

U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

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

February 10, 2000

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

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - January 2000

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	151											
Rec'd in month	175											
Ans'd in month	167											
Pending at End	158											
Over 30 days	0											

B. Administrative Tort Claims - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295											
Rec'd in month	42											
Recons. rec'd	4											
Ans'd in month	50											
Pending at End	291											
Over 180 days	0											

C. Tort Claim Investigation Status: As of January 31, 2000

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	SCH
Pending	2	6	7	0	8	9	1	1	4	5	3	2	2	1	10	4
Over 60 days	0	0	0	0	0	2	0	0	0	0	0	0	0	0	7	1

D. FOI/Privacy Act Requests - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17											
Rec'd in month	39											
Ans'd in month	34											
Pending at End	12											
Over 20 days	12											

* Note: 9 of these late FOIA Requests were received in the Central office during the month of December and not received in NERO until late January 2000.

E. FOIA Requests for records: As of January 31, 2000

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

II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318											
New Cases	16											
Habeas Corpus	10											
FTCA	0											
Bivens	5											
Other	1											
Bivens/FTCA	0											
Lit Reports	8											
Cases Closed	12											

B. SETTLEMENTS/AWARDS/ADVERSE OPINIONS:

1) Funches v. R. Reich, et.al., 97-CIV-7611 (SDNY) (FTCA)
 Plaintiff, former inmate Edward Funches, 37764-054, alleges that he received improper medical care and treatment while housed at MCC New York in 1996 because staff failed to properly treat his decubitus ulcers (bedsores) and failed to provide him the necessary medical supplies. Due to lack of evidence supporting issuance of proper and necessary supplies, the case was settled for \$27,000.00.

settle

C. HEARINGS/TRIALS: -

1) FMC Devens Mental Health Hearings: In January, FMC Devens staff attorney Darrel Waugh assisted the U.S. Attorneys Office for the District of Massachusetts with a commitment hearing. The hearing, held pursuant to 18 U.S.C. 4245, was successful, with the Court finding the inmate needed to be committed for hospitalization. U.S. v. Muca, 99 CV 12653-EFH

D. RELIGIOUS CASES: No New Activity

E. ENSIGN AMENDMENT CASES: - No new activity

F. PLRA 1915 DISMISSALS: - Two


III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:**REFERRALS:**


- 1) USP ALLENWOOD - 2 referrals (1 minor inmate on staff assault, 1 possession of a narcotics (1 packet of heroin)).
- 2) FCI Allenwood - 5 referrals (2 minor assaults on staff, 2 possession of narcotics (1 marijuana, 1 gram of heroin), 1 drug paraphernalia).
- 3) LSCI Allenwood - 1 referral (Inmate on inmate assault)
- 4) FMC Devens - 2 referrals (Inmate on staff assaults - minor injuries. One denied, other pending)
- 5) USP Lewisburg - 1 referral (Inmate on Inmate Assault)
- 6) FCI McKean - 4 referrals (2 minor inmate on staff assaults (declined), 2 introduction of contraband (marijuana into visiting room)).
- 7) FCI Otisville - 1 referral (inmate on inmate fight (declined))
- 8) FDC Brooklyn - 2 referrals (5 inmates on 1 inmate assault, introduction of marijuana in visiting room)


TRIALS/SENTENCING:


1) On February 1, 2000, FCI Loretto inmate Harry L. Scott, Reg. No. 32798-037, was found guilty of assaulting a correctional officer at FCI Loretto in June 1999. Sentencing is not yet scheduled.


TRAVEL AND LEAVE SCHEDULE FOR FEBRUARY 2000:

 Travel - 2/22-2/25 - MARO/NERO Training
Annual Leave - None Scheduled

 Travel - 2/7 - 2/11- Penitentiary/Medical Training
Annual Leave - None Scheduled

 Travel - 2/22 - 2/25 - MARO/NER Training
Annual Leave - None Scheduled

 Travel - None Scheduled
Annual Leave - None Scheduled

 Travel - 2/7 - 2/11- Penitentiary/Medical Training
Annual Leave - None Scheduled

b4

U.S. DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

NORTHEAST REGIONAL OFFICE

***U.S. CUSTOM HOUSE
2ND & CHESTNUT STREETS
PHILADELPHIA, PA. 19106***

March 16, 2000

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

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - February 2000

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	151	158										
Rec'd in month	175	167										
Ans'd in month	167	163										
Pending at End	158	162										
Over 30 days	0	0										

B. Administrative Tort Claims - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295	291										
Rec'd in month	42	64										
Recons. rec'd	4	1										
Ans'd in month	50	72										
Pending at End	291	284										
Over 180 days	0	0										

C. Tort Claim Investigation Status: As of February 29, 2000

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

D. FOI/Privacy Act Requests - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17	12										
Rec'd in month	39	53										
Ans'd in month	34	54										
Pending at End	12	11										
Over 20 days	12	11*										

* Note: 6 of these late FOIA Requests were not received in NERO until after mid-February. Of the remaining five late FOIA requests, three are archived records.

