

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA. 19106

February 9, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - January 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | | | | | | | | | | | |
| Rec'd in month | 199 | | | | | | | | | | | |
| Ans'd in month | 174 | | | | | | | | | | | |
| Pending at End | 192 | | | | | | | | | | | |
| Over 30 days | 0 | | | | | | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | | | | | | | | | | | |
| Rec'd in month | 54 | | | | | | | | | | | |
| Recons. rec'd | 0 | | | | | | | | | | | |
| Ans'd in month | 57 | | | | | | | | | | | |
| Pending at End | 242 | | | | | | | | | | | |
| Over 180 days | 0 | | | | | | | | | | | |

C. Tort Claim Investigation Status: As of January 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 5 | 3 | 13 | 1 | 10 | 5 | 3 | 12 | 8 | 1 | 19 | 1 | 1 | 5 | 1 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | | | | | | | | | | | |
| Rec'd in month | 24 | | | | | | | | | | | |
| Ans'd in month | 22 | | | | | | | | | | | |
| Pending at End | 16 | | | | | | | | | | | |
| Over 20 days | 5 | | | | | | | | | | | |

E. FOIA Requests for records: As of January 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER | DEV |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 1 | 0 | 2 | 0 | 0 | 0 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Cases Open | 633 | | | | | | | | | | | |
| New Cases | 11 | | | | | | | | | | | |
| Habeas Corpus | 7 | | | | | | | | | | | |
| FTCA | 1 | | | | | | | | | | | |
| Bivens | 3 | | | | | | | | | | | |
| Other | 0 | | | | | | | | | | | |
| Bivens/FTCA | 0 | | | | | | | | | | | |
| Lit Reports | 4 | | | | | | | | | | | |
| Cases Closed | 8 | | | | | | | | | | | |

B. SETTLEMENTS AND AWARDS: - None**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

1. Carter v. Luther, Civil Action No. 94-72E (W.D.PA.) - Inmate Joseph Carl Carter, 32856-004, alleged deliberate indifference to his medical needs (asthma) by the former Warden at FCI McKean. Specifically, he alleges that he personally advised the Warden during his rounds through the SHU that the conditions (high temperatures and poor air quality worsened his medical condition. The case proceeded to trial on January 11, 1999. Assistant Regional Counsel Toni Brown assisted the AUSA. After a three day trial, the jury returned a verdict favorable to the government defendant.

2. United States v. Ajaj - (S.D.N.Y.) - Inmate Ahmad Ajaj, 40637-053, has been convicted of involvement in the World Trade Center bombing. Inmate Ajaj is at MCC NY for post-trial motions and resentencing. On January 29, 1999, there was a hearing before Judge Duffy in regard to a hunger strike by inmate Ajaj. Judge Duffy decided that if the inmate continued with his hunger strike (necessitating hospitalization), the judge will cancel the writ, return him to his prior institution, and the legal proceedings will proceed in his absence. If he eats, he can remain at MCC NY. The inmate is presently eating. However, if he resumes his hunger strike, MCC NY will arrange for him to be sent back to his designated institution.

3. U.S. v. Atkins, Misc. Cr. No. 98-60-A (W.D.N.Y.) - Shawn Atkins, 09302-055, is a state inmate serving a civil contempt citation for up to 18 months for refusing to provide a grand jury with sample fingerprints, saliva and handwritings. The inmate challenged the conditions of confinement in administrative detention at USP Lewisburg. The Federal Public Defender requested that Atkins be housed in general population. The inmate is serving a state sentence for attempted murder and has a long record of discipline problems. On 2/2/99, Assistant Regional Counsel Toni Brown testified before Judge Richard Arcara in Buffalo, NY, concerning inmate Atkins' continued placement in Administrative Detention at USP Lewisburg. Closing Arguments are scheduled 2/17/99.

4 U.S. v. Roy Thomas, 98 Cr. 761 (S.D.N.Y.) - Correctional Officer Roy Thomas was criminally indicted on charges of conspiracy to violate 21 U.S.C. § 841(a) (to possess and distribute 5 kilograms of a controlled substance) and 18 U.S.C. § 201(b)(2) (taking of bribes by a public official). The trial lasted from January 11, 1999 through January 21, 1999. The testimony at trial and the physical evidence revealed that Thomas purposefully sought out the friendship of inmates with the specific intent to engage in unlawful activities. It took the jury approximately 22 minutes to find Thomas guilty of all charges. Thomas faces 10 years to life on the drug conspiracy charge and up to 15 years on the bribery charge. Sentencing is scheduled for late April.

UPCOMING HEARINGS/TRIALS - None

D. RELIGIOUS CASES: - No new activity

E. ENSIGN AMENDMENT CASES: - No new activity



U.S. Department of Justice
Federal Bureau of Prisons
North Central Regional Office

Tower II, 8th Floor
400 State Street
Kansas City, KS 66101-2421

November 15, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE
ASSISTANT DIRECTOR/GENERAL COUNSEL
GENERAL COUNSEL AND REVIEW DIVISION

FROM: JOHN R. SHAW, Regional Counsel
SUBJECT: Monthly Report (October 1999)

LITIGATION, CLAIMS, AND ADMINISTRATIVE REMEDY STATISTICS

LITIGATION:

| INST | NUM | HC | FTC | BIV | OTH | ANS | PEN | CLD | H/T | SET | AWD |
|------|-----|----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NCR | 66 | 43 | 7 | 13 | 3 | 20 | 467 | 38 | 3 | 1 | |
| | | | | | | | | | | | |

Total cases for Calendar Year - 517

- NUM - Number of total lawsuits filed in the month
- HC - Number of habeas corpus actions filed in the reporting period
- FTC - Number of FTCA actions filed
- BIV - Number of Bivens actions filed
- OTH - Number of other actions filed, e.g., mental health, mandamus
- ANS - Number of litigation reports completed
- PEN - Number of cases pending
- CLD - Number of cases closed
- H/T - Number of hearings or trials (include in narrative)
- SET - Number of settlements (include in narrative)
- AWD - Number of Awards (include in narrative)

ADMINISTRATIVE CLAIMS

| JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 67 | 70 | 99 | 88 | 77 | 97 | 68 | 107 | 62 | 62 | | |

Total for Calendar Year - 797
Pending 303

Tort dBASE Files sent via e-mail to OGC, on 11/2/99

ADMINISTRATIVE REMEDIES

| JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 188 | 208 | 228 | 215 | 207 | 230 | 192 | 187 | 167 | 193 | | |

Total for Calendar Year - 2015

FREEDOM OF INFORMATION ACT/PRIVACY ACT REQUESTS

| | PRIVACY ACT | FOIA |
|------------------|-------------|------|
| ACTUAL ON-HAND | 17 | 4 |
| ACTUAL RECEIVED | 44 | 8 |
| ACTUAL PROCESSED | 64 | 4 |
| ACTUAL BACKLOG | 2* | 1* |

Total for Calendar Year - 684

* 3 Requests awaiting the retrieval of records from the archives.

ADVERSE DECISIONS

Moore v. J.W. Booker, Jr., Case No. 99-3192-RDR, FPC Leavenworth

On September 30, 1999, District Judge Richard D. Rogers ruled against the agency in the above-referenced § 2241 habeas action. The petitioner sought a one-year reduction in his sentence pursuant to 18 U.S.C. § 3621(e) after his successful completion of the residential phase of the RDAP program. The petitioner began participation in the residential phase on September 30, 1998, and completed the residential phase on July 21, 1999. Thus, the "new" policy was applied to them. Petitioner is currently incarcerated at FPC, Leavenworth, serving a 78 month sentence for Distribution of Cocaine in violation of 21 U.S.C. § 841(a)(1) and Aiding and Abetting in violation of 18 U.S.C. § 2. Pursuant to § 2D1.1(b)(1) of the U.S.S.G., petitioner received a two-level enhancement for possession of a dangerous weapon. His projected sentence satisfaction date is November 1, 2000, via good conduct release.

Sparks v. J.W. Booker, Case No. 99-3219-RDR, FPC Leavenworth

On September 30, 1999, District Judge Richard D. Rogers ruled against the agency in the above-referenced § 2241 habeas action. The petitioner sought a one-year reduction in his sentence pursuant to 18 U.S.C. § 3621(e) after his successful completion of the residential phase of the RDAP program. The petitioner began participation in the residential phase on September 30, 1998, and completed the residential phase on July 21, 1999. Thus, the "new" policy was applied. Petitioner is currently incarcerated at FPC, Leavenworth, serving a 48 month sentence for Conspiracy to Possess with Intent to Distribute Methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) & 846. Pursuant to § 2D1.1(b)(1) of the U.S.S.G., petitioner received a two-level enhancement for possession of a dangerous weapon. His projected sentence satisfaction date is July 18, 2001, via good conduct release.

Rodriguez v. Herrera, Case No. 99-K-1144, FCI Florence

Woodard v. Herrera, Case No. 99-K-0876, FCI Florence

Two habeas petitions challenging denial of eligibility for early release under 3621(e)(2)(B). Both inmates were convicted of violating 21 U.S.C. §841(a)(1) and both had 2 point enhancements for possession of firearms. Both have completed RDAP and were denied eligibility for early release as exercise of Director's discretion. Judge Kane, relying in part on Ward v. Booker, granted both petitions, holding that the BOP cannot refuse to consider either inmate for early release due to the sentencing enhancement. Judge ordered the BOP to immediately consider the inmates for early release.

SETTLEMENTS OR JUDGMENTS

Anderson v. United States, Case No. 98-C-0788-C, USP Marion

Plaintiff claimed he found feathers in a package of chicken wings he was served as part of his common fare diet on June 2, 1997. He claimed he became very ill for three days and requests compensation in the amount of \$2500 for his alleged injury. Motion to dismiss for lack of

jurisdiction and venue was denied 5/10/99. Stipulation and Order for Dismissal was filed August 13, 1999, in the amount of \$500.00.

DECISIONS OF INTEREST

Walls v. Reno, et al., Case No. 98-658, FCI Greenville

This action brought under the Administrative Procedures Act was dismissed for lack of jurisdiction. Plaintiff challenged the interpretation of the classification manual. The court dismissed the action pursuant to 18 U.S.C. §3625.

Massey and Otten v. Helman, et al, Case No. 99-1459, FCI Pekin

Seventh Circuit appeal of Bivens case alleging violations of the First and Eighth Amendment rights of the plaintiffs stemming from inappropriate medical care. Plaintiff Massey's claims dismissed based upon his failure to exhaust pursuant to 1997(e). Plaintiff Otten's claims dismissed for failure to state a claim.

Lewis v. United States, Case No. 98-64-JPG, USP Marion

Plaintiff alleged that staff were negligent in placing him in a housing unit with an inmate who posed a threat, resulting in a serious assault. He sought \$50,000 in compensatory damages for pain suffered, periodic headaches and physical deformity at the injury site. An Order filed October 13, 1999, adopted R & R that defendant's Motion to Dismiss be granted.

Law v. Pugh, Case No. 98-B-1980, FCI Florence

Plaintiff filed Bivens/FTCA seeking monetary and injunctive relief for job change and loss of a confiscated radio. Magistrate recommended that defendants' motion for summary judgment be granted and judgment be entered for defendants on all claims. No right to specific job found and plaintiff failed to follow procedures to recover confiscated property. On October 8, the District Judge accepted the recommendation and entered judgment for all the defendants.

PENDING CASES OF INTEREST

Manley v. J. W. Booker, Case No. 99-9368-RDR, USP Leavenworth

In this action labeled an Emergency Writ of Habeas Corpus, petitioner alleges deprivation of medical care for a known serious and life threatening condition. As relief, he requests that he be transferred to the Federal Medical Center in Springfield, Missouri for a bone marrow transplant.

