



STATE'S ATTORNEY FOR ANNE ARUNDEL COUNTY

7 CHURCH CIRCLE, SUITE 200
ANNAPOLIS, MARYLAND 21401
410-222-1740
FAX: 410-222-1196
E-MAIL: aacsao@aacounty.org

February 14, 2013

David Rocah, Esq.
Staff Attorney
ACLU Foundation of Maryland
3600 Clipper Mill Road
Suite 350
Baltimore, Maryland 21211

RE: MARYLAND PUBLIC INFORMATION ACT REQUEST

Dear Mr. Rocah:

In response to the PIA request received by this office on January 16, 2013, please see the following responses to your various requests for documentation. In an attempt to be a more paperless office as well as a means of providing this information to you without any fee associated, I have provided the bulk of the information to you via disc. For those documents for which my office maintained paper copies, I have enclosed additional copies for your review.

I would also like to make you aware of the fact that the Office of the State's Attorney for Anne Arundel County does NOT receive any monies from Corrective Solutions in exchange for managing both the Bad Check and Driver Diversion Programs. Rather, this office allows the individual hired to direct these programs by Corrective Solutions to utilize an office within our Glen Burnie District Court division. This has been the case since the program's inception.

It should be further noted that my office has maintained a Bad Check Program since 1978. While funding for this program ceased for a period of time, the program was restructured and has continued to function within the office since 1995. When the office contracted with Corrective Solutions to begin managing the program in the early 2000's, it saved the office tens of thousands of dollars in salary and benefits costs but allowed us to continue servicing the small business owners of Anne Arundel County with a means to collect on bad checks. More information on the history of our program is included on the enclosed disc on a press release

regarding the benchmark of collecting over \$3 million for local business owners since the program's inception.

Below, please find the individual responses to your requests. Please do not hesitate to contact me should you have any questions.

1. Copies of the agreement/contract between our office and CorrectiveSolutions

Included on the enclosed disk are the following current agreements:

- Bad Check Program agreement
- Driver's License Diversion Program agreement

2. Copies of all correspondence with CorrectiveSolutions or other Private Prosecution Program Company, including via email, other than correspondence solely concerning a specific case or individual in such program.

The great majority, if not all, of the correspondence between my office and Corrective Solutions in the last several years has been based on specific cases/needs of individuals either offered the program or those seeking to enter the program. Any and all other emails on record are contained in this package.

3. Copies of any policies, guidelines, rules, practices, or instructions concerning or relating to CorrectiveSolutions.

Included on the attached disk are the following documents:

- Bad Check Program criteria - Intake, Dispute Resolution, and Prosecution Review Criteria
 - Driver's License Diversion Program Eligibility and Citations and Program Outline
 - Information on the program from the State's Attorney's Office (SAO) website (printed document)
 - Section 9 of the SAO Policy & Procedure Manual regarding our Bad Check Program (printed document)
4. Documents, not provided in response to requests above, that indicate, set forth, or describe any eligibility criteria for participation in CorrectiveSolutions

Please see documents and response to question #3.

- Bad Check Program Intake Criteria (pages 1 & 2)
- Driver's License Diversion Program Eligibility and Citations

5. Documents, not provided in response to requests above, that indicate, set forth, or describe any processes or procedures available to individuals who believe they have wrongfully received correspondence from any Private Prosecution Program Company acting on behalf of the Office of the State's Attorney or have otherwise wrongfully been required or asked to participate in a Private Prosecution Program.

Please see documents and response to question #3.

- Bad Check Program Dispute Resolution Criteria (pages 3 & 4)

6. Documents, not provided in response to requests above, that indicate, set forth, or describe any policies for investigating potential violations of Maryland penal law before requiring or asking any person to participate in Private Prosecution Program.

Please see response for question #3 - For Bad Check Program

Please see #3. For DSL Program - see attached program outline

7. Documents, not provided in response to requests above, that identify who determines that there is probable cause to believe that a violation of Maryland penal law has occurred before persons are required or asked to participate in any Private Prosecution Programs, and documents that indicate, set forth, or describe how such probable cause determinations are to be made.

Please see documents and response as provided for question #3.

8. Documents, not provided in response to requests above, that indicate, set forth, or describe the role of county prosecutors in evaluating probable cause determinations or eligibility for prosecution when deciding whether it is appropriate to contact an alleged offender regarding participation in a Private Prosecution Program.

Please see documents and response as provided for question #3.

9. Documents, not provided in response to requests above, that indicate, set forth, or describe any policies, procedures, or practices intended to monitor and reduce the occurrence of error in the identification of individuals required or asked to participate in any Private Prosecution Program.

Please see documents and response as provided for question #3.

10. A copy of any form letters sent to persons required or asked to participate in any Private Prosecution Program (the templates, not the actual letters sent to particular individuals).

Included on the attached disk are the following documents:

Form letter copies for both programs:

- Bad Check Program Official Notice

- Driver's License Diversion Program Official Notice

11. Any ethics opinions expressing a view on any Private Prosecution Program, including any ethics opinion addressing the propriety of allowing an outside company, entity, or person send letters on letterhead from the Office of the State's Attorney, or to threaten prosecution by the Office of the State's Attorney, or to require or present the Private Prosecution Program as an explicit alternative to criminal prosecution.

