anchorage (MOA) computer, network, and application accounts to meet or exceed the minimum regulatory compliance standards for data integrity and confidentiality.

2. POLICY

It is the policy of the Municipality to establish a baseline password requirement for all MOA owned computer systems and/or networked devices. Departments must meet or exceed this baseline policy.

3. ORGANIZATIONS AFFECTED

All Municipal agencies.

4. REFERENCES

National Institute for Standards and Technology Special P 800-63 Password Guidelines.

5. DEFINITIONS

- a. Data – numerical or other information represented in a form suitable for processing by computer.
- b. Encryption – A technical security control used to protect the confidentiality of an information asset.
- c. Standard User Account – Non-privileged accounts that do not have the ability to install applications, programs, or the ability to modify operating system configurations.
- d. Elevated or Admin (ADM) Accounts – Accounts with the ability to install applications or programs on desktops / servers and/or modify operating system configurations.

6. RESPONSIBILITIES

- a. The Chief Information Security Officer (CISO) shall be responsible for oversight of all MOA Information security.
- b. All Departmental IT staff shall configure and manage MOA systems to meet or exceed these password requirements.

7. PROCEDURE

- a. Strong Password Requirements
 - i. Personnel must set a password of sufficient length and complexity according to the following standards:

- a. The password length must be 14 characters or more unless prohibited by application or system design;
 - b. The password must contain a combination of upper and lower case letters and include at least one numeric and/or special character (e.g., \$, (, %, @);
 - c. The password must not be a single word that would appear in a dictionary and must not be based on personal information (e.g., a pet name) or other identifiers (e.g., a social security number).
 - d. The password shall not be any of your previous 10 passwords.
- b. **Password Variability**
- When re-setting a password, personnel must use a new password that is substantially different from the old password. Personnel must not use passwords that are only incrementally different from the previous password (e.g., Thecowjumpedoverthemoon1, Thecowjumpedoverthemoon2, Thecowjumpedoverthemoon3.)
- c. **Application of Passwords**
- With the exception of public-access terminals or by management authorization, for example: servers, workstations, terminals and laptop computers, shall be secured with a password-protected screensaver with the automatic activation feature set at 15 minutes or less, or by logging-off when the system will be unattended.
- d. **Protections from Disclosure**
- i. Personnel must not record or store a password in any form (e.g., sticky note, notebook, electronic file) unless the password is protected by a technique (e.g., encrypted password storage application, sealed envelope in a limited-access safe, or other locked storage) and explicitly approved by IT Security via a Service Desk request. Passwords must not be inserted into electronic messages, or included in information transmitted by an electronic messaging system; the only exception is when the message is protected by an approved method or the password is a one-time use password.
 - ii. Personnel must not share a password or non-public account information assigned to them (Note: MOA technical personnel do not request passwords from personnel for any purpose).
 - iii. When a system, network, process, or application requires the use of a shared account or password, personnel must ensure that the number of individuals with the account information is limited to the minimum necessary for authorized purposes, and that the password is changed whenever there is a change in staff with knowledge of the account information.
 - iv. Personnel must immediately report any known or suspected compromise of a password to the MOA Security Office, in accordance with the MOA Incident Response Plan.

- e. Proper Administration of Passwords
 - i. Personnel tasked with system administration responsibilities must
 - (A) Ensure that MOA systems, networks, and applications are configured to store passwords only when required and only in encrypted form.
 - (B) Ensure that password history is enabled, which will prevent the reuse of any of the previous ten (10) passwords; that password expiration does not exceed 365 days for standard user accounts and 90 days for accounts with Admin (ADM) or elevated privileges.
 - (C) Ensure that initial and reset passwords are set according to the password strength standards set forth in this policy, and that account users are required to change an initial or reset password upon logon. Personnel tasked with resetting passwords must ensure that any individual requesting a reset is positively identified and that the reset password is provided by an approved method.
 - (D) Ensure that passwords for service accounts are not provided to individuals without a legitimate requirement, are disabled when not in use, and are changed whenever there is a change in service personnel.
 - (E) Ensure that a mechanism is in place for each system, network, and application account with system-level privileges that allows the actions of an administrator to be uniquely associated with that individual.
 - (F) Not assign the same password to accounts with system-level privileges as is used for non-administrator accounts.
 - (G) Ensure that vendor-supplied default passwords for systems or applications are changed before the systems or applications are used for MOA purposes.
 - (H) Review users' access rights to systems at a minimum of once a quarter.

8. REVIEW DATE/LEAD REVIEW AGENCY

The Office of Information Technology Department will review this document in October of each year for any needed revisions.



**MUNICIPALITY OF ANCHORAGE
O P E R A T I N G
P O L I C Y / P R O C E D U R E**

P&P No.
28-10

Page 1 of 2

Effective Date:
September 1, 2021

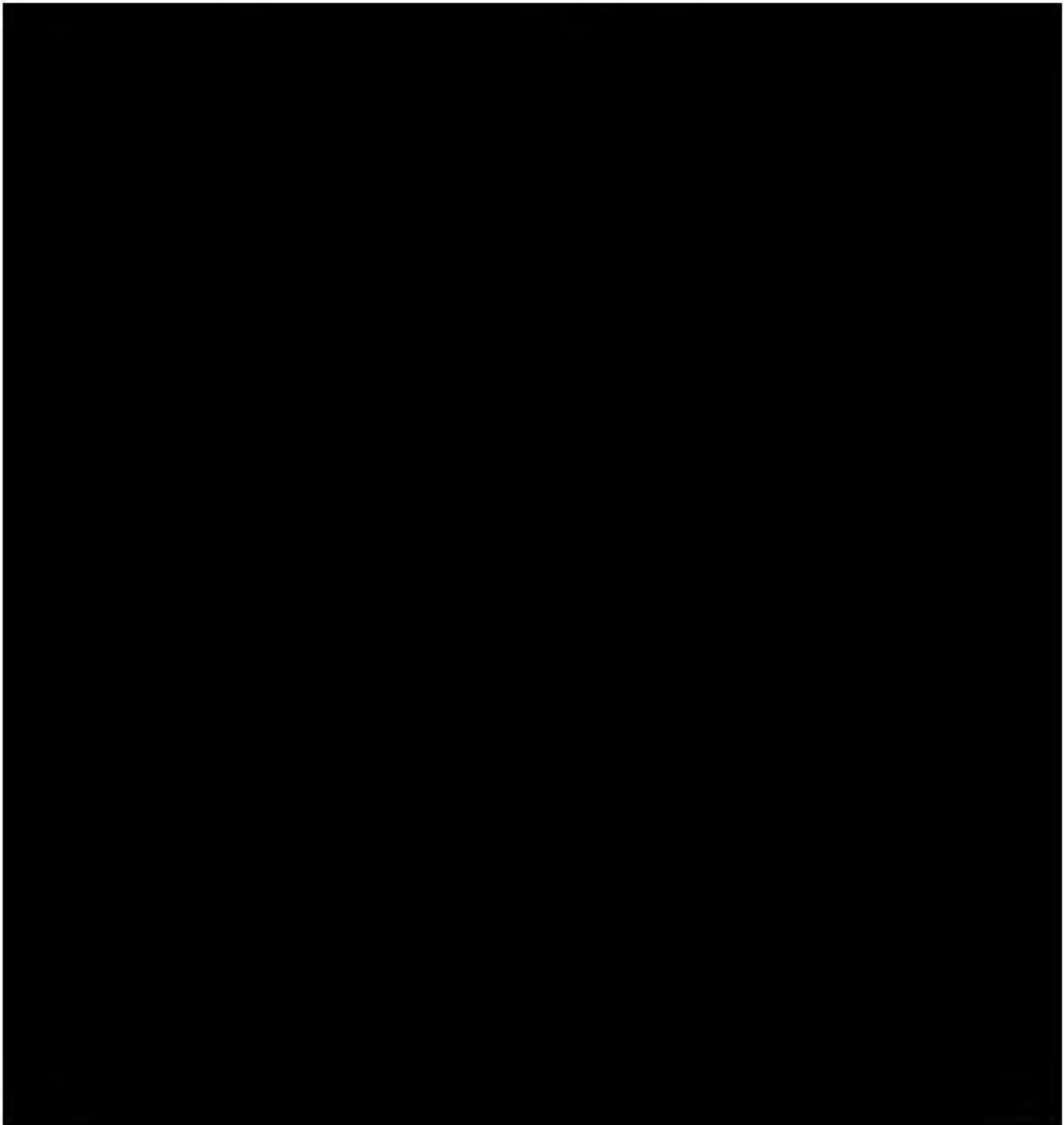
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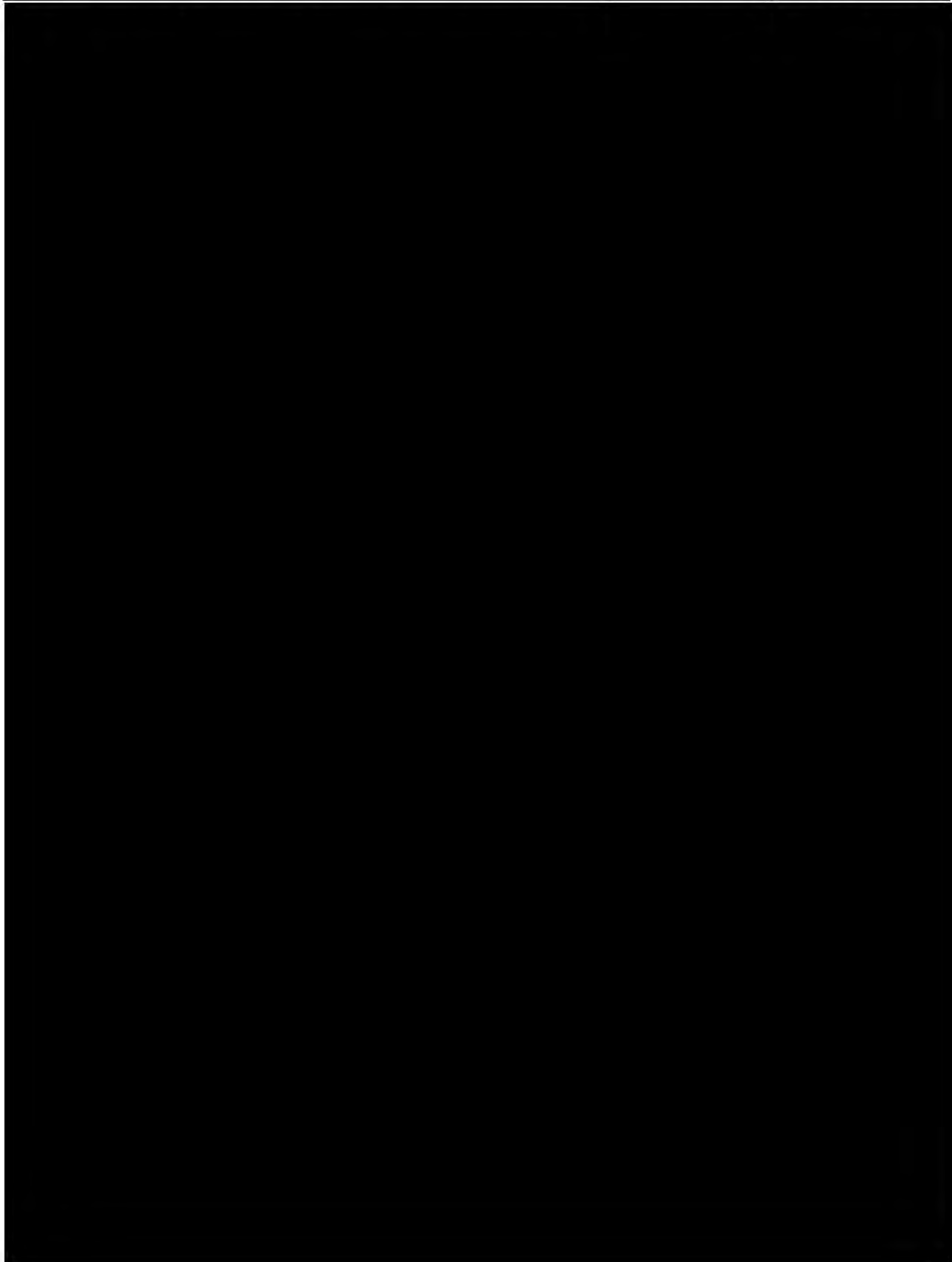
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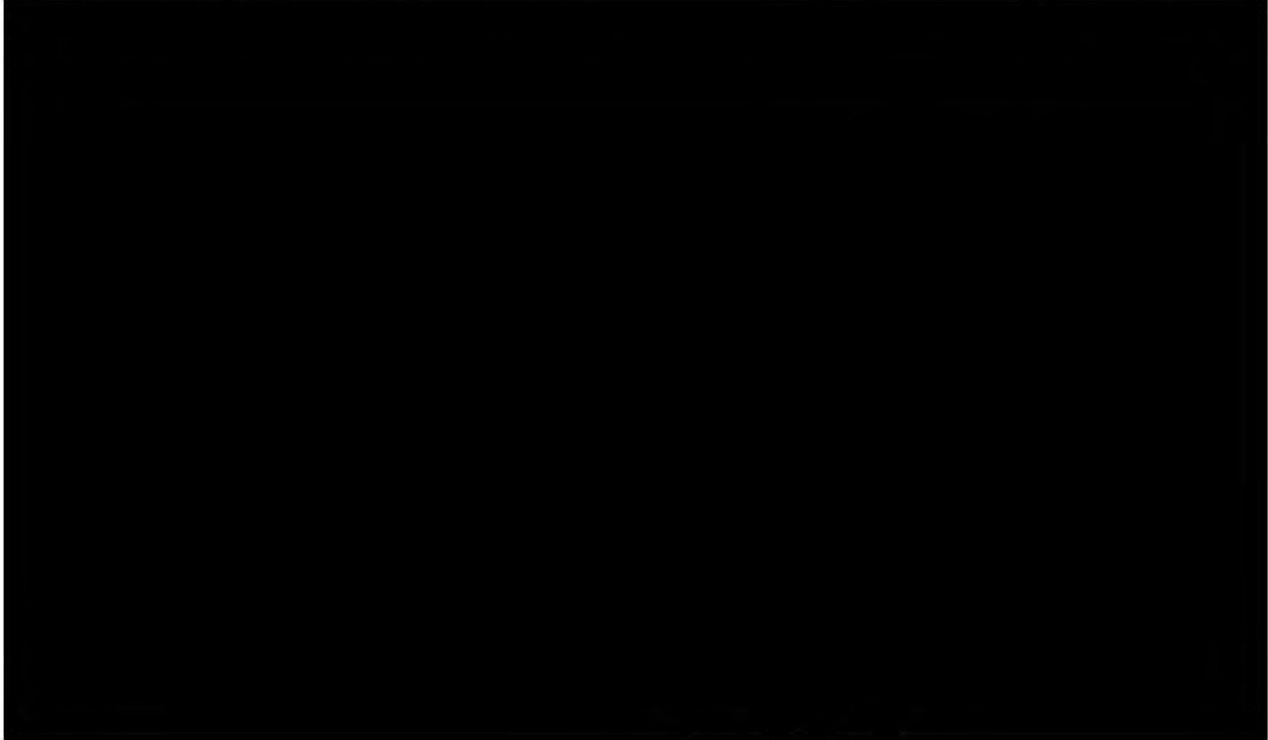
Supersedes No.
NEW

Dated:

Approved by:







MOA Inte

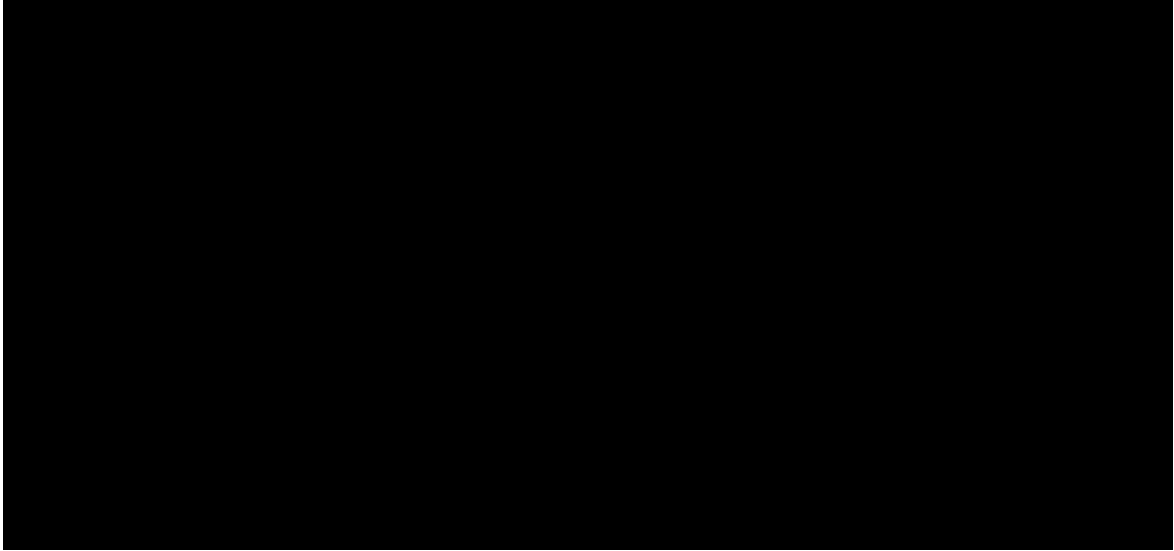
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From : "Merchant, Mark A."

To : "Dahl, Marc"

Subject : Draft Round 2

Attachment : PP_28-41_Internet and System Connectivity011823.docx;





**MUNICIPALITY OF ANCHORAGE
OPERATING
POLICY/PROCEDURE**

P&P No.

28-41

Page 1 of 2

Effective Date:

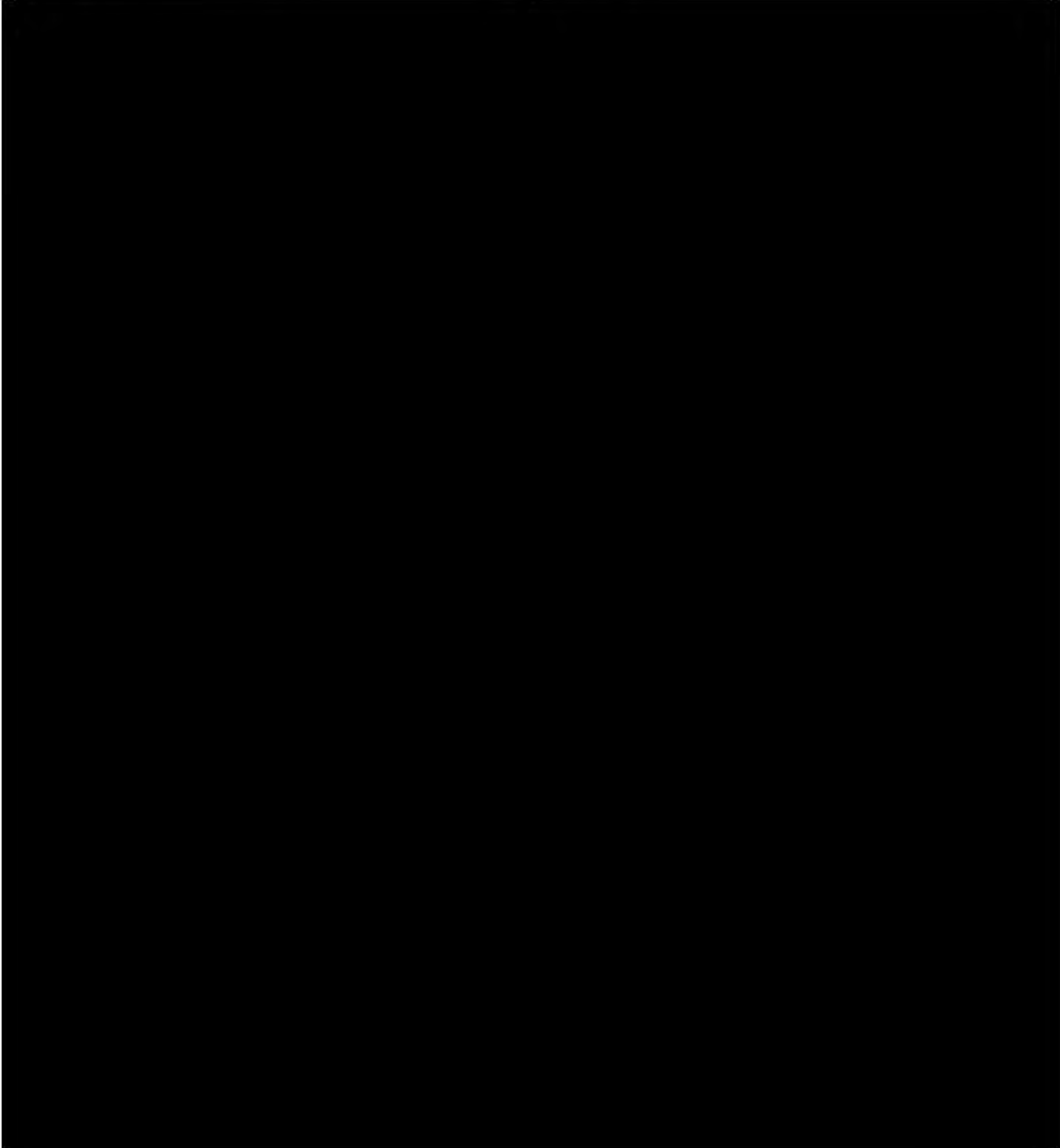
Subject:

**Minimum security requirements for internet
and system connectivity**

Supersedes No.

Dated:

Approved by:



Subject:
**Minimum security requirements for internet
and system connectivity**

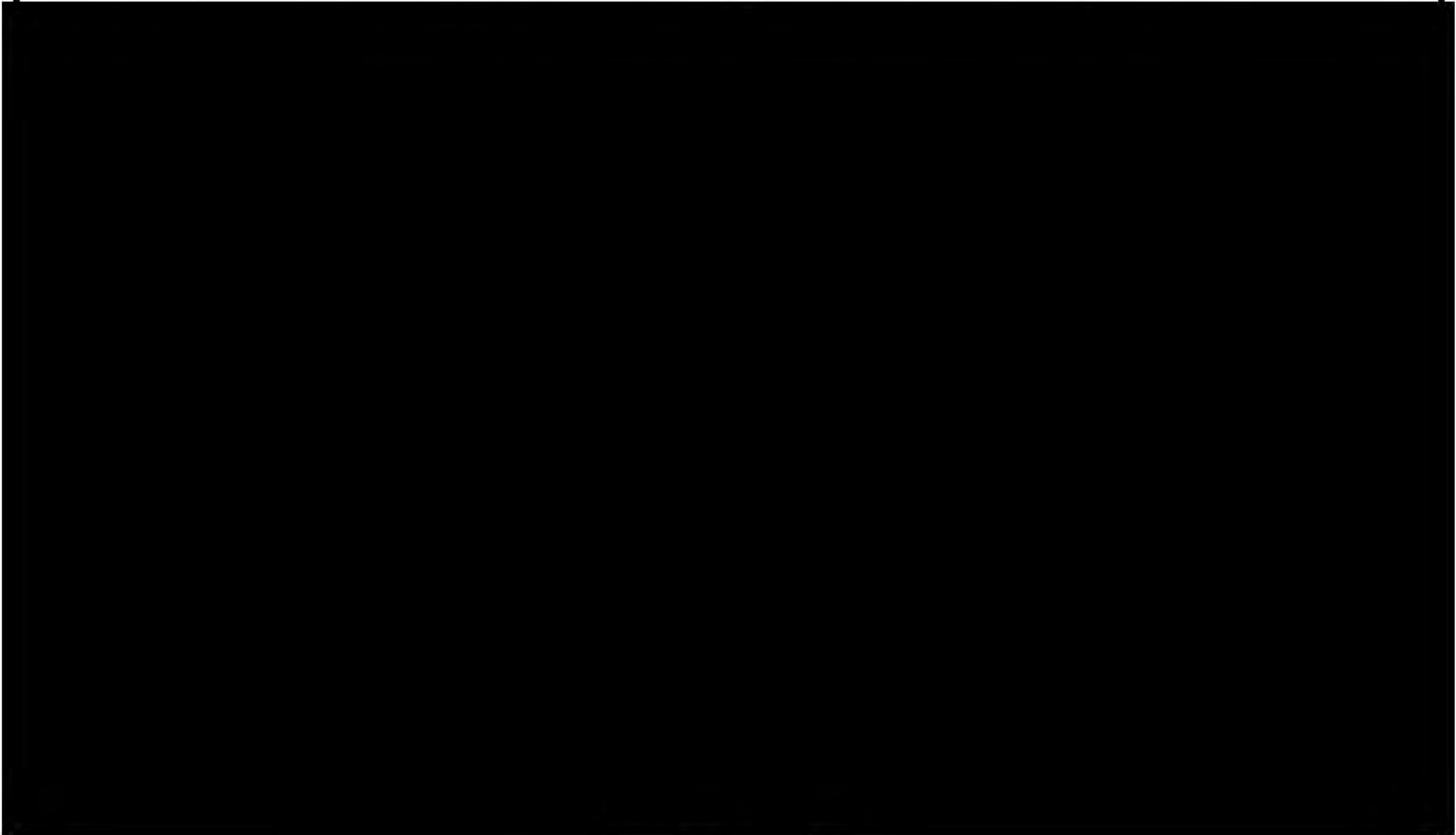
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28-41

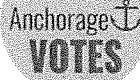
Page 2 of 2

Subject:
**Minimum security requirements for internet
and system connectivity**

P&P No.
28-41

Page 2 of 2





Municipality of Anchorage
April 4, 2023 Regular Municipal Election
Complaint Form

OBSERVER INFORMATION	<u>Apr. 6, 2023</u> Date
	<u>Sami Graham</u> Printed Name Of Observer
	<u>Trueblood</u> Name Of Candidate Or Organization/Group Representing

COMPLAINT	SPECIFIC INFORMATION REGARDING ELECTION OFFICIAL CONDUCT OR MISCONDUCT: A thumb drive is used to transfer data from Dominion to an MOA computer. The process is questionable because we are not aware of a publically observable step to verify the thumb drive is actually blank. It is completely possible that the thumb drive is depositing or altering data, intentionally or unintentionally, not simply retrieving data. We request that anytime any device is connected to the Dominion machine, a qualified and mutually agreed upon member of M.O.A. IT dept. be present to supervise.
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CODE CITATIONS	CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH CONSTITUTES MISCONDUCT: <u>Title 28. Fair & honest election.</u> <u>The integrity of elections is important to all citizens. 'on handbook' p. 6.</u>
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SIGNATURES	<u>Sami Graham</u> Signature of Observer	<u>Apr. 6 '23</u> Date Submitted
	<u>Janice Klein</u> Signature of Municipal Clerk or Designee	<u>4/7/23</u> Date Received

RESPONSE TO COMPLAINT DATED APRIL 6, 2023, FILED BY SAMI GRAHAM:

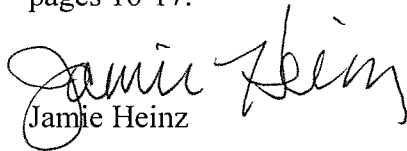
An encrypted thumb drive is inserted in the tabulations computer to download the election results which are thereafter uploaded to another computer for printing.