Staszak v. Romine, Case No. 99-2519, FCI Sandstone

Inmate completed RDAP and was undergoing community-based treatment when the BOP received notification from an AUSA that the inmate was involved in money-laundering and facing prosecution. The BOP removed the inmate from the halfway house and RDAP but did not issue him an incident report. While the inmate was eventually convicted of money-laundering, the conviction related to criminal conduct that occurred before the inmate came into BOP custody. No specific

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

March 16, 1999

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
 COUNSEL, FEDERAL BUREAU OF PRISONS**

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - February 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | | | | | | | | | | |
| Rec'd in month | 199 | 148 | | | | | | | | | | |
| Ans'd in month | 174 | 211 | | | | | | | | | | |
| Pending at End | 192 | 129 | | | | | | | | | | |
| Over 30 days | 0 | 0 | | | | | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | | | | | | | | | | |
| Rec'd in month | 54 | 63 | | | | | | | | | | |
| Recons. rec'd | 0 | 3 | | | | | | | | | | |
| Ans'd in month | 57 | 53 | | | | | | | | | | |
| Pending at End | 242 | 255 | | | | | | | | | | |
| Over 180 days | 0 | 0 | | | | | | | | | | |

C. Tort Claim Investigation Status: As of February 28, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 5 | 3 | 9 | 2 | 7 | 5 | 2 | 9 | 10 | 1 | 5 | 3 | 2 | 6 | 2 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | | | | | | | | | | |
| Rec'd in month | 24 | 29 | | | | | | | | | | |
| Ans'd in month | 22 | 27 | | | | | | | | | | |
| Pending at End | 16 | 18 | | | | | | | | | | |
| Over 20 days | 5 | 2 | | | | | | | | | | |

E. FOIA Requests for records: As of February 28, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| DEV | | | | | | | | | | | | | | | | |
| Pending | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 1 | 2 | 2 | 2 | 1 | 0 | 2 | 0 | 1 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 |

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Cases Open | 633 | 636 | | | | | | | | | | |
| New Cases | 11 | 16 | | | | | | | | | | |
| Habeas Corpus | 7 | 7 | | | | | | | | | | |
| FTCA | 1 | 3 | | | | | | | | | | |
| Bivens | 3 | 5 | | | | | | | | | | |
| Other | 0 | 1 | | | | | | | | | | |
| Bivens/FTCA | 0 | 0 | | | | | | | | | | |
| Lit Reports | 4 | 2 | | | | | | | | | | |
| Cases Closed | 8 | 8 | | | | | | | | | | |

B. SETTLEMENTS AND AWARDS:

1. Pedro Tejada v. United States, Civ. No. 97-1942 (D.N.J.) FTCA action, plaintiff sustained wrist injury while playing basketball in December 1995, and alleges FCI Fort Dix staff delayed providing specialized treatment which resulted in permanent disability. Case went to medication; settled for \$50,000.

2. Dewey Lee v. United States, Civ. No. 97-529 (M.D.Pa.) FTCA action, plaintiff alleged personal property was stolen at USP Allenwood in July 1996, because staff failed to secure

plaintiff's cell within a reasonable time after he was taken to SHU. Case settled for \$650.

3. Pagan v. Atwood, et al., Civ. No. 3:97CV1798 (D.Conn) Bivens action alleging FCI Danbury staff failed to protect from sexual abuse (by male staff), and failed to provide adequate medical care. Inmate had twins after sex with staff member who was convicted for sexual abuse of a ward. Case was converted into an FTCA action and settled for \$5000.

C. SIGNIFICANT CASES, TRIALS or HEARINGS:

1. In re Enrique Romero, Reg No. 08595-063, (M.D.Pa.) On February 24, 1999, Judge Malcolm Muir issued an order authorizing USP Lewisburg staff to forcibly medicate inmate Romero whose mental and physical condition had deteriorated causing him to refuse medication. On February 25, 1999, the inmate transferred to USMCFP Springfield.

UPCOMING HEARINGS/TRIALS -

- 1. Holder v. Harding, 98-CV-656 (D.Conn)
Codianni-Robles v. Harding, 98-CV-1481 (D.Conn)

As discussed in prior monthly reports, FCI Danbury inmates Tinia Holder, Reg. No. 09474-424, and Beatrice Codianni-Robles, Reg. No. 11866-014, filed separate, similar motions requesting a permanent injunction against the practice of cross-gender pat searches at FCI Danbury. Both inmates have a history of being sexually abused and are assigned to the "Bridge Unit", which is a housing unit for women who have suffered traumatic experiences, including sexual assault/abuse. The trial on the injunction request has been scheduled March 1, 3, 4, 8, 12, 24, and 25.

2. United States v. Michael Leggett, Crim No. --- (M.D.Pa.) The criminal trial of a federal inmate charged with assaulting his former attorney is scheduled to begin March 10, 1999. Three USP Lewisburg staff are scheduled to testify concerning the inmate's behavior on the day of the assault.

D. RELIGIOUS CASES:

1. Melvin Cooper v. J.W. Tippy, et al., Civ. (N.D.N.Y.) - A Report issued January 19, 1994, denied denial of defendants' renewed motion to dismiss judgment. Plaintiff filed this Bivens action alleging that staff at FCI Ray Brook failed to meet religious dietary needs. Plaintiff, an Orthodox Jew, cited various instances where foods were either prepared without kosher with Jewish laws or contaminated, thus losing

-758
pending summary 1994 date his asserted consistent
owner

status. Although defendants claimed corrective measures were implemented to prevent such occurrences, the court found a question of fact existed as to whether the defendants acted intentionally in allowing the deficiencies to occur.

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: None

III. TRAVEL AND LEAVE SCHEDULE FOR MARCH 1999:

[REDACTED]

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U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

April 19, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - March 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | | | | | | | | | |
| Rec'd in month | 199 | 148 | 192 | | | | | | | | | |
| Ans'd in month | 174 | 211 | 177 | | | | | | | | | |
| Pending at End | 192 | 129 | 144 | | | | | | | | | |
| Over 30 days | 0 | 0 | 0 | | | | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | | | | | | | | | |
| Rec'd in month | 54 | 63 | 70 | | | | | | | | | |
| Recons. rec'd | 0 | 3 | 1 | | | | | | | | | |
| Ans'd in month | 57 | 53 | 80 | | | | | | | | | |
| Pending at End | 242 | 255 | 246 | | | | | | | | | |
| Over 180 days | 0 | 0 | 0 | | | | | | | | | |

C. Tort Claim Investigation Status: As of March 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 3 | 3 | 5 | 2 | 8 | 2 | 2 | 8 | 3 | 1 | 7 | 2 | 3 | 5 | 3 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | | | | | | | | | |
| Rec'd in month | 24 | 29 | 31 | | | | | | | | | |
| Ans'd in month | 22 | 27 | 42 | | | | | | | | | |
| Pending at End | 16 | 18 | 7 | | | | | | | | | |
| Over 20 days | 5 | 2 | 2 | | | | | | | | | |

E. FOIA Requests for records: As of March 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER | DEV |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 2 | 1 | 0 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 |

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Cases Open | 633 | 636 | 636 | | | | | | | | | |
| New Cases | 11 | 16 | 23 | | | | | | | | | |
| Habeas Corpus | 7 | 7 | 6 | | | | | | | | | |
| FTCA | 1 | 3 | 7 | | | | | | | | | |
| Bivens | 3 | 5 | 6 | | | | | | | | | |
| Other | 0 | 1 | 2 | | | | | | | | | |
| Bivens/FTCA | 0 | 0 | 2 | | | | | | | | | |
| Lit Reports | 4 | 2 | 5 | | | | | | | | | |
| Cases Closed | 8 | 8 | 23 | | | | | | | | | |

B. SETTLEMENTS AND AWARDS:

1. Bottone v. United States, et.al., 97-Civ-1468 (S.D.N.Y.) Plaintiff, Anthony Bottone, 30661-054, filed a FTCA action alleging that while incarcerated at MCC NY he sustained an electrical shock when his hand accidentally came in contact with a defective electrical wall socket. Costs of trial would have exceeded \$5000. Case settled for \$1000.

C. SIGNIFICANT CASES, TRIALS or HEARINGS:

1. Miscellaneous hearings at MCC New York:

On March 11, 1999, a teleconference was conducted with Judge Amon, AUSA Jim Cavoli, Warden Hasty and Dominique Raia regarding

the status of hunger strike of inmate [REDACTED]
 No action needed as inmate resumed eating. b7C

On March 15, 1999, Judge Preska asked our position on proposed Order to move inmate [REDACTED] from Hudson County Jail to MCC New York, MDC Brooklyn, or FCI Otisville for several reasons (better access to counsel, more educational programs and easier access to United States Attorney's Office). Dominique Raia advised Judge that latter two stated reasons are not accurate and we shouldn't move inmate for convenience of attorney only, in addition to fact that we need bedspace for inmates going to court. On March 18, 1999, Judge Preska advised Dominique Raia that she would not grant the proposed Order. b7C

2. United States v. Leggett, Crim No. --- (M.D.Pa.) Inmate [REDACTED], pled guilty to assaulting his defense attorney in March 1996. On March 23, 1999, he was sentenced to 34 months. b7C

3. Treglia v. Art Beeler, Civil Action No. 98-2693 (D.N.J.) On March 23, 1999, the United States District Court for the District of New Jersey issued an Opinion and Order remanding the case to the Bureau of Prisons for consideration of whether Petitioner, [REDACTED], should be granted a reduction in sentence under 18 U.S.C. § 3621(e)(2)(B). The Court found that the Bureau impermissibly considered factors outside Petitioner's current conviction to exclude him from early release eligibility under 3621(e). Since case was decided under the revised regulations. We have moved the Court to reconsider its decision. b7C

5. Santos v. Art Beeler, Warden, CV-98-1347 (D.N.J.). On March 9, 1999, the court ordered the petition for writ of habeas corpus of Petitioner be granted. The Warden was ordered to consider Petitioner [REDACTED] for possible early reduction pursuant to 18 U.S.C. § 3621(e). The court felt the inmate was entitled to relief because the inmate had almost completed he RDAP before being advised he was not eligible. At the time of the decision, the inmate was on home confinement and only two weeks away from his release date. Based on the facts of the case, no appeal was recommended and the inmate was released. b7C

UPCOMING HEARINGS/TRIALS -

1. Holder v. Harding, 98-CV-656 (D.Conn.)
Codianni-Robles v. Harding, 98-CV-1481 (D.Conn)

As discussed in prior monthly reports, FCI Danbury inmates [REDACTED] and [REDACTED] filed separate, similar motions requesting a permanent injunction against the practice of cross-gender pat searches at FCI Danbury. Both inmates have a history of being sexually abused and are assigned to the "Bridge Unit", which is a housing unit for women who have suffered traumatic experiences, including sexual assault/abuse. The trial on the injunction request continued on April 13 and 15. Summations and arguments on pending motions are scheduled for May 3, 1999. b7c

2. U.S. v. Emery, Crim. 97-90-01-B (D.N.H.) - Inmate [REDACTED] filed a motion with his sentencing judge, Chief Judge Barbadoro, complaining that FCI Fairton denied a furlough to attend his mother's funeral. The court scheduled a hearing for April 23, 1999 and ordered that the staff member attend the hearing. The Unit Manager advised the inmate he was not eligible for the furlough because he was out custody. Attorney Roberta Truman and the Unit Manager will attend the hearing. b7c

3. Kowalczyk v. DOJ, 3-CV-99-0512 (M.D.Pa.) - Inmate [REDACTED] filed a petition requesting the court to find is federal offense were not crimes of violence. At issue is Lewisburg Camp's preparation to notify local law enforcement officials of the inmate's imminent release. One of the inmate's convictions is for possession of an Uzi in violation of 26 U.S.C. § 5861. Magistrate Judge Smyser has scheduled a hearing on this issue for Friday, April 30, 1999. b7c

D. RELIGIOUS CASES:

1. Thomas Ash-Bey v. Lt. Harold Fauntleroy, et al., 98-CV-1447 (DNJ). This is a Bivens action filed against six FCI Ft. Dix employees. The plaintiff alleges he was denied the right to wear religious headgear (a fez) on the compound. He states when he attempted to file an administrative remedy about this matter, his counselor tore up his BP-8 and dismissed him. The plaintiff also alleges he was given an incident report and transferred to another institution in retaliation for his religious beliefs. Plaintiff seeks one million dollars from each defendant as compensation. He also seeks one million dollars from each defendant in punitive damages.

