



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
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Stan Taylor
Commissioner

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June 27, 2006

VIA Hand Delivery and U.S. Mail

Julia M. Graff, Esquire
Staff Attorney
ACLU of Delaware
100 W. 10th Street, Suite 309
Wilmington, DE 19801

Re: The ACLU's FOIA request to DOC dated June 12, 2006

Dear Ms. Graff:

Please accept this letter as a response to your written FOIA request dated June 12, 2006. Your recent request for information was made under the State of Delaware's Freedom of Information Act (FOIA), 29 *Del. C.* § 10001, *et seq.* Therein, you requested the following information:

- 1. The disciplinary rules whose violation would result in action against an inmate;¹**
- 2. The policies and procedures controlling disciplinary infractions², including Department of**

¹ Presumably, the phrase "action against an inmate" refers to disciplinary sanctions short of criminal prosecution for disciplinary infractions committed by inmates. Please advise if you intended a different meaning.

² Presumably, the term "policies and procedures controlling disciplinary infractions" refers to the notice, hearing, and appeal provisions associated with the inmate disciplinary process. Please advise if you intended a different meaning.

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Correction policies and procedures and the Bureau of Prisons policies and procedures;

- 3. The prison grievance procedures for medical grievances as well as non medical grievances;**
- 4. Treatment Protocols for the following illnesses or conditions:**
 - a. HIV/AIDS**
 - b. Hepatitis**
 - c. Diabetes**
 - d. Heart Disease**
 - e. Cancer**
 - f. Sexually Transmitted Diseases**
 - g. Pregnancy and Gynecological Care**
 - h. High Blood Pressure**
 - i. High Cholesterol**
 - j. Dental Care**
 - k. Chronic Pain**
- 5. Operating Procedures with respect to wellness visits, including routine gynecological care.**

As you may be aware, the FOIA statute contains a number of exceptions to the definition of "public record". See 29 Del. C. § 10002(g). Legally speaking, the records requested in paragraphs 1 – 3 are exempted from the definition of public records because they are subject to statutory privilege. See 11 Del. C. § 4322(d)³ in conjunction with 29 Del. C. § 10002(g)(6). Nonetheless, pursuant to my authority under 11 Del. C. § 4322(d), I authorize the disclosure of these policies in response to your request. They are enclosed herein.

With respect to the remainder of your requests, these records do not fit the definition of "public record" because they are "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." See 29 Del. C. § 10002(g)(2). The treatment protocols you have requested consist entirely of

³ "The Department of Correction Policies and Procedures, including any Policy, Procedure, Post Order, Facility Operational Procedure or Administrative Regulation adopted by a Bureau, facility or department of the Department of Correction shall be confidential, and not subject to disclosure except upon the written authority of the Commissioner."

Judith M. Graff, Esquire

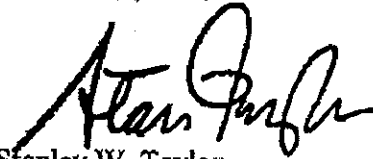
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Proprietary information held by the Department's contracted medical provider Correctional Medical Services, Inc. ("CMS").

Thank you for your interest in these issues. The Department looks forward to engendering a continued working relationship with the ACLU of Delaware.

Very truly yours,



Stanley W Taylor
Commissioner of Correction

cc: Dr. Robert M. Hooper

Enclosures