

ORDER ON APPELLANT'S MOTION FOR DISCOVERY

IN THE MATTER OF THE APPEAL OF:

DANIEL STECKMAN, Appellant,

vs.

DENVER SHERIFF'S DEPARTMENT,

and the City and County of Denver, a municipal corporation, Agency.

Appellant has moved for fourteen requests for production (RFP) in the above appeal. The Agency's response objects generally to the number of RFPs, lists specific objections to RFPs d, g, and h; and agrees to produce documents responsive in whole or in part to RFPs a-c, e-f, and l-n. Appellant did not reply to the Agency's discovery response.

This appeal challenges Appellant's dismissal from his position as Deputy Sheriff for violations of specific departmental rules. The following lettered RFPs are still at issue:

d) "All records involving this case, including without limitation, interviews and records of the Office of the Independent Monitor, including notes, recordings, emails, and correspondence relating to DSD IAB # 2014-0152." The Agency claims deliberative process privilege under D.R.M.C. § 2-376(c), which states that investigators, disciplinary personnel and "the monitor's office ... are part of the city's deliberative process", and all information learned as a part of their duties are privileged.

g) "Any and all document(s) in the last 36 months of grievance form(s) or other complaints made by inmates in Pod 4E." The Agency objects that the request is overbroad and not discoverable on any issue in the case.

h) Any and all emails, correspondence, and communication housed or contained in the "IA Pro," "CUFs II" and "EIS" software programs concerning the investigation without limitation, including, all task and usage reports, documents, messages, letters, emails and a dashboard screenshot identifying all documentation contained in each respective program." The Agency objects to the data contained in software not used by the Agency, presumably CUFFs and EIS, and as duplicative regarding the communications in IA Pro.

Analysis and Order

a. Claim of deliberative process privilege

The deliberative process privilege is a government's claim of confidentiality to protect "the open exchange of opinions" during the decision-making or consultative process. Colorado Springs v. White, 967 P.2d 1042, 1047 (Colo. 1998). The Agency bears the initial burden to support its claim that the documents requested are both predecisional and deliberative. Id.,

1051. The Agency must therefore submit a Vaughn index, or the documents themselves for in camera review. Id., 1054.

g. Grievance forms from Pod 4E

Appellant's motion does not indicate the possible relevance of its request for three years' worth of inmate grievances and complaints filed in 4E, and none appears obvious.

h. Communications housed in software

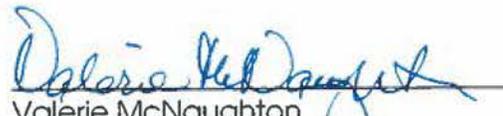
The Agency claims that it has already agreed to produce all non-privileged documents in its software programs that relate to the investigation. That claim is not disputed by Appellant.

Order

Based on the foregoing findings and conclusions, it is ordered as follows:

1. The number of discovery requests is reasonable based on the disputed issues in this appeal.
2. The Agency is ordered to submit a Vaughn index of all documents responsive to RFP d. by **July 28, 2015**.
3. RFPs g. and h. are denied.

DONE July 21, 2015.


Valerie McNaughton
Career Service Hearing Officer