That thumb drive:

1. Is stored in a wall safe inside a locked room which requires a code and thumb print to open;
2. Is encrypted and reformatted each year according to Municipal IT practices; and
3. Requires a password in order to receive any download of election results.

The printed election results may be compared to the displayed computer results to ensure those results have not been changed.

The Complaint cites AMC Title 28 as authority for the alleged “misconduct.” AMC Title 28 grants authority, and responsibility, for the “overall administration of municipal elections” to the election administrator, including the “application of election related information systems, election related systems standards and procedures . . .” AMC 28.10.020C, *see* AO 2022-98, As Amended, Section 1. There is no “misconduct,” and this Complaint is treated as a suggestion related to administrative or management concerns, *see* Observer’s Handbook (12/6/2022) at pages 16-17.

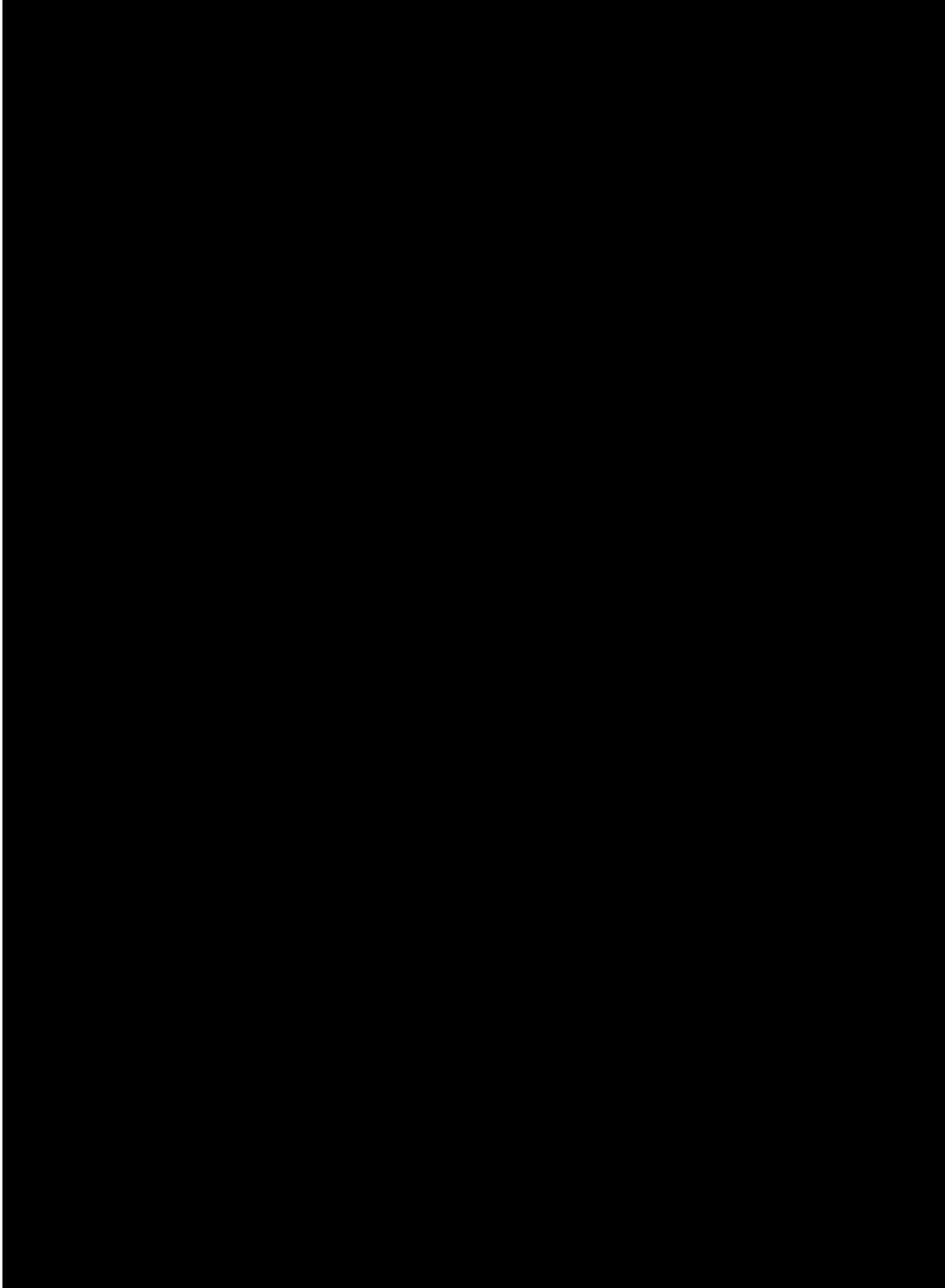

Jamie Heinz

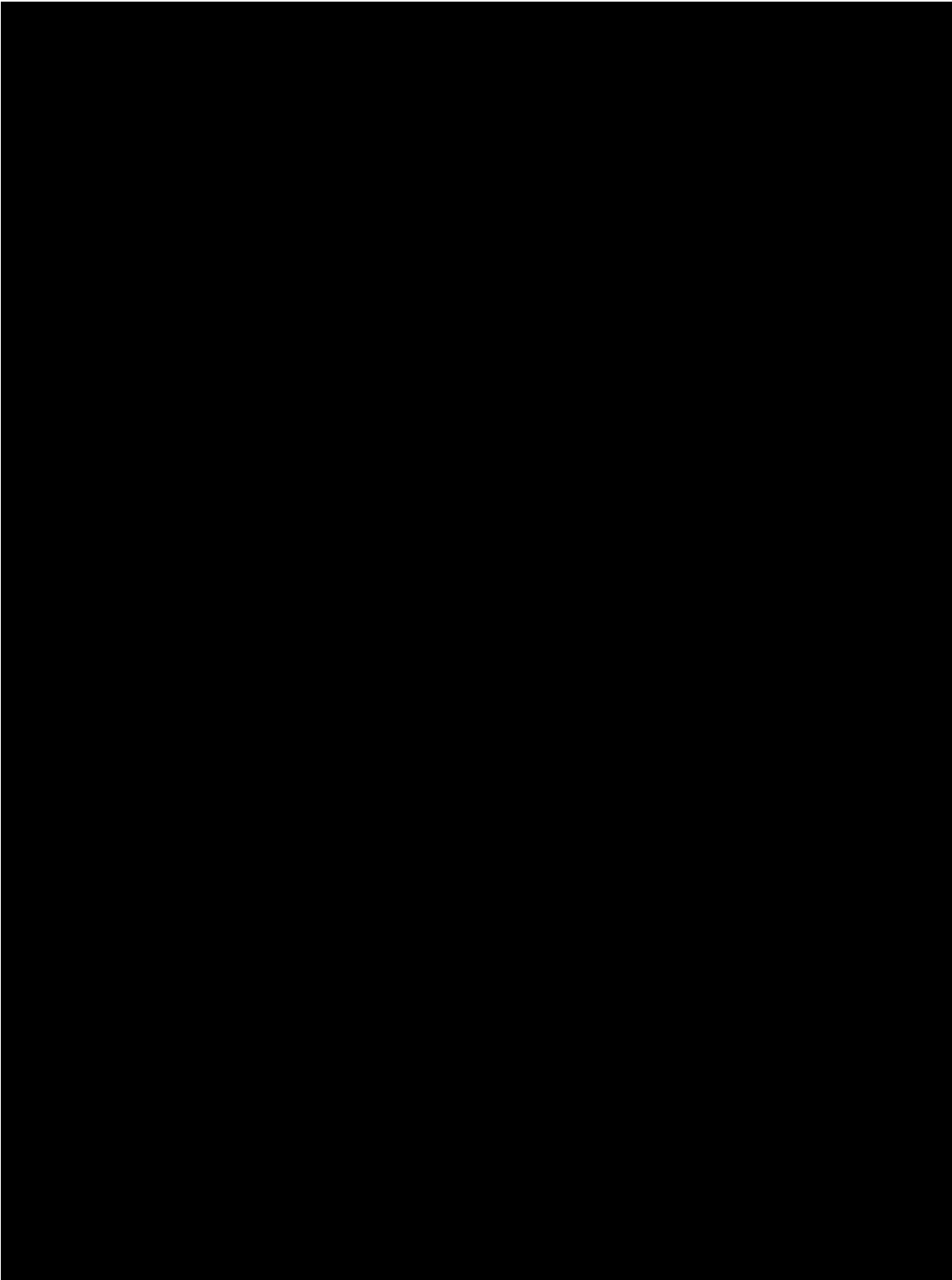
April 7, 2023

Gave copy to Sami Graham

R. Duane
4/7/23

Date : 4/11/2023 9:30:00 AM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;





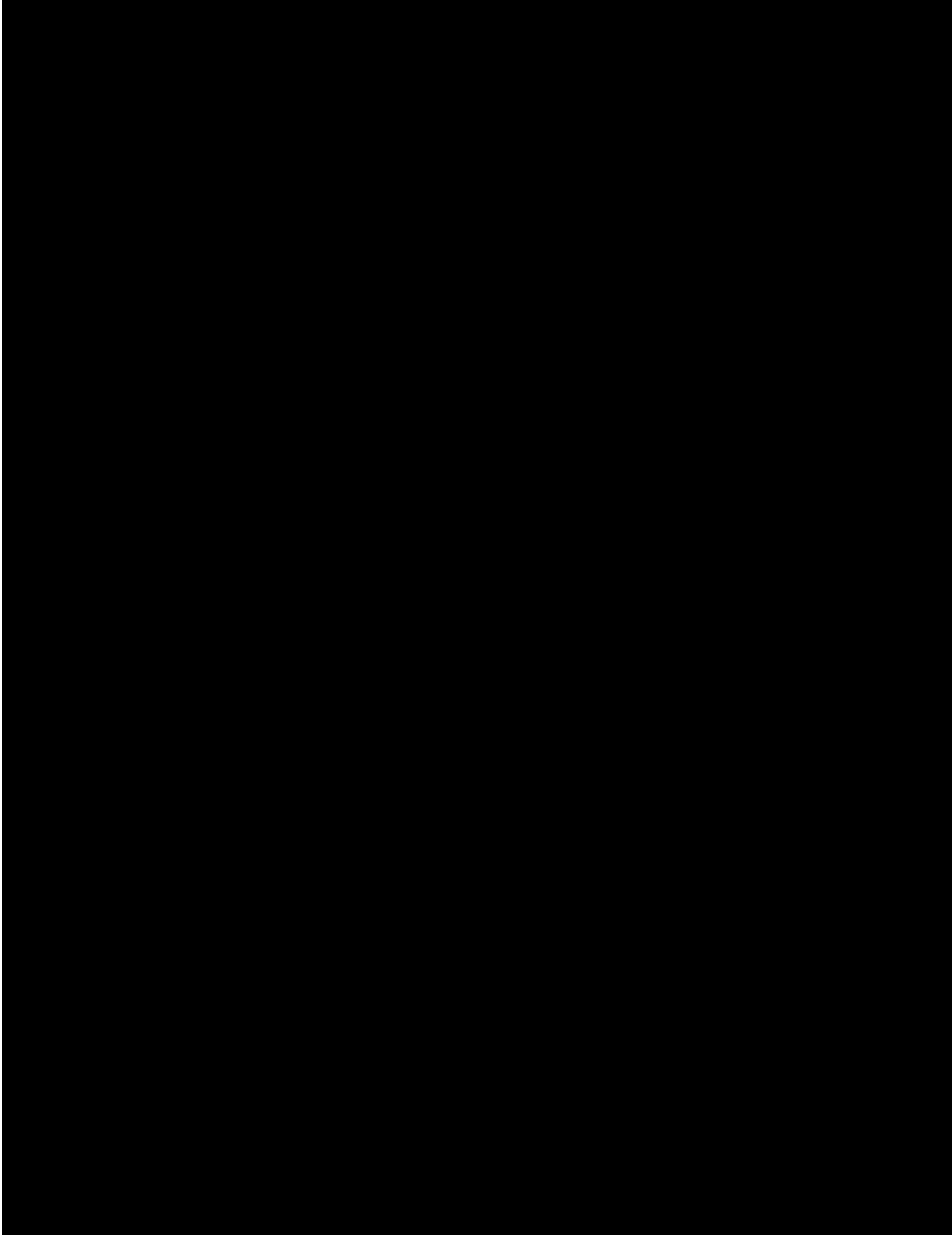
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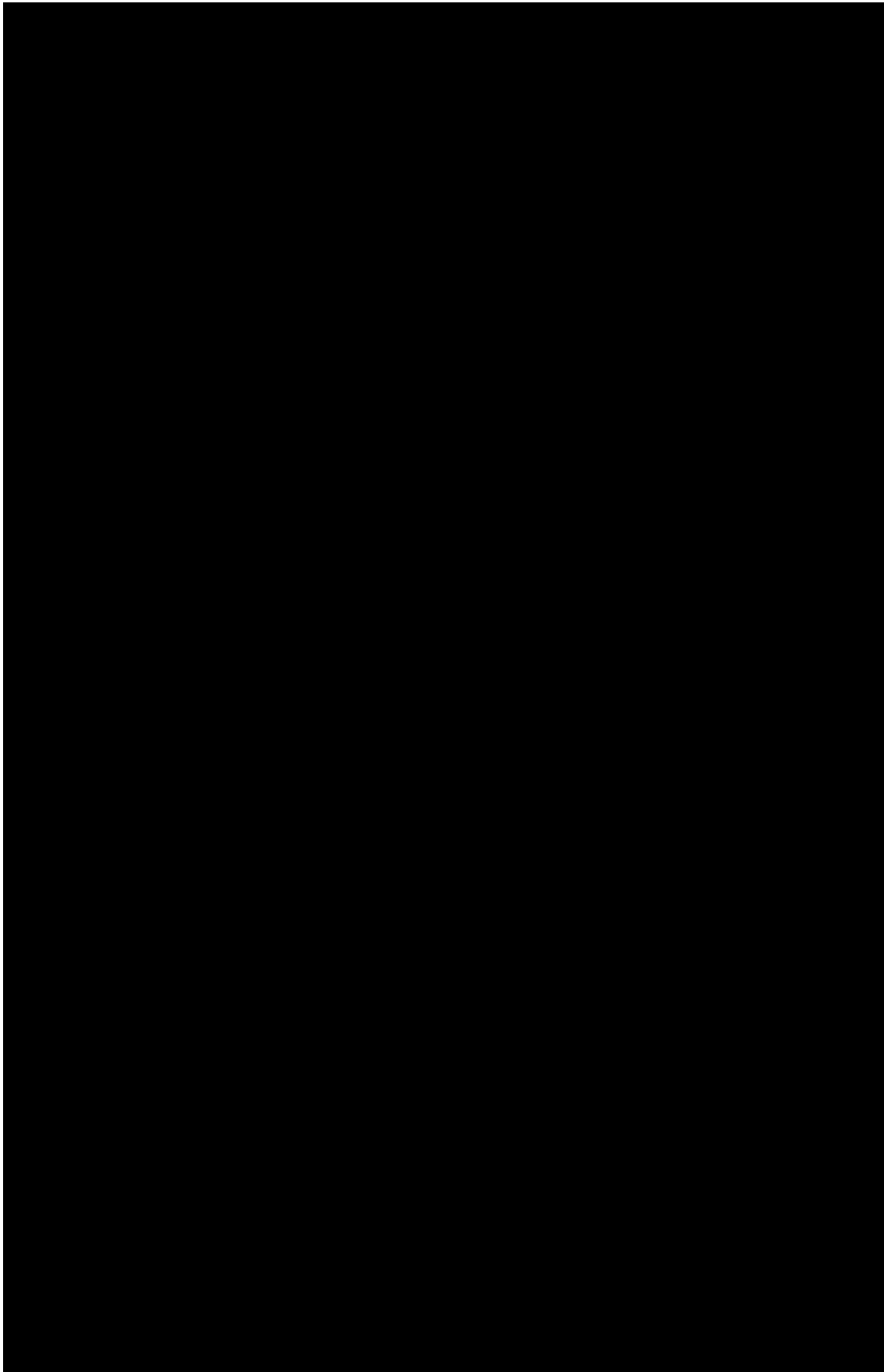
From : "Dahl, Marc" marcus.dahl@anchorageak.gov

To : "Merchant, Mark A." mark.merchant@anchorageak.gov

Subject : RE: Draft Round 2

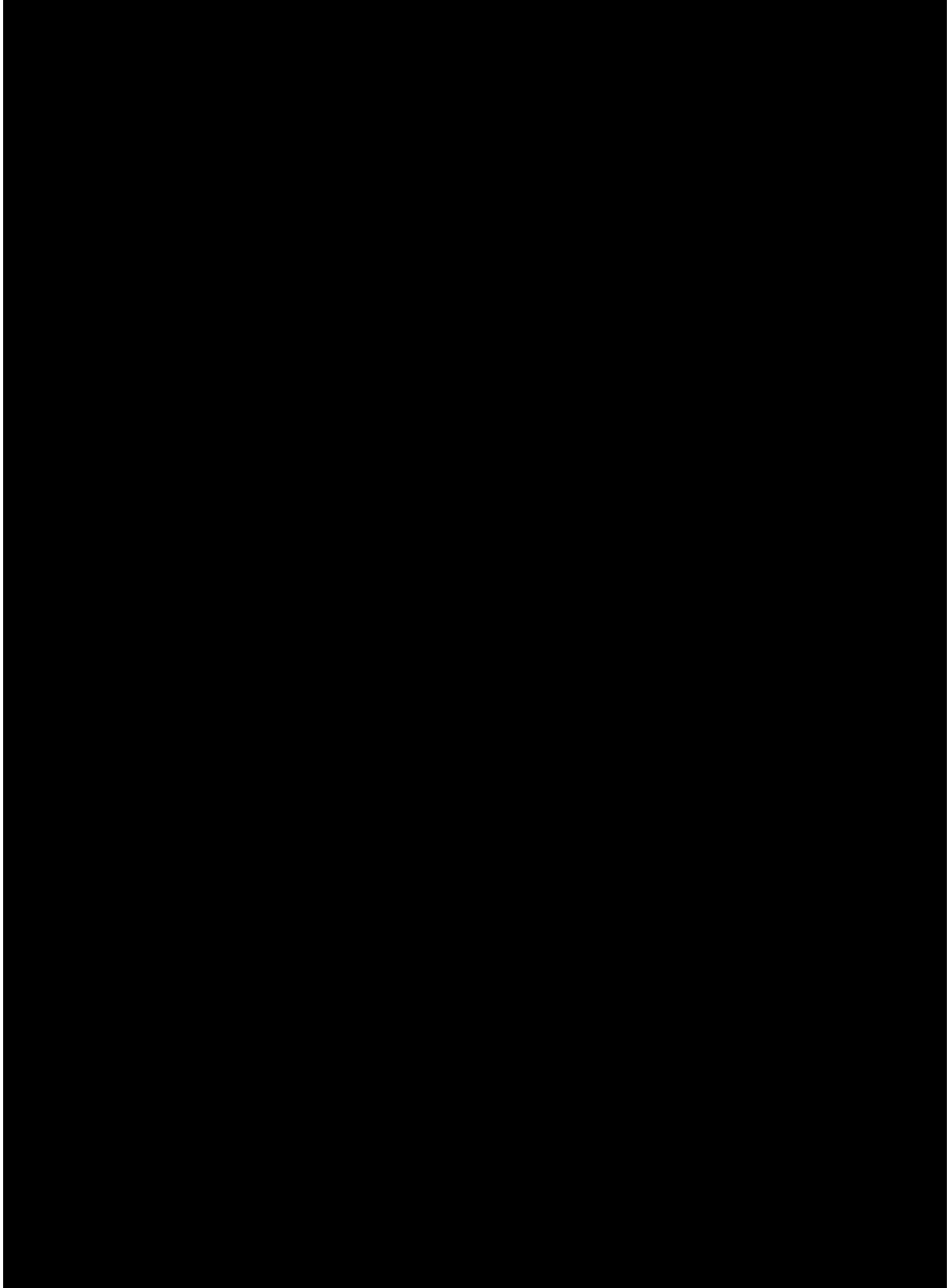
Attachment : image001.png;

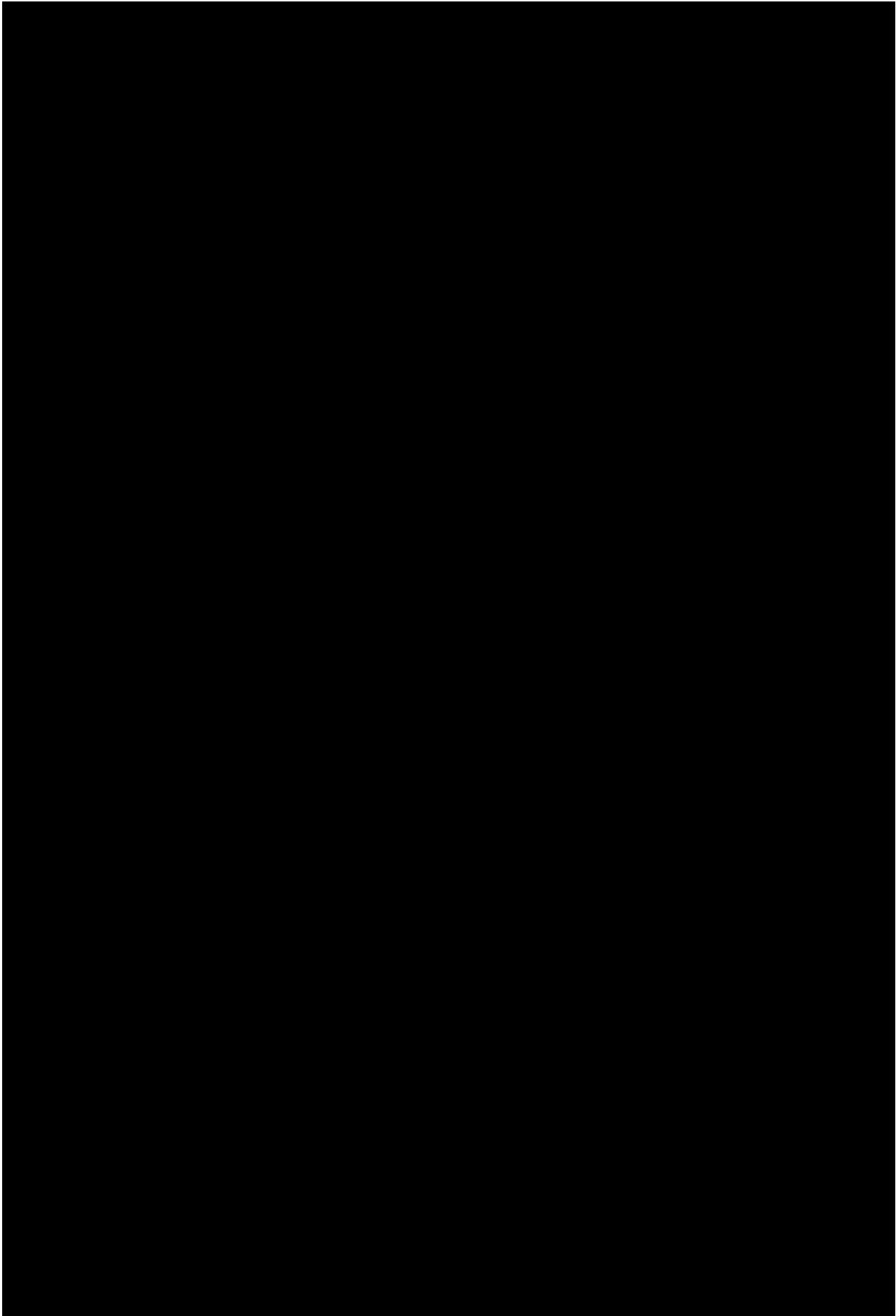


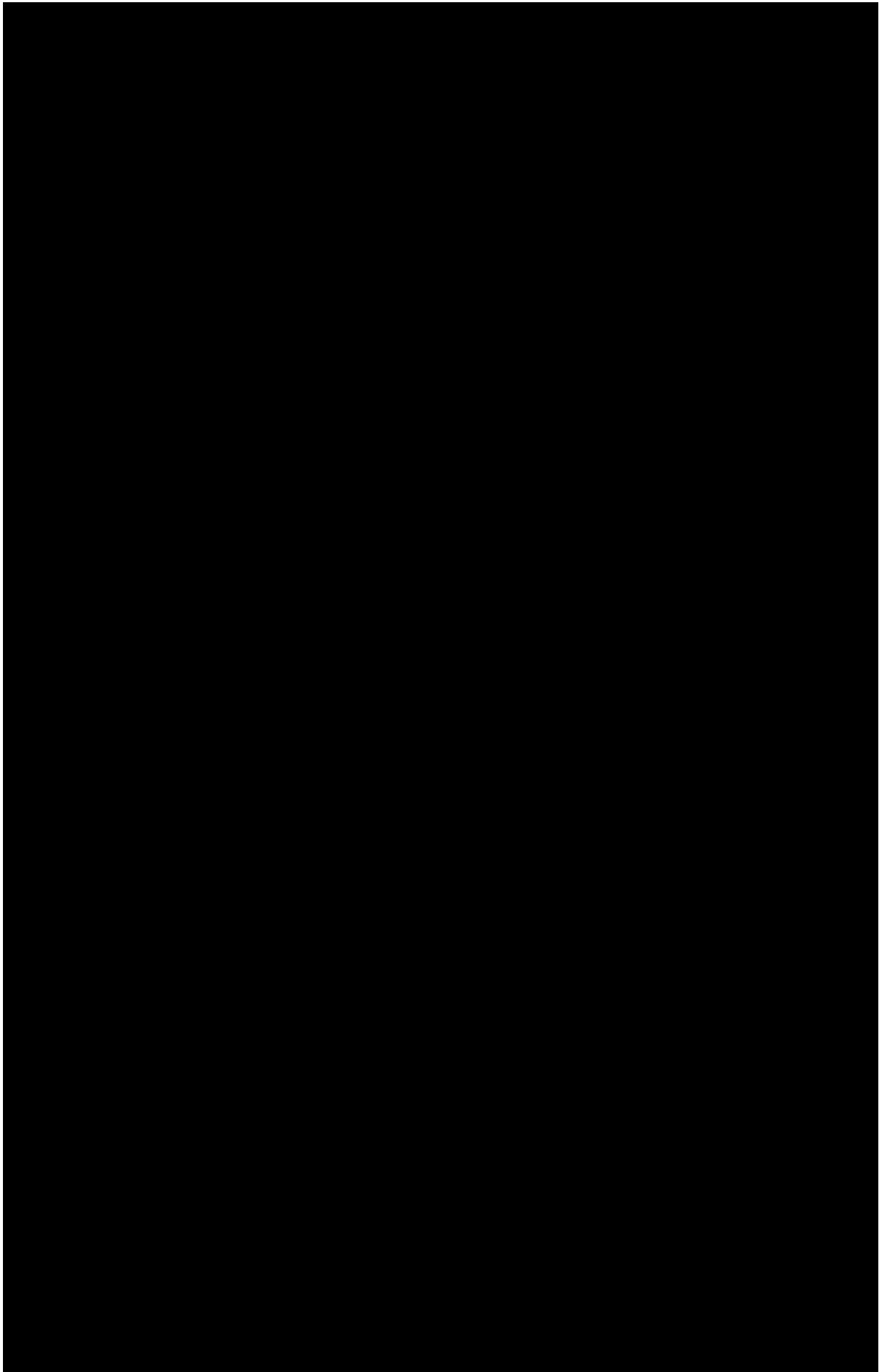




Date : 4/11/2023 10:14:00 AM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;