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

May 7, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - April 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | | | | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | | | | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | | | | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | | | | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | | | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | | | | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | | | | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | | | | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | | | | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | | | | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | | | | | | | | |

C. Tort Claim Investigation Status: As of April 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| SCH | | | | | | | | | | | | | | | |
| Pending | 2 | 4 | 4 | 0 | 6 | 4 | 1 | 5 | 9 | 9 | 3 | 4 | 6 | 4 | 7 |
| 5 | | | | | | | | | | | | | | | |

Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
2

2

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | | | | | | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | | | | | | | | |
| Ans'd in month | 22 | 27 | 42 | 30 | | | | | | | | |
| Pending at End | 16 | 18 | 7 | 32 | | | | | | | | |
| Over 20 days | 5 | 2 | 2 | 2 | | | | | | | | |

E. FOIA Requests for records: As of April 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NER | | | | | | | | | | | | | | | | |
| Pending | 2 | 0 | 0 | 1 | 3 | 2 | 0 | 2 | 1 | 4 | 0 | 3 | 0 | 0 | 1 | 1 |
| 0 | | | | | | | | | | | | | | | | |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 |
| 0 | | | | | | | | | | | | | | | | |

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION

A. SUMMARY REPORT

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | | | | | | | | |
| New Cases | 11 | 16 | 23 | 22 | | | | | | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | | | | | | | | |
| FTCA | 1 | 3 | 7 | 4 | | | | | | | | |
| Bivens | 3 | 5 | 6 | 4 | | | | | | | | |
| Other | 0 | 1 | 2 | 1 | | | | | | | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | | | | | | | | |
| Lit Reports | 4 | 2 | 5 | 8 | | | | | | | | |
| Cases Closed | 8 | 8 | 23 | 13 | | | | | | | | |

B. SETTLEMENTS AND AWARDS: None

C. UPCOMING HEARINGS/TRIALS: -

1. Holder v. Harding, 98-CV-656 (D.Conn.)
Codianni-Robles v. Harding, 98-CV-1481 (D.Conn)

As discussed in prior monthly reports, FCI Danbury inmates [REDACTED] and [REDACTED] filed separate, similar motions requesting a permanent injunction

b7C

against the practice of cross-gender pat searches at FCI Danbury.
The trial on the injunction request concluded on May 3, 1999.
Decision is pending.

2. U.S. v. Emery, Crim. 97-90-01-B (D.N.H.) - Inmate [REDACTED]

b7C

[REDACTED] filed a motion with his sentencing judge, Chief Judge Barbadoro, complaining that FCI Fairton denied a furlough to attend his mother's funeral. The court scheduled a hearing for April 23, 1999 and ordered that FCI Fairton staff who denied the furlough attend the hearing. The Unit Manager advised the inmate he was not eligible for the furlough because he was not community custody. During the three hour hearing, the Bureau's policy regarding furloughs and classification scoring were clarified for the Court. The Judge declined to rule on whether FCI Fairton followed policy since the court found the furlough decision did not impact on the underlying sentence in the pending 2255 petition. Attorney Roberta Truman and Unit Manager Rothbaum attended the hearing.

b7C

3. Kowalczyk v. DOJ, 3-CV-99-0512 (M.D.Pa.) - Inmate [REDACTED] filed a petition requesting the court to find if federal offense were not crimes of violence. At issue is Lewisburg Camp's preparation to notify local law enforcement officials of the inmate's imminent release. One of the inmate's convictions is for possession of an Uzi in violation of 26 U.S.C. § 5861. Magistrate Judge Smyser had scheduled a hearing on this issue for Friday, April 30, 1999, but postponed the hearing pending resolution of the defense of failure to exhaust.

b7C

4. U.S. v. Maisonet, 97 Cr. 817 (S.D.N.Y.)

On April 21, 1999, Judge Chin held a hearing on a request by the defendant in this criminal case to be transferred to FCI Otisville in order to have co-defendants meetings. Some of the defendants are separatees based on SIS information that the Maisonet organization split into two factions because some members found out that [REDACTED] was a government informant and believe their incarceration is connected to his cooperation. As a result, inmate [REDACTED] was slashed by another member. The AUSA recommended co-defendant meetings take place in a room in the court building under Marshal's scrutiny. The Wardens at both FCI Otisville and MCC New York expressed security concerns in having a co-defendants meetings. Defendant's counsel also raised an issue at the hearing regarding problems with legal visits at MCC New York. They claimed they weren't permitted any documents in SHU and they weren't permitted to pass documents to their clients or bring in video or cassette tapes. Clinton Stroble, Attorney Advisor, MCC New York, advised the Court he was not aware of any such prohibitions, although MCC does require 24 hours advanced written notice to bring video tapes into the institution. He indicated that if problems arise, the attorneys should speak to MCC NY Legal staff.

b7C

The Court did not order BOP to transfer the inmates to any particular institution, but did order the BOP to make available a proper room where videos and documents could be reviewed. The court was sympathetic to the need to have co-defendants meetings and requested the government explore a way to allow the defendants to have private co-defendant meetings. The AUSA was advised that MCC New York would prefer that co-defendant meetings take place under U.S. Marshals supervision; however, if the court were to order MCC to host the meetings, the inmates would be handcuffed and shackled. To date, no codefendants meetings have been requested.

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - Wolf, et al. v. Reno, Civil No. 978-408 (W.D.Pa.) - This case was discussed in last month's report. Three inmates at FCI McKean have requested injunctive type relief challenging the application of the Ensign Amendment and the part of the Zimmer Amendment which prohibits the showing of R, X, and NC-17 films. On March 25, 1999, the court denied a motion to dismiss, holding that the complaint stated a valid first amendment claim. The court did not address the Ensign Amendment issue since the Ensign Amendment was not being applied to these inmates. A "Motion in Opposition to Class Certification" is being filed as well as discovery responses to the Plaintiffs' first set of discovery requests.

F. PLRA 1915 DISMISSALS: None

III. TRAVEL AND LEAVE SCHEDULE FOR MAY 1999:

[REDACTED]

ble

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106*

May 7, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel .
SUBJECT: Monthly Report - April 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | | | | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | | | | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | | | | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | | | | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | | | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | | | | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | | | | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | | | | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | | | | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | | | | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | | | | | | | | |

C. Tort Claim Investigation Status: As of April 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| SCH | | | | | | | | | | | | | | | |
| Pending | 2 | 4 | 4 | 0 | 6 | 4 | 1 | 5 | 9 | 9 | 3 | 4 | 6 | 4 | 7 |
| 5 | | | | | | | | | | | | | | | |

Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
2

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D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | | | | | | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | | | | | | | | |
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| Pending at End | 16 | 18 | 7 | 32 | | | | | | | | |
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E. FOIA Requests for records: As of April 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NER | | | | | | | | | | | | | | | | |
| Pending | 2 | 0 | 0 | 1 | 3 | 2 | 0 | 2 | 1 | 4 | 0 | 3 | 0 | 0 | 1 | 1 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 0 |

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION

A. SUMMARY REPORT

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | | | | | | | | |
| New Cases | 11 | 16 | 23 | 22 | | | | | | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | | | | | | | | |
| FTCA | 1 | 3 | 7 | 4 | | | | | | | | |
| Bivens | 3 | 5 | 6 | 4 | | | | | | | | |
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| Lit Reports | 4 | 2 | 5 | 8 | | | | | | | | |
| Cases Closed | 8 | 8 | 23 | 13 | | | | | | | | |

B. SETTLEMENTS AND AWARDS: None

C. UPCOMING HEARINGS/TRIALS: -

1. Holder v. Harding, 98-CV-656 (D.Conn.)
Codianni-Robles v. Harding, 98-CV-1481 (D.Conn)

b7c

As discussed in prior monthly reports, FCI Danbury inmates [REDACTED], and [REDACTED], filed separate, similar motions requesting a permanent injunction

against the practice of cross-gender pat searches at FCI Danbury.
The trial on the injunction request concluded on May 3, 1999.
Decision is pending.

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b7C

[REDACTED], filed a motion with his sentencing judge, Chief Judge Barbadoro, complaining that FCI Fairton denied a furlough to attend his mother's funeral. The court scheduled a hearing for April 23, 1999 and ordered that FCI Fairton staff who denied the furlough attend the hearing. The Unit Manager advised the inmate he was not eligible for the furlough because he was not community custody. During the three hour hearing, the Bureau's policy regarding furloughs and classification scoring were clarified for the Court. The Judge declined to rule on whether FCI Fairton followed policy since the court found the furlough decision did not impact on the underlying sentence in the pending 2255 petition. Attorney Roberta Truman and Unit Manager Rothbaum attended the hearing. b7c

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The Court did not order BOP to transfer the inmates to any particular institution, but did order the BOP to make available a proper room where videos and documents could be reviewed. The court was sympathetic to the need to have co-defendants meetings and requested the government explore a way to allow the defendants to have private co-defendant meetings. The AUSA was advised that MCC New York would prefer that co-defendant meetings take place under U.S. Marshals supervision; however, if the court were to order MCC to host the meetings, the inmates would be handcuffed and shackled. To date, no codefendants meetings have been requested.

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - Wolf, et al. v. Reno, Civil No. 978-408 (W.D.Pa.) - This case was discussed in last month's report. Three inmates at FCI McKean have requested injunctive type relief challenging the application of the Ensign Amendment and the part of the Zimmer Amendment which prohibits the showing of R, X, and NC-17 films. On March 25, 1999, the court denied a motion to dismiss, holding that the complaint stated a valid first amendment claim. The court did not address the Ensign Amendment issue since the Ensign Amendment was not being applied to these inmates. A "Motion in Opposition to Class Certification" is being filed as well as discovery responses to the Plaintiffs' first set of discovery requests.

F. PLRA 1915 DISMISSALS: None

III. TRAVEL AND LEAVE SCHEDULE FOR MAY 1999:

[REDACTED]

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U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106*

June 15, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - May 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | | | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | | | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | | | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | | | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | | | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | | | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | | | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | | | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | | | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | | | | | | | |

C. Tort Claim Investigation Status: As of May 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| SCH | | | | | | | | | | | | | | | |
| Pending | 1 | 5 | 6 | 1 | 3 | 4 | 0 | 8 | 6 | 3 | 2 | 2 | 1 | 1 | 8 |
| 3 | | | | | | | | | | | | | | | |

imposed, but not yet started, because she was serving other old law federal sentences). The Court held that the evidence "overwhelmingly indicates that Judge Lew specifically addressed the issue of a concurrent West Virginia sentence in his application of § 5G1.3 of the sentencing guidelines. The

3

California sentence, therefore, runs concurrently with the West Virginia sentence." We respectfully disagree with the district court and we are reviewing grounds for an appeal.

C. UPCOMING HEARINGS/TRIALS: -

1. Holder v. Harding, 98-CV-656 (D.Conn.)
Codianni-Robles v. Harding, 98-CV-1481 (D.Conn)

Decision is STILL pending.

2. United States v. Yu (SDNY)-

On May 20, 1999, MCC NY Education Specialist Oliver Brown testified at a suppression hearing held in the above-referenced case. Inmate Yu, Reg. No. 33687-054, argued that he did not understand the BOP form regarding monitoring of phone calls. Mr. Brown testified regarding the inmate's literacy level, English proficiency, etc. Dominique Raia assisted the AUSA.

