

ORDER GRANTING AGENCY'S MOTION FOR PROTECTIVE ORDER

IN THE MATTER OF THE APPEAL OF:

SAMUEL BURKE, Appellant,

vs.

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

The Agency filed a "Motion for Protective Order and Sealing of Documents" on November 18, 2010. While the motion stated the Agency had not yet been able to contact Appellant's counsel to determine if Appellant objected, the Hearings Office has since contacted Appellant's counsel who stated Appellant does not object to the motion.


As cause for its motion, the Agency stated the subject matter and persons to be protected by the order are covered under Colorado Revised Statutes 24-72-304(4), under the provision for the inspection of criminal justice records. Counsel's representations make it likely the Hearings Office will become a custodian of criminal justice records under the statute and it appears disclosure of those records would be contrary to the public interest.

Consequently, the Agency's motion is GRANTED as follows.

1. Prior to the date of hearing, and allowing opposing counsel a reasonable time to respond pursuant to the following paragraph, any proffered document covered by CSR 24-72-304 may be marked "CONFIDENTIAL."
2. The non-offering party may challenge the designation, or failure to designate, first by discussing the designation with opposing counsel. If the parties cannot resolve the matter, the issue shall be submitted to the Hearing Officer for *in camera* inspection and resolution.
3. Unless ordered otherwise by the Hearing Officer, all documents marked as "CONFIDENTIAL," whether or not admitted into the record, shall not be accessed by anyone other than CSA employees with a need for such access, the parties to this appeal, including the Agency's advisory witness, counsel of record for the parties, and any witness to whom the CONFIDENTIAL document is provided during hearing.
4. Documents marked "CONFIDENTIAL" shall be maintained in a sealed envelope or other appropriate container.

5. The provisions of this Protective Order shall remain in effect as long as the Hearings Office or other quasi-judicial or judicial body maintains custody of the CONFIDENTIAL documents.

DONE November 19, 2010.



Bruce A. Plotkin
Career Service Hearing Officer

Certificate of Delivery

I certify that, on November 19, 2010, I delivered a correct copy of this Order to the following, in the manner indicated:

Mr. Samuel Burke, 20964 E. Ithaca Place, Aurora, CO 80013	(via U.S. mail);
Michael O'Malley, Esq., Michaelomalleylaw@hotmail.com	(via email);
Ms. Kathy Hand, Kathy@legalnavigators.net	via email);
City Attorney's Office at Dlefilng.litigation@denvergov.org	(via email);
Ms. Lili Tran, HR., Lili.Tran@denvergov.org	(via email).