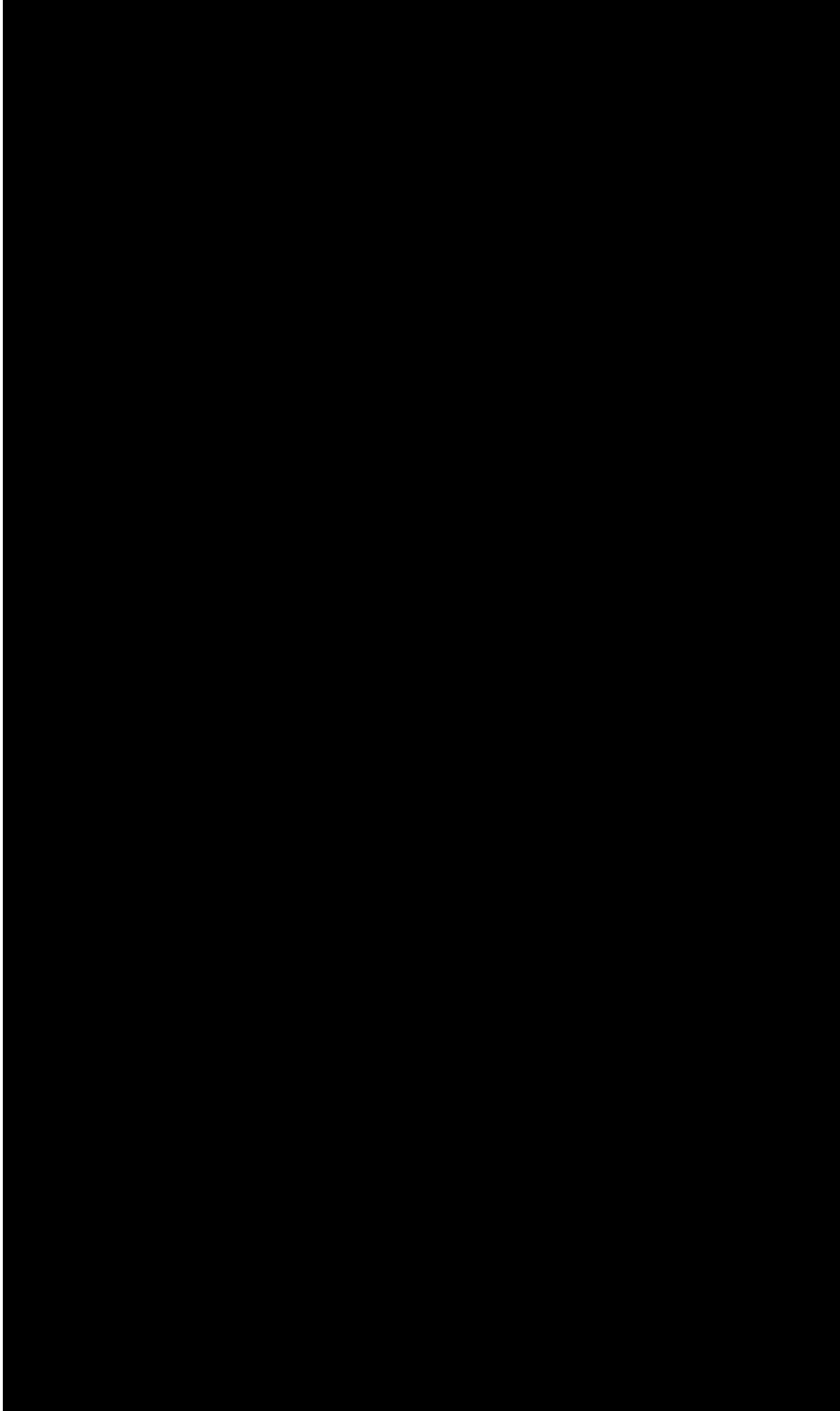
Date : 4/11/2023 10:42:48 AM

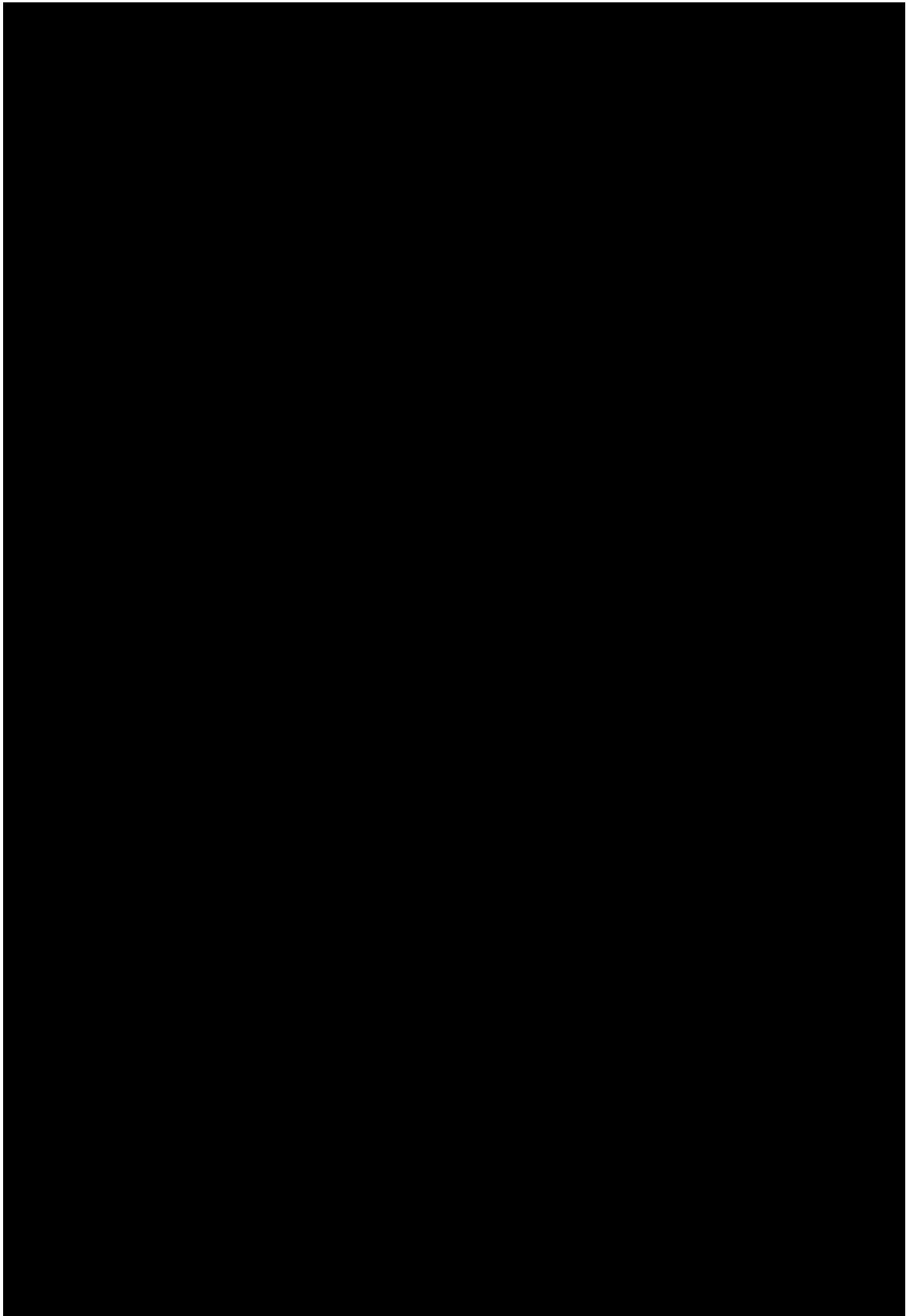
From : "Dahl, Marc" marcus.dahl@anchorageak.gov

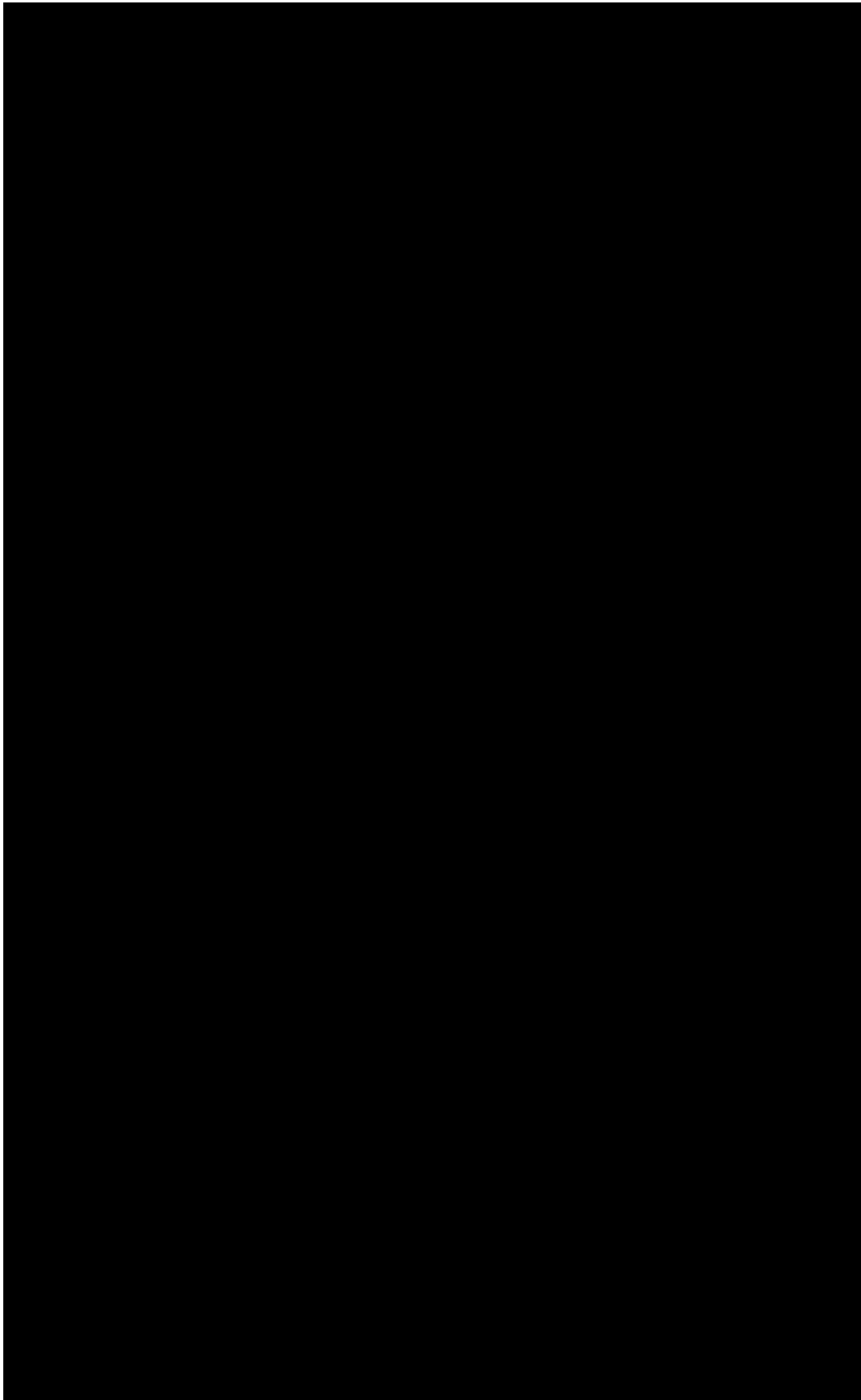
To : "Merchant, Mark A." mark.merchant@anchorageak.gov

Subject : RE: Draft Round 2

Attachment : image001.png;









Date : 4/11/2023 12:16:00 PM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : Latest Draft for website.
Attachment : image001.png;

Getting close...

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

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2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

(Link to Change Management Procedures)

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

Date : 4/11/2023 1:20:00 PM
From : "Merchant, Mark A."
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : ITD Policy Statements
Attachment : image001.png;

Good afternoon, Heather.

Can you please add a new link on this page...

<https://anchorageak.sharepoint.com/sites/CyberSecurity> called "ITD Policy Statements."

Then on the ITD Policy Statements page I would like to add this language to start off and then we can add other IT policy statements as well. All statements must be approved by the Director prior to posting. This is one Marc would like to put up as soon as possible.

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

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Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

Date : 4/11/2023 1:31:19 PM
From : "Holland, Heather M." heather.holland@anchorageak.gov
To : "Merchant, Mark A." mark.merchant@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: ITD Policy Statements
Attachment : image002.png;image003.png;

Good afternoon Mark,
Sure thing, the new page is at
<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>
I have added a link in the Additional Information and External Sites listing, please let me know what you would like to have adjusted.

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:20 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: ITD Policy Statements

Good afternoon, Heather.

Can you please add a new link on this page...
<https://anchorageak.sharepoint.com/sites/CyberSecurity> called "ITD Policy Statements."

Then on the ITD Policy Statements page I would like to add this language to start off and then we can add other IT policy statements as well. All statements must be approved by the Director prior to posting. This is one Marc would like to put up as soon as possible.

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Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

Date : 4/11/2023 1:34:00 PM
From : "Merchant, Mark A."
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: ITD Policy Statements
Attachment : image001.png;image002.png;

Wow! That was fast. I'll talk to Marc about your bonus. 😊

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:31 PM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: ITD Policy Statements

Good afternoon Mark,

Sure thing, the new page is at

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

I have added a link in the Additional Information and External Sites listing, please let me know what you would like to have adjusted.

Thank you!

Heather Holland

System Analyst

Municipality of Anchorage

Information Technology Department

632 W 6th Avenue, Suite 430

Anchorage, AK 99501

Phone 907.343.6899

Email heather.holland@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:20 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: ITD Policy Statements

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Can you please add a new link on this page....

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Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

Date : 4/11/2023 2:00:00 PM
From : "Dahl, Marc"
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : IT USB Policy
Attachment : image001.png;

[ITD Policy Statements \(sharepoint.com\)](#)

ITD Policy Statements

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

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2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov

Date : 4/11/2023 2:37:00 PM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : IT USB Policy
Attachment : image001.png;

Published on the internal IT Security web page [ITD Policy Statements \(sharepoint.com\)](#)

ITD Policy Statements

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

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Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov



Municipality of Anchorage
April 4, 2023 Regular Municipal Election

Election Commission - Failure to Comply with Law or Alleged Illegal Election Practices

OBSERVER INFORMATION	April 11, 2023 Date
	Sami Graham / DANIEL E. SMITH / JOHN HENRY Printed Name Of Observer
	Trueblood Name Of Candidate Or Organization/Group Representing

EXPLANATION OF EVENTS	<p>EXPLANATION OF ALL EVENTS CREATING THE CONCERN:</p> <p>As an appeal to comments received on Apr. 6, 2023, from Jamie Heinz, and references to MOA ITD practices, according to MOA ITD policy statement</p> <p>Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from The Information Technology Dept (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD change management processes and procedures regarding patch management & malware remediation.</p> <p>We believe the clerk's current practices in relation to</p>
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CODE CITATIONS	<p>CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH WERE NOT COMPLIED WITH:</p> <p>MOA ITD USB Policy Statement - regarding election clerk's response #2, dated April 7, '23</p> <p style="text-align: right;">policy statement</p>
----------------	---

AFFECTS TO OUTCOME OF ELECTION	<p>EXPLANATION OF HOW THE CONCERN WOULD CHANGE THE OUTCOME OF THE ELECTION IF FOUND TO BE TRUE:</p> <p>It is completely possible that the USB device is depositing or altering data, intentionally or unintentionally, not simply retrieving data, thereby nullifying the results of the election.</p> <p>"Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to municipal operations and or resources."</p>
--------------------------------	--

SIGNATURES	<p><i>Sabri N. Khan</i> <i>Paul E. Smith</i> <i>John L. King</i></p> <p>Signature of Observer Date Submitted</p> <p style="text-align: right;">Apr. 11, 2023</p>
	<p>Signature of Municipal Clerk or Designee Date Received</p>

Date : 4/14/2023 11:31:00 AM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : FW: 04182023S Municipal Assembly Agenda - FINAL

See this proposed code update being introduced at the next assembly.

5.A. Ordinance No. AO 2023-45, an ordinance of the Anchorage Assembly amending Anchorage Municipal Code Section (AMC) 2.30.020 to recognize the decision making authority of the assembly with respect to uncodified mayoral directives, policies and procedures, and other uncodified policies and administrative practices as applied to the legislative branch, and amending AMC section 3.50.010 accordingly, Assembly Vice-Chair Constant.

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

From: Sleppy, Karissa M. <karissa.sleppy@anchorageak.gov>
Sent: Friday, April 14, 2023 10:41 AM
Subject: 04182023S Municipal Assembly Agenda - FINAL
Importance: High

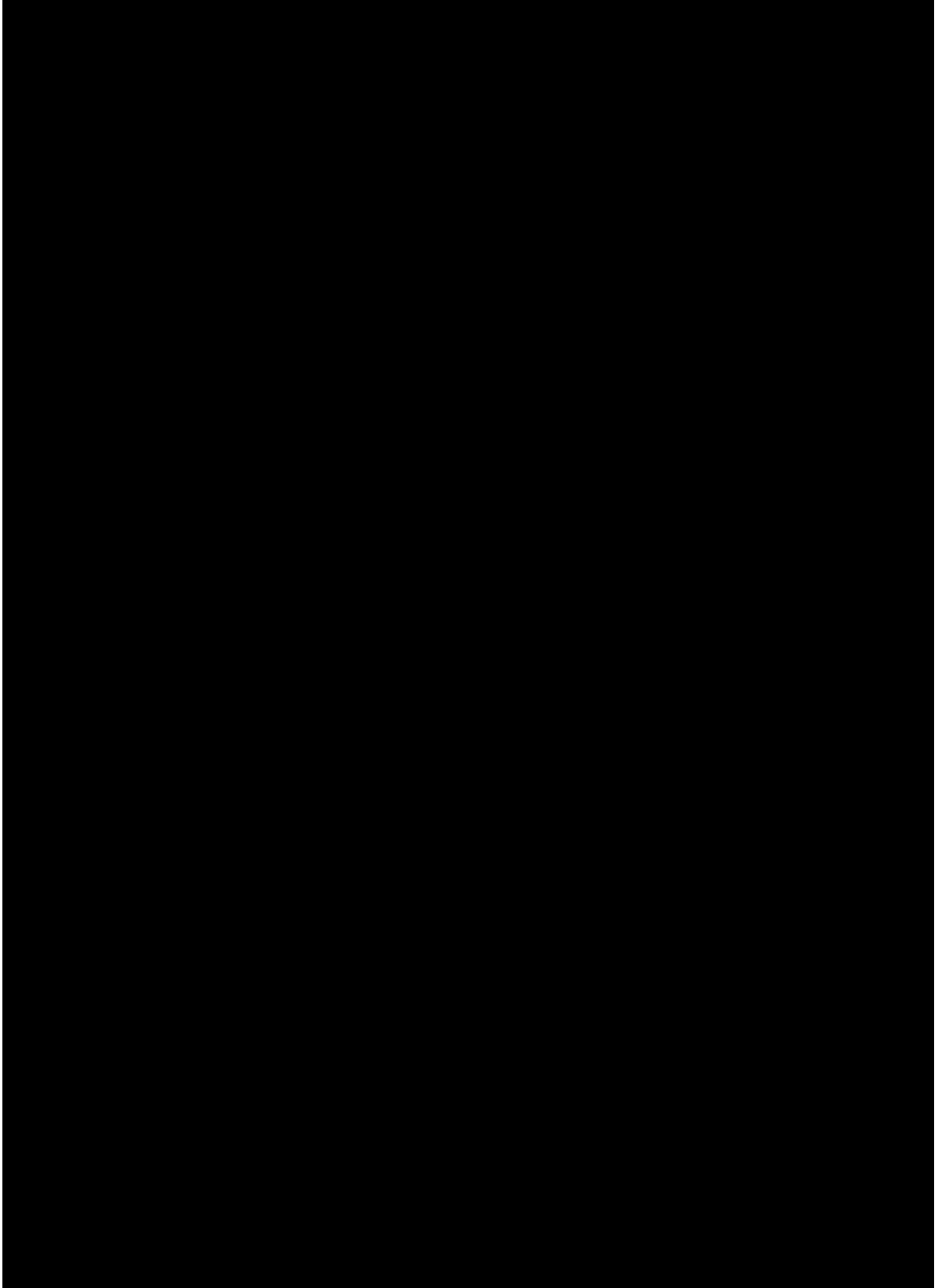
Your message is ready to be sent with the following file or link attachments:

04182023S_Final

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Date : 4/14/2023 1:29:00 PM
From : "Dahl, Marc"
To : "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : FW: 04182023S Municipal Assembly Agenda - FINAL

Anne,





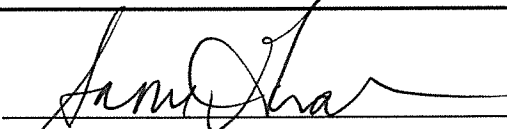
Municipality of Anchorage
April 4, 2023 Regular Municipal Election
Election Commission – Failure to Comply with Law or Alleged Illegal Election Practices

OBSERVER INFORMATION	<p><u>Apr. 14, 2023</u> Date</p> <p><u>Sami Graham</u> Printed Name Of Observer</p> <p><u>Trueblood</u> Name Of Candidate Or Organization/Group Representing</p>
----------------------	--

EXPLANATION OF EVENTS	<p>EXPLANATION OF ALL EVENTS CREATING THE CONCERN:</p> <p>An appeal dated April 11, 2023, appealing a challenge dated Apr. 6, 23 concerning the practice of inserting a thumb drive into the Dominion System to transfer election data to a municipal computer. The appeal was raised because the clerk's office stated they were following MOA ITD. policy and yet they are in direct violation of MOA ITD USB policy. On Friday, April 14, 23 the Assembly item 15.A. No. 2023-45, written by Christopher Constant - a candidate in the current election - is a direct response to the appeal dated Apr. 11. It changes the processes and procedures of an election during the middle of an election.</p>
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CODE CITATIONS	<p>CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH WERE NOT COMPLIED WITH:</p> <p>How did Christopher Constant get information concerning an appeal that was supposed to go to the Election Commission?</p> <p>MOA ITD. USB Policy Statement</p>
----------------	---

AFFECTS TO OUTCOME OF ELECTION	<p>EXPLANATION OF HOW THE CONCERN WOULD CHANGE THE OUTCOME OF THE ELECTION IF FOUND TO BE TRUE:</p> <p>Again: It is completely possible that the USB device is depositing or altering data, intentionally or unintentionally, not simply retrieving data, thereby nullifying the results of the election.</p> <p>"Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to municipal operations and on resources."</p> <p>Why would the clerk refuse to allow the IT Dept. to follow policy/procedures?</p>
--------------------------------	--

SIGNATURES	 Signature of Observer	APR. 14, 23 Date Submitted
	Signature of Municipal Clerk or Designee	Date Received

From: [Jamie L. Heinz](mailto:Jamie.Heinz@alaska.gov)
To: alaskaelections@alaska.gov
Cc: charlie@alaska.gov; [Barbara Hedley](mailto:Barbara.Hedley@alaska.gov); [Janet, Barbara A.](mailto:Janet.Barbara.A@alaska.gov)
Subject: 2nd Appeal Re. Thumb Drive
Date: Saturday, April 14, 2023 12:07:00 PM
Attachments: [2nd appeal.pdf](#)
[Special Meeting](#)
[18 2023-45 Agenda Document Reminder for April 7 2023 Special Meeting](#)
[18 2023-45 Agenda Document Reminder for April 7 2023 Special Meeting](#)
[18 2023-45 Agenda Document Reminder for April 7 2023 Special Meeting](#)

Dear Ms. Graham,

This email is in response to your second appeal regarding the thumb drive, which was filed on Friday, April 14th. In this second appeal, you note AO 2023-45 as item 5.A. on the Special Meeting Agenda for Tuesday, April 18th. Please note that the items up for public hearing at the April 18th meeting were introduced at the April 7th Special Meeting. Attached, you will find an email stating that the agenda deadline for items to be submitted to the Clerk's Office for inclusion in the April 7th Special Meeting was noon on Wednesday, April 5th. Also attached, you will find an email, sent out at 10:57 a.m. on Thursday, April 6th, which provides the entire packet of materials for the April 7th Special Meeting. You will see included in that packet, item 6.A., AO 2023-45.

This ordinance was in the works and submitted to the Clerk's Office before noon on Wednesday, April 5th which is before your initial complaint was submitted the afternoon of April 6th and the timing is purely coincidence.

Jamie

Jamie Heinz, MMC
Election Administrator
Municipality of Anchorage Elections
907-543-4320
www.muni.org/elections

MOA Elections Mission: We believe in fair, accurate, and accessible elections. In order to increase voter turnout, we serve and educate the community. By building and sustaining our relationships with voters, election workers, and others, we work to increase public participation in the democratic process of local government. Ver. 1.0

Messages to and from this email address may be available to the public under Alaska Public Records Law.

From: [Veneklasen, Jennifer O.](#)
To: [Heinz, Jamie L.](#)
Subject: FW: 04072023S Municipal Assembly Agenda - FINAL
Date: Friday, April 14, 2023 3:40:43 PM
Attachments: [Assembly - Special - Meeting Packet - 4-7-2023 \(4-6-2023 9 19 51 AM\).pdf](#)
Importance: High

This is when the assembly meeting packet materials were sent to members and administration, as well as published online.