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - Wolf, et al. v. Reno, Civil No. 978-408 (WDPA) - This case was discussed in prior reports. Three inmates at FCI McKean have requested injunctive type relief challenging the application of the Ensign Amendment and the part of the Zimmer Amendment which prohibits the showing of R, X, and NC-17 films. On March 25, 1999, the court denied a motion to dismiss, holding that the complaint stated a valid first amendment claim. No change in status.

F. PLRA 1915 DISMISSALS: None

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

1. United States v. Roy Thomas, 98 CR. 761 (SDNY)-
Former MCC New York Correctional Officer Roy Thomas, 43639-054, received a 210 month sentence for conspiracy to possess more than 50 kilograms of cocaine and public corruption. The Sentencing Judge noted that although Thomas became like the inmates he had the responsibility to guard, she reduced his sentence because of

his outstanding military record.

2. United States v. Heatley, (SDNY) - On May 14, 1999, inmate Clarence Heatley, 39015-054, was scheduled to receive a life sentence, but accepted a plea agreement which postponed the

4

sentencing. Prior to sentencing, inmate Heatley submitted a letter to the Court challenging his confinement in administrative detention. The Court ruled that since the inmate failed to exhaust the issue was not properly before the Court. Dominique Raia assisted the AUSA.

3. United States v. Cruz, 97-CR-577(EDNY) - On May 21, 1999, former MDC Brooklyn staff member Alberto Cruz was sentenced to one month imprisonment, 5 months home detention, 2 years supervised release, a \$2,000.00 fine and assessment. Mr. Cruz, who pled guilty to a bribery charge, was one of the individuals indicted in the "Badfellas" sting operation. Two more defendants are scheduled for sentencing in the near future.

4. United States v. John Jay Powers, (DNJ) - On May 21, 1999, inmate John Jay Powers, Reg. No. 03220-028, was arraigned and pled not guilty, for his escape from FCI Fairton.

5. United States v. Acosta-Gonzalez, (MDPA) - A June 28, 1999 trial is scheduled for USP Lewisburg inmate Rafael Acosta-Gonzalez, Reg. No. 00279-112 for possession of a knife and assault.

IV. TRAVEL AND LEAVE SCHEDULE FOR MAY 1999:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b6

U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

July 16, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - June 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | |

C. Tort Claim Investigation Status: As of June 30, 1999

| SCH | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 5 | 7 | 8 | 4 | 4 | 9 | 0 | 6 | 9 | 4 | 3 | 9 | 6 | 8 | 17 |
| 3 | | | | | | | | | | | | | | | |

Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
 0

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | | | | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | | | | | | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | | | | | | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | | | | | | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | | | | | | |

E. FOIA Requests for records: As of June 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NER | | | | | | | | | | | | | | | | |
| Pending | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 4 | 2 | 3 | 0 | 3 | 5 | 7 |
| 0 | | | | | | | | | | | | | | | | |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 0 | | | | | | | | | | | | | | | | |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION

A. SUMMARY REPORT

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | | | | | | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | | | | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | | | | | | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | | | | | | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | | | | | | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | | | | | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | | | | | | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | | | | | | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | | | | | | |

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

1) Beasley v. Alexander, 3:CV-96-1464 (M.D. PA)
 The case, converted from a Bivens action to a FTCA case, was settled for \$1,750.00. Former inmate [REDACTED] alleged staff misconduct during the October 1995 disturbances at USP Lewisburg.

b7C

2) Powell v. United States, 3:CV-95-0564 (MDPA)

On June 21, 1999, Judge Kosik awarded \$10,500 to inmate [REDACTED] in this FTCA case, in which the inmate stated he fell from his upper bunk while housed at USP Allenwood

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in 1994. Powell, a diabetic who had been issued a lower bunk slip and not provided a lower bunk, claimed he became hypoglycemic and sustained injuries when he fell from his upper bunk. After a trial on damages, the inmate was awarded money for pain and suffering and an irregular laceration over one eye which caused a permanent scar. [REDACTED]

C. HEARINGS/TRIALS: -

1. United States v. Wadih Elias El-Hage (S.D.N.Y.)

On June 29, 1999, a hearing was held before Judge Sand concerning the Special Administrative Measures (SAM) imposed on inmate [REDACTED] and whether a June 14, 1999 Court Order, which modified the SAM to allow contact visits between the inmate and his family, should be vacated. The defendant had become violent at a hearing in Court and had to be subdued by the Marshals. Warden Hasty wanted the order vacated and advised the Judge that security dictated a non-contact visit to avoid the risk of harming anyone should the inmate have a similar violent outburst. Judge Sand was sympathetic and stated he did not want to undermine the Warden's opinion or put the Warden in a position of exposing staff to security risks. He deferred to the Warden and vacated the Order without prejudice.

2. Schurkman v. United States. et. al., 99-CV-2348 (D.N.J.)

On June 4, 1999, Judge Orlofsky held a hearing regarding a Bivens/Habeas action filed by FCI Ft. Dix inmate [REDACTED] who alleged he was denied a legal visit with his attorney on May 9, 1999. Due to an administrative error with paperwork, the inmate's attorney was not permitted to visit when he arrived on that day. At the hearing, the inmate's attorney raised other visiting room concerns. The AUSA argued that the inmate had not exhausted. Both parties agreed to informally resolve the issue. On June 22, 1999, the inmate's attorney agreed to withdraw the case without prejudice. Attorney Advisor Joyce Horikawa assisted the AUSA

3. Harris v. United States Civ. No. 98-6745 (E.D.PA.)

On June 9, 1999, a mediation hearing was held in this FTCA action filed by former inmate George Harris who alleged that he slipped

and fell on the West Compound at FCI Fort Dix on January 8, 1996. He alleges that he severely injured his leg, was denied adequate medical care, and as a result, is now disabled and needs continued medical care. Our investigation indicated that he injured his leg on January 8, 1996, when he jumped from a third floor window of his housing unit during the Blizzard of 1996,

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over a bet for a carton of cigarettes. The available medical records indicate that he was provided appropriate medical care while housed at FCI Ft. Dix. On February 6, 1998, Plaintiff was released from Bureau of Prisons custody. There is no record that Plaintiff experienced any complications associated with his injured leg prior to his release from FCI Fort Dix. Mediation was unsuccessful. Trial is expected on October 15, 1999. Joyce Horikawa assisted the AUSA.

4. United States v. Karl Pringle, 98-CR-1087 (E.D.N.Y.)

On June 4, 1999, a hearing was held regarding a habeas corpus action brought by inmate [REDACTED] Judge Johnson had ordered that Pringle serve his sentence on condition that he waived deportation. There as no confirmation from INS that Pringle had waived deportation so MDC Brooklyn kept the inmate in custody. Prior to the habeas hearing, the government had appealed Pringle's sentence. At the hearing, Pringle alleged that his sentence had expired and he no longer belonged in BOP custody. It was agreed by the parties that Judge Johnson lacked jurisdiction to amend the sentence since the case was now before the court of appeals. Nevertheless, Judge Johnson stated that he believed the sentence was illegal. Judge Johnson decided that he would order Pringle turned over to INS, with the added proviso that he not be deported until resolution of the government's appeal. The AUSA indicated to Judge Johnson that Pringle might not get credit toward his potential amended sentence for time spent in INS custody pending deportation. Judge Johnson indicated that in any resentencing, he believed he could take into account any time spent in INS custody not credited by the BOP. Pringle was subsequently transferred to INS custody. Attorney Advisor Les Owen assisted the AUSA at the hearing.

b7C

5) Lasorsa v. Meniffee, No. 98-2548 (2d Cir.)

On June 9, 1999, oral arguments were heard in the United States Court of Appeals for the Second Circuit. Former inmate [REDACTED] appealed the district court decision denying his petition for a writ of habeas corpus. The petition alleged that the BOP unlawfully denied Lasorsa's request for an early release (under 18 U.S.C. 3621(e)(2)(B)) by classifying his conviction for possession w/I/d heroin as a crime of violence, based on P.S. 5162.02 and 28 C.F.R. 550.58 (1997), because

b7C

Lasorsa received a two-level sentence enhancement for possession of a weapon.

The district court found the BOP properly exercised its discretion by declining to release certain inmates early, specifically those who simultaneously possessed a firearm in

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committing a drug offense. Based on the record, the district court noted the BOP correctly disavowed any reliance on the conclusion that Lasorsa's drug offense constituted a crime of violence, and the court acknowledged that the asserted reasons for Lasorsa's denial were adequate.

Oral argument went well and on June 22, 1999, the Court issued a summary order affirming the District Court's judgment "substantially for the reasons stated by the district court in its opinions and orders." Assistant Regional Counsel Toni Brown assisted the AUSA with the case.

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS:

1) Richards v. Emory No. 98-7518 (3d Cir 1999)
Third Circuit affirmed district court's dismissal of the civil rights case as frivolous pursuant to 28 USC § 1915(e)(2)(b)(I) because under Sandin, the inmate did not have a liberty interest in remaining free from disciplinary confinement.

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

TRIALS/SENTENCING:

1. United States v. Villagran and Fejeran, 94 CR. M.D.PA.
On June 11, 1999, inmates [REDACTED] was sentenced to 27 years, 3 months, for the murder of another inmate at USP Lewisburg in February 1994. On June 22, 1999, inmate [REDACTED] was sentenced to 8 years, 9 months for his involvement in the same murder. b7C

2. United States v. Acosta-Gonzalez, M.D.PA.
On June 28, 1999, inmate [REDACTED] was convicted of possession of a knife and assault. Sentencing is pending. b7C

IV. TRAVEL AND LEAVE SCHEDULE FOR JULY 1999:

U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

August 11, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - July 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | |

C. Tort Claim Investigation Status: As of July 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| SCH | | | | | | | | | | | | | | | |
| Pending | 3 | 6 | 8 | 1 | 7 | 7 | 1 | 8 | 5 | 6 | 3 | 6 | 4 | 7 | 22 |
| 2 | | | | | | | | | | | | | | | |

Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
0

2

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | | | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | | | | | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | | | | | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | | | | | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | | | | | |

E. FOIA Requests for records: As of July 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NER | | | | | | | | | | | | | | | | |
| Pending | 6 | 0 | 2 | 0 | 0 | 4 | 1 | 2 | 1 | 6 | 2 | 1 | 1 | 0 | 0 | 1 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1* | 0 | 0 | 0 | 0 | 0 | 0 |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION

A. SUMMARY REPORT

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | | | | | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | | | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | | | | | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | | | | | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | | | | | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | | | | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | | | | | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | | | | | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | | | | | |

B. SETTLEMENTS/AWARDS/ADVERSE and FAVORABLE OPINIONS:

1. Crooker v. United States, et.al. Civ. No. 97-402E (WDPA) b7c
 Inmate [REDACTED] currently at USP Lompoc, filed this FTCA case alleging that staff at FCI McKean negligently restrained him in four point restraints for an extended period of time (specifically, in restraints for 89 hours (70 of which were in four points)) in April 1997. His administrative tort claim requesting \$500,000 was denied. Case settled for \$1000.00 because of potential liability and poor documentation.

2. Robert Treglia v. Art Beeler, Civ. Action No. 99 CV 2633 (DNJ). Habeas petition in which inmate [REDACTED] challenged the denial of a reduction in sentence under 18 U.S.C. § 3621 (e) (2) (B), based on the use of a two-level enhancement under the United States Sentencing Guidelines for use or

b7C

3

possession of a firearm during a drug trafficking offense. The petition was granted on March 28, 1999. A motion for reconsideration and stay of judgment pending appeal were filed. On July 22, 1999, Judge Simandle denied both the motion for reconsideration and motion for stay of judgment. The Court indicated that although it had no objection to the use of the two level enhancement, it did object to the categorical disqualification of otherwise eligible inmates from sentence reductions. The Court remanded the matter back to the BOP to do an "individualized determination" as to whether inmate Treglia should be granted early release. A decision was made that he would not be granted early release.

