

**ORDER DENYING APPELLANT'S MOTION TO COMPEL DISCOVERY REGARDING THE O.I.M.**

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IN THE MATTER OF THE APPEAL OF:

**NED ST. GERMAIN**, Appellant,

vs.

**DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,**  
and the City and County of Denver, a municipal corporation, Agency.

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On September 8, 2014, Appellant filed a motion to compel the production of documents from the Office of the Independent Monitor, previously sought via informal discovery. In support of his motion, Appellant stated the Agency's claim of deliberative process privilege did not sufficiently identify how the material was both "pre-decisional" and "deliberative."

In its response, the Agency stated the privilege log it provided gave the fullest description it could of the material sought without divulging the privileged material itself. The Agency cited Denver Revised Municipal Code § 2-376 which states information generated by the Office of the Independent Monitor during the course of an investigative or disciplinary process is entitled to protection under the deliberative process privilege. The Agency provided affidavits to that effect from Deputy Manager of Safety Vigil, and Independent Monitor Nicholas Mitchell.

A review of the privilege log and relevant ordinance reveals the communications at issue included members of OIM, and were either pre-decisional in nature or contained recommendations to the Agency. As such, they are protected by the deliberative process privilege. Accordingly, the motion is **DENIED**.

DONE September 18, 2014.

  
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Bruce A. Plotkin  
Career Service Hearing Officer