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

From: Sleppy, Karissa M. <karissa.sleppy@anchorageak.gov>
Sent: Thursday, April 6, 2023 10:57 AM
Subject: 04072023S Municipal Assembly Agenda - FINAL
Importance: High

Your message is ready to be sent with the following file or link attachments:

04072023S_Final
Agenda and packet included

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

From: [Veneklasen, Jennifer O.](#)
To: [Heinz, Jamie L.](#)
Subject: FW: Notification: Agenda Deadline Reminder for April 7, 2023 Special
Date: Friday, April 14, 2023 3:39:26 PM
Importance: High

From: Sleppy, Karissa M. <karissa.sleppy@anchorageak.gov>
Sent: Tuesday, April 4, 2023 10:19 AM
To: !MAS Municipal Clerk <MASMunicipalClerk@anchorageak.gov>; !MAS Assembly Counsel <MASAssemblyCounsel@anchorageak.gov>; !MAS Assembly Members <!MASAssemblyMembers@anchorageak.gov>; !MAS Ombudsman <MASOmbudsman@anchorageak.gov>; Assembly Legislative Services <wwmasls@anchorageak.gov>
Cc: Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Hickel, Kolby A. <Kolby.Hickel@anchorageak.gov>; Trombley, Adam R. <Adam.Trombley@anchorageak.gov>
Subject: Notification: Agenda Deadline Reminder for April 7, 2023 Special
Importance: High

REMINDER: The deadline for item placement on the April 7, 2023 Special agenda is **NO LATER THAN NOON on Wednesday, April 5, 2023**. This meeting is for introduction of ordinances and any time-sensitive purchasing-related items, with the potential to schedule a Special Meeting on April 18 to take up the public hearing items.

Also, **please submit your items in OnBase**. The April 7th meeting has been created and is open for submissions.

Your cooperation is appreciated.



Sincerely,
Karissa Sleppy
Agenda Assistant

Municipality of Anchorage
Municipal Clerk's Office
907-343-4311

Messages to and from this email address may be available to the public under Alaska Public Records Law.

From: [Sami Graham](#)
To: [Jamie Heinz](#)
Subject: Re: 2nd Appeal Re: Thumb Drive
Date: Sunday, April 16, 2023 4:16:17 PM

[EXTERNAL EMAIL]

Jamie,

Thank you. I withdraw my challenge dated April 14.

Sami Graham

Sent from my iPhone

On Apr 16, 2023, at 12:07 PM, Heinz, Jamie L. <jamie.heinz@anchorageak.gov> wrote:

Dear Ms. Graham,

This email is in response to your second appeal regarding the thumb drive, which was filed on Friday, April 14th. In this second appeal, you note AO 2023-45 as item 5.A. on the Special Meeting Agenda for Tuesday, April 18th. Please note that the items up for public hearing at the April 18th meeting were introduced at the April 7th Special Meeting. Attached, you will find an email stating that the agenda deadline for items to be submitted to the Clerk's Office for inclusion in the April 7th Special Meeting was noon on Wednesday, April 5th. Also attached, you will find an email, sent out at 10:57 a.m. on Thursday, April 6th, which provides the entire packet of materials for the April 7th Special Meeting. You will see included in that packet, item 6.A., AO 2023-45.

This ordinance was in the works and submitted to the Clerk's Office before noon on Wednesday, April 5th which is before your initial complaint was submitted the afternoon of April 6th and the timing is purely coincidence.

Jamie
<-[if !mim]-->
<[image003.png](#)>
<!--[endif]-->
Jamie Heinz, MMC
Election Administrator
Municipality of Anchorage Elections
907-343-4320
www.muni.org/elections

MCA Elections Mission: We believe in fair, accurate, and accessible elections. In order to increase voter turnout, we serve and educate the community. By building and sustaining our relationships with voters, election workers, and others, we work to increase public participation in the democratic process of local government. Ver. 1.0

Messages to and from this email address may be available to the public under Alaska Public Records Law.

<2nd appeal.pdf>
<-mime-attachment>
<-mime-attachment>



Anchorage Election Commission Public Session of Canvass and Adoption of the Election Canvass Report

April 20, 2023

5:00 p.m. until complete

AGENDA - Revised

In person:
MOA Election Center
619 East Ship Creek Avenue, Door D
Anchorage, AK 99501

For the public to dial in:
Conference Bridge Phone Number –
(907) 273-5190
Participant Code – 786815 #

1. Call to Order

2. Roll Call

Lisa Torkelson – Chair
Loren Leman – Vice Chair
Glennis Ireland
Mead Treadwell

3. Minutes of Previous Meetings

- A. Minutes of the Anchorage Election Commission Meeting of January 11, 2023

4. Old Business

5. New Business

- A. Disclosures
- B. Review of Pending Rejected Ballot Envelopes
- C. Complaints
 - a. *The Election Commission – Failure to Comply with Law or Alleged Illegal Election Practices re MOA ITD USB Policy Statement*
 - b. *The Election Commission – Failure to Comply with Law or Alleged Illegal Election Practices re Mailing Ballots to Registered Voters*
- D. Adoption of the Election Canvass Report for the Regular Municipal Election of April 4, 2023 *

* **STAFF NOTE:** After the motion to adopt the Election Canvass Report, the Commission will **take a short recess** before signing the Election Canvass Report.

6. Member Comments

7. Audience Participation

8. Adjournment



**INFORMATION
TECHNOLOGY
DEPARTMENT**



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

August 18, 2023

Mayor Dave Bronson
632 W. 6th Ave., Suite 850
Anchorage, AK 99501

Sent via email only

Re: Public records request— *April 11 Election Complaint and Creation of ITD Policy Statement Regarding Removable Storage Devices*

Mayor Bronson:

As you know the Assembly recently held a Worksession on July 21, 2023 to address the creation and internal posting of an ITD Policy Statement and the apparent role it played in an April 11, 2023 election complaint filed by Ms. Sami Graham. We regret that you were unable to attend.

Prior to the Worksession, Assembly Chair Constant submitted a public records request to the Department of Law requesting, among other things, communications pertaining to the development of this policy statement. In response, we received more than 130 pages of responsive documents. Of these documents, several particularly relevant documents had been redacted. Specifically:

- An email dtd January 10, 2023 from Mark Merchant to Marc Dahl, Subject "FW: Policy - 28-10" and its attachment P&P 28-10, Subject: Protection of Personal or Confidential Information"
- An email dtd January 18, 2023 from Mark Merchant to Marc Dahl, Subject "Draft Round 2" and its attachment, P&P 28-41, Subject: Minimum security requirements for internet and system connectivity.
- An email dtd April 11, 2023, sent at 9:30am, from Mark Merchant to Marc Dahl, Subject "RE: Draft Round 2"
- An email dtd April 11, 2023, sent at 10:09am from Marc Dahl to Mark Merchant, Subject "RE: Draft Round 2"
- An email dtd April 11, 2023, sent at 10:14am, from Mark Merchant to Marc Dahl, Subject "RE: Draft Round 2"
- An email dtd April 11, 2023, sent at 10:42am from Marc Dahl to Mark Merchant, Subject "RE: Draft Round 2"

It is our understanding that the Department of Law did not have time to consult with the IT Department prior to providing these documents to the Chair, and they made

these redactions out of an abundance of caution, and not, necessarily, because your Administration wished to unequivocally assert the deliberative process privilege.

As discussed at the July 21st Worksession, these emails immediately preceded the posting of an ITD Policy Statement “Regarding Removable Storage Devices” to the Municipality’s internal sharepoint site at approximately 1:318 p.m on April 11th. The text of that policy statement appears to have been emailed by Mr. Dahl to Ms. Graham at 2:37 p.m. who, in turn, at 3:47p.m, filed a complaint in the April 4, 2023 regular municipal election. This complaint alleged a “clear violation of the MOA ITD USB Policy Statement” by the Clerk’s Office and that it was “completely possible that the USB Device[used by elections officials to retrieve data from municipal voting equipment was] depositing or altering data, intentionally or unintentionally, not simply retrieving data, thereby nullifying the results of the election.”

Chief of Staff Mario Bird addressed the creation of this ITD Policy Statement at our Worksession, describing your office as not having “any knowledge of the development of this policy, unless and until it became part of the public record and it was reported upon. . . we were unaware of the ITD policy statement until the scrutiny that was levied by the media.”¹ Mr. Bird also explained the Administration’s established process for creation of Municipal Policy, which is found in Policy & Procedure 1-1, stating that “Policies and Procedure that run through the Administration are required to go through a process that begins with OMB [Office of Management and Budget] and involves all the relevant departments and then at the conclusion of that discussion, OMB finalizes what that last policy should look like, and the Mayor signs off. . . So, when this came to our attention, one of the first things our OMB Director said, ‘if this is accurate, what’s being reported in the paper, this is not a policy that went through our policy for policies,’ if you’ll forgive the term.”²

In light of these facts, the Assembly Leadership does not see any appropriate foundation for the assertion of the deliberative process privilege and requests your office release the previously redacted emails as public records under Alaska Statute 40.25.110.

The Deliberative Process Privilege

The deliberative process privilege “protects internal communications ‘which reflect advisory opinions, recommendations, and deliberations comprising part of the process by which governmental decisions and policies are formulated.’”³ The basis of

¹ Worksession re April 11 Election Complaint and Creation of ITD Policy re Removable Storage Devices available at <https://www.youtube.com/live/yrejN64cMJM> at 14:02.

² *Id.* at 14:50.

³ 1992 Inf. Op Att’y Gen (Nov. 5; 221-92-0553)(citing *Dowd v. Calabrese*, 101 F.R.D. 427, 430 (D.C. Cir. 1984)). While the Alaska Supreme Court has issued several significant opinions governing the application of the deliberative process privilege, the bulk of precedent has been generated by the federal courts. As a result, both the state judiciary and Attorney-General look to this body of precedent in determining how

the privilege lies in the government's important interest in protecting the mental processes of its decisionmakers from unreasonable interference. To determine whether disclosure would interfere with that process, courts have required those asserting the privilege "show as a threshold matter that the communication is both 'predecisional' and 'deliberative.'"⁴

The Predecisional Element

The predecisional element, as the term implies, requires the communication be made "before the deliberative process was completed."⁵ Implicit in this requirement, is that a deliberative process be actually initiated at some point. This prerequisite is reflected in the relevant Alaskan caselaw governing the privilege, all of which involve communications addressing specific issues and being sent to, or within the office of, the relevant decisionmaker.⁶ In contrast, these redacted records relate to a policy statement which was created, published, and shared with public prior to you even being made aware of its existence. Far from being "prepared in order to assist [you] in arriving at [a] decision"⁷, these communications and documents appear to have been either inadvertently or deliberately withheld from you, your office, and OMB. In light of these facts, these records would be better characterized "extra-decisional" as opposed to "predecisional," and a court would be unlikely to stretch the predecisional element so far as to encompass them.

The Deliberative Element

The deliberative element, requires the communication "reflect a 'give-and-take' of the decisionmaking process and contain opinions, recommendations, or advice about agency policies. Purely factual material is not protected unless the selection process or presentation would reveal the decisionmaking process, or if the facts are inextricably intertwined with that process."⁸ While Alaska courts have yet to embrace a strict test for determining the deliberative nature of policy drafts, both the Second and DC Circuits have explicitly required the such a disputed record be "related to the process by which policies are formulated."⁹ More recently the D.C. Circuit Court of Appeals has imposed an upfront burden on any "agency invoking the deliberative-process privilege [to]. . . 'establish what deliberative process is involved, and the role played by the documents

and when the deliberative process privilege may apply. *See id.*; *see also Griswold v. Homer City Council*, 428 P.3d 180, 187 (2018).

⁴ *Gwich'in Steering Committee v. State, Office of the Governor*, 10 P.3d 572, 579 (2000).

⁵ *Griswold supra* note 3 at 188.

⁶ *See id.* at 581 (discussing the application of the privilege to documents sent to the Office of the Governor and internal emails within the Office of the Governor); *see also Griswold supra* note 3 at 188-89 (discussing the application of the privilege to advice and draft documents sent from the advising attorney to the Homer Board of Adjustment); *see also Fuller v. City of Homer*, 75 P.3d 1059, 1060 (Alaska 2003) (discussing the application of the privilege to communications from Department Heads to the city manager).

⁷ *Grand Cent. Partnership, Inc. v. Cuomo*, 166 F.3d 473, 482 (2d Cir. 1999).

⁸ *Gwich'in supra* note 4 at 583.

⁹ *Hopkins v. United States Dep't of housing and Urban Development*, 929 F.2d 81, 84 (2d Cir. 1991).

in issue in the course of that process.”¹⁰ Here, your IT department bypassed your “process by which policies are formulated”¹¹ as established in P&P 1-1, and, at present, there appears to be no other legitimate process in which these draft documents played any role. In the analogous case of *Bonner v. CIA*, the D.C. District Court ruled that a draft CIA report was not exempt from disclosure under the Freedom of Information Act precisely because the government “fail[ed] to identify any agency decision-making process in connection with which the document was created.” Simply arguing that these were communications were policy drafts is not enough, these documents must have been part of your deliberative process to claim the privilege.

Public Interest

Finally, even assuming, without conceding, these documents actually do meet the threshold to claim the deliberative process privilege, you must still balance what interest your Administration has in maintaining this secrecy, with the public’s significant interest in transparency.¹² Given that the very purpose of the deliberative process privilege is to “protect the executive’s decisionmaking process, its consultative functions, and the quality of its decisions,”¹³ we are confident you will agree that your Administration cannot honestly claim a legitimate interest in protecting the documents at issue when they appear to be created for the benefit of Ms. Graham, and not your office, nor the Municipality.

Conclusion

In short, the evidence we have seen indicates authors of these emails worked expediently and not deliberatively; they engaged in an improvisation, not a process; and they produced an illegitimate and invalid policy statement that served only to assist a private citizen’s attempt to call a valid municipal election into question, and not to assist you in protecting the Municipality’s technical infrastructure. Based on the facts presented to the Assembly and the body of relevant caselaw, we fail to see a rational argument for the application of deliberative process privilege to the emails preceding the publication of the ITD Policy Statement at issue. We are confident any court will agree. In the interest of transparency and confidence in our government, we respectfully request you release the previously redacted documents by 12:00 p.m., August 22, 2023.

¹⁰ *Citizens for Resp. & Ethics in Washington v. United States Dep’t of Just.*, 45 F.4th 963, 973 (D.C. Cir. 2022) (quoting *Senate of the Commonwealth of Puerto Rico ex rel. Judiciary Comm. v. Dep’t of Just.*, 823 F.2d 574, 585–86 (D.C. Cir. 1987)).

¹¹ *Hopkins supra* note 9.

¹² See *Gwich’in, supra* note 4 at 583-84.

¹³ *Id.* at 578 (citing *Capital Info. Group v. State, Office of the Governor*, 923 P.2d 29, 33(1996).

Thank you for your attention to this matter. If you have any questions, we would be happy to discuss.

Sincerely,



Christopher Constant, Assembly Chair



Meg Zaletel, Assembly Vice Chair

Cc: Anne Helzer-Municipal Attorney
Kent Kohlhasse - Municipal Manager
Mario Bird - Chief of Staff
Assembly members



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 5, 2023

Mayor Dave Bronson
632 W. 6th Ave., Suite 850
Anchorage, AK 99501
dave.bronson@anchorageak.gov

Sent via email only

Re: Request for documents concerning the 2022 and 2023 regular elections

Dear Mayor Bronson:

As you know, the Ombudsman has recently published a report regarding his investigation into the circumstances surrounding an election complaint filed by election observer Sami Graham on April 11, 2023 and an internal policy statement created by your administration which was used as the basis of the complaint. As the elected leadership for, and long-serving members of, the Assembly, we take the Ombudsman's findings and recommendations very seriously. Per Article IV of the Anchorage Charter, the Anchorage Assembly serves as the judge of Anchorage Elections, and per Article XI the Assembly is charged with establishing the election procedures by ordinance. Bound by the charter, we have a duty to understand the circumstances described in the Municipal Ombudsman's investigation and, as appropriate, propose amendments to the code to protect future municipal elections from tampering. We know your Administration was given the opportunity to respond to the Ombudsman's report prior to its finalization, and we were pleased to see your stated desire to work with the Assembly to preserve the security of our elections as expressed through your Chief of Staff, Mario Bird.

That said, it has not been lost on us that, thus far, the only people to have been implicated in this matter, Ms. Graham and Mr. Dahl, were both your political appointees: the former having served as one of your first chiefs of staff, and the latter as your current IT Director since 2021. Nor has it been lost on us that the complaints filed by Ms. Graham regarding the 2023 regular election bear a striking resemblance to questions you posed in a records request letter to the Municipal Clerk on April 29, 2022 regarding the 2022 regular election. It is also worth noting that, when you sent this letter, you chose to Cc Mr. Dahl.

In questioning the legitimacy of the 2022 election, your letter cited the "widespread questions and concerns related to the voting process" your office purportedly received. Given your expressed commitment to "create and foster an environment of additional trust and integrity for future Municipal Elections" the Assembly Leadership hereby requests you produce the following documents as public records under Alaska Statute 40.25.110 and Anchorage Municipal Code Chapter 3.90:

- Records of any communications to, from, or between current and former employees of your office discussing complaints or allegations of misconduct in either the 2022 or 2023 Regular Election; and

Mayor Dave Bronson

September 5, 2023

Page 2 of 3

- Records of any communications to, from, or between current or former employees of your office or any other current or former municipal employee and Ms. Sami Graham.

In conducting a search of electronic records we request you use the following parameters: Records between April 1, 2022 and May 1, 2023 containing any of the following keywords:

- “alaskansam@yahoo.com”
- “alaskangraham@yahoo.com”
- “election”
- “dominion”
- “overturn”
- “rigged”
- “Leung”
- “BallotTrax”
- “ballot”
- “thumb drive”
- “USB”

For the purposes of this request please construe the term “your office” broadly to include all those staff working directly for the Mayor, whether as contract employees or as municipal employees. It includes, but is not limited to, your chief of staff, municipal manager and their respective deputies and administrative staff.

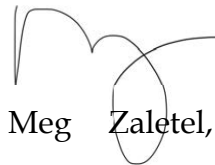
To the extent the Administration believes any information contained within these documents is privileged, please precisely redact the information you believe to be privileged, and denote the specific nature of the privilege being asserted, either on the document itself or on an accompanying redaction log. At a minimum the log must identify the sender, the recipient, and the subject of the communication over which a privilege is being asserted. This method of redaction is in keeping with both best legal practices and the spirit of the caselaw regarding privileged information.¹

We request that you please provide any responsive records of correspondence to or from Ms. Graham or Mr. Dahl to us either physically or via email no later than 5:00p.m. Thursday, September 7, 2023 and the remainder of the requested records no later than 12:01p.m. Tuesday, September 26, 2023.

Sincerely,



Christopher Constant, Assembly Chair
Chair



Meg Zaletel, Assembly Vice

¹ See *Doe v. Alaska Superior Court, Third Judicial Dist.*, 721 P.2d 617, 626 (Alaska 1986).

Mayor Dave Bronson

September 5, 2023

Page **3** of **3**

Cc: Anne Helzer–Municipal Attorney
Kent Kohlhase – Municipal Manager
Mario Bird – Chief of Staff
Phillippe Brice – Acting IT Director
Assembly members

From: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Sent: Tuesday, October 24, 2023 3:51 PM
To: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>; Willoughby, Jessica B. <jessica.willoughby@anchorageak.gov>
Subject: RE: Public Records Request

Dear Mr. Hurt,

On September 6th, the Mayor's Office received your records request: [SEARCH A].

That request was amended to only include employees working within the Mayor's Office and the Mayor's Office processed the following search: [SEARCH B]. Search B was a search of electronic records conducted by IT and limited to the provided terms.

The Mayor's Office provided the responsive non-exempt records on October 6th. The records were shared as one PDF on a USB drive. A privilege log was created but inadvertently excluded off the thumb drive. It is attached to this email.

The Mayor's Office received the below response on October 17th, which in part requests information related to Search B but also makes additional records requests, Search C.

I'll address them each in turn:

1. *The bulk of the documents provided by the Mayor's Office were e-mails and attachments to email. Were MS Teams messages and text/SMS messages reviewed? If not, please provide any responsive records in that format.*

Search B searched electronic records including Teams messages and voicemails, but not including text/SMS messages.

#1 makes a public records request, [Search C1]: Responsive records in text/SMS format.

Text Messages:

- **MOA Issued Cellphone** - Provide the employee/contractor's name.
- **Phone number(s)** - Provide the phone numbers.
- **Date Range** – Provide a start and end date.
- **Personal Cellphones:** OIT does not manage this data. Please refer to your Agency Head & Legal for further action.

2. *The provided documents include three copies of the April 29, 2022, letter from the Mayor to the Municipal Clerk requesting certain documents regarding the 2022 Regular Election, but did not include any communications regarding the genesis of this letter. Please provide any draft copies or communications made in the development of this letter. Additionally, Mayor Bronson stated in this letter that "the Mayor's Office fielded widespread questions and concerns related to the voting process." Please provide these communications from constituents referenced in the letter that ostensibly prompted the Mayor to express his concerns to the Clerk's office. If these concerns were communicated via phone call, please provide any notes/logs taken to capture the constituents' concerns. If there are any communications within the Mayor's office discussing the questions and concerns raised by these constituents, please provide those as well.*

Search B searched electronic records for the requested parameters...

#2 makes a public records request, [Search C2]: "Please provide these communications from constituents referenced in the letter that ostensibly prompted the Mayor to express his concerns to the Clerk's office. If these concerns were communicated via phone call, please provide any notes/logs taken to capture the constituents' concerns. If there are any communications within the Mayor's office discussing the questions and concerns raised by these constituents, please provide those as well."

3. *Similarly the provided documents include correspondence from the Clerk's office responding to the Mayor's April 29, 2022 letter. Yet there is no correspondence among members of the Administration discussing the Clerk's response. Please provide any communications discussing the Clerk's responses to the April 29, 2022 records request by the Mayor.*

#3 makes a public records request, [Search C3]: Please provide any communications discussing the Clerk's responses to the April 29, 2022 records request by the Mayor.

4. *While the provided documents contain a few emails sent from Mayor Bronson's account, the signature block of the emails indicate they were sent on behalf of the Mayor and were not actually written by Mayor Bronson. Were communications by Mayor Bronson withheld, or is it the position of the Mayor that he sent no written communications regarding either the 2022 or 2023 election? Was the email account dave.bronson@anchorageak.gov searched as part of this records request? If not please provide any responsive records from that account or any other municipal account associated with the Mayor.*

Request B searched electronic records... All responsive non-exempt records were provided.

dave.bronson@anchorageak.gov was the email searched in this request.

5. *Similarly, the provided documents include correspondence either to the Larry Baker or CCing Larry Baker, yet there appears to be very few emails actually written by Mr. Baker. Were communications from Mr. Baker withheld, or is it the position of the Mayor that Mr. Baker never sent an email regarding either 2022 or 2023 Regular Election.*

Request B searched electronic records... All responsive non-exempt records were provided.

6. *The provided records contain an email from Isobela Clapton with an attachment titled "Constituent Log Overview 3/26/2022-4/1/2022." the log indicates that the Mayor's Office was contacted 5 times regarding the Election. Please provide any records concerning these communications, including, if in written form, the constituent communications.*

#6 makes a public records request, [Search C6]: Please provide any records concerning [an email from Isobela Clapton with an attachment entitled "Constituent Log Overview", including, if in written form, the constituent communications.

7. *The provided documents also contain an August 17, 2022 email from Brice Wilbanks which stated that "Sean Halloran is representing the Mayor's Office for this records request." But there do not appear to be any communications between any member of the Mayor's office and Mr. Halloran (though he is CC'd on several communications). Is it the position of the Mayor that there were no communications pertaining to the 2022 election between members of the Mayor's Office and Mr. Halloran or were these communications withheld?*

Request B searched electronic records... All responsive non-exempt records were provided.

8. *Please provide a list of people who reviewed these documents prior to their disclosure.*

Jessica Willoughby, Assistant Municipal Attorney
Michelle Hodel, Constituent Relations Director
Mario Bird, Chief of Staff

9. Please identify the person who conducted the redactions of these documents. Also, we didn't see a redaction log, as was requested. Please provide a redaction log as which identifies the nature of the privilege being asserted.

Jessica Willoughby, Assistant Municipal Attorney

The redaction log was inadvertently excluded and is attached now.

In summation, you are now requesting the following records, [Search C]:

- C1: Responsive records in text/SMS format
- C2: Communications from constituents referenced in the letter that ostensibly prompted the Mayor to express his concerns to the Clerk's office. If these concerns were communicated via phone call, please provide any notes/logs taken to capture the constituents' concerns. If there are any communications within the Mayor's office discussing the questions and concerns raised by these constituents, please provide those as well.
- C3: Any communications discussing the Clerk's responses to the April 29, 2022 records request by the Mayor.
- C4: Depends on whether Mayor uses other email addresses
- C6: Provide any records concerning [an email from Isobela Clapton with an attachment entitled "Constituent Log Overview", including, if in written form, the constituent communications.

To process these requests, the following is requested:

- C1: text/sms parameters
- C2: Any additional information required?
- C3: This is a broad records request – please provide additional information. For example, emails with the subject line "" could be searched.
- C4: TBD
- C6: Any additional information required?

Please note, this will take more than two working days. Please confirm that you are still interested in them. If so, a reasonable and diligent search will be made.

Respectfully,



Michelle Hodel

Constituent Relations Director
Office of the Mayor
Municipality of Anchorage

phone: 907-343-7113

email: michelle.hodel@anchorageak.gov

website: muni.org/mayor

From: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>

Sent: Tuesday, October 17, 2023 4:29 PM

To: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>

Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>

Subject: RE: Public Records Request

Ms. Hodel,

On behalf the Assembly Leadership, I have some follow up questions regarding the documents which were produced by the Mayor's Office:

1. The bulk of the documents provided by the Mayor's Office were e-mails and attachments to email. Were MS Teams messages and text/SMS messages reviewed? If not, please provide any responsive records in that format.
2. The provided documents include three copies of the April 29, 2022 letter from the Mayor to the Municipal Clerk requesting certain documents regarding the 2022 Regular Election, but did not include any communications regarding the genesis of this letter. Please provide any draft copies or communications made in the development of this letter. Additionally, Mayor Bronson stated in this letter that "the Mayor's Office fielded widespread questions and concerns related to the voting process." Please provide these communications from constituents referenced in the letter that ostensibly prompted the Mayor to express his concerns to the Clerk's office. If these concerns were communicated via phone call, please provide any notes/logs taken to capture the constituents' concerns. If there are any communications within the Mayor's office discussing the questions and concerns raised by these constituents, please provide those as well.
3. Similarly the provided documents include correspondence from the Clerk's office responding to the Mayor's April 29, 2022 letter. Yet there is no correspondence among members of the Administration discussing the Clerk's response. Please provide any communications discussing the Clerk's responses to the April 29, 2022 records request by the Mayor.
4. While the provided documents contain a few emails sent from Mayor Bronson's account, the signature block of the emails indicate they were sent on behalf of the Mayor and were not actually written by Mayor Bronson. Were communications by Mayor Bronson withheld, or is it the position of the Mayor that he sent no written communications regarding either the 2022 or 2023 election? Was the email account dave.bronson@anchorageak.gov searched as part of this records request? If not please provide any responsive records from that account or any other municipal account associated with the Mayor.
5. Similarly, the provided documents include correspondence either to the Larry Baker or CCing Larry Baker, yet there appears to be very few emails actually written by Mr. Baker. Were communications from Mr. Baker withheld, or is it the position of the Mayor that Mr. Baker never sent an email regarding either 2022 or 2023 Regular Election.