3. Tajeddini v. Gluch, et.al., Civ. No. 5:92-CV-546 (D. Conn) - Plaintiff, former inmate [REDACTED] filed this pro se Bivens complaint in September 1992, alleging that while housed at FCI Danbury, he was the victim of retaliatory treatment. He alleges that after he filed a complaint against a staff member, other staff members subjected him to a pattern of harassment and retaliation which led to the filing of a false incident report, placement in segregation, and denial of appropriate footwear. After a settlement conference with a Magistrate Judge, the Plaintiff, now represented by counsel, and the government agreed to convert case into an FTCA action and settle for \$15,000.

b7C

4. Seidler v. Beeler, Civil Action No. 98-3592 (DNJ) - Habeas case in which inmate [REDACTED] challenged denial of early release eligibility under 3621(e), based on a two point enhancement for possession of a weapon during a drug trafficking offense. Judge Irenas denied the petition, and held that the denial was a valid exercise of discretion afforded to the Director of the BOP under the statute.

b7C

5. Shepard v. Holland, et.al., Civ. No. 3:CV-97-0610 (MDPA). On July 19, 1999, Judge Kane denied a Motion for Summary Judgement in a "failure to protect" Bivens action. The Court finds material facts remain. The government contended that material facts were not in dispute. Plaintiff, inmate [REDACTED] was assaulted by a separatee who was housed in SHU on the same range as the Plaintiff. When staff were putting the assailant's cellmate back into the cell, the assailant slipped his cuffed hand from back to front, exited his

b7C

SHU cell and assaulted the Plaintiff who was being returned from outside recreation. All indications are that staff appropriately followed all policies and procedures. The AUSA, with approval of DOJ and OGC, has filed a protective notice of appeal and plans to file an appeal on the qualified immunity argument.

4

C. HEARINGS/TRIALS: -

1. U.S. v. Javier and Ramon Jiminez, 98 Cr. 00131 (SDNY)
On July 27, 1999, sentencing was held for identical twins [REDACTED]

[REDACTED] Judge Patterson was considering a downward departure or no imprisonment (guideline range was 33-41 months) due to his concerns that (1) the Bureau may not be able to meet the educational and vocational needs of the inmates; (2) the Bureau may not be able to protect these inmates due to their cooperation; and (3) the possibility that the inmates may remain at MCC NY for an extended period awaiting designation (they already spent approximately 24 months at MCC NY). b7C

In a written response, the Judge was advised that the Bureau would afford them ample opportunities for educational and vocational training, that the inmates would not be designated to a facility where they had a separatee, and that the designation process would be expedited upon timely receipt of the J & C. Attorney Dominique Raia represented the Bureau at the hearing. The inmates were sentenced to 33 months [REDACTED] and 36 months [REDACTED] with a three year term of supervised release. b7C

2. In re Ali, M11-189 (SDNY) - On July 27, 1999, there was a continuation hearing relating to this civil contemnor, inmate [REDACTED]. Judge Patterson heard evidence relating to Ali's religious convictions. The inmate stated fears for his safety and that of his family in Egypt as reasons why he refused to testify before two grand juries on matters related to an investigation of the Embassy bombings. At a previous hearing, counsel for Ali raised concerns about the conditions of the inmate's placement in administrative detention. The MCC NY responded by letter to the court. Attorney Dominique Raia represented the Bureau at the hearing. No further information concerning the Bureau was requested by the Court at the hearing. The court decided to maintain inmate Ali in civil contempt. b7C

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: -

1. Riddick v. Bogus 4:CV-08-2004 (MDPA)- Pro se inmate Kenneth [REDACTED] b7C

[REDACTED] filed a claim alleging he was improperly exposed to asbestos while assigned to the plumbing department at USP Lewisburg. The District Court dismissed the case as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(b)(I). b7C

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III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1. On July 25, 1999, while conducting a routine shakedown, the MDC Brooklyn unit officer located five balloons (containing a brown substance which later tested positive as heroin) wrapped in paper and cellophane. The case has been referred to the U.S. Attorneys Office and accepted for prosecution. The two inmates are Young Choi, 57446-053 and Jorge Zuluaga, 54115-053.

2. On July 12, 1999, correctional officers supervising the visiting room at FCI McKean saw the visitor of inmate Roderick Thornhill, 04651-068, pass what was later identified as ten balloons of marijuana (net weight 3.1 grams). The contraband was recovered after the inmate was placed in a dry cell. The case has been referred and accepted for prosecution.

TRIALS/SENTENCING:

1. United States v. Dameon Daley, 4:CR-99-0030 (M.D.P.A.)
On July 28, 1999, after a three day trial, the jury acquitted inmate [REDACTED] of charges that he assaulted correctional staff at USP Allenwood. The AUSA assigned to the matter stated that staff at USP Allenwood did an outstanding job supporting the prosecution. b7C

[REDACTED]

IV. TRAVEL AND LEAVE SCHEDULE FOR AUGUST 1999:

[REDACTED] Travel - None Scheduled
Annual Leave - 8/19-9/2

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled ble

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled

U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106*

August 11, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - July 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | |

C. Tort Claim Investigation Status: As of July 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| SCH | | | | | | | | | | | | | | | |
| Pending | 3 | 6 | 8 | 1 | 7 | 7 | 1 | 8 | 5 | 6 | 3 | 6 | 4 | 7 | 22 |
| 2 | | | | | | | | | | | | | | | |

2. Robert Treglia v. Art Beeler, Civ. Action No. 99 CV 2633 (DNJ). Habeas petition in which inmate [REDACTED] challenged the denial of a reduction in sentence under 18 U.S.C. § 3621 (e)(2)(B), based on the use of a two-level enhancement under the United States Sentencing Guidelines for use or

3

possession of a firearm during a drug trafficking offense. The petition was granted on March 28, 1999. A motion for reconsideration and stay of judgment pending appeal were filed. On July 22, 1999, Judge Simandle denied both the motion for reconsideration and motion for stay of judgment. The Court indicated that although it had no objection to the use of the two level enhancement, it did object to the categorical disqualification of otherwise eligible inmates from sentence reductions. The Court remanded the matter back to the BOP to do an "individualized determination" as to whether inmate [REDACTED] should be granted early release. A decision was made that he would not be granted early release.

3. Tajeddini v. Gluch, et.al., Civ. No. 5:92-CV-546 (D. Conn) - Plaintiff, former inmate [REDACTED] filed this pro se Bivens complaint in September 1992, alleging that while housed at FCI Danbury, he was the victim of retaliatory treatment. He alleges that after he filed a complaint against a staff member, other staff members subjected him to a pattern of harassment and retaliation which led to the filing of a false incident report, placement in segregation, and denial of appropriate footwear. After a settlement conference with a Magistrate Judge, the Plaintiff, now represented by counsel, and the government agreed to convert case into an FTCA action and settle for \$15,000.

4. Seidler v. Beeler, Civil Action No. 98-3592 (DNJ) - Habeas case in which inmate [REDACTED] challenged denial of early release eligibility under 3621(e), based on a two point enhancement for possession of a weapon during a drug trafficking offense. Judge Irenas denied the petition, and held that the denial was a valid exercise of discretion afforded to the Director of the BOP under the statute.

5. Shepard v. Holland, et.al., Civ. No. 3:CV-97-0610 (MDPA) On July 19, 1999, Judge Kane denied a Motion for Summary Judgement in a "failure to protect" Bivens action. The Court finds material facts remain. The government contended that material facts were not in dispute. Plaintiff, inmate [REDACTED], was assaulted by a separatee who was housed in SHU on the same range as the Plaintiff. When staff were putting the assailant's cellmate back into the cell, the assailant slipped his cuffed hand from back to front, exited his

SHU cell and assaulted the Plaintiff who was being returned from outside recreation. All indications are that staff appropriately followed all policies and procedures. The AUSA, with approval of DOJ and OGC, has filed a protective notice of appeal and plans to file an appeal on the qualified immunity argument.

4

C. HEARINGS/TRIALS: -

1. U.S. v. Javier and Ramon Jiminez, 98 Cr. 00131 (SDNY)
On July 27, 1999, sentencing was held for identical twins [REDACTED]

Judge Patterson was considering a downward departure or no imprisonment (guideline range was 33-41 months) due to his concerns that (1) the Bureau may not be able to meet the educational and vocational needs of the inmates; (2) the Bureau may not be able to protect these inmates due to their cooperation; and (3) the possibility that the inmates may remain at MCC NY for an extended period awaiting designation (they already spent approximately 24 months at MCC NY).

In a written response, the Judge was advised that the Bureau would afford them ample opportunities for educational and vocational training, that the inmates would not be designated to a facility where they had a separatee, and that the designation process would be expedited upon timely receipt of the J & C. Attorney Dominique Raia represented the Bureau at the hearing. The inmates were sentenced to 33 months [REDACTED] and 36 months [REDACTED] with a three year term of supervised release.

2. In re Ali, M11-189 (SDNY) - On July 27, 1999, there was a continuation hearing relating to this civil contemnor, inmate [REDACTED]. Judge Patterson heard evidence relating to [REDACTED]'s religious convictions. The inmate stated fears for his safety and that of his family in Egypt as reasons why he refused to testify before two grand juries on matters related to an investigation of the Embassy bombings. At a previous hearing, counsel for [REDACTED] raised concerns about the conditions of the inmate's placement in administrative detention. The MCC NY responded by letter to the court. Attorney Dominique Raia represented the Bureau at the hearing. No further information concerning the Bureau was requested by the Court at the hearing. The court decided to maintain inmate [REDACTED] in civil contempt.

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: -

1. Riddick v. Bogus 4:CV-08-2004 (MDPA) - Pro se inmate [REDACTED]

[REDACTED] filed a claim alleging he was improperly exposed to asbestos while assigned to the plumbing department at USP Lewisburg. The District Court dismissed the case as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(b)(I). b7C

5

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1. On July 25, 1999, while conducting a routine shakedown, the MDC Brooklyn unit officer located five balloons (containing a brown substance which later tested positive as heroin) wrapped in paper and cellophane. The case has been referred to the U.S. Attorneys Office and accepted for prosecution. The two inmates are Young Choi, 57446-053 and Jorge Zuluaga, 54115-053.

2. On July 12, 1999, correctional officers supervising the visiting room at FCI McKean saw the visitor of inmate Roderick Thornhill, 04651-068, pass what was later identified as ten balloons of marijuana (net weight 3.1 grams). The contraband was recovered after the inmate was placed in a dry cell. The case has been referred and accepted for prosecution.

TRIALS/SENTENCING:

1. United States v. Dameon Daley, 4:CR-99-0030 (M.D.P.A.)
On July 28, 1999, after a three day trial, the jury acquitted inmate [REDACTED] of charges that he assaulted correctional staff at USP Allenwood. The AUSA assigned to the matter stated that staff at USP Allenwood did an outstanding job supporting the prosecution. b7C

IV. TRAVEL AND LEAVE SCHEDULE FOR AUGUST 1999:

[REDACTED] Travel - None Scheduled
Annual Leave - 8/19-9/2

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled b6

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled

U.S. Department of Justice
 Federal Bureau of Prisons
 Northeast Regional Office

*U.S. Custom House
 2nd & Chestnut Streets
 Philadelphia, PA 19106*

August 11, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
 COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel
 SUBJECT: Monthly Report - July 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | | | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | | | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | |

C. Tort Claim Investigation Status: As of July 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| SCH | | | | | | | | | | | | | | | |
| Pending | 3 | 6 | 8 | 1 | 7 | 7 | 1 | 8 | 5 | 6 | 3 | 6 | 4 | 7 | 22 |
| 2 | | | | | | | | | | | | | | | |

Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
0

2

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | | | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | | | | | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | | | | | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | | | | | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | | | | | |

E. FOIA Requests for records: As of July 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NER | | | | | | | | | | | | | | | | |
| Pending | 6 | 0 | 2 | 0 | 0 | 4 | 1 | 2 | 1 | 6 | 2 | 1 | 1 | 0 | 0 | 1 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1* | 0 | 0 | 0 | 0 | 0 | 0 |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION

A. SUMMARY REPORT

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | | | | | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | | | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | | | | | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | | | | | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | | | | | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | | | | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | | | | | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | | | | | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | | | | | |

B. SETTLEMENTS/AWARDS/ADVERSE and FAVORABLE OPINIONS:

1. Crooker v. United States, et.al. Civ. No. 97-402E (WDPA) Inmate [REDACTED] currently at USP Lompoc, filed this FTCA case alleging that staff at FCI McKean negligently restrained him in four point restraints for an extended period of time (specifically, in restraints for 89 hours (70 of which were in four points)) in April 1997. His administrative tort claim requesting \$500,000 was denied. Case settled for \$1000.00 because of potential liability and poor documentation.

b7C

2. Robert Treglia v. Art Beeler, Civ. Action No. 99 CV 2633 (DNJ). b7C
Habeas petition in which inmate [REDACTED] challenged the denial of a reduction in sentence under 18 U.S.C. § 3621 (e) (2) (B), based on the use of a two-level enhancement under the United States Sentencing Guidelines for use or

3

possession of a firearm during a drug trafficking offense. The petition was granted on March 28, 1999. A motion for reconsideration and stay of judgment pending appeal were filed. On July 22, 1999, Judge Simandle denied both the motion for reconsideration and motion for stay of judgment. The Court indicated that although it had no objection to the use of the two level enhancement, it did object to the categorical disqualification of otherwise eligible inmates from sentence reductions. The Court remanded the matter back to the BOP to do an "individualized determination" as to whether inmate Treglia should be granted early release. A decision was made that he would not be granted early release.