No such opinion or document has been requested.

12. Any legal opinions (whether in-house or by an outside entity, including, but not limited to, a court) that express a view on the legality of any Private Prosecution Program, including any legal opinion addressing the propriety of allowing an outside company, entity or person to send letters on letterhead from the Office of the State's Attorney, or to threaten prosecution by the Office of the State's Attorney, or to require or present the Private Prosecution Program as an alternative to criminal Prosecution.

No such opinion or document has been requested.

13. Any legal opinions (whether in-house or by an outside entity, including, but not limited to, a court) that express a view on the legality of requiring persons to pay a non-governmental entity to participate in a Private Prosecution Program, as an alternative to criminal prosecution.

No such opinion or document has been requested.

14. Documents setting forth the legal authority to demand that persons pay a non-governmental entity to attend a class as part of a diversion program, or otherwise pay a non-governmental entity to participate in a diversion program, as an alternative to criminal prosecution.

None

15. Records indicating how many letters have been sent to person offering the option of participating in a Private Prosecution Program since January 1, 2012, broken down by specific program or offense, if more than one program exists or more than one offense is eligible for participation.

Please see attached disk for copies of monthly and annual reports provided to this office by Corrective Solutions.

985 BCP letters were sent to participants since January 1, 2012

1,910 DSL Letters were sent to participants since January 1, 2012

16. Records indicating how many persons have participated in any Private Diversion Program since January 1, 2012, broken down by specific program or offense, if more than one program exists or more than one offense is eligible for participation.

Please see attached disk for copies of monthly and annual reports provided to this office by Corrective Solutions

218 cases completed the BCP Program since January 1, 2012

696 cases completed the DSL Program since January 1, 2012.

17. Records indicating the number of cases referred for prosecution review for persons who declined participation in (or otherwise failed to complete) any Private Diversion Program since January 1, 2012, broken down by specific program or offense, if more than one program exists or more than one offense is eligible for prosecution.

Please see attached disk for copies of monthly and annual reports provided to this office by Corrective Solutions

63 cases were forwarded to the State's Attorney's Office that met the prosecution review criteria.

1,418 cases failed to complete DSL program and were forwarded for prosecution since Jan. 1, 2012.

18. Records indicating the number of cases actually prosecuted following referrals for prosecutorial review for persons who declined participation in (or otherwise failed to complete) any Private Diversion Program since January 1, 2012, broken down by specific program or offense, if more than one program *exists* or more than one offense is eligible for prosecution.

Once a case is forwarded to the SAO for prosecution due to an election not to participate in such programs or due to non-compliance with such programs, these cases would be handled no differently than any other case with similar charges. Specific statistics on such individuals are not kept or tracked by this office.

19. Records indicating how many cases were prosecuted since January 1, 2012 in which a defendant was charged with any offense eligible to be referred to any Private Diversion Program, and no such referral was made prior to prosecution, broken down by specific program or offense, if more than one program *exists* or more than one offense is eligible for prosecution

Once a case is forwarded to the SAO for prosecution due to an election not to participate in such programs or due to non-compliance with such programs, these cases would be handled no differently than any other case with similar charges. Specific statistics on such individuals are not kept or tracked by this office.

20. Records indicating how much money has been collected and remitted to your office by any Private Diversion Program since January 1, 2012, broken down by what sum represents fines,

fees, restitution, and any other applicable category, and further broken down by specific program or offense, if more than one program *exists* or more than one offense is eligible for participation.

Not applicable for either program. The SAO does not receive any monies from Corrective Solutions based on the collections for private business owners or payment for corrective courses offered to individuals.

21. Records indicating how many persons sought a waiver of part or all of the fees required for participation in any Private Prosecution Program, how many waivers were granted and in what amount, how many waivers were budgeted in advance, any criteria for evaluating fee waiver requests, and the identity and job titles of the persons deciding whether or not a waiver should be granted.

Please see attached disk for copies of monthly and annual reports provided to this office by Corrective Solutions

Bad Check Program

128 people were put on a dispute hold. Breakdown of the 128 cases are listed below:

- 57 people claim fraud and we haven't received the necessary paperwork to verify claim
- 14 cases were determined invalid disputes
- 57 cases were determined valid disputes or had paid victim directly

The following were granted waivers per the approved Dispute Resolution Criteria:

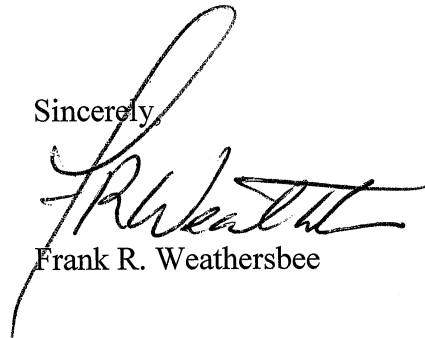
- 57 people were granted class fee waiver of \$185.00.
- Total waived was \$10,545.00

22. Copies of any material used in or related to the contents of any class used as part of a Private Prosecution Program, including but not limited to class syllabi, required readings, hand-out material, exams, homework, and instructor guides.

Enclosed are the following documents:

- Bad Check Program: "Checks and Balances Class Workbook," and
- Driver's License Diversion Program: "Driver's License Class Workbook"

Sincerely,



Frank R. Weathersbee