6. The provided records contain an email from Isobela Clopton with an attachment titled "Constituent Log Overview 3/26/2022-4/1/2022." the log indicates that the Mayor's Office was contacted 5 times regarding the Election. Please provide any records concerning these communications, including, if in written form, the constituent communications.
7. The provided documents also contain an August 17, 2022 email from Brice Wilbanks which stated that "Sean Halloran is representing the Mayor's Office for this records request." But there do not appear to be any communications between any member of the Mayor's office and Mr. Halloran (though he is CC'd on several communications). Is it the position of the Mayor that there were no communications pertaining to the 2022 election between members of the Mayor's Office and Mr. Halloran or were these communications withheld?
8. Please provide a list of people who reviewed these documents prior to their disclosure.
9. Please identify the person who conducted the redactions of these documents. Also, we didn't see a redaction log, as was requested. Please provide a redaction log as which identifies the nature of the privilege being asserted.

Thanks much for your efforts in this matter,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

From: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Sent: Tuesday, October 10, 2023 1:39 PM
To: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: RE: Public Records Request

Great, thanks for letting me know!



Michelle Hodel

Constituent Relations Director
Office of the Mayor
Municipality of Anchorage

phone: 907-343-7113

email: michelle.hodel@anchorageak.gov

website: muni.org/mayor

From: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>
Sent: Tuesday, October 10, 2023 1:10 PM
To: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: RE: Public Records Request

Picked up this morning. Thank Much!

From: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Sent: Friday, October 6, 2023 2:35 PM
To: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: RE: Public Records Request

Good afternoon Mr. Hurt,

The Mayor's office has completed reviewing the Assembly's records request, dated September 6, 2023. I have placed the records on a thumb drive, and it is ready to be picked up in our office at your convenience.

Respectfully,



Michelle Hodel

Constituent Relations Director
Office of the Mayor
Municipality of Anchorage

phone: 907-343-7113

email: michelle.hodel@anchorageak.gov

website: muni.org/mayor

From: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>
Sent: Monday, September 25, 2023 4:07 PM
To: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: RE: Public Records Request

Ms. Hodel,

Thank you for your email. As requested, I have forwarded the leadership's request to the appropriate departments.

Out of an abundance of caution, and in deference to established policies and procedures, the leadership is submitting the prescribed records request form to supplement its original September 6th request. To be clear, this does not constitute a new or separate request, but merely conforms the earlier request (which I understand your office to be honoring) to the established format.

Please let me know if you require any additional information.

Thanks in advance,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

From: Mayor Bronson <Mayor@Muni.org>
Sent: Monday, September 11, 2023 2:07 PM
To: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>; Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>
Subject: RE: Public Records Request

Dear Mr. Hurt,

Upon further review of your request, it has been identified:

Some of the record(s) are not in the legal custody of this agency. Please provide a separate public record request to each of the following agencies.

HR

Niki Tshibaka
Jared Goecker
Any other Acting HR Director

IT

Marc Dahl
Mark Merchant
Any other Acting IT Director

“Agencies contacted in error will direct the public to the appropriate agency, i.e., the agency holding legal custody of the requested record” (MOA Policy and Procedure 52-8.) Only the agency that is the legal custodian of the record may provide records to the public.

If you have any additional questions concerning the contents of this letter, please do not hesitate to reach out.



Michelle Hodel

Constituent Relations Director
Office of the Mayor
Municipality of Anchorage

phone: 907-343-7113

email: michelle.hodel@anchorageak.gov

website: muni.org/mayor

From: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>

Sent: Thursday, September 7, 2023 1:16 PM

To: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>

Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>; Zaletel, Meg <meg.zaletel@anchorageak.gov>

Subject: RE: Public Records Request

Ms. Hodel,

The Assembly Leadership provides the following list of named former or current employees in response to your email.

Mayor's Office

Dave Bronson
Larry Baker

Chiefs of Staff

Mario Bird
Adam Trombley
Alexis Johnson
Sami Graham
Any other Acting Chief of Staff

Deputy Chief of Staff

Brice Wilbanks
Any other Acting Deputy Chief of Staff

HR

Niki Tshibaka
Jared Goecker
Any other Acting HR Director

IT
Marc Dahl
Mark Merchant
Any other Acting IT Director

Please let me know if there's anything else I can do to assist you.

Thanks much,

Matthew Hurt
Legislative Counsel
O: 907.343.4714
C: 907.802.7238

From: Hodel, Michelle E. <michelle.hodel@anchorageak.gov>
Sent: Thursday, September 7, 2023 11:09 AM
To: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>
Cc: Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhase, Kent E. <kent.kohlhase@anchorageak.gov>
Subject: Public Records Request

Dear Mr. Hurt:

The Office of the Mayor is in receipt of your public records request received on **September 6, 2023.**

Per the Anchorage Municipal Code 3.90.060, "All municipal officers and employees shall, consistent with the orderly conduct of municipal business, make a good faith and diligent effort to provide a rapid and intelligible response to requests for inspection of records made pursuant to this chapter."

And AMC 3.90.060C.: "If the records and information cannot be located in time to make a response within two working days of the request, the requesting party shall be promptly advised, and, if the requesting party still desires the records, a reasonable and diligent search shall be made for it"

This records request cannot be fulfilled within two working days. If you still desire the information or records, please respond in the affirmative.

To proceed with your request, the records description you have provided is:

Too broad, additional clarification is needed to sufficiently identify the specific record(s).

Records of any communications to, from, or between current and former employees of your office discussing complaints or allegations of misconduct in either the 2022 or 2023 Regular Election

Please specify by name current and former employees.

Again, this records request cannot be fulfilled within two working days. Please reach out to me if you have further questions.

Respectfully,



Michelle Hodel

Constituent Relations Director
Office of the Mayor
Municipality of Anchorage

phone: 907-343-7113

email: michelle.hodel@anchorageak.gov

website: muni.org/mayor

From: Helzer, Anne <Anne.Helzer@anchorageak.gov>

Sent: Monday, September 11, 2023 2:37 PM

To: Hurt, Matthew P. <Matthew.Hurt@anchorageak.gov>; Gates, Dean T. <dean.gates@anchorageak.gov>

Cc: Willoughby, Jessica B. <jessica.willoughby@anchorageak.gov>; Bird, Mario L. <Mario.L.Bird@anchorageak.gov>; Kohlhasse, Kent E. <kent.kohlhasse@anchorageak.gov>; Constant, Christopher <christopher.constant@anchorageak.gov>

Subject: Attorney Client Communication - Dahl Updated Privilege log/Redactions

Hi Matt and Dean,

Please see the attached updated privilege log and identified redactions. Thanks to Jessica for preparing this. Please let me know if there is anything missing. We really appreciate your patience.

As I mentioned at the Assembly meeting Friday, the administration is willing to waive any deliberative process privilege in this case. Accordingly, it was easier to simply produce certain unredacted portions of record rather than to concede to any opinion on the deliberative process privilege moving forward.

As always, we really appreciate your help and cooperation on this.

Best regards,

Anne



Anne R. Helzer

Municipal Attorney

Municipality of Anchorage

Department of Law – Civil and Criminal Divisions

632 W. 6th Avenue, Suite 730

Anchorage, Alaska 99501

(907) 343-4545

www.muni.org/Departments/Legal/

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Date	Minutes	Work
7/17/2023	60	Reviewing 131 pages
9/11/2023	15	Secondary review

SUM	75	
-----	----	--

Employee

JW

JW

Date : 4/11/2023 2:00:00 PM
From : "Dahl, Marc"
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : IT USB Policy
Attachment : image001.png;

[ITD Policy Statements \(sharepoint.com\)](#)

ITD Policy Statements

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 2:37:00 PM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : IT USB Policy
Attachment : image001.png;

Published on the internal IT Security web page [ITD Policy Statements \(sharepoint.com\)](#)

ITD Policy Statements

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Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 1:20:00 PM
From : "Merchant, Mark A."
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : ITD Policy Statements
Attachment : image001.png;

Good afternoon, Heather.

Can you please add a new link on this page...

<https://anchorageak.sharepoint.com/sites/CyberSecurity> called "ITD Policy Statements."

Then on the ITD Policy Statements page I would like to add this language to start off and then we can add other IT policy statements as well. All statements must be approved by the Director prior to posting. This is one Marc would like to put up as soon as possible.

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Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 1:31:19 PM
From : "Holland, Heather M." heather.holland@anchorageak.gov
To : "Merchant, Mark A." mark.merchant@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: ITD Policy Statements
Attachment : image002.png;image003.png;

Good afternoon Mark,
Sure thing, the new page is at
<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>
I have added a link in the Additional Information and External Sites listing, please let me know what you would like to have adjusted.

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:20 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: ITD Policy Statements

Good afternoon, Heather.

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<https://anchorageak.sharepoint.com/sites/CyberSecurity> called "ITD Policy Statements."

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Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 1:34:00 PM
From : "Merchant, Mark A."
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: ITD Policy Statements
Attachment : image001.png;image002.png;

Wow! That was fast. I'll talk to Marc about your bonus. 😊

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Holland, Heather M. <heather.holland@anchorageak.gov>

Sent: Tuesday, April 11, 2023 1:31 PM

To: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>

Subject: RE: ITD Policy Statements

Good afternoon Mark,

Sure thing, the new page is at

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

I have added a link in the Additional Information and External Sites listing, please let me know what you would like to have adjusted.

Thank you!

Heather Holland

System Analyst

Municipality of Anchorage

Information Technology Department

632 W 6th Avenue, Suite 430

Anchorage, AK 99501

Phone 907.343.6899

Email heather.holland@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:20 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: ITD Policy Statements

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C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 12:16:00 PM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : Latest Draft for website.
Attachment : image001.png;

Getting close...

Access to or connection of Removeable Storage (USB) devices

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(Link to Change Management Procedures)

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 10:09:58 AM
From : "Dahl, Marc" marcus.dahl@anchorageak.gov
To : "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;

Please update to be specific on who performs the scan. For critical infrastructure the scanning needs to be limited to Security, Infrastructure or Network team or pre-registered technically capable delegate

Would also put a requirement for submittal of a formal change management(emergency if needed) and follow IT Change management process if the thumb drive content is to deliver system updates, patches, malware remediation.

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Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 9:31 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: Draft Round 2

This is all that's on there...

- a. Access to or connection of Removeable Storage (USB) devices
 - i. Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after devices have been scanned for malware.
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Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Dahl, Marc <marcus.dahl@anchorageak.gov>

Sent: Tuesday, April 11, 2023 8:59 AM

To: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Subject: Re: Draft Round 2

I don't see any reference to thumb drives and data exchange on critical infrastructure

Get [Outlook for iOS](#)

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Sent: Tuesday, April 11, 2023 8:45:42 AM

To: Dahl, Marc <marcus.dahl@anchorageak.gov>

Subject: FW: Draft Round 2

FYI. Here was the latest draft that we did back in January.

Thank you for helping us to protect our personal information.



Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Merchant, Mark A.
Sent: Wednesday, January 18, 2023 1:17 PM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: Draft Round 2

FYI. Please review and add content.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 10:42:48 AM
From : "Dahl, Marc" marcus.dahl@anchorageak.gov
To : "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;

Come back with what you recommend.

This is a conversation not a dictate

Marcus Dahl
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Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 10:15 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: Draft Round 2

Will do,

 I'll work on it.

Thank you for helping us to protect our personal information.



Mark Merchant, CISSP, GCFA
Chief Information Security Officer
MOA/Security Services
P: 907-343-6917
C: 907-305-3033
E: mark.merchant@anchorageak.gov

From: Dahl, Marc <marcus.dahl@anchorageak.gov>
Sent: Tuesday, April 11, 2023 10:10 AM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: Draft Round 2

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From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 9:31 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: Draft Round 2

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From: Dahl, Marc <marcus.dahl@anchorageak.gov>
Sent: Tuesday, April 11, 2023 8:59 AM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: Re: Draft Round 2

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From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
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Subject: Draft Round 2

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P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 9:30:00 AM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;

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MOA/Security Services

P: 907-343-6917

C: 907-305-3033

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From: Dahl, Marc <marcus.dahl@anchorageak.gov>
Sent: Tuesday, April 11, 2023 8:59 AM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: Re: Draft Round 2

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**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/11/2023 10:14:00 AM
From : "Merchant, Mark A."
To : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : RE: Draft Round 2
Attachment : image001.png;

Will do,

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P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/14/2023 11:31:00 AM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : FW: 04182023S Municipal Assembly Agenda - FINAL

See this proposed code update being introduced at the next assembly.

5.A. Ordinance No. AO 2023-45, an ordinance of the Anchorage Assembly amending Anchorage Municipal Code Section (AMC) 2.30.020 to recognize the decision making authority of the assembly with respect to uncodified mayoral directives, policies and procedures, and other uncodified policies and administrative practices as applied to the legislative branch, and amending AMC section 3.50.010 accordingly, Assembly Vice-Chair Constant.

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

From: Sleppy, Karissa M. <karissa.sleppy@anchorageak.gov>
Sent: Friday, April 14, 2023 10:41 AM
Subject: 04182023S Municipal Assembly Agenda - FINAL
Importance: High

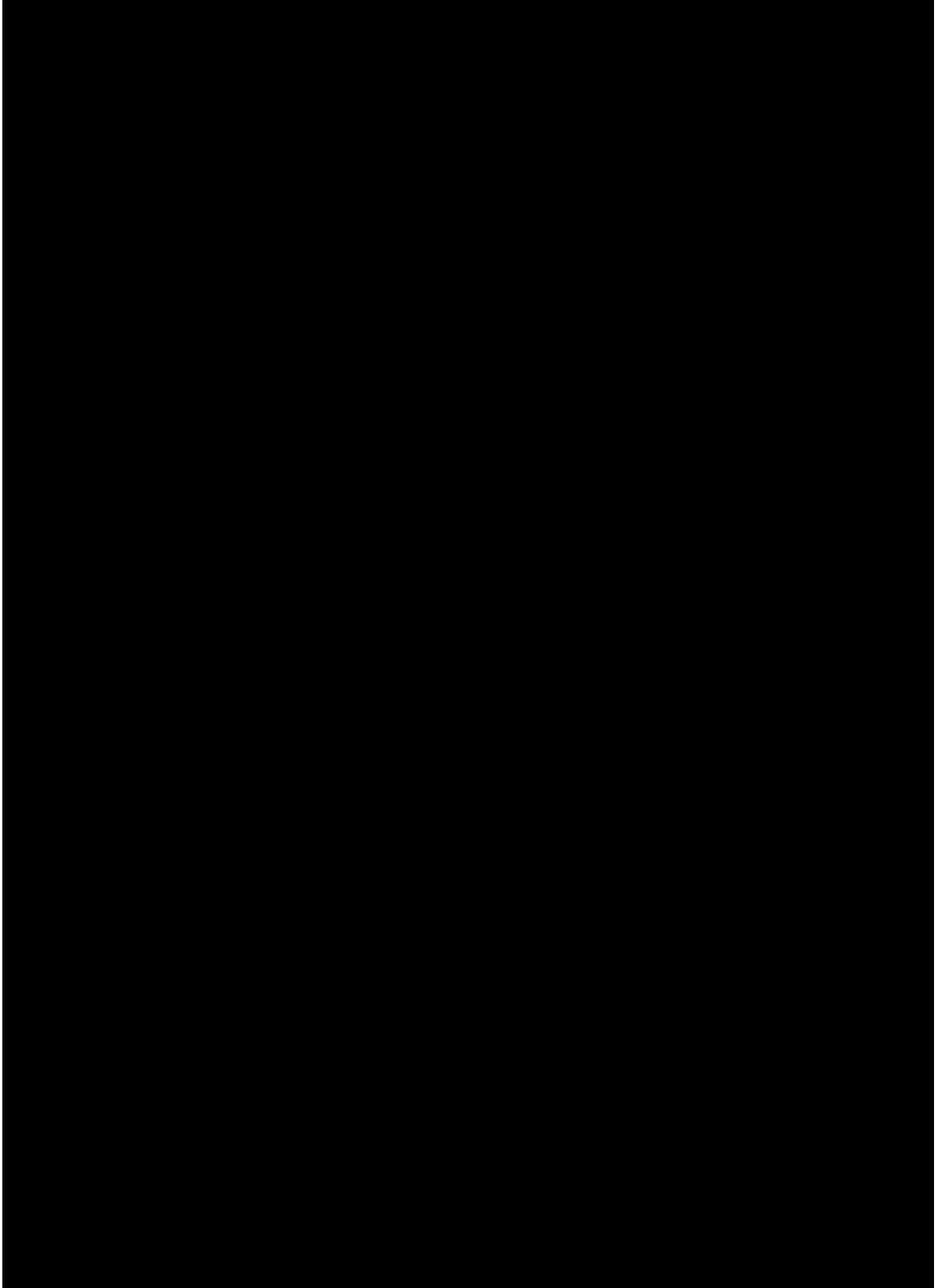
Your message is ready to be sent with the following file or link attachments:

04182023S_Final

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Date : 4/14/2023 1:29:00 PM
From : "Dahl, Marc"
To : "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : FW: 04182023S Municipal Assembly Agenda - FINAL

Anne,





Date : 4/21/2023 3:37:00 PM
From : "Dahl, Marc"
To : "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : Darrel Hess request

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 249 890 602 047

Passcode: BN5LeE

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Or call in (audio only)

[+1 907-519-0237,,368377658#](#) United States, Anchorage

Phone Conference ID: 368 377 658#

[Find a local number](#) | [Reset PIN](#)



[Learn More](#) | [Meeting options](#) | [Legal](#)

Date : 4/21/2023 3:37:37 PM
From : "Dahl, Marc"
To : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : Darrel Hess request

Microsoft Teams meeting

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Passcode: BN5LeE

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Phone Conference ID: 368 377 658#

[Find a local number](#) | [Reset PIN](#)



[Learn More](#) | [Meeting options](#) | [Legal](#)

Date : 4/21/2023 8:34:43 AM

To : "Merchant, Mark A." mark.merchant@anchorageak.gov

Subject : FW: IT Policy Posted on MOA Intranet

Attachment : image001.png;

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>

Sent: Friday, April 21, 2023 8:29 AM

To: Holland, Heather M. <heather.holland@anchorageak.gov>

Subject: IT Policy Posted on MOA Intranet

Heather,

Good morning. Could you tell me when the IT policy linked below regarding access to or connection of removable storage devices was first posted on the MOA intranet, and a timeline of its editing history and links to or copies of previous versions? Thanks, and have a great weekend.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

Darrel W. Hess

Ombudsman

Municipality of

Anchorage

632 West 6th Avenue, Suite 100

Anchorage, AK 99501

Phone: 907.343.4783

Fax: 907.343.4464

Email: HessDW@muni.org

Pronouns: He, Him, His



"Never underestimate the power of a small group of committed people to change the world. In fact, it is the only thing that ever has." Margaret Mead

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Date : 4/21/2023 9:29:00 AM
From : "Merchant, Mark A."
To : "Helzer, Anne" Anne.Helzer@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov
Subject : FW: ITD Policy Statements
Attachment : image001.png;image002.png;

Anne,

This is everything I have in my email regarding the Policy Statement.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Merchant, Mark A.
Sent: Tuesday, April 11, 2023 1:34 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: ITD Policy Statements

Wow! That was fast. I'll talk to Marc about your bonus. ☐

Thank you for helping us to protect our personal information.



Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:31 PM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: ITD Policy Statements

Good afternoon Mark,
Sure thing, the new page is at
<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>
I have added a link in the Additional Information and External Sites listing, please let me know what you would like to have adjusted.

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Tuesday, April 11, 2023 1:20 PM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: ITD Policy Statements

Good afternoon, Heather.

Can you please add a new link on this page...
<https://anchorageak.sharepoint.com/sites/CyberSecurity> called "ITD Policy Statements."

Then on the ITD Policy Statements page I would like to add this language to start off and then we can add other IT policy statements as well. All statements must be approved by the Director prior to posting. This is one Marc would like to put up as soon as possible.

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned

for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**INFORMATION
TECHNOLOGY
DEPARTMENT**



**INFORMATION
TECHNOLOGY
DEPARTMENT**

Date : 4/21/2023 8:29:23 AM

From : "Hess, Darrel W." darrel.hess@anchorageak.gov

To : "Holland, Heather M." heather.holland@anchorageak.gov

Subject : IT Policy Posted on MOA Intranet

Attachment : image001.png;

Heather,

Good morning. Could you tell me when the IT policy linked below regarding access to or connection of removable storage devices was first posted on the MOA intranet, and a timeline of its editing history and links to or copies of previous versions? Thanks, and have a great weekend.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

Darrel W. Hess

Ombudsman

Municipality of

Anchorage

632 West 6th Avenue, Suite 100

Anchorage, AK 99501

Phone: 907.343.4783

Fax: 907.343.4464

Email: HessDW@muni.org

Pronouns: He, Him, His



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Date : 4/21/2023 8:43:21 AM
From : "Holland, Heather M." heather.holland@anchorageak.gov
To : "Hess, Darrel W." darrel.hess@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image001.png;image002.png;

Good morning Darrel,

The page was posted by me on April 11, 2023, using content I received via email from Mark Merchant, our Chief Information Security Officer, at the behest of IT Director Marc Dahl. There have been no modifications to the page since that time.

Hope you have a great weekend also!

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

Heather,

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Regards,

Darrel

Darrel W. Hess

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Email: HessDW@muni.org

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Date : 4/21/2023 8:44:57 AM
From : "Hess, Darrel W." darrel.hess@anchorageak.gov
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image002.png;image003.png;

Thanks, Heather.

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 8:43 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Good morning Darrel,

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Hope you have a great weekend also!

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

Heather,

Good morning. Could you tell me when the IT policy linked below regarding access to or connection of removable storage devices was first posted on the MOA intranet, and a timeline of its editing history and links to or copies of previous versions? Thanks, and have

a great weekend.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

Darrel W. Hess

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Date : 4/21/2023 9:12:06 AM
From : "Hess, Darrel W." darrel.hess@anchorageak.gov
To : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image002.png;image003.png;

Marc & Mark,

Good morning. A constituent has contacted the Ombudsman's Office alleging that the MOA, Office of Information Technology may have conspired with a member of the public to overturn the recent Municipal election by developing an IT policy that would support that person's complaint regarding the election. As part of my investigation, I am requesting copies of any emails to or from any OIT employee regarding the IT policy linked below.

Anne,

Given the seriousness of the allegation and the fact that the investigation involves OIT, I'm requesting that the Municipal Attorney's Office oversee this records request.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Thanks in advance for your assistance with this records request.

Regards,

Darrel

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 8:43 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Good morning Darrel,

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Hope you have a great weekend also!

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage

Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

Heather,

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<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

Darrel W. Hess
Ombudsman
Municipality of
Anchorage
632 West 6th Avenue, Suite 100
Anchorage, AK 99501
Phone: 907.343.4783
Fax: 907.343.4464
Email: HessDW@muni.org
Pronouns: He, Him, His

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Date : 4/21/2023 9:54:27 AM
From : "Hess, Darrel W." darrel.hess@anchorageak.gov
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image001.png;image002.png;

Heather,

Good morning again. What time on April 11th was the policy posted, and would it have been viewable immediately? Is the policy posted on muini.org or just on the intranet? Thanks.

Regards,

Darrel

From: Hess, Darrel W.
Sent: Friday, April 21, 2023 8:45 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Thanks, Heather.

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 8:43 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

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Hope you have a great weekend also!

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501

Phone 907.343.6899

Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

Heather,

Good morning. Could you tell me when the IT policy linked below regarding access to or connection of removable storage devices was first posted on the MOA intranet, and a timeline of its editing history and links to or copies of previous versions? Thanks, and have a great weekend.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

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Municipality of
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632 West 6th Avenue, Suite 100
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Phone: 907.343.4783
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Pronouns: He, Him, His

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Date : 4/21/2023 9:58:12 AM
From : "Holland, Heather M." heather.holland@anchorageak.gov
To : "Hess, Darrel W." darrel.hess@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image001.png;image002.png;

It was published at 1:28 PM, at which point it would be immediately viewable.

It's on our SharePoint Online site, which is an internal site.

Thank you!

-Heather

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 9:54 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Heather,

Good morning again. What time on April 11th was the policy posted, and would it have been viewable immediately? Is the policy posted on muini.org or just on the intranet?
Thanks.

Regards,

Darrel

From: Hess, Darrel W.
Sent: Friday, April 21, 2023 8:45 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Thanks, Heather.

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 8:43 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
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Hope you have a great weekend also!

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
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Municipality of
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632 West 6th Avenue, Suite 100
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Date : 4/21/2023 9:58:44 AM
From : "Hess, Darrel W." darrel.hess@anchorageak.gov
To : "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image001.png;image002.png;

Thanks, Heather.

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 9:58 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
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To: Holland, Heather M. <heather.holland@anchorageak.gov>
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Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

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Regards,

Darrel

Darrel W. Hess

Ombudsman

Municipality of

Anchorage

632 West 6th Avenue, Suite 100

Anchorage, AK 99501

Phone: 907.343.4783

Fax: 907.343.4464

Email: HessDW@muni.org

Pronouns: He, Him, His



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Date : 4/21/2023 10:25:18 AM
From : "Hess, Darrel W." darrel.hess@anchorageak.gov
To : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image001.png;image002.png;

Good Morning Again,

I'm amending my records request to include any emails from Sami Graham sent to any MOA employee or official between March 15, 2023 and April 21, 2023, and any emails sent to Sami Graham by any MOA employee or official between March 15, 2023 and April 21, 2023.

Regards,

Darrel

From: Hess, Darrel W.
Sent: Friday, April 21, 2023 9:12 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet
Importance: High

Marc & Mark,

Good morning. A constituent has contacted the Ombudsman's Office alleging that the MOA, Office of Information Technology may have conspired with a member of the public to overturn the recent Municipal election by developing an IT policy that would support that person's complaint regarding the election. As part of my investigation, I am requesting copies of any emails to or from any OIT employee regarding the IT policy linked below.

Anne,

Given the seriousness of the allegation and the fact that the investigation involves OIT, I'm requesting that the Municipal Attorney's Office oversee this records request.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Thanks in advance for your assistance with this records request.

Regards,

Darrel

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 8:43 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Good morning Darrel,

The page was posted by me on April 11, 2023, using content I received via email from Mark Merchant, our Chief Information Security Officer, at the behest of IT Director Marc Dahl. There have been no modifications to the page since that time.

Hope you have a great weekend also!

Thank you!

Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

Heather,

Good morning. Could you tell me when the IT policy linked below regarding access to or connection of removable storage devices was first posted on the MOA intranet, and a timeline of its editing history and links to or copies of previous versions? Thanks, and have a great weekend.