3. Tajeddini v. Gluch, et.al., Civ. No. 5:92-CV-546 (D. Conn) - Plaintiff, former inmate [REDACTED] filed b7C
this pro se Bivens complaint in September 1992, alleging that while housed at FCI Danbury, he was the victim of retaliatory treatment. He alleges that after he filed a complaint against a staff member, other staff members subjected him to a pattern of harassment and retaliation which led to the filing of a false incident report, placement in segregation, and denial of appropriate footwear. After a settlement conference with a Magistrate Judge, the Plaintiff, now represented by counsel, and the government agreed to convert case into an FTCA action and settle for \$15,000.

4. Seidler v. Beeler, Civil Action No. 98-3592 (DNJ) - Habeas case in which inmate [REDACTED] challenged denial of b7C
early release eligibility under 3621(e), based on a two point enhancement for possession of a weapon during a drug trafficking offense. Judge Irenas denied the petition, and held that the denial was a valid exercise of discretion afforded to the Director of the BOP under the statute.

5. Shepard v. Holland, et.al., Civ. No. 3:CV-97-0610 (MDPA)
On July 19, 1999, Judge Kane denied a Motion for Summary Judgement in a "failure to protect" Bivens action. The Court finds material facts remain. The government contended that material facts were not in dispute. Plaintiff, inmate [REDACTED] b7C
[REDACTED] was assaulted by a separatee who was housed in SHU on the same range as the Plaintiff. When staff were putting the assailant's cellmate back into the cell, the assailant slipped his cuffed hand from back to front, exited his

SHU cell and assaulted the Plaintiff who was being returned from outside recreation. All indications are that staff appropriately followed all policies and procedures. The AUSA, with approval of DOJ and OGC, has filed a protective notice of appeal and plans to file an appeal on the qualified immunity argument.

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C. HEARINGS/TRIALS: -

1. U.S. v. Javier and Ramon Jiminez, 98 Cr. 00131 (SDNY)

On July 27, 1999, sentencing was held for identical twins [REDACTED] b7C

[REDACTED]
Judge Patterson was considering a downward departure or no imprisonment (guideline range was 33-41 months) due to his concerns that (1) the Bureau may not be able to meet the educational and vocational needs of the inmates; (2) the Bureau may not be able to protect these inmates due to their cooperation; and (3) the possibility that the inmates may remain at MCC NY for an extended period awaiting designation (they already spent approximately 24 months at MCC NY).

In a written response, the Judge was advised that the Bureau would afford them ample opportunities for educational and vocational training, that the inmates would not be designated to a facility where they had a separatee, and that the designation process would be expedited upon timely receipt of the J & C. Attorney Dominique Raia represented the Bureau at the hearing. The inmates were sentenced to 33 months [REDACTED] and 36 months [REDACTED] with a three year term of supervised release. b7C

2. In re Ali, M11-189 (SDNY) - On July 27, 1999, there was a continuation hearing relating to this civil contemnor, inmate [REDACTED]. Judge Patterson heard evidence relating to Ali's religious convictions. The inmate stated fears for his safety and that of his family in Egypt as reasons why he refused to testify before two grand juries on matters related to an investigation of the Embassy bombings. At a previous hearing, counsel for Ali raised concerns about the conditions of the inmate's placement in administrative detention. The MCC NY responded by letter to the court. Attorney Dominique Raia represented the Bureau at the hearing. No further information concerning the Bureau was requested by the Court at the hearing. The court decided to maintain inmate Ali in civil contempt. b7C

D. RELIGIOUS CASES: No new activity

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: -

1. Riddick v. Bogus 4:CV-08-2004 (MDPA) - Pro se inmate [REDACTED]

[REDACTED] filed a claim alleging he was improperly exposed to asbestos while assigned to the plumbing department at USP Lewisburg. The District Court dismissed the case as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(b)(I). b7c

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1. On July 25, 1999, while conducting a routine shakedown, the MDC Brooklyn unit officer located five balloons (containing a brown substance which later tested positive as heroin) wrapped in paper and cellophane. The case has been referred to the U.S. Attorneys' Office and accepted for prosecution. The two inmates are Young Choi, 57446-053 and Jorge Zuluaga, 54115-053.

2. On July 12, 1999, correctional officers supervising the visiting room at FCI McKean saw the visitor of inmate Roderick Thornhill, 04651-068, pass what was later identified as ten balloons of marijuana (net weight 3.1 grams). The contraband was recovered after the inmate was placed in a dry cell. The case has been referred and accepted for prosecution.

TRIALS/SENTENCING:

1. United States v. Dameon Daley, 4:CR-99-0030 (M.D.P.A.)
On July 28, 1999, after a three day trial, the jury acquitted inmate [REDACTED] of charges that he assaulted correctional staff at USP Allenwood. The AUSA assigned to the matter stated that staff at USP Allenwood did an outstanding job supporting the prosecution. b7c

[REDACTED] b5

IV. TRAVEL AND LEAVE SCHEDULE FOR AUGUST 1999:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b6

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106*

September 16, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - August 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | 147 | | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | 206 | | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | 189 | | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | 234 | | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | 68 | | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | 1 | | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | 60 | | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |

C. Tort Claim Investigation Status: As of August 31, 1999

| SCH | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK |
|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 6 | 8 | 13 | 1 | 7 | 6 | 0 | 7 | 7 | 9 | 1 | 10 | 6 | 5 | 20 |

Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
0

2

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | 35* | | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | 40 | | | | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | 36 | | | | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | 31 | | | | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | 2 | | | | |

* Thorough review of files indicate prior number was off by one.

E. FOIA Requests for records: As of August 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| NER | | | | | | | | | | | | | | | | |
| Pending | 5 | 4 | 0 | 2 | 4 | 0 | 2 | 3 | 2 | 2 | 0 | 1 | 0 | 1 | 5 | 0 |
| 0 | | | | | | | | | | | | | | | | |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2* | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | | | | | | | | | | | | | | | | |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION

A. SUMMARY REPORT

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | 499 | | | | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | 12 | | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | 5 | | | | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | 1 | | | | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | 5 | | | | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | 1 | | | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | | | | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | 11 | | | | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | 15 | | | | |

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

None.

C. HEARINGS/TRIALS: -

1) On August 31, 1999, a correctional officer at MCC NY testified in an arbitration matter involving the termination of

an RPS delivery person. MCC NY had filed a complaint with the delivery company regarding this person who, after having been warned in the past, left a package outside MCC NY which required the canine bomb squad to be summoned. Dominique Raia assisted the staff member.

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2) On August 24, 1999, Dominique Raia was summoned to court to testify in front of Judge Stein regarding the release of records a few months previously. She was able to explain some of the BOP's terms and, in general terms, spoke about separatees and cooperators.

3) Trudeau v. Bureau of Prisons, 95-2266 (D. Conn.) - Three inmates, formerly at FCI Danbury, contend that the defendants failed to follow the Bureau of Prisons common fare menu and served them meals that were not nutritionally-balanced. They claim that staff at FCI Danbury retaliated against them after they made complaints about the common fare meals and the preparation of such meals. Discovery in this case concluded in 1996 and it resurfaced during the week of July 19, 1999. The AUSA interviewed eight of the proposed witnesses on September 2, 1999. Jury selection was held September 9, 1999. The case has been scheduled for trial October 26, 1999.

4) Bracciodieta v. U.S., 97-445(M.D.PA) - Inmate alleges that he was beaten by staff while handcuffed in the Special Housing Unit at USP Allenwood. Jury selection and trial scheduled for first week in October.

5) United States v. Walker, 4:CR:97-0012(M.D.PA)- Inmate Lawyer Lee Walker, 26727-083, was convicted of the assault of food service worker at USP Lewisburg in July 1996. A resentencing hearing was required by United States v. Walker, 149 F.3d 238 (3d Cir,. 1998), in which the Court of Appeals implied that, for sentencing guidelines purposes, all Bureau staff may not meet the definition of law enforcement officer. On December 29, 1998, the district court held that the evidence supported a finding that the food service supervisor was a law enforcement officer for purposes of the sentencing guidelines. A second appeal was filed and oral arguments are scheduled for September 23, 1999.

6) United States v. Kones, Cr. No. (E.D.PA) - During the week of September 20, 1999, former inmate Richard Kones, 05192-079, is being tried for willful failure to pay imposed fines. While serving his sentence at FCI Bastrop, the review of the inmate's mail/telephone calls indicated that although he had a \$4 million fine, he was attempting to hide his financial assets. The information was referred to the FBI which led to the pending

criminal matter. Assistant Regional Counsel Toni Brown will be assisting the AUSA with preparation and testimony of BOP witnesses from NERO, FCI Bastrop and FMC Rochester.

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7) United States v. Vincent Mann, 1:99-CR-09-01-B (D.N.H.) On September 10, 1999, Chief Judge Paul Barbadoro, District of New Hampshire ordered a hearing "to determine whether any officials of the Bureau of Prisons should be held in contempt" for providing misleading information to the court for use at sentencing. On July 30, 1999, the Judge sentenced the defendant, inmate Vincent Mann, 49594-019, to a 70 month sentence with a recommendation that "once the defendant is eligible, he be transferred to the ICC". At issue is whether a case manager at the CCM office advised a U.S. Probation Office that an inmate could be eligible for ICC placement if a sentence of 70 months is imposed. After sentencing, the court was advised that ICC placement would not occur because the Bureau regulations prohibits ICC placement for inmates serving sentences in excess of 60 months.

[REDACTED] Case has been assigned to Mike Tafelski.

D. RELIGIOUS CASES: Trudeau - see above.

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: - None

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1. On August 23, 1999, pre-trial inmate [REDACTED] made a three-way telephone call to an unknown individual in the community instructing people to flee the country because "the feds were coming to get them." The prosecuting AUSA was contacted and has subpoenaed the tape. The case was also referred to the FBI.

TRIALS/SENTENCING:

1. United States v. Wade Smith Cr. No. (SDNY)
On September 13, 1999, former MCC NY Lieutenant Wade Smith pled guilty to a number of charges, including introduction of

contraband (cosmetics, jewelry, and clothing). Sentencing (maximum term of imprisonment is 6 months) is scheduled for October.

5

2. U.S. v. Doris Johnson, Cr. No. (SDNY)

On September 14, 1999, former MCC NY correctional officer Doris Johnson pled guilty to charges of sexual contact with an inmate (Class B misdemeanor - maximum term of imprisonment is 6 months). Sentencing scheduled for January 26, 2000.