<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

Darrel W. Hess
Ombudsman

Municipality of
Anchorage
632 West 6th Avenue, Suite 100
Anchorage, AK 99501
Phone: 907.343.4783
Fax: 907.343.4464
Email: HessDW@muni.org

Pronouns: He, Him, His



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Date : 4/21/2023 10:28:09 AM
From : "Dahl, Marc" marcus.dahl@anchorageak.gov
To : "Hess, Darrel W." darrel.hess@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov, "Smith, Yuridia Y." yuridia.smith@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image003.png;image004.png;image005.png;

Yuri,

Please log and process this records request on Darrel Hess's behalf

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 10:25 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>
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To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
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System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
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Phone 907.343.6899
Email heather.holland@anchorageak.gov

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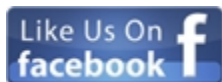
<https://anchorageak.sharepoint.com/sites/CyberSecurity/SitePages/ITD-Policy-Statements.aspx>

Regards,

Darrel

Darrel W. Hess
Ombudsman
Municipality of
Anchorage
632 West 6th Avenue, Suite 100
Anchorage, AK 99501
Phone: 907.343.4783
Fax: 907.343.4464
Email: HessDW@muni.org

Pronouns: He, Him, His



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Date : 4/21/2023 10:28:54 AM
From : "Hess, Darrel W." darrel.hess@anchorageak.gov
To : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov, "Smith, Yuridia Y." yuridia.smith@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image001.png;image002.png;image003.png;

Thanks, Marc.

From: Dahl, Marc <marcus.dahl@anchorageak.gov>
Sent: Friday, April 21, 2023 10:28 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>; Smith, Yuridia Y. <yuridia.smith@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Yuri,

Please log and process this records request on Darrel Hess's behalf

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov

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Anne,

Given the seriousness of the allegation and the fact that the investigation involves OIT, I'm requesting that the Municipal Attorney's Office oversee this records request.

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Thank you!

Heather Holland
System Analyst
Municipality of Anchorage

Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
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Regards,

Darrel

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Municipality of
Anchorage
632 West 6th Avenue, Suite 100
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Date : 4/21/2023 11:18:56 AM
From : "Smith, Yuridia Y." yuridia.smith@anchorageak.gov
To : "Dahl, Marc" marcus.dahl@anchorageak.gov, "Hess, Darrel W." darrel.hess@anchorageak.gov, "Merchant, Mark A." mark.merchant@anchorageak.gov, "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image007.png;image001.png;image004.png;image005.png;

Good morning, Darrel –

Please fill out the template below for **each** search request:

Email/Bulk Data –

- **MOA Email Inboxes** – Provide the employee’s name and email address.

STATE if they are **TO, FROM or BETWEEN**

- **External Inboxes:** Provide the full email address.
- **Date Range** – Provide a start and end date.
- **Keyword(s)** – Specify all keywords.

Record is defined by any document, whether in draft or final form, containing information relating to the conduct of the people’s business which is prepared, owned, used or retained by a municipal agency or an agency under contract with the municipality, regardless of the physical form or characteristic of the document (AMC 3.90.020).

***Please review the spelling, dates, email addresses, etc..., as the search will be run using only the information in the template above.**

Thank you,



Yuri Smith
Public Records Request Coordinator
Municipality of Anchorage
Office of Information Technology
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6815
Email yuridia.smith@anchorageak.gov

From: Dahl, Marc <marcus.dahl@anchorageak.gov>
Sent: Friday, April 21, 2023 10:28 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>; Helzer, Anne <Anne.Helzer@anchorageak.gov>; Smith, Yuridia Y. <yuridia.smith@anchorageak.gov>
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Thanks in advance for your assistance with this records request.

Regards,

Darrel

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 8:43 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
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Thank you!



Heather Holland
System Analyst
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Phone 907.343.6899
Email heather.holland@anchorageak.gov

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Sent: Friday, April 21, 2023 8:29 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Subject: IT Policy Posted on MOA Intranet

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Regards,

Darrel

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Municipality of
Anchorage
632 West 6th Avenue, Suite 100
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Phone: 907.343.4783
Fax: 907.343.4464
Email: HessDW@muni.org

Pronouns: He, Him, His



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DEPARTMENT**



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Date : 4/21/2023 10:09:36 AM
To : "Hess, Darrel W." darrel.hess@anchorageak.gov, "Holland, Heather M." heather.holland@anchorageak.gov
Cc : "Merchant, Mark A." mark.merchant@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : image003.png;image004.png;image005.png;

Ty All,

this verbiage is an extract from a formal policy implemented by IT

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 9:59 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Thanks, Heather.

From: Holland, Heather M. <heather.holland@anchorageak.gov>
Sent: Friday, April 21, 2023 9:58 AM
To: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

It was published at 1:28 PM, at which point it would be immediately viewable.

It's on our SharePoint Online site, which is an internal site.

Thank you!

-Heather

From: Hess, Darrel W. <darrel.hess@anchorageak.gov>
Sent: Friday, April 21, 2023 9:54 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>

Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
Subject: RE: IT Policy Posted on MOA Intranet

Heather,

Good morning again. What time on April 11th was the policy posted, and would it have been viewable immediately? Is the policy posted on muini.org or just on the intranet? Thanks.

Regards,

Darrel

From: Hess, Darrel W.
Sent: Friday, April 21, 2023 8:45 AM
To: Holland, Heather M. <heather.holland@anchorageak.gov>
Cc: Dahl, Marc <marcus.dahl@anchorageak.gov>; Merchant, Mark A. <mark.merchant@anchorageak.gov>
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Email heather.holland@anchorageak.gov

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Darrel

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Municipality of
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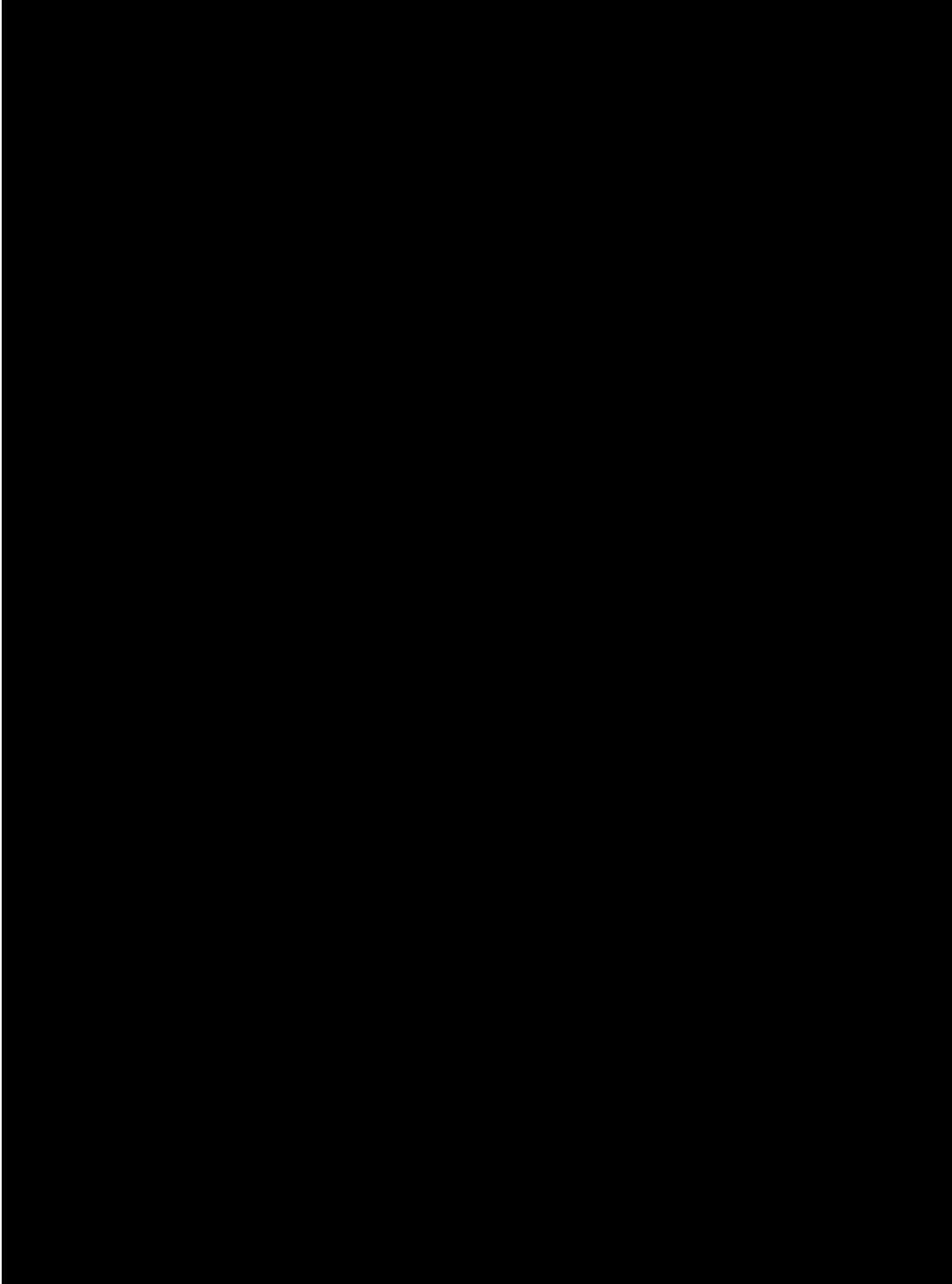
Like Us On

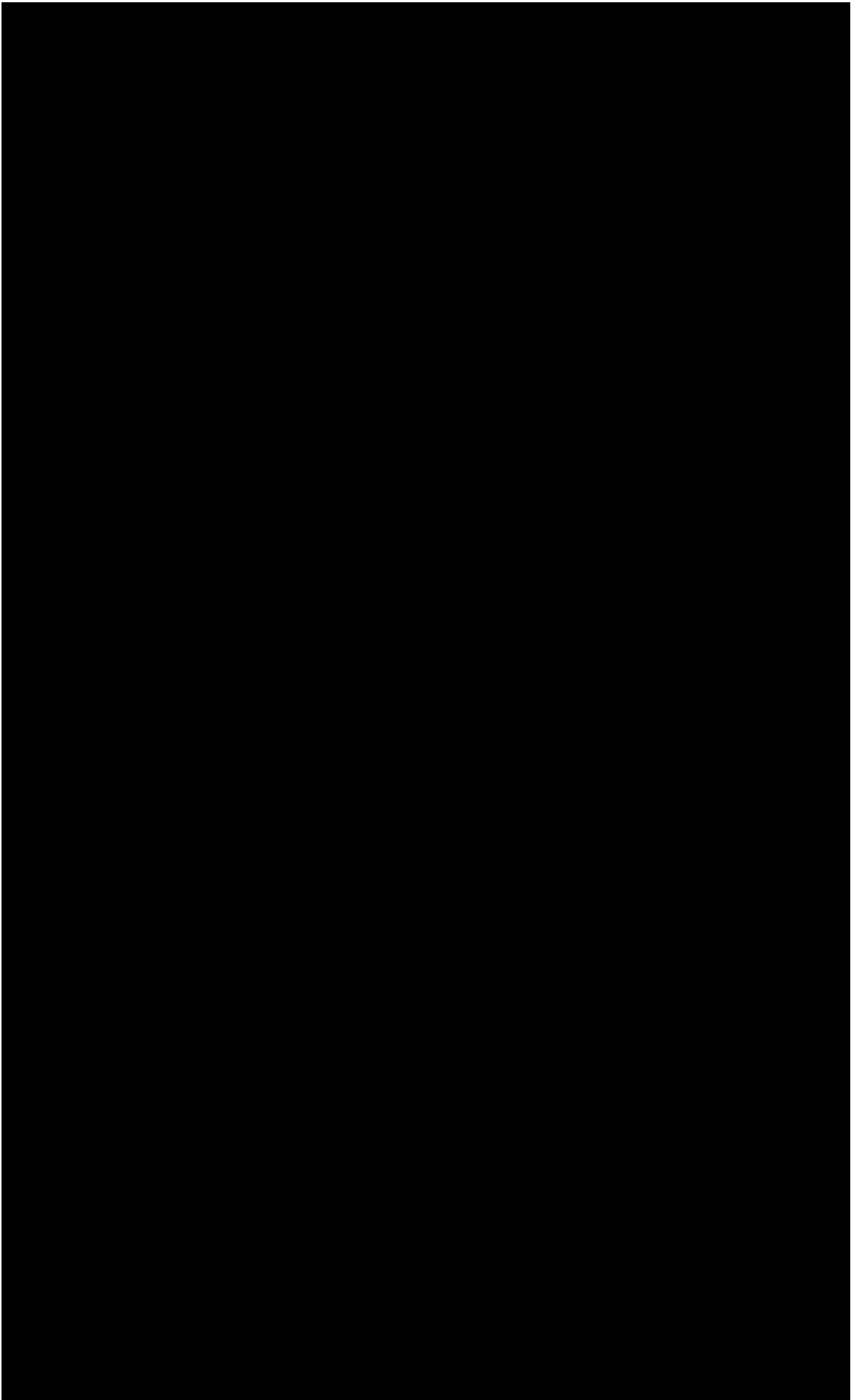
facebook

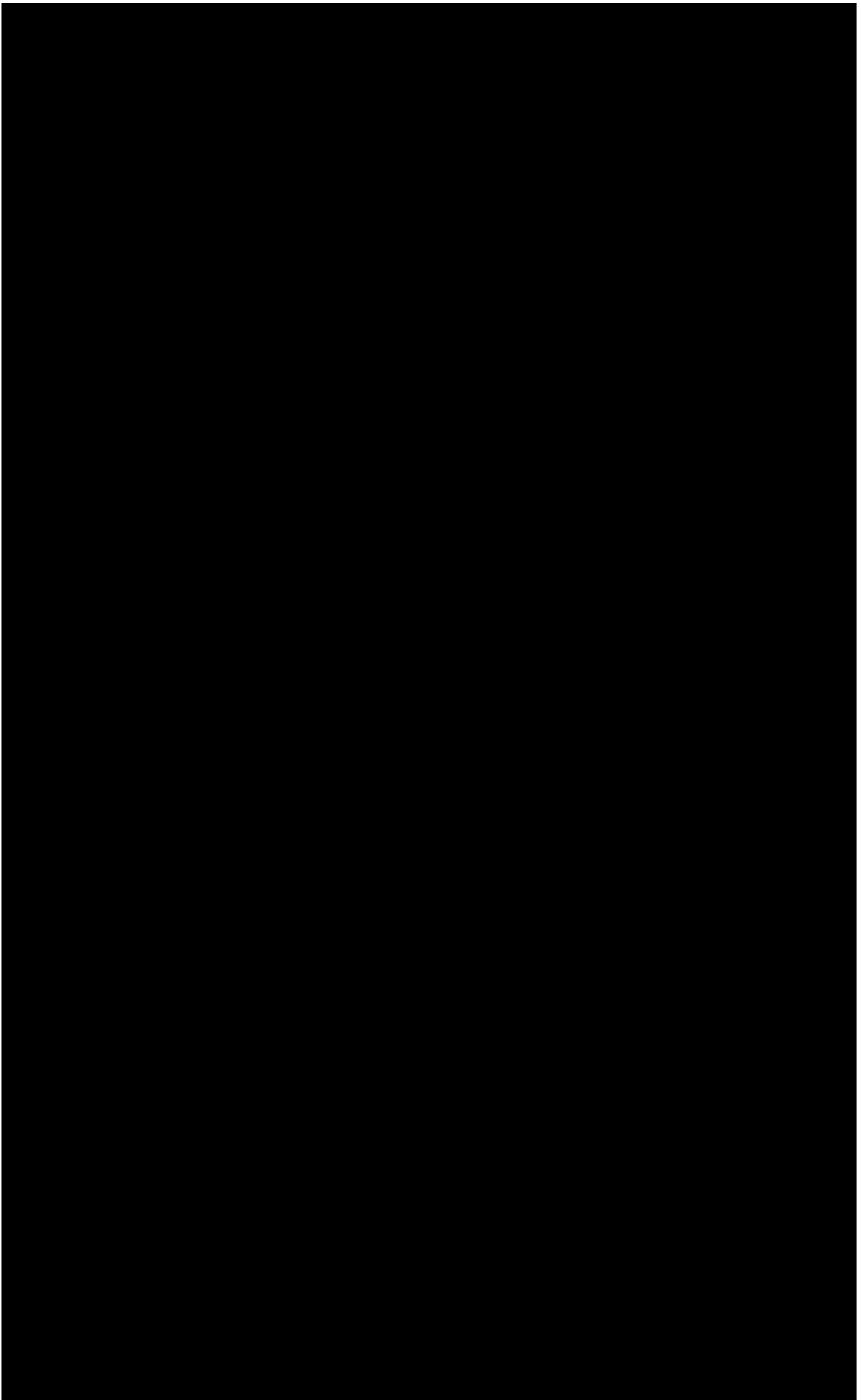


Date : 4/21/2023 3:36:12 PM
To : "Helzer, Anne" Anne.Helzer@anchorageak.gov
Subject : RE: IT Policy Posted on MOA Intranet
Attachment : FW: Policy - 28-10;Draft Round
2 ;image003.png;image004.png;image005.png;

Anne









Date : 1/10/2023 1:05:09 PM
From : "Merchant, Mark A."
To : "Dahl, Marc"
Cc : "Plant, Anna L."
Subject : FW: Policy - 28-10
Attachment : PP 28-7 Password Management 101521.doc;PP 28-10 Protection of Personal or Confidential Information 091421 - Final.doc;image001.jpg;

Hey Marc,

These are the two that we were working on. The Password Mgmt. (28-7) was approved but the Protection of PII (28-10) was waiting for Amy to review prior to the Mayor signing it. Maybe we can just get the Mayor to sign it now. It has already been approved through Legal and OMB.

Thanks.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCEA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Merchant, Mark A.
Sent: Monday, October 25, 2021 9:32 AM
To: Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: FW: Policy - 28-10

Christine is reviewing these and will forward them to Amy and then get the Mayor to sign them.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCEA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Merchant, Mark A.
Sent: Monday, October 25, 2021 9:24 AM

To: Chesnut, Christine L. <christine.chesnut@anchorageak.gov>

Subject: RE: Policy - 28-10

Also,

We updated the MOA Password Policy to modify the password change frequency from 90 days to 365. (7.e.i.B) for standard MOA employees... Can we please get this signed at the same time?

- (B) Ensure that password history is enabled, which will prevent the reuse of any of the previous ten (10) passwords; that password expiration does not exceed 365 days for standard user accounts and 90 days for accounts with Admin (ADM) or elevated privileges.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCEA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Chesnut, Christine L. <christine.chesnut@anchorageak.gov>

Sent: Monday, October 25, 2021 8:55 AM

To: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Subject: RE: Policy - 28-10

Ok, so the Director doesn't do anything say in an IT system to encrypt this, it is part of the normal process, but the Director is responsible to ensure that the information stays encrypted?

This is under the procedure section, so I was looking for the process a Director must follow. It sounds like they don't actually have to do anything, just adhere to the fact that it must stay encrypted.

Is that correct?

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Sent: Monday, October 25, 2021 8:50 AM

To: Chesnut, Christine L. <christine.chesnut@anchorageak.gov>

Subject: RE: Policy - 28-10

Thanks Christine!

So any Director that is in charge of data like Public Health Information or Criminal Justice Information will know that this type of "data in transit" or "data at rest" must be encrypted per Federal Law. As the Director, they should know where this

type of data exists in their environment and should make sure that IT is encrypting it so they are in compliance.

Does that help?

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov

From: Chesnut, Christine L. <christine.chesnut@anchorageak.gov>

Sent: Monday, October 25, 2021 8:43 AM

To: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Subject: FW: Policy - 28-10

Hi Mark,

I have one question prior to moving this forward.

Section 7.d. How will a Director know how to implement encryption?

Apologies for the delay. Once this question is resolved, Leilah will then package this up for the Muni Mgr, then Mayor's signature.

Thanks!

From: Lawyer, Leilah I. <leilah.lawyer@anchorageak.gov>

Sent: Wednesday, October 13, 2021 9:51 AM

To: Chesnut, Christine L. <christine.chesnut@anchorageak.gov>

Subject: RE: Policy - 28-10

Hi Christine,

Sorry to bother. Have you had a chance to review this P&P? Mark Merchant pinged me this morning asking for the status of this P&P (I honestly forgot about it). Please let me know if you need anything. Thanks!

Leilah Lawyer

Office of Management and Budget

Administrative Officer

Ext. 4496

From: Lawyer, Leilah I.

Sent: Monday, September 20, 2021 2:21 PM

To: Chesnut, Christine L. <christine.chesnut@anchorageak.gov>

Subject: FW: Policy - 28-10

Hi Christine,

I have logged this, added the definitions to our master definitions list, formatted it, and I also added section #9 Annual Review Date/Lead Review Agency.

The department's version that they sent me ends with "091421 – Final". The version that I updated ends with "OMB".

Please let me know when you have had a chance to review. I will then send it to Karl. Thank you!

Leilah Lawyer
Office of Management and Budget
Administrative Officer
Ext. 4496

From: Merchant, Mark A. <mark.merchant@anchorageak.gov>
Sent: Monday, September 20, 2021 10:20 AM
To: Lawyer, Leilah I. <leilah.lawyer@anchorageak.gov>
Cc: Ennis, Deitra L. <deitra.ennis@anchorageak.gov>; Sherwood, Todd K. <todd.sherwood@anchorageak.gov>; Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: FW: Policy - 28-10

Good morning Leilah,

I found out Darlene Williams is no longer working for OMB and your name came up, so I am hoping this is the right place. ☐

The attached enterprise security policy has been reviewed by Legal, the IRT and multiple Department Directors and we wanted to get final OMB approval and formatting prior to the Mayor's signature.

Please let me know if you have any questions or concerns.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA, LASO
Chief Information Security Officer
MOA/Security Services
P: 907-343-6917
C: 907-305-3033
E: mark.merchant@anchorageak.gov

From: Sherwood, Todd K. <todd.sherwood@anchorageak.gov>
Sent: Thursday, September 9, 2021 1:27 PM
To: Merchant, Mark A. <mark.merchant@anchorageak.gov>; Ennis, Deitra L. <deitra.ennis@anchorageak.gov>; Plant, Anna L. <anna.plant@anchorageak.gov>; Dahl, Marc <marcus.dahl@anchorageak.gov>
Subject: RE: Policy - 28-10

Looks ok to me.



Todd Sherwood

Assistant Municipal Attorney

Municipality of Anchorage

632 W.6th Avenue, Suite 730 Anchorage, Alaska 99501

(907) 343-4545

todd.sherwood@anchorageak.gov

www.muni.org/Departments/Legal/

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From: Merchant, Mark A. <mark.merchant@anchorageak.gov>

Sent: Thursday, September 09, 2021 12:31 PM

To: Ennis, Deitra L. <deitra.ennis@anchorageak.gov>; Sherwood, Todd K.

<todd.sherwood@anchorageak.gov>; Plant, Anna L. <anna.plant@anchorageak.gov>;

Dahl, Marc <marcus.dahl@anchorageak.gov>

Subject: Policy - 28-10

Importance: High

Ok, this policy has been updated after our meeting today. Please take a look and let me know if I captured and entered everything correctly. I highlighted all the changes that we made to make for a quick review.

Thanks again everyone!

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917


C: 907-305-3033

E: mark.merchant@anchorageak.gov

MOA Internal Only

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furnished to the media, either in written or verbal form.

 MUNICIPALITY OF ANCHORAGE O P E R A T I N G P O L I C Y / P R O C E D U R E	P&P No. 28-7	Page 1 of 3
	Effective Date: August 1, 2018	
Subject: Password Management	Supersedes No. Updated	Dated:
	Approved by:	

1. PURPOSE

To ensure that proper password controls are applied to all Municipality of Anchorage (MOA) computer, network, and application accounts to meet or exceed the minimum regulatory compliance standards for data integrity and confidentiality.

2. POLICY

It is the policy of the Municipality to establish a baseline password requirement for all MOA owned computer systems and/or networked devices. Departments must meet or exceed this baseline policy.

3. ORGANIZATIONS AFFECTED

All Municipal agencies.

4. REFERENCES

National Institute for Standards and Technology Special P 800-63 Password Guidelines.

5. DEFINITIONS

- a. Data – numerical or other information represented in a form suitable for processing by computer.
- b. Encryption – A technical security control used to protect the confidentiality of an information asset.
- c. Standard User Account – Non-privileged accounts that do not have the ability to install applications, programs, or the ability to modify operating system configurations.
- d. Elevated or Admin (ADM) Accounts – Accounts with the ability to install applications or programs on desktops / servers and/or modify operating system configurations.

6. RESPONSIBILITIES

- a. The Chief Information Security Officer (CISO) shall be responsible for oversight of all MOA Information security.
- b. All Departmental IT staff shall configure and manage MOA systems to meet or exceed these password requirements.

7. PROCEDURE


- a. Strong Password Requirements
 - i. Personnel must set a password of sufficient length and complexity according to the following standards:

- a. The password length must be 14 characters or more unless prohibited by application or system design;
 - b. The password must contain a combination of upper and lower case letters and include at least one numeric and/or special character (e.g., \$, (, %, @);
 - c. The password must not be a single word that would appear in a dictionary and must not be based on personal information (e.g., a pet name) or other identifiers (e.g., a social security number).
 - d. The password shall not be any of your previous 10 passwords.
- b. **Password Variability**
- When re-setting a password, personnel must use a new password that is substantially different from the old password. Personnel must not use passwords that are only incrementally different from the previous password (e.g., Thecowjumpedoverthemoon1, Thecowjumpedoverthemoon2, Thecowjumpedoverthemoon3.)
- c. **Application of Passwords**
- With the exception of public-access terminals or by management authorization, for example: servers, workstations, terminals and laptop computers, shall be secured with a password-protected screensaver with the automatic activation feature set at 15 minutes or less, or by logging-off when the system will be unattended.
- d. **Protections from Disclosure**
- i. Personnel must not record or store a password in any form (e.g., sticky note, notebook, electronic file) unless the password is protected by a technique (e.g., encrypted password storage application, sealed envelope in a limited-access safe, or other locked storage) and explicitly approved by IT Security via a Service Desk request. Passwords must not be inserted into electronic messages, or included in information transmitted by an electronic messaging system; the only exception is when the message is protected by an approved method or the password is a one-time use password.
 - ii. Personnel must not share a password or non-public account information assigned to them (Note: MOA technical personnel do not request passwords from personnel for any purpose).
 - iii. When a system, network, process, or application requires the use of a shared account or password, personnel must ensure that the number of individuals with the account information is limited to the minimum necessary for authorized purposes, and that the password is changed whenever there is a change in staff with knowledge of the account information.
 - iv. Personnel must immediately report any known or suspected compromise of a password to the MOA Security Office, in accordance with the MOA Incident Response Plan.