MISCELLANEOUS

The Special Administrative Measures were renewed and delivered to five inmates at MCC NY. The sixth inmate is scheduled to be renewed later in September.

IV. TRAVEL AND LEAVE SCHEDULE FOR SEPTEMBER 1999:

[REDACTED] Travel - 9/27-- FMC Devens
9/28-- Boston - Attend Regional Director meetings with U.S. Attorney, Chief Judge, and Chief U.S.P.O.
9/29 -- FCI Ray Brook, present General Counsel Paralegal Award to Howard Losiewicz
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled
Annual Leave - 9/17/99

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled
Annual Leave - None Scheduled

[REDACTED] Travel - 9/13-17 -- House Hunting - USP Lewisburg
Annual Leave - None Scheduled

b6

PERSONNEL NOTES:

[REDACTED]

[REDACTED]

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

*U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106*

October 14, 1999

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - September 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | 206 | 225 | | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | 189 | 173 | | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | 68 | 72 | | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | 1 | 1 | | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | 60 | 30 | | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | |

C. Tort Claim Investigation Status: As of September 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 5 | 5 | 9 | 1 | 8 | 9 | 0 | 2 | 7 | 10 | 1 | 5 | 5 | 3 | 13 | 7 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | 35* | 31 | | | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | 40 | 45 | | | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | 36 | 35 | | | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | 31 | 41 | | | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | 2 | 4 | | | |

E. FOIA Requests for records: As of September 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 3 | 0 | 6 | 0 | 1 | 5 | 1 | 0 | 1 | 5 | 1 | 6 | 2 | 0 | 7 | 3 | 0 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 2* | 0 | 0 | 0 | 2* | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | 499 | 496 | | | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | 12 | 14 | | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | 5 | 5 | | | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | 1 | 3 | | | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | 5 | 6 | | | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | 1 | 0 | | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | | | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | 11 | 8 | | | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | 15 | 192 | | | |

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

1) Trudeau v. Bureau of Prisons, 95-2266 (D. Conn.) - Three inmates, formerly at FCI Danbury, contend that, in 1992 and 1993, the defendants failed to follow the Bureau of Prisons common fare menu and served them meals that were not nutritionally-balanced. They claim that staff at FCI Danbury retaliated against them after they made complaints about the common fare meals and the preparation of such meals. Discovery in this case concluded in 1996 and it resurfaced during the week of July 19, 1999. Trial was scheduled for seven days beginning October 26, 1999. On October 7, 1999, at the urging of the magistrate judge conducting the settlement conference, a tentative settlement agreement was - - the case would be converted to an FTCA matter and settled for a total of \$20,000 to avoid costs of trial.

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

November 9, 1999

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
 COUNSEL, FEDERAL BUREAU OF PRISONS**

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - October 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | 206 | 225 | 187 | | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | 189 | 173 | 227 | | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | 176 | | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | 68 | 72 | 70 | | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | 1 | 1 | 1 | | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | 60 | 30 | 69 | | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | 288 | | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |

C. Tort Claim Investigation Status: As of October 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 5 | 6 | 9 | 2 | 6 | 10 | 2 | 0 | 4 | 9 | 0 | 7 | 5 | 3 | 7 | 6 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 0 | 0 | 3 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | 35* | 31 | 41 | | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | 40 | 45 | 40 | | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | 36 | 35 | 48 | | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | 31 | 41 | 33 | | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | 2 | 4 | 1 | | |

E. FOIA Requests for records: As of October 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 1 | 2 | 2 | 2 | 1 | 1 | 1 | 1 | 4 | 10 | 1 | 1 | 0 | 0 | 5 | 1 | 0 |
| >20 days | 0 | 0 | 0 | 0 | 1* | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | 499 | 496 | 318 | | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | 12 | 14 | 12 | | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | 5 | 5 | 5 | | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | 1 | 3 | 5 | | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | 5 | 6 | 2 | | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | 1 | 0 | 0 | | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | 11 | 8 | 9 | | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | 15 | 192 | 13 | | |

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

None

C. HEARINGS/TRIALS: -

1) Strong v. U.S., CV-99-6551 (EDNY) - On November 1, 1999, a hearing was held on a motion by Derryl Strong, a former staff member arrested in the "Badfellas" case in 1997, to enjoin the MDC Brooklyn from evicting him from staff housing at Dayton Manor. On October 14, 1999, Strong obtained a restraining order, enjoining the United States from interfering with his property. Strong was using this motion to attempt to challenge the underlying order terminating his employment. The Court agreed with our position that there was no jurisdiction to review the

underlying termination order. The Court also agreed that the Warden acted properly in terminating the lease and ordered the staff member to vacate the premises by November 5, 1999. Azzmeiah Vazquez, Attorney Advisor, represented the MDC Brooklyn.

2) Bracciodieta v. U.S., 97-445(M.D.PA) - In this Bivens case, Inmate Charles Bracciodieta, 14674-018, alleged that he was beaten by staff while handcuffed in the Special Housing Unit at USP Allenwood. Jury trial occurred during first week of November. The Jury returned a verdict in favor of all Bureau staff on November 5, 1999. USP Allenwood Attorney Advisor Nellie Torres assisted the AUSA.

3) Rios v. Wiley, 99-3297(3d Cir) - On November 1, 1999, oral argument was held before the United States Court of Appeals for the Third Circuit. The issue before the court was whether, under 18 U.S.C. 3585(b), Mr. Rios was entitled to prior custody credit for the period of time he was housed on federal writ (approx. 22 months) that had already been credited to his state sentence. The District Court, relying on Brown v. Perrill, 28 F.3d 1073 (10th Cir. 1994), held extended time on federal writ transmuted into federal custody and ordered that Mr. Rios receive the credit. Pursuant to this order, he was released from FPC Allenwood in February 1999. At argument, the Court focused on whether an inmate has any due process rights when the BOP disregards language in the J&C which orders prior custody credit, and whether the government should be estopped from denying prior custody credit since the inmate's sentencing was delayed due to his cooperation with the government. The case was argued by Michael Tafelski, Deputy Regional Counsel, who was assisted by Doug Goldring, Attorney, FCI Allenwood.

D. RELIGIOUS CASES:

1) Ash-Bey v. Fauntleroy, Civ. No. 98-1447 (D.N.J.) - In Thomas Ash, 22468-044, alleged in his civil rights compl. while housed at FCI Fort Dix his rights were violated by who denied him his First Amendment right to the free exer his religion by not allowing him to wear a particular typ religious headgear and pins on the main compound and that disciplined him and transferred him because of his attempt exercise his religion. Due to the potential applicability of RFRA, DOJ recently approved private representation for the BOP defendants.

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: - None

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1) In October 1999, FCI McKean visiting room staff observed inmate [REDACTED] ingest what was later determined, after placing the inmate in a dry-cell, to be several balloons of marijuana. The case has been referred. b7C

2) On October 25, 1999, FCI Fort Dix inmate [REDACTED] was stabbed seven times by approximately 15 inmates. The investigation continues into possible assailants. The case has been referred.

2) On October 25, 1999, USP Lewisburg staff, and video cameras, observed inmate [REDACTED], assault [REDACTED]. Case has been referred.

TRIALS/SENTENCING:

1) United States v. Tony Jake, 4:CR-99-0024 (MDPA)
Inmate Tony Jake, 77920-012, is charged with the stabbing murder of inmate Santos Rosario, 42363-066, at USP Lewisburg on October 8, 1991. Trial is scheduled for December 2, 1999

2) Re-sentencing of World Trade Center Bombers

On October 13, 1999, Judge Duffy, (SDNY) re-sentenced the four original World Trade Center bombers to the following: Ajaj, 40637-053, 114 years and 10 months; Abohalima, 28064-054, 108 years and four months; Salameh, 34338-054, 117 years and one month; and Ayyad, 16917-050, 117 years and one month.

TRAVEL AND LEAVE SCHEDULE FOR NOVEMBER 1999:

[REDACTED] Travel - 11/16-19- OGC Meeting & New Attorney Trg.
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled. b6
Annual Leave - 11/19 and 11/26.

[REDACTED] Travel - None Scheduled
Annual Leave - 11/24 and 11/26

U.S. Department of Justice
Federal Bureau of Prisons
Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

December 8, 1999

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
 COUNSEL, FEDERAL BUREAU OF PRISONS**

FROM: Henry J. Sadowski, Regional Counsel
SUBJECT: Monthly Report - November 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | 176 | |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | 206 | 225 | 187 | 200 | |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | 189 | 173 | 227 | 187 | |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | 176 | 189 | |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | 288 | |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | 68 | 72 | 70 | 69 | |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | 1 | 1 | 1 | 0 | |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | 60 | 30 | 69 | 69 | |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | 288 | 288 | |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |

C. Tort Claim Investigation Status: As of November 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 7 | 5 | 16 | 2 | 15 | 15 | 1 | 2 | 7 | 17 | 2 | 6 | 7 | 5 | 10 | 2 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | 35* | 31 | 41 | 40 | |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | 40 | 45 | 40 | 30 | |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | 36 | 35 | 48 | 50 | |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | 31 | 41 | 33 | 20 | |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | 2 | 4 | 1 | 3 | |

E. FOIA Requests for records: As of November 30, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 1 | 1 | 2 | 5 | 0 | 1 | 2 | 0 | 2 | 1 | 0 | 1 | 0 | 1 | 1 | 1 | 1 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 1* | 0 | 0 | 1* | 0 | 0 | 0 | 0 | 0 | 1* | 0 | 0 |

* Archived records

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | 499 | 496 | 318 | 317 | |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | 12 | 14 | 12 | 8 | |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | 5 | 5 | 5 | 5 | |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | 1 | 3 | 5 | 0 | |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | 5 | 6 | 2 | 2 | |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | 11 | 8 | 9 | 11 | |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | 15 | 192 | 13 | 12 | |

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

None

C. HEARINGS/TRIALS: -

1) Bracciodieta v. U.S., 97-445 (MDPA) - In this Bivens case, Inmate Charles Bracciodieta, 14674-018, alleged that he was beaten by staff while handcuffed in the Special Housing Unit at USP Allenwood. Jury trial occurred during first week of November. The Jury returned a verdict in favor of all Bureau staff on November 5, 1999. USP Allenwood Attorney Advisor Nellie Torres assisted the AUSA.

2) Reiss v. Director, Bureau of Prisons, et.al., 99-CV-7383 (EDNY) - On December 1, 1999, Judge Weinstein held a hearing on a mandamus type action challenging the medical care and treatment being provided to inmate Mahir Reiss, 48466-053 after his transfer to FCI Otisville from FMC Rochester. Inmate Reiss and a Physician Assistant from FCI Otisville both testified via telephone. The inmate was represented by attorney Nathan Lewin, who requested extended community confinement placement as relief. The court denied relief because the inmate had not exhausted his administrative remedies. The AUSA was assisted by FCI Otisville paralegal Ros Bingham and Deputy Regional Counsel Michael Tafelski.

D. RELIGIOUS CASES:

1) Ash-Bey v. Fauntleroy, Civ. No. 98-1447 (D.N.J.) - No new activity in this Bivens case in which private counsel has been approved by DOJ. Inmate Thomas Ash, 22468-044, alleged that while his rights were violated by FCI Fort Dix staff who denied him his First Amendment right to the free exercise of his religion by not allowing him to wear a particular type of religious headgear and pins on the main compound and that staff disciplined him and transferred him because of his attempts to exercise his religion.

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: - Two

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1) USP ALLENWOOD - 6 referrals (2 inmate on inmate assaults, 2 minor staff assaults, 1 threatening letter and 1 possession of an 8" sharpened rod found in a light fixture).

2) FCI Allenwood - 2 referrals (1 alleged rape of an inmate, 1 inmate on inmate assault).