- e. Proper Administration of Passwords
 - i. Personnel tasked with system administration responsibilities must
 - (A) Ensure that MOA systems, networks, and applications are configured to store passwords only when required and only in encrypted form.
 - (B) Ensure that password history is enabled, which will prevent the reuse of any of the previous ten (10) passwords; that password expiration does not exceed 365 days for standard user accounts and 90 days for accounts with Admin (ADM) or elevated privileges.
 - (C) Ensure that initial and reset passwords are set according to the password strength standards set forth in this policy, and that account users are required to change an initial or reset password upon logon. Personnel tasked with resetting passwords must ensure that any individual requesting a reset is positively identified and that the reset password is provided by an approved method.
 - (D) Ensure that passwords for service accounts are not provided to individuals without a legitimate requirement, are disabled when not in use, and are changed whenever there is a change in service personnel.
 - (E) Ensure that a mechanism is in place for each system, network, and application account with system-level privileges that allows the actions of an administrator to be uniquely associated with that individual.
 - (F) Not assign the same password to accounts with system-level privileges as is used for non-administrator accounts.
 - (G) Ensure that vendor-supplied default passwords for systems or applications are changed before the systems or applications are used for MOA purposes.
 - (H) Review users' access rights to systems at a minimum of once a quarter.

8. REVIEW DATE/LEAD REVIEW AGENCY

The Office of Information Technology Department will review this document in October of each year for any needed revisions.

 MUNICIPALITY OF ANCHORAGE O P E R A T I N G P O L I C Y / P R O C E D U R E	P&P No. 28-10	Page 1 of 2
	Effective Date: September 1, 2021	
Subject: Protection of Personal or Confidential Information	Supercedes No. NEW	Dated:
	Approved by:	

1. PURPOSE

To ensure appropriate safeguards are implemented for the protection of personally identifiable information (PII) or confidential information created, stored, processed, or transmitted by the Municipality of Anchorage (MOA).

2. POLICY

It is the policy of the Municipality to safeguard PII or confidential information that is maintained in any form or medium by the MOA to include computer systems, network devices and/or hard copies.

3. ORGANIZATIONS AFFECTED

All Municipal agencies.

4. REFERENCES

NIST SP 800-122 Guide to Protecting the Confidentiality of Personally Identifiable Information

Alaska Statute 45.48.400 - .480 Protection of Social Security Number

Alaska Statute 45.48.010 - .090 Breach of Security Involving Personal Information

Alaska Statutes 45.48.500 - .590 Disposal of Records

Alaska Statutes 40.21.010, .070, .080.

Payment Card Industry Data Security Standard (PCI DSS)

Anchorage Municipal Code (AMC) 3.95 Records Management

5. DEFINITIONS

(1) **Confidential Information**

A property of information assets, information systems, and other resources whereby access is limited only to persons and entities authorized to view the information or access the resource.

(2) **Encryption**

A technical security control used to protect the confidentiality of an information asset.

(3) **Information Asset**

Information owned and maintained by the MOA.

(4) **Personally Identifiable Information (PII)**

Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual and is protected according to law, regulation or policy.

6. RESPONSIBILITIES

- a. The Chief Information Security Officer (CISO) shall be responsible for oversight of all MOA Information security.
- b. The Departmental Directors shall:
 - (1) Ensure that PII is created, stored, processed, or transmitted for approved purposes only and in accordance with applicable legal, regulatory, and contractual requirements.
 - (2) Ensure, in conjunction with the MOA Law Department and subject to applicable laws and regulations, that individuals are informed of the unauthorized disclosure of their PII, pursuant to Alaska Statutes 45.48.010 - .090.
 - (3) Review this policy with their employees and explain where access controls or safeguards exist within their environment and who has access to those controls.
- c. The Employee shall read, acknowledge, understand, and comply with this policy.

7. PROCEDURE

- a. Social Security Numbers (SSN)
 - (1) SSN's are highly confidential and legally protected information. An SSN can only be collected if no other method of identification is available or a department has been delegated authority. Personnel must ensure SSN's are collected only when necessary and held with the strictest of confidence.
 - (2) Safeguarding of this information must comply with Alaska Statute 48.48.400 - .480 "Protection of Social Security Number".
- b. Financial Information
 - (1) Financial information is highly confidential and legally protected information. Financial account numbers, passwords, and access codes must be held with the strictest of confidence and must be secured physically or electronically to ensure the information is not disclosed to unauthorized personnel.
 - (2) Payment card data, including credit card numbers and associated information, is highly confidential and protected information. Personnel must ensure that payment card information is collected only when necessary and is handled in accordance with Payment Card Industry Data Security Standards (PCI DSS).
- c. Department of Law Notification
 - (1) In the event of unauthorized access, disclosure of PII or other confidential information, the Department of Law shall be notified.

d. Personally Identifiable Information Protection

- (1) Departmental Directors must ensure that stored PII is protected from unauthorized access or disclosure. Contact the Chief Information Security Officer (CISO) with any questions regarding the protection of your agencies personal or confidential information.
 - a. Departmental Directors must implement encryption when and wherever operationally feasible, or statutorily required, as a safeguard of electronically stored or transmitted information to include Protected Health Information, Criminal Justice Information, Credit Card and Financial Information, and Personal Information.
 - b. Departmental Directors must ensure that adequate physical controls (e.g., locked file cabinets, locked offices, controlled data center areas, computer equipment racks, audit tracking, etc.) are applied to safeguard the information.
- (2) Department Directors must ensure that all records, including PII are disposed of in accordance with MOA policies, standards, and guidelines in compliance with Alaska Statutes 45.48.500- .590 and under AMC 3.95 Records Management Ordinance.

MOA Inter



Date : 1/18/2023 1:17:01 PM
From : "Merchant, Mark A."
To : "Dahl, Marc"
Subject : Draft Round 2
Attachment : PP_28-41_Internet and System Connectivity011823.docx;

FYI. Please review and add content.

Thank you for helping us to protect our personal information.

Mark Merchant, CISSP, GCFA, LASO

Chief Information Security Officer

MOA/Security Services

P: 907-343-6917

C: 907-305-3033

E: mark.merchant@anchorageak.gov



**MUNICIPALITY OF ANCHORAGE
OPERATING
POLICY/PROCEDURE**

P&P No.

28-41

Page 1 of 2

Effective Date:

Subject:

**Minimum security requirements for internet
and system connectivity**

Supersedes No.

Dated:

Approved by:

1. PURPOSE

To define the minimum-security standards for internet connectivity of all Municipality of Anchorage (MOA) electronic devices and equipment. Personnel who circumvent the policy by providing unauthorized internet access to any MOA device without implementing these minimum standards are subject to disciplinary action.

The objectives of this policy are to:

- a. to provide security to the MOA networks
- b. to minimize the cost of conducting MOA business
- c. to conserve bandwidth

2. POLICY

It is the policy of the Municipality to establish and maintain a Municipal-wide standard when connecting any MOA electronic device or equipment to the internet.

3. ORGANIZATIONS AFFECTED

All Municipal agencies.

4. REFERENCES

NIST SP 800-95 Guide to Secure Web Services, NIST SP 800-53 Access Control, MOA Policy 40-16 against harassment.

5. DEFINITIONS

- a. Abused drugs - Sites that promote the abuse of both legal and illegal drugs, use and sale of drug related paraphernalia, manufacturing and/or selling of drugs.
- b. Adult - Sexually explicit material, media (including language), art, and/or products, online groups or forums that are sexually explicit in nature. Sites that promote adult services such as video/telephone conferencing, escort services, strip clubs, etc. Anything containing adult content (even if it's games or comics) will be categorized as adult.
- c. Anonymizers - Any tool that attempts to make Internet activity anonymous or untraceable, normally a proxy server interposed between a client device and the rest of the Internet.

- d. Command and Control - Command-and-control URLs and domains used by malware and/or compromised systems to surreptitiously communicate with an attacker's remote server to receive malicious commands or exfiltrate data
- e. Cryptocurrency - Websites that promote cryptocurrencies, crypto mining websites (but not embedded crypto miners), cryptocurrency exchanges and vendors, and websites that manage cryptocurrency wallets and ledgers. This category does not include traditional financial services websites that reference cryptocurrencies, websites that explain and describe how cryptocurrencies and blockchains work, or websites that contain embedded crypto currency miners (grayware).
- f. Dynamic DNS - Hosts and domain names for systems with dynamically assigned IP addresses and which are oftentimes used to deliver malware payloads or C2 traffic. Also, dynamic DNS domains do not go through the same vetting process as domains that are registered by a reputable domain registration company and are therefore less trustworthy.
- g. Gambling - Lottery or gambling websites that facilitate the exchange of real and/or virtual money. Related websites that provide information, tutorials or advice regarding gambling, including betting odds and pools. Corporate websites for hotels and casinos that do not enable gambling are categorized under Travel.
- h. Grayware - Web content that does not pose a direct security threat but that display other obtrusive behavior and tempt the end user to grant remote access or perform other unauthorized actions. Grayware includes illegal activities, criminal activities, rogueware, adware, and other unwanted or unsolicited applications, such as embedded crypto miners, clickjacking or hijackers that change the elements of the browser. Typosquatting domains that do not exhibit maliciousness and are not owned by the targeted domain will be categorized as grayware.
- i. Hacking - Sites relating to the illegal or questionable access to or the use of communications equipment/software. Development and distribution of programs, how-to-advice and/or tips that may result in the compromise of networks and systems. Also includes sites that facilitate the bypass of licensing and digital rights systems.
- j. Malware - Sites known to host malware or used for command and control (C2) traffic. May also exhibit Exploit Kits.
- k. Peer to Peer - Sites that provide access to or clients for peer-to-peer sharing of torrents, download programs, media files, or other software applications. This is primarily for those sites that provide BitTorrent download capabilities.
- l. Phishing - Web content that covertly attempts to fool the user in order to harvest information, including login credentials, credit card information – voluntarily or

involuntarily, account numbers, PINs, and any information considered to be personally identifiable information (PII) from victims via social engineering techniques. Technical support scams and scareware is also included as phishing.

- m. Questionable - Websites containing tasteless humor, offensive content targeting specific demographics of individuals or groups of people.

6. RESPONSIBILITIES

- a. The Chief information Security Officer (CISO) shall be responsible for oversight of all MOA Information security.
- b. Records owned by the Departments are subject to oversight as designated by Executive Management under AMC 3.95.

7. PROCEDURE

a. Access to Prohibited Websites

- i. Personnel must not have access to certain categories listed below will not be granted and are not accessible within the MOA networks. All categories and restricted websites may change without prior notice to adapt to evolving MOA business requirements or risk exposure to meet MOA mission and services.

1. Prohibited Categories :

- Abused drugs
- Adult
- Command and Control
- Gambling
- Hacking
- Malware
- Phishing
- Questionable
- Anonymizers
- Cryptocurrency
- Dynamic -DNS
- Grayware
- Peer to Peer

b. Access to or connection of Removeable Storage (USB) devices

- i. Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after devices have been scanned for malware.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)

c. Logging requirements for networked connected services

- i. Personnel connecting any servers and/or appliances into any network owned by the MOA must have authorization from ITD and must keep accurate logs of all configuration changes for XXXX years.

8. ATTACHMENTS

N/A

9. REVIEW DATE/LEAD REVIEW AGENCY

The Information Technology (IT) Department will review this document in October of each year for any needed revisions.



**INFORMATION
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MUNICIPALITY OF ANCHORAGE

Public Records Request/Freedom of Information Act (FOIA) Requests

Department/Office that holds the records:
Office of the Mayor

This is a request to:

- Receive a copy of municipal record(s)
- Inspect a municipal record

- This request relates to pending litigation
 - The Municipality of Anchorage is a named party
- Case number: _____

Requestor's Name Christopher Constant	Phone
Business	Fax
Street 632 W. 6th Avenue, Ste. 150	Email christopher.constant@anchorageak.gov
City/State/Zip Anchorage, AK 99501	

Describe the public record(s) request as specifically as possible (include document titles, dates, parties, addresses, etc.):

• Records of any communications to, from, or between current and former employees of the Mayor's Office discussing complaints or allegations of misconduct in either the 2022 or 2023 Regular Election; and
• Records of any communications to, from, or between current or former employees of the Mayor's Office and Ms. Sami Graham. In conducting a search of electronic records we request you use the following parameters:
The term "employee's of the Mayor's Office" shall include:
• Dave Bronson
• Larry Baker
• Mario Bird
• Adam Trombley
• Alexis Johnson
• Sami Graham
• Any other Acting Chief of Staff
• Brice Wilbanks
• Any other Acting Deputy Chief of Staff
Records between April 1, 2022 and May 1, 2023 containing any of the following keywords:
• "alaskansam@yahoo.com"
• "alaskangraham@yahoo.com"
• "election"
• "dominion"
• "overtum"
• "rigged"
• "Leung"
• "BallotTrax"
• "ballot"
• "thumb drive"
• "USB"

I understand that certain municipal records are exempt from disclosure. See [AMC 3.90.040](#) for more information.

I understand that I may be charged a fee for copying public records. The Municipality will respond with an estimated charge. This is an estimate only. Fees are set by code which requires that requests resulting in 5 pages or less and requiring no more than 15 minutes of employee time are \$6. Requests resulting in more than 5 pages and/or more than 15 minutes of employee time are \$0.30/page plus employee time (\$40/hour). See [AMCR 3.90](#) for more information.

Requestor's Signature <i>Christopher Constant</i>	Date 9/25/23
--	-----------------

Send your request to the appropriate municipal office or department.
Contact information available at: <http://www.muni.org/departments/>

Municipal Clerk's Office
Approved
Date: **September 12, 2023**
Immediate Reconsideration Failed
Date: **September 12, 2023**

Submitted by: Assembly Chair Constant and Vice
Chair Zaletel
Prepared by: Assembly Counsel's Office
For reading: September 12, 2023

ANCHORAGE, ALASKA
AR No. 2023-305

1 **A RESOLUTION OF THE ANCHORAGE ASSEMBLY APPROVING THE USE OF**
2 **SUBPOENAS TO COMPEL TESTIMONY AND DOCUMENT PRODUCTION**
3 **PURSUANT TO ANCHORAGE MUNICIPAL CODE SECTION 2.30.085 AND**
4 **AUTHORIZING LITIGATION TO ENFORCE COMPLIANCE WITH THOSE**
5 **LEGISLATIVE SUBPOENAS.**

6
7 **WHEREAS**, Anchorage Municipal Code section 2.30.085, *Subpoena powers*,
8 authorizes the Assembly Chair, with the approval of a majority of the Assembly, to
9 compel by subpoena the "testimony of a person whom the assembly reasonably
10 believes may be able to give information relating to a matter involving municipal
11 funds and policy being considered" and to "produce documents, papers or objects
12 which the assembly reasonably believes may relate to the matter under
13 consideration"; and
14

15 **WHEREAS**, the Municipal Ombudsman has recently investigated the facts and
16 circumstances surrounding use of an IT Department internal policy statement in an
17 election complaint filed by the Mayor's former Chief of Staff, Ms. Sami Graham; and
18

19 **WHEREAS**, the Municipal Ombudsman found that the current IT Director, Mr. Marc
20 Dahl, initiated and directed the revision and posting of the OIT USB policy to provide
21 support for Ms. Graham's challenge of the April 4, 2023 Municipal election, that Mr.
22 Dahl had communicated directly with Ms. Graham to provide her a copy of the policy
23 statement, and that Ms. Graham cited policy statement in her complaint; and
24

25 **WHEREAS**, the Municipal Charter vests the responsibility for administration and
26 adjudication of elections in the Assembly as the legislative branch of the Municipal
27 Government; and
28

29 **WHEREAS**, the Assembly is bound by duty, not only to their office, but to the people
30 of the Municipality of Anchorage, to investigate any attempt to subvert the electoral
31 process and to propose legislative solutions to ensure the security of our elections;
32 and
33

34 **WHEREAS**, the 2024 Regular Election process will formally begin with posting of
35 the notice of vacancies on January 8, 2024; and
36

37 **WHEREAS**, any amendment to Title 28 of the Anchorage Municipal Code must be
38 introduced by the December 5, 2023 regular meeting of the Assembly in order to be
39 enacted by the Assembly before the 2024 Regular Election; and
40

41 **WHEREAS**, any investigation by the Assembly into these matter will need to
42 conclude before the November 22, 2023 Agenda deadline, to give the body any

1 meaningful opportunity to craft appropriate legislation to introduce at the December
2 5, 2023 regular meeting; and
3

4 **WHEREAS**, the Assembly Chair and Vice Chair have repeatedly requested
5 information from the Administration regarding the facts and circumstances that led
6 to the publication of the ITD Policy Statement and its role in the complaint filed by
7 Ms. Graham; and
8

9 **WHEREAS**, very limited requested information has been provided after reasonable
10 and diligent efforts to obtain with multiple requests to the Administration staff; and
11

12 **WHEREAS**, the Mayor has declined to take any action regarding these allegations
13 and publicly expressed that he does not “see any evidence that Mr. Dahl conducted
14 any illegal behavior” and that it is merely “the timing in which the events occurred,
15 and the lack of process followed that is in question”; and
16

17 **WHEREAS**, in investigating this matter the Ombudsman explicitly found that “the
18 timeline, and Dahl’s email to Graham demonstrate that Dahl was directing the
19 development and posting of the policy to provide support for the impending election
20 challenge”; and
21

22 **WHEREAS**, the Chair of the Assembly now requests authorization of the Assembly,
23 per AMC section 2.30.085, to issue subpoenas as the next step to obtain requested
24 information;
25

26 **NOW, THEREFORE BE IT RESOLVED THAT THE ANCHORAGE ASSEMBLY:**
27

28 **Section 1.** Does hereby, pursuant to AMC section 2.30.085, authorize the Chair
29 of the Assembly to compel by subpoena the attendance of persons to provide
30 testimony or produce documents at a time and place specified by the Chair, as
31 described below:
32

- 33 A. Any documents relevant or related to the election complaints filed by
34 Ms. Graham on April 11, 2023, and/or presented by Ms. Sami Graham
35 to the Election Commission at the April 20, 2023 public session of
36 canvass;
37
- 38 B. Any documents relevant or related to the creation, publication, or
39 distribution of the Department of Information Technology Policy
40 Statement Concerning Access To or Connection of Removeable
41 Storage (USB) Devices, including but not limited to copies of any
42 internal reports or investigations conducted by the Administration into
43 the matter;
44
- 45 C. Any witness who communicated with Ms. Graham, or otherwise
46 possessing information relevant or related to the election complaint
47 filed by Ms. Sami Graham challenging the results of the 2023 Regular
48 Election or the creation;
49
- 50 D. 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


E. 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.

Section 2. Authorizes the Assembly Counsel’s Office to initiate and expedite litigation, on behalf and in the name of the Anchorage Municipal Assembly, appropriate to compel the attendance of any witness or the release of the records in question and enforce compliance with the Chair’s subpoenas, or other matters relevant to the Assembly’s investigation. Assembly Counsel may, for the Anchorage Municipal Assembly, file an original action, intervene or otherwise seek to participate in any pending action, and request expedited consideration, either as Counsel deems most advisable, or through contracted outside counsel, and after conferring with the Assembly Chair and Vice Chair.


Section 3. This resolution shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 12th day of September, 2023.

ATTEST:



Chair



Municipal Clerk



FROM THE DESK OF

CHRISTOPHER CONSTANT

ANCHORAGE ASSEMBLY CHAIR

August 24, 2023

Marc Dahl
Chief Information Technology Officer
Municipality of Anchorage
632 W. 6th Ave. Suite 430
Anchorage, AK 99501

RE: Invitation to Participate in September 8 Worksession on Municipal Ombudsman Investigative Report Concerning Graham April 11 Election Complaint

Dear Mr. Dahl,

The Assembly has scheduled a worksession for 11:50 AM on Friday, September 8, 2023 at City Hall in room 155 to discuss the findings of the Municipal Ombudsman's final investigative report concerning the April 11 election complaint filed by election observer Sami Graham. **At this time, your attendance is requested.**

The Municipal Ombudsman published the final investigative report on Friday, August 18, 2023. The report details the circumstances surrounding an election complaint filed by election observer Sami Graham on April 11. Although I understand the Administration forwarded you a copy of this report on July 31, I have enclosed a copy with this letter for your reference.

The report asserts that, in your role as Chief Information Officer at the Municipality of Anchorage, you, "damaged the reputation of the Municipality's Office of Information Technology," by "directing the development and posting of [a] policy to provide support for the impending election challenge" submitted by Ms. Graham. The Municipal Ombudsman issued four recommendations based on the investigation, including termination of your employment.

As Chair, and a long-serving member of the Assembly, I take the Ombudsman's findings and recommendations very seriously. Per Article IV of the Anchorage Charter, the Anchorage Assembly serves as the judge of Anchorage Elections. Article XI requires elections to be nonpartisan and for the Assembly to establish the election procedures by ordinance. Bound by the charter, we have a duty to understand the circumstances of the Municipal Ombudsman's investigation to amend the code and protect future municipal elections from further tampering.



FROM THE DESK OF

CHRISTOPHER CONSTANT

ANCHORAGE ASSEMBLY CHAIR

The Administration was provided an opportunity to address these allegations not only at a previous worksession but also by providing comment to the Ombudsman's report prior to its finalization and publication. The September 8 worksession is an opportunity for you to speak on the public record about the circumstances surrounding the April 11 election complaint, the findings of the final investigative report and the recommendations included therein. I invite your attendance and participation.

Sincerely,

Christopher Constant

Anchorage Assembly Chair

CC: Dave Bronson – Mayor
Anne Helzer – Municipal Attorney
Kent Kohlhasse – Municipal Manager
Mario Bird – Chief of Staff
Philippe Brice – Acting ITD Director
Anchorage Assembly



JEFFREY W. ROBINSON
907.264.3311
robinsonjw@lanepowell.com

August 30, 2023

VIA ELECTRONIC AND REGULAR MAIL

Christopher Constant
Anchorage Assembly Chair
P.O. Box 196650
Anchorage, Alaska 99519
E-Mail: christopher.constant@anchorageak.gov

Re: *Invitation to Participate in September 8 Worksession on Municipal Ombudsman
Investigative Report Concerning Graham April 11 Election Complaint*

Dear Mr. Constant:

I represent Chief Information Technology Officer Marc Dahl. As you know, the Ombudsman forwarded his Final Investigative Report to the State of Alaska, Office of Special Prosecutions on the basis that, in his view, “there may have been a violation of state election statutes[.]” Mr. Dahl vehemently denies the Ombudsman’s allegations of civil and/or criminal misconduct.

Because the Ombudsman has invoked the possibility of potential criminal allegations, Mr. Dahl respectfully declines your request to discuss the findings of the Municipal Ombudsman’s Final Investigative Report (the “Report”) at the worksession scheduled for September 8, 2023.

Respectfully,

LANE POWELL

A handwritten signature in blue ink, appearing to read "JWR", written over a light blue circular stamp.

Jeffrey W. Robinson

Christopher Constant
August 30, 2023
Page 2

CC: Anne Helzer – Municipal Attorney (via email)



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. Marc Dahl
8585 Ruth Drive
Eagle River, AK 99577
dahlsons@hotmail.com

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

Dear Mr. Dahl:

I am writing again in connection with the findings of the Municipal Ombudsman's final investigative report concerning the April 11 election complaint Ms. Sami Graham filed in her capacity as an election observer. As stated in our letter sent August 24, 2023, 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 attempted subversion. As such we are continuing our inquiry into the facts underlying the Ombudsman's report (the "**Inquiry**"). Today, I write again to notify you of the Assembly's intent to hold another 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 Ms. Graham's April 11th 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 you and any email address associated with Ms. Sandra Graham, Mr. John Henry, or Mr. Daniel Smith, as well as any email address 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
 - (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 long horizontal flourish extending to the right.

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. Marc Dahl
8585 Ruth Drive
Eagle River, AK 99577

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.

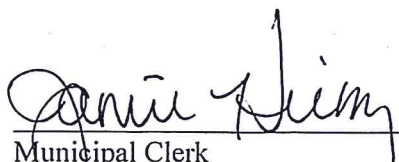
Failure to obey the commands of this subpoena may be punished by contempt proceedings, in addition to any other remedy available by law.

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



Christopher Constant
Chair of the Assembly

ATTEST:



Municipal Clerk

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.



JEFFREY W. ROBINSON
907.264.3311
robinsonjw@lanepowell.com

September 27, 2023

VIA ELECTRONIC MAIL

Christopher Constant
Assembly Chair
Municipality of Anchorage
P.O. Box 196650
Anchorage, Alaska 99519-6650

E-Mail: christopher.constant@anchorageak.gov

Re: *Subpoena to Appear and Produce Documents at September 29, 2023 Worksession*

Dear Mr. Constant:

A short time ago, and as a professional courtesy, my office accepted service on Mr. Dahl's behalf of a Subpoena to appear and produce documents at an Assembly "worksession" scheduled for September 29, 2023 at 11:15 a.m. You issued the subpoena on the Assembly's behalf on September 20, 2023, yet the subpoena did not come to my attention until today, September 27, 2023. I informed you on August 30, 2023 that I represented Mr. Dahl in this matter.

This timeline is untenable for multiple reasons, including that I have multiple professional commitments in multiple forums already scheduled for the morning of September 29. Furthermore, Mr. Dahl is currently in Canada and will not be present in Alaska on the 29th.

Reserving all rights to address the merits of the subpoena, the privileges afforded to Mr. Dahl, and the process under which the subpoena was issued, I welcome a phone call from the Assembly attorney next week to discuss this matter.

Christopher Constant
September 27, 2023
Page 2

Respectfully,

LANE POWELL

A handwritten signature in blue ink, appearing to read 'JWR', is positioned below the printed name 'LANE POWELL'.

Jeffrey W. Robinson

cc: Anne Helzer - Municipal Attorney (via email)



September 1, 2023

Ms. Sandra Graham
1219 U St.
Anchorage, AK 995001

sent via email

RE: Invitation to Participate in September 8 Worksession on Municipal Ombudsman Investigative Report Concerning Graham April 11 Election Complaint

Dear Ms. Graham,

The Assembly has scheduled a worksession for 11:50 AM on Friday, September 8, 2023 at City Hall in room 155 to discuss 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. **At this time, your attendance is requested.**

The Municipal Ombudsman published the final investigative report on Friday, August 18, 2023, detailing the circumstances surrounding an election complaint you filed on April 11. The complaint was heard by the Election Commission on April 20, and a concerned constituent initiated the investigation by the Municipal Ombudsman on April 26. I have enclosed a copy of the final report with this letter for your reference.

As Chair, and a long-serving member of the Assembly, I take the Ombudsman's findings and recommendations very seriously. Per Article IV of the Anchorage Charter, the Anchorage Assembly serves as the judge of Anchorage Elections. Article XI requires elections to be nonpartisan and for the Assembly to establish the election procedures by ordinance. Bound by the charter, we have a duty to understand the circumstances of the Municipal Ombudsman's investigation to amend the code and protect future municipal elections from further tampering.

The September 8 worksession is an opportunity for you to speak on the public record about the circumstances surrounding the April 11 election complaint and the findings of the final investigative report. I invite your attendance and participation.

Sincerely,

Christopher Constant
Anchorage Assembly Chair

CC: Dave Bronson – Mayor
Anne Helzer – Municipal Attorney
Kent Kohlhase – Municipal Manager
Mario Bird – Chief of Staff
Anchorage Assembly



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 20, 2023

Ms. Sandra Graham
1219 U St.
Anchorage, AK 99501
alaskansam@yahoo.com

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

Dear Ms. Graham:

I am writing again 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 stated in our letter sent September 1, 2023, 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 again to notify you of the Assembly's intent to hold another 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 11th 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 you 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

(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, appearing to read "Christopher Constant". The signature is fluid and cursive, with a large initial "C" and a long horizontal stroke 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:
Ms. Sandra Graham
1219 U St.
Anchorage, AK 99501

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 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: Ms. Sandra Graham

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.

William H. Ingaldson
Ingaldson Fitzgerald, P.C.
813 West 3rd Avenue
Anchorage, AK 99501
Telephone (907) 258-8750
Email bill@impc-law.com
Attorneys for Plaintiff

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

SANDRA "SAMI" GRAHAM,)
)
 Plaintiff,)
)
 v.)
) 3AN-23-_____ CI
 CHRISTOPHER CONSTANT,)
)
 Defendants.)
 _____)

PETITION TO QUASH SUBPOENA ON SHORTENED TIME

COMES NOW plaintiff, Sami Graham, by and through counsel, and moves this court to quash a subpoena issued by Anchorage Assembly Chairperson Christopher Constant, and issue a temporary restraining order and preliminary injunction. On September 20, 2023, Constant issued a subpoena purporting to compel Ms. Graham to produce documents and to appear and testify before the Assembly on Friday, September 29, 2023. That subpoena was served on Ms. Graham on Tuesday, September 26, 2023. AMC 2.30.085 grants the Assembly Chair power, with the approval of a majority vote of the Assembly, to compel the production of documents and the appearance and testimony

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Lawyers
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8751

of persons to obtain information relating to matters “involving municipal funds and policy being considered.” The subpoena issued by Mr. Constant, on its face, seeks testimony and documents relating to conduct that occurred concerning the 2023 municipal election, not information relating to a matter involving municipal funds and policy concerning such funds. Mr. Constant is improperly abusing his powers as Assembly Chair in a thinly veiled attempt to disparage Ms. Graham and other election observers who were designated by candidates who opposed Mr. Constant and other current Assembly members in the 2023 election. Mr. Constant’s tactics improperly intimidate and discourage persons from participating in such important positions, which serve to protect the integrity of our elections. Such chilling conduct should not be countenanced.

Jurisdiction

AMC 2.30.085, the municipal ordinance that authorizes the issuance of subpoenas by the Assembly Chair under limited circumstances, also provides that witnesses are entitled to the same protections provided to witnesses in courts of this state. It further provides that compliance with a subpoena issued by the Assembly Chair is subject to enforcement by the Alaska Superior Court. Even if the municipal ordinance did not specifically recognize the Alaska Superior Court’s jurisdiction to hear matters concerning subpoenas issued pursuant to AMC 2.30.085, this court has jurisdiction to grant the relief requested by Ms. Graham as a matter of due process. That is because the

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8751

municipal ordinances do not provide for any other mechanism to contest the validity of a subpoena issued by the Assembly Chair.

Background¹

The subpoena at issue seeks testimony and documents from Ms. Graham relating to a complaint she lodged in her capacity as an election observer during the April 4, 2023 municipal election. It also seeks documents relating to any communications with any former or current public officials and contract employees concerning complaints or allegations of misconduct in the 2022 election and records of any communications with public officials, contract employees or municipal employees at any time regarding any matter.²

Ms. Graham has worked monitoring elections for more than 15 years, including being a co-precinct chair for the state and an election observer for the MOA. To become a municipal election observer, a person is required to complete a training course, participate in a tour of election central and pass a test. The person must then be designated by a candidate to serve as that candidate's observer. In 2023, John Trueblood, who ran for the Anchorage Assembly against incumbent Christopher Constant, asked Ms. Graham to serve as an election observer. Ms. Graham agreed.

An election observer serves a very important role in ensuring and protecting the integrity of our elections. In municipal elections, the role is particularly important because, since 2018, the municipal elections have been conducted by mail-in voting. To

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8751

¹ The facts in this section are supported by the attached affidavit of Sami Graham.

ensure that the mailed-in ballots were submitted by persons eligible to vote, an initial screening of the envelopes that contain the ballots is conducted by municipal electors, who are hired by the municipal clerk, who, in turn, is hired by the Assembly. The electors compare the signatures on the envelopes containing the ballots with signatures on file with the State (which in most cases is the signature on a person's drivers license or state I.D.). If an elector does not believe the signatures match, that ballot will be rejected.

Election observers can challenge such decisions if the observer believes an elector wrongly included or rejected a ballot. An election observer may also lodge a complaint if the observer believes that, for example, proper procedural steps are not being taken to ensure that votes are properly counted, or for any other reason that might call into question the integrity of the vote counting process.

Ms. Graham takes her position as an election observer very seriously. While she recognizes that the voting process is not perfect, she endeavors to make it as accurate as possible to ensure that persons qualified to vote are not disenfranchised and to protect the integrity of the process. With respect to the 2023 election, she noted that several ballots submitted by persons she personally knew had been rejected, including a ballot submitted by one of her sons who was raised in Alaska, graduated from West Point, served his country, and went to Harvard business school. Some rejected ballots can be cured by the voter. Others as to which an observer has lodged a challenge are presented to the

**INGALDSON
FITZGERALD,
P.C.**
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813 W. 3rd Avenue
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99501-2001
(907) 258-8750
FAX: (907) 258-
8751

² See exh. 1, subpoena

election commission, who makes the final determination of whether such ballots should be counted.

The matter at issue arises out of a complaint Ms. Graham lodged on April 6, 2023, questioning the handling of the thumb drive used to download the election results from the Dominion computer system, that counts the votes, and upload those results to MOA's computer.³ Ms. Graham noted that there did not appear to be any procedure to ensure that the thumb drive was blank and that it did not contain any data that might corrupt the voting tallies. She requested that a qualified and mutually agreed upon member of the MOA IT department be present to oversee the transfer of data. Significantly, Ms. Graham did not challenge the election results. She simply pointed out security problems and requested that certain procedures be implemented to ensure the integrity of the process.

Election Administrator Jamie Heinz responded to Ms. Graham's complaint the following day, April 7th, indicating that the thumb drive on which the voting data was downloaded, "is encrypted and reformatted each year *according to municipal IT practices.*" [emphasis added] Ms. Heinz's response did not include a copy of such "municipal IT practices," or otherwise provide any specifics as to such practices.⁴ After receiving Ms. Heinz's response, Ms. Graham reached out to the IT director, Marc Dahl, and asked him for a copy of the municipal IT practices as she wanted to be satisfied that

INGALDSON
FITZGERALD,
P.C.
Lawyers
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³ See, exh. 2, April 6, 2023 Complaint.

⁴ Id. at page 2.

such practices were adequate to protect the security and integrity of the voting data.

Affidavit

Mr. Dahl responded to Ms. Graham's request on the following Tuesday (which followed Easter weekend), by emailing her a copy of what he identified as the Municipal IT policy regarding "Access to or connection of Removable Storage (USB) devices."⁵ Ms. Graham was at Election Central preparing for adjudication. Ms. Graham reviewed the e-mail after the adjudication was completed.

After reading the IT policy provided by Mr. Dahl, Ms. Graham became concerned because, contrary to Ms. Heinz's representation, it did not appear that those IT policies and procedures had been followed. Consequently, she submitted an "explanation of events" form shortly thereafter explaining her concerns. In that "explanation of events,"⁶ Ms. Graham pointed out that because the IT protocol that she received had not been followed, there was a *possibility* that the USB device deposited altered data or failed to retrieve all the data [from the Dominion computer]. Ms. Graham did not claim that, in fact, the data had been corrupted or was not complete, she simply pointed out that if that had happened, it could nullify the election results. Again, significantly, Ms. Graham did not request that the election results be overturned or disregarded. Exhibit, Affidavit

It would have been very simple for Ms. Heinz or the Municipal Clerk to ask the Municipal IT department (or some other IT expert) to examine the thumb drive and the MOA computer to ensure that neither had been corrupted. Apparently because the

⁵ See, exh. 3, email,4/from Dahl to Graham.

Assembly liked the election outcome, they determined that there was no need to confirm the integrity of the election. Instead of doing that, Mr. Constant and other Assembly members instituted a campaign to discredit and disparage Ms. Graham.

Ms. Graham has subsequently learned that the “policy” that Mr. Dahl sent to Ms. Graham was drafted in October, 2022, but had not yet been signed off by all of the various department heads within the Municipality. Consequently, it had not yet been formally adopted at the time of the April 4, 2023 Municipal election. Ms. Graham, however, was unaware that the “policy” Mr. Dahl sent her had not been formally implemented and had no reason to question its applicability. Ms. Graham had resigned from her position as Chief of Staff in the mayor’s office on January 31, 2022, which was some 10 months before the IT policy had been drafted and some 15 months before the April, 2023 election.

Moreover, no other IT policy has ever been produced by Ms. Heinz, or anyone else. In July, 2023, Ms. Graham made a FOIA request for the IT policy in place at the time of the 2023 MOA election. She received nothing from the MOA. In fact, it appears there was no other IT policy in existence at that time regarding the transfer of data onto and from thumb drives. If that was the case, either Ms. Heinz misrepresented the handling of thumb drives to Ms. Graham or she was also referring to the policy Mr. Dahl sent to Ms. Graham, a policy which the Municipal Ombudsman has acknowledged many organizations consider to be a “best practice.”

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⁶ See. Exh. 4, April 11, 2023” explanation of events.”

In short, contrary to Mr. Constant's spurious allegations to the press and in social media postings, Ms. Graham never requested that the election not be certified or that the election be invalidated. As a review of her initial complaint makes clear, she was simply suggesting that a procedure be followed to ensure the reliability and integrity of the transfer of data from the Dominion computer to the MOA computer. When she received information that suggested that the MOA's policies and procedures to ensure the reliability and integrity of such data was not being followed, she drew that to the attention of the election commission, as one would hope any sincere, dedicated election observer would do.

Mr. Constant's Issuance of a Subpoena to Ms. Graham
Is an Abuse of Power

MOA 2.30.285, the ordinance granting the Anchorage Assembly subpoena powers, clearly and unambiguously limits the Assembly Chair's subpoena power to obtaining information "relating to a matter involving municipal funds and policy being considered."⁷ The history of that ordinance supports its plain reading. The ordinance was originally prepared by an assembly *budget* analyst to assist the Assembly in obtaining information relevant to budgetary decisions and policy.⁸ It is instructive that the ordinance ultimately adopted by the MOA changed the proposed language in paragraph A. 1. of the submitted ordinance from "information relating to a municipal matter being considered" to "information relating to a matter involving municipal funds

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⁷ See, exh. 5, MOA 2.30.285 attached hereto for the court's convenience.

⁸ See exh. 6, Jan. 29, 1991 ordinance proposal.

and policy being considered.” That change reflects the intent of the Assembly to make it clear that the Chair’s subpoena power is very limited; it does not extend beyond “matters involving municipal funds and policy” concerning such a funding matter.

The subpoena issued by Mr. Constant ignores the limitations on his subpoena power. On its face, his subpoena states that its purpose concerns “the creation, posting, and transmission of a policy statement regarding the use of USB devices in municipal equipment, and the matter in which that internal policy statement was used to challenge the results of the 2023 regular election.” That is not information “relating to a matter involving the use of municipal funds and policy.”

In fact, Mr. Constant is using his position as Assembly Chair to try to perpetuate his repeated and unsupported conspiracy theories concerning the current Mayor’s involvement in the 2023 and 2022 municipal elections. Not only does Mr. Constant’s subpoena request information relating to the 2023 election that has nothing to do with Municipal funds and funding policies, he does not seek information related to *any* Municipal policies. Rather, he seeks information relating to the conduct of election observers and a former MOA employee during the 2023 election. And the documents he subpoenaed are not even limited to that area. He also seeks documents from Ms. Graham relating to the 2022 Municipal election, even though Mr. Constant knows full well that Ms. Graham resigned as Chief of Staff three months before that election. No issues were

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ever raised with respect to any of Ms. Graham's challenges during that election.⁹ And, he seeks records of any communications with any current or former public official, their deputies, contract employees and any municipal employees relating to any matter at any time.

Mr. Constant's abuse of his subpoena power to question an election observer working on behalf of a political opponent is an intimidation tactic that serves to deter persons from participating in the important role of an election observer and chills the free expression of concerns by persons acting as an election observer. It is of particular concern when the subpoena is to testify during a "work session" of the Municipality. That is because the persons called to testify do not have a full and fair right to defend themselves and present their side of the story. Unlike a court proceeding, where a person would have the right to have his or her attorney question him or her and elicit testimony and facts favorable to the person, a process designed to ensure a full and fair determination of the true facts, when a person testifies in front of the assembly, like when a person testifies in front of a congressional body, the person is not allowed to fully present evidence on his or her behalf. Indeed, what often happens in such inquiries is that the person asking the question uses the platform to make speeches and present opinions, not subject to cross-examination.

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⁹ In fact, as attested to in her Affidavit attached as Exhibit, Ms. Graham has never talked to the Mayor

Conclusion

Mr. Constant issued a subpoena that goes beyond the scope of what is allowed under MOA 2.30.085. As such, Ms. Graham respectfully requests that this court quash the subpoena. She also requests that the court issue a preliminary injunction prohibiting Mr. Constant from issuing a subsequent subpoena unless it is limited to persons whom the Assembly reasonably believes have information relating to a matter involving municipal funds and policy being considered related thereto.

DATED this 28th day of September, 2023 at Anchorage, Alaska.

INGALDSON FITZGERALD, P.C.
Attorney for Plaintiffs

By: /s/ William H. Ingaldson
William H. Ingaldson
Alaska Bar No.: 8406030

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concerning the 2022 or 2023 Municipal elections.

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:
Ms. Sandra Graham
1219 U St.
Anchorage, AK 99501

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 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

Exhibit 1
Page 1 of 1 Pages

SUBPOENA TO APPEAR & PRODUCE DOCUMENTS
To: Ms. Sandra Graham

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.

Municipality of Anchorage
April 4, 2023 Regular Municipal Election
Complaint Form

OBSERVER INFORMATION	Date <u>Apr. 6, 2023</u>
	Printed Name Of Observer <u>Sami Graham</u>
	Name Of Candidate Or Organization/Group Representing <u>Trueblood</u>

COMPLAINT	<p>SPECIFIC INFORMATION REGARDING ELECTION OFFICIAL CONDUCT OR MISCONDUCT:</p> <p>A thumb drive is used to transfer data from Dominion to an MOA computer. The process is questionable because we are not aware of a publically observable step to verify the thumb drive is actually blank. It is completely possible that the thumb drive is depositing or altering data, intentionally or unintentionally, not simply retrieving data. We request that anytime any device is connected to the Dominion machine, a qualified and mutually agreed upon member of M.O.A. IT dept. be present to supervise.</p>
-----------	--

CODE CITATIONS	<p>CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH CONSTITUTES MISCONDUCT:</p> <p>Fair & honest election. Title 28. The integrity of elections is important to all citizens. '01 handbook p. 6.</p>
----------------	--

SIGNATURES	<p><u>Sami Graham</u> Signature of Observer</p> <p style="text-align: right;"><u>Apr. 6 '23</u> Date Submitted</p>
	<p style="text-align: center;">Exhibit <u>2</u></p> <p>Signature of Municipal Clerk or Designee Page <u>1</u> of <u>2</u> Pages Date Received</p>

RESPONSE TO COMPLAINT DATED APRIL 6, 2023, FILED BY SAMI GRAHAM:

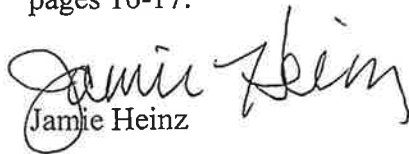
An encrypted thumb drive is inserted in the tabulations computer to download the election results which are thereafter uploaded to another computer for printing.

That thumb drive:

1. Is stored in a wall safe inside a locked room which requires a code and thumb print to open;
2. Is encrypted and reformatted each year according to Municipal IT practices; and
3. Requires a password in order to receive any download of election results.

The printed election results may be compared to the displayed computer results to ensure those results have not been changed.

The Complaint cites AMC Title 28 as authority for the alleged "misconduct." AMC Title 28 grants authority, and responsibility, for the "overall administration of municipal elections" to the election administrator, including the "application of election related information systems, election related systems standards and procedures . . ." AMC 28.10.020C, *see* AO 2022-98, As Amended, Section 1. There is no "misconduct," and this Complaint is treated as a suggestion related to administrative or management concerns, *see* Observer's Handbook (12/6/2022) at pages 16-17.


Jamie Heinz

April 7, 2023

Date : 4/11/2023 2:37:00 PM
From : "Dahl, Marc"
To : "alaskansam@yahoo.com" alaskansam@yahoo.com
Subject : IT USB Policy
Attachment : image001.png;

Published on the internal IT Security web page [ITD Policy Statements \(sharepoint.com\)](#)

ITD Policy Statements

Access to or connection of Removeable Storage (USB) devices

Personnel must not insert any unauthorized USB device into any piece of MOA owned equipment without authorization from the Information Technology Department (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD Change management processes and procedures regarding patch management and malware remediation.

1. USB devices includes any external device that utilizes a USB connection type (i.e., Type-A, Type-B, Mini USB, Micro USB, Type-C, USB 2.0, 3.0, etc.)
2. Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to Municipal operations and/or resources.

Marcus Dahl
Chief Information Technology Officer
Municipality of Anchorage
Information Technology Department
632 W 6th Avenue, Suite 430
Anchorage, AK 99501
Office: (907) 343-6900
Email: marcus.dahl@anchorageak.gov



Municipality of Anchorage
April 4, 2023 Regular Municipal Election

Election Commission - Failure to Comply with Law or Alleged Illegal Election Practices

OBSERVER INFORMATION	Date <u>April 11, 2023</u>
	Printed Name Of Observer <u>Sami Graham / DANIEL E. SMITH / JOHN HENRY</u>
	Name Of Candidate Or Organization/Group Representing <u>Trueblood</u>

EXPLANATION OF EVENTS	EXPLANATION OF ALL EVENTS CREATING THE CONCERN: As an appeal to comments received on Apr. 6, 2023, from Jamie Heinz, and references to MOA ITD practices, according to MOA ITD policy statement Personnel must not insert any unauthorized USB device into any piece of M.O.A. owned equipment without authorization from The Information Technology Dept (ITD) and only after the USB devices have been scanned for malware by ITD. All insertions into MOA critical infrastructure technology must also be approved and/or observed by ITD management and must follow ITD change management processes and procedures regarding patch management & malware remediation.
	We believe the clerk's current practices in relation to

CODE CITATIONS	CITATIONS TO APPLICABLE PROVISIONS OF ANCHORAGE MUNICIPAL CODE WHICH WERE NOT COMPLIED WITH: MOA ITD USB Policy Statement - regarding election clerk's response #2, dated April 7, '23
	Thumb drive statement is a clear violation of the MOA ITD USB Policy Statement

AFFECTS TO OUTCOME OF ELECTION	<p>EXPLANATION OF HOW THE CONCERN WOULD CHANGE THE OUTCOME OF THE ELECTION IF FOUND TO BE TRUE:</p> <p>It is completely possible that the USB device is depositing or altering data, intentionally or unintentionally, not simply retrieving data, thereby nullifying the results of the election.</p> <p>"Critical Infrastructure includes any MOA service that if compromised would pose a great risk or cause significant impact to municipal operations and or resources."</p>
--------------------------------	--

SIGNATURES	<p><i>Sakhi Graham Daniel Smith Jr</i> <i>Apr. 11, 2023</i></p> <p>Signature of Observer Date Submitted</p>
	<p>Signature of Municipal Clerk or Designee Date Received</p>

2.30.085 - Subpoena powers.

- A. Subject to the privileges which witnesses have in courts of this state, the chairman of the assembly, with the approval of a majority vote of the assembly, may:
 - 1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the assembly reasonably believes may be able to give information relating to a matter involving municipal funds and policy being considered; and
 - 2. Compel a person, by subpoena, to produce documents, papers or objects which the assembly reasonably believes may relate to the matter under consideration.
- B. If a person refuses to comply with a subpoena issued under subsection A of this section, the superior court may, on application of the chairman of the assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court for refusal to testify in the court.

(AO No. 91-15(S))

Exhibit 5
Page 1 of 1 Pages

Submitted by: Assemblyman Dyson
Prepared by: Assembly Budget Analyst
For reading: January 29, 1991

ANCHORAGE, ALASKA
AO NO. 91- 15

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AMENDING AMC
CHAPTER 2.30 BY ADDING SECTION 2.30.085, SUBPOENA POWERS

THE ANCHORAGE MUNICIPAL ASSEMBLY ORDAINS:

Section 1: That AMC Section 2.30.085 is enacted to read as follows:

2.30.085 Subpoena powers.

A. Subject to the privileges which witnesses have in courts of this State, the Chairman of the Assembly, with the approval of a majority vote of the Assembly may:

1. Compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person whom the Assembly reasonably believes may be able to give information relating to a municipal matter being considered; and

2. compel a person, by subpoena, to produce documents, papers or objects which the Assembly reasonably believes may relate to the matter under consideration.

B. If a person refuses to comply with a subpoena issued under subsection A. hereof, the Superior Court may, on application of the Chairman of the Assembly, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the Court for refusal to testify in the Court.

Section 2: That this ordinance is effective upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this ___ day
of _____, 1991.

Chair

ATTEST:

Municipal Clerk
JGR:egj
DOCC/AO2

Exhibit 6
of 1 Pages

William H. Ingaldson
Ingaldson Fitzgerald, P.C.
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Email bill@impc-law.com
Attorneys for Plaintiff

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

SANDRA "SAMI" GRAHAM,)
)
 Plaintiff,)
)
 v.)
) 3AN-23-_____ CI
 CHRISTOPHER CONSTANT,)
)
 Defendants.)
)
 _____)
 STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

AFFIDAVIT OF SANDRA "SAMI" GRAHAM

I, Sami Graham, being duly sworn on oath do hereby depose and state:

1. I am an adult resident of Anchorage, Alaska and I am competent to make this affidavit.

2. Since 2007, I have been involved as an observer and election worker in municipal and state elections, including time as a co-precinct chair.

3. In 2023, I was asked by a candidate for the Anchorage assembly, John Trueblood, to serve as an election observer. I had previously served as an election

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observer in municipal elections including in 2022. To become an election observer, a person must complete training, do a tour of Election Central and pass a test.

4. I have reviewed the facts stated in the “Background” section of the Petition to Quash Subpoena on Shortened Time in the above-captioned matter and to the facts in that section are true and accurate to the best of my knowledge.

5. Exhibit 1 to the Petition is a true and accurate copy of the Subpoena which was served on me by a process server on Tuesday, September 26, 2023.

6. Exhibit 2 to the Petition is a true and accurate copy of the April 6, 2023 complaint form I prepared and the April 27, 2023 response from Jamie Heinz.

7. Exhibit 3 to the Petition is a true and accurate copy of the email I received from Mark Dahl on April 11, 2023 wherein he forwarded the IT Policy Statement regarding access to our connection of removable storage (USB) devices. That is the first time I had seen that policy. I did not know that the policy had not yet been formally adopted. It is the only policy I have ever been provided with that addressed the MOA policy regarding the handling of USB devices.

8. Exhibit 4 to the Petition is a true and accurate copy of the “Explanation of Events” I lodged on April 11, 2023.

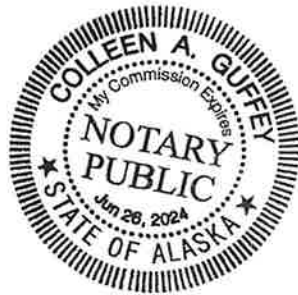
9. I have never requested that a 2023 MOA election be overturned. I was simply trying, in my role as a conscientious election observer, to ensure that proper procedures and safeguards were followed to protect the integrity of the election process so that people would be confident that the election was fair and accurate.

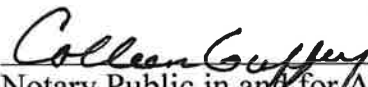
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FURTHER THE AFFIANT SAYETH NAUGHT.


Sandra "Sami" Graham

SUBSCRIBED AND SWORN TO before me this 28th day of September, 2023




Notary Public in and for Alaska
My Commission Expires: 6/26/24

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Attorneys for Plaintiff

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

SANDRA "SAMI" GRAHAM,)
)
 Plaintiff,)
)
 v.)
) 3AN-23-_____ CI
 CHRISTOPHER CONSTANT,)
)
 Defendant.)
)

ORDER QUASHING SUBPOENA

This Court having considered plaintiff's Petition to Quash Subpoena, dated September 28, 2023,

IT IS ORDERED that the motion is GRANTED in part. The Court QUASHES the Subpoena to Appear and Produce Documents dated September 20, 2023, issued by defendant Constant to plaintiff Graham, without prejudice.

IT IS FURTHER ORDERED that defendant Constant may not issue any other subpoena to plaintiff Graham without an Order from the Court permitting such a subpoena.

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IT IS FURTHER ORDERED that the Court will conduct proceedings in the normal course of civil proceedings on other issues raised in plaintiff's Petition.

DATED this ___ day of September, 2023.

Honorable _____
Superior Court Judge

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Municipality of Anchorage

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Anchorage Assembly Leadership

September 21, 2023

Mr. Daniel Smith
8945 Emerald Drive
Anchorage, AK 99507
emerald1@alaska.net

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 11th 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

Mr. Daniel Smith
September 21, 2023
Page 3 of 3

(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, stylized initial "C".

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:

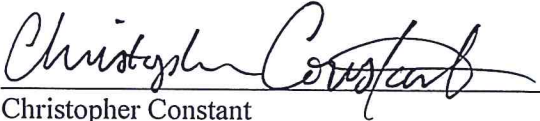
To:
Mr. Daniel Smith
8945 Emerald Drive
Anchorage, AK 99507

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.

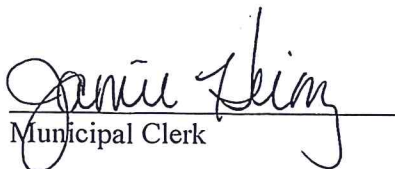
YOU ARE HEREBY ORDERED TO BRING WITH YOU for the Assembly's examination in a public worksession, and to be accepted into the record, the documents and records listed in the Appendix to this subpoena.

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.



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. John Henry
931 Lighthouse Ct.
Anchorage, AK 99515
907oceanview@gmail.com

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

Dear Mr. Henry:

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 11th 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

Mr. John Henry
September 21, 2023
Page 3 of 3

(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,



Christopher Constant, Assembly Chair

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To:
Mr. John Henry
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Anchorage, AK 99515

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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. John Henry

APPENDIX

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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.

Appendix K

Hyperlinks to Video Recordings of Assembly Worksessions

July 21, 2023:

<https://www.youtube.com/watch?v=yrejN64cMJM>

September 8, 2023:

<https://www.youtube.com/watch?v=xB1RBNVNbLQ>

September 26, 2023:

<https://www.youtube.com/watch?v=Qgh9w6Xl1ts>

October 6, 2023:

<https://www.youtube.com/watch?v=mEakcvL79m8>