3) LSCI Allenwood - 7 referrals (4 inmate on inmate assaults, 1 stolen property, and 2 minor staff assaults)

4) USP Lewisburg - On November 14, 1999, inmate [REDACTED] 17398-018 assaulted another inmate with a razor blade causing three substantial lacerations. The case has been referred for prosecution. b7c

TRIALS/SENTENCING:

1) On November 2, 1999, FCI McKean inmate Vennis Liles, 16809-039, was indicted in the Western District of Pennsylvania for introduction of 24 balloons of marijuana (28.5 grams) into the visiting room at FCI McKean on August 12, 1999.

2) On November 10, 1999, USP Allenwood inmate John Kenney, 05238-041 was indicted for resisting assault and possession of weapon resulting from September 1999 assault on Unit Manager.

3) On November 15, 1999, USP Allenwood inmate Carlos Garcia, 44303-080, was sentenced in the Middle District of Pennsylvania to one year consecutive for simple assault on a correctional officer which did not result in any injury.

4) On November 16, 1999, FCI Loretto inmate Harry Scott, 32798-037, was indicted in the Western District of Pennsylvania for assaulting a correctional officer (striking the officer's arm with his fists) who ordered two inmates to stop fighting.

5) On November 16, 1999, former MCC New York Lieutenant Wade Smith was sentenced in the Southern District of New York to six months probation after a guilty plea to a misdemeanor for his involvement in the introduction of contraband (cosmetics and clothing) into MCC New York.

6) On November 22, 1999, former USP Allenwood Case Manager Dawn Martin was sentenced in the Middle District of Pennsylvania to a two year term of probation for her involvement in the introduction of contraband into USP Allenwood.

TRAVEL AND LEAVE SCHEDULE FOR DECEMBER 1999:

[REDACTED] Travel - None Scheduled
Annual Leave - 12/10, 12/27 - 12/30

[REDACTED] Travel - None Scheduled
Annual Leave - 12/20 - 12/23

U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

U.S. Custom House
2nd & Chestnut Streets
Philadelphia, PA 19106

January 14, 2000

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - December 1999

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 167 | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | 176 | 189 |
| Rec'd in month | 199 | 148 | 192 | 129 | 168 | 186 | 170 | 206 | 225 | 187 | 200 | 174 |
| Ans'd in month | 174 | 211 | 177 | 159 | 121 | 178 | 192 | 189 | 173 | 227 | 187 | 212 |
| Pending at End | 192 | 129 | 144 | 114 | 161 | 169 | 147 | 164 | 216 | 176 | 189 | 151 |
| Over 30 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

B. Administrative Tort Claims - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 245 | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | 288 | 288 |
| Rec'd in month | 54 | 63 | 70 | 54 | 68 | 78 | 86 | 68 | 72 | 70 | 69 | 55 |
| Recons. rec'd | 0 | 3 | 1 | 3 | 3 | 1 | 0 | 1 | 1 | 1 | 0 | 2 |
| Ans'd in month | 57 | 53 | 80 | 102 | 61 | 70 | 72 | 60 | 30 | 69 | 69 | 50 |
| Pending at End | 242 | 255 | 246 | 201 | 211 | 220 | 234 | 243 | 286 | 288 | 288 | 295 |
| Over 180 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

C. Tort Claim Investigation Status: As of December 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH |
|--------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 3 | 4 | 17 | 0 | 16 | 16 | 1 | 2 | 11 | 7 | 3 | 10 | 1 | 2 | 11 | 4 |
| Over 60 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

D. FOI/Privacy Act Requests - 1999

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending on 1st | 14 | 16 | 18 | 7 | 32 | 22 | 27 | 35 | 31 | 41 | 40 | 20 |
| Rec'd in month | 24 | 29 | 31 | 55 | 24 | 49 | 43 | 40 | 45 | 40 | 30 | 33 |
| Ans'd in month | 22 | 27 | 42 | 30 | 34 | 44 | 36 | 36 | 35 | 48 | 50 | 36 |
| Pending at End | 16 | 18 | 7 | 32 | 22 | 27 | 34 | 31 | 41 | 33 | 20 | 17 |
| Over 20 days | 5 | 2 | 2 | 2 | 2 | 1 | 1 | 2 | 4 | 1 | 3 | 7* |

* Six of the late FOIAs were received in Central Office in November but not received in NERO until mid-December.

E. FOIA Requests for records: As of December 31, 1999

| | ALF | ALM | ALP | ALW | BRO | DAN | DEV | FAI | FTD | LEW | LOR | MCK | NYM | OTV | RBK | SCH | NER |
|----------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Pending | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 3 | 1 | 1 | 3 | 1 | 2 |
| >20 days | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 6* |

* See note above.

II. LITIGATION ACTIVITY - 1999 NORTHEAST REGION**A. SUMMARY REPORT**

| | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Open on 1st | 633 | 636 | 642 | 642 | 651 | 660 | 498 | 499 | 496 | 318 | 317 | 313 |
| New Cases | 11 | 16 | 23 | 22 | 20 | 12 | 10 | 12 | 14 | 12 | 8 | 11 |
| Habeas Corpus | 7 | 7 | 6 | 12 | 10 | 7 | 6 | 5 | 5 | 5 | 5 | 4 |
| FTCA | 1 | 3 | 7 | 4 | 4 | 2 | 1 | 1 | 3 | 5 | 0 | 2 |
| Bivens | 3 | 5 | 6 | 4 | 3 | 3 | 2 | 5 | 6 | 2 | 2 | 5 |
| Other | 0 | 1 | 2 | 1 | 3 | 0 | 1 | 1 | 0 | 0 | 0 | 0 |
| Bivens/FTCA | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| Lit Reports | 4 | 2 | 5 | 8 | 18 | 15 | 7 | 11 | 8 | 9 | 11 | 9 |
| Cases Closed | 8 | 8 | 23 | 13 | 11 | 174 | 9 | 15 | 192 | 13 | 12 | 6 |

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

1) George Harris v. United States, Civ. Action No. 98-6745 (D.N.J.) FTCA case filed by former inmate George Harris, Reg. No. 48574-066, who alleged inadequate medical care at FCI Fort Dix after injuring his leg, resulted in a bone infection. The Assistant U.S. Attorney and her retained experts suggested a strong probability of liability regarding proper follow up care after his surgery. The case was settled for \$95,000 at a pre-trial settlement conference.

Settle

2) Rios v. Wiley, 99-3297 (3d Cir) - On January 4, 2000, the Third Circuit affirmed the District Court's grant of credit to Mr.

Rios. On November 1, 1999, Michael Tafelski present oral argument on the issue of whether Rios was entitled to prior custody credit for the period of time he was housed on federal writ (approx. 22 months) that had already been credited to his state sentence. The District Court, relying on Brown v. Perrill, 28 F.3d 1073 (10th Cir. 1994), held extended time on federal writ transmuted into federal custody and ordered that Mr. Rios receive the credit, resulting in Rios's release.

The Third Circuit affirmed on different grounds. It held that based on the language in the sentencing order and sentencing transcript, the federal sentencing judge in the Southern District of New York intended to apply Section 5G1.3(c) of the Sentencing Guidelines and the sentence for Rios should be construed as 68 months, not the 90 months listed on the J & C. The Court of Appeals held the Bureau was correct in that the inmate was not entitled to double credit under 18 U.S.C. § 3585(b) and the Court of Appeals noted a fundamental disagreement with the Brown decision. [REDACTED]

3) Lastra v. United States, 4:CV-98-0785 (MDPA) In a FTCA case, former inmate Jorge Lastra, 42663-066, alleged that medical staff at USP Lewisburg were negligent in treating his foot condition in June and July 1995. Mr. Lastra further alleges that he suffered permanent injury and scarring and that he continues to need medical care at this time. At a settlement conference, a district judge recommended a settlement of \$45,000. Based upon a strong request from the U.S. Attorney's office, the case was settled for \$45,000.

C. HEARINGS/TRIALS: -

1) United States v. Peter Rollack, S11 97 Cr. 1293 (SDNY) On December 29, 1999, Judge Cedarbaum held a conference concerning the placement of inmate Peter Rollack, 12874-058, in administrative detention at MCC New York. Clinton Stroble attended the conference. The Court was advised inmate Rollack was placed in AD because he is considered a high security risk with the potential to carry out his threats to murder government cooperators. The inmate also raised issues concerning the conditions of this confinement. The Court was advised of MCC New York's operations and, although satisfied, the Judge suggested both sides try to work together to resolve the issues. On January 4, 2000, inmate Rollack pled guilty to all counts and is facing a mandatory sentence of life imprisonment. Sentencing is scheduled for March 24, 2000.

2) U.S. v. Bin Laden, et al., 98 Cr. 1023 (SDNY). MCC New York Attorneys Dominique Raia and Clinton Stroble continue to work closely with the AUSAs regarding the conditions and restrictions faced by inmate Wadih El-Hage, 42393-054. On January 11, 2000, a hearing was held on the inmate's motion for bail, or in the alternative, for modification of the conditions of his detention. Warden Hasty and Clinton Stroble attended the hearing. The defendant argued that his present conditions of confinement, combined with anticipated duration, significantly interferes with his ability to assist counsel in this case. [REDACTED]

[REDACTED] Judge Sand ordered the government have a psychologist examine the defendant. The Warden agreed to a slight extension of the length of telephone calls to family and to provide a non-concrete chair in his cell. The inmate also objected to being strip searched each time he wanted to recreate. [REDACTED]

The Court found no constitutional violations, but noted it may continue to monitor the inmate's conditions of confinement. The Court denied the defendant's application for bail based upon the government's showing that time has not diminished the defendant's threat. The Court would not interfere with the security concerns regarding strip searches. The Court directed the Warden, U.S. Attorney's Office, U.S. Marshal Service, and the defendant's attorney to explore every reasonable alternative to address the conditions of his confinement and provide a written response within two weeks.

3) FMC Devens Mental Health Hearings: In December FMC Devens staff attorney Darrel Waugh assisted the U.S. Attorneys Office for the District of Massachusetts with two commitment hearings. Both hearings, held pursuant to 18 U.S.C. 4245, were successful, with the Court finding the inmates needed to be committed for hospitalization. U.S. v. Houston, 99 CV 12221-JLT; U.S. v. Frierson 99 CV 10395-REK.

D. RELIGIOUS CASES:

1) Ash-Bey v. Fauntleroy, Civ. No. 98-1447 (D.N.J.) - No new activity in this Bivens case in which private counsel has been approved by DOJ.

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: - None

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

- 1) USP ALLENWOOD - 4 referrals (2 minor inmate on staff assaults, 1 minor inmate on inmate assault, 1 possession of a narcotics (4 envelopes of marijuana)).
- 2) FCI Allenwood - 5 referrals (4 minor assaults on staff, 1 possession of narcotics).
- 3) LSCI Allenwood - 1 referral (Inmate on staff assault - several injuries. Case has been accepted for prosecution)
- 4) USP Lewisburg - 1 referral (Discovery of 2 small bags of heroin inserted in incoming mail)
- 5) FMC Devens - 2 referrals (2 minor inmate on staff assaults. Prosecution declined.)

TRIALS/SENTENCING:

1) On December 10, 1999, former MDC Brooklyn Correctional Officer Peter Negrón was sentenced to one month term of imprisonment and three years supervised release for his role in the "Badfellas" case. He had pled guilty to one count of bribery. He has a voluntary surrender date of February 9, 2000.

TRAVEL AND LEAVE SCHEDULE FOR JANUARY 2000:

| | | |
|------------|--|----|
| [REDACTED] | Travel - None Scheduled Annual Leave - None Scheduled | b6 |
| [REDACTED] | Travel - None Scheduled Annual Leave - None Scheduled | |
| [REDACTED] | Travel - None Scheduled Annual Leave - None Scheduled | |
| [REDACTED] | Travel - GLYNCO 1/10 - 1/28 Annual Leave - None Scheduled | |
| [REDACTED] | Travel - OGC - None Scheduled Annual Leave - None Scheduled | |