E. FOIA Requests for records: As of February 29, 2000

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

II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318	329										
New Cases	16	18										
Habeas Corpus	10	11										
FTCA	0	3										
Bivens	5	3										
Other	1	1										
Bivens/FTCA	0	0										
Lit Reports	8	10										
Cases Closed	12	17										

B. SETTLEMENTS/AWARDS/SIGNIFICANT OPINIONS:

1) Nyhuis v. Reno, 2000 WL 157531 (3d Cir) (Feb. 15, 2000)
The Court of Appeals held that the PLRA requires exhaustion of administrative remedies in all prisoner cases. The Court rejected the notion that such remedies need not be exhausted if the precise relief could not be granted or if the inmate alleges such remedies were futile.

C. HEARINGS/TRIALS: -

1) U.S. v. Bradley, 99 CV 1255 (D. Mass)

On March 1-2, 2000, FMC Devens staff attorney Darrel Waugh assisted the U.S. Attorneys Office for the District of Massachusetts with a commitment hearing. The hearing was held pursuant to 18 U.S.C. 4246 (to determine present mental condition of imprisoned person due for release) regarding FMC Devens inmate Gregory Bradley #16129-018. Prior to the hearing, the inmate decided that he "wanted to go home" (he previously stated he did not want to leave the institution when his sentence expired). After several hours of testimony (from FMC Devens Psychologist Mark Brooks and Psychiatrist Gary Riggs), the Court, in an abundance of caution, continued the case to allow the Federal Defender and her expert (the psychologist who opined that the inmate met the § 4246 criteria) to come out to the institution to meet with the inmate again. A new date has not been scheduled.

2) Lee v. USA, 98-CV-1276 (E.D.N.Y.)

FTCA case involving an inmate (James Lee, #44753-053) alleging he slipped and fell on an improperly maintained sidewalk while incarcerated at FPC Allenwood during May/June 1995. Trial occurred on March 14 in Brooklyn, NY. Staff witnesses met with the AUSA on March 6 and 7, 2000. FCC Allenwood Paralegal Specialist Jeff Fromm and NERO Honors Attorney Seth Roman attended the trial and assisted the AUSA. Judge dismissed case, pursuant to Fed. R. Civ. Pro. 52(c), Judgement on partial findings, after Plaintiff's attorney presented their case.

3) Jadick v. U.S., Civ. Action No. 99-196(D.N.J.)

On February 18, 2000, Court heard testimony and arguments regarding, among other issues, the BOP's classification and designation of the Petitioner, FCI Elkton inmate Vladimir Jadick, #15904-050. Tom Washburn, Correctional programs Specialist, NER and Michael Tafelski, Deputy Regional Counsel, attended the hearing in Newark, NJ. Based in large part upon the testimony of Mr. Washburn, the Court ruled that the Petitioner failed to sustain his burden.

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. In February, the District Court adopted the Magistrate's Report and Recommendation granting class certification in this action. The class consists of all current and future FCI McKean inmates. Proposal for posting of the Class

Notice has been submitted to the Court for approval.

F. PLRA 1915 DISMISSALS: - None reported

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

- 1) USP ALLENWOOD - 6 referrals (2 minor inmate on staff assaults, 1 minor inmate on inmate assault, 1 possession of a narcotics (brown tar heroin), 1 attempted introduction of contraband(marijuana through newspaper received in Education Dept), and 1 use of phone)
- 2) LSCI Allenwood - 2 referrals (1 Inmate on inmate assault, 7 inmates for fraud/public corruption)
- 4) FMC Devens - 1 referral (Inmate on staff assault - minor injury. Denied)

TRIALS/SENTENCING:

- 1) On February 1, 2000, FCI Loretto inmate Harry L. Scott, Reg. No. 32798-037, was found guilty of assaulting a correctional officer at FCI Loretto in June 1999. Sentencing is not yet scheduled.
- 2) On February 9, 2000, a federal jury convicted USP Allenwood case worker Cayetano Alberto Lopez-Cepero of illegally possessing an automatic assault rifle and a pipe bomb. Sentencing is scheduled for May 2000.
- 3) On February 9, 2000, USP Allenwood inmate William Carl Miller, Reg. No. 06087-067, was sentenced in federal court for setting the 1998 fire in the UNICOR building. He received 51 months and was ordered to make restitution in the amount of \$538,361.
- 4) On February 9, 2000, FCI Fairton inmates Fred Widener, #27429-037 and Carl Fortner, # 26616-083, pled guilty to possession of marijuana and were sentenced to a six month consecutive sentence.
- 5) On February 16, 2000, FCI McKean inmate Todd Curtis, #03512-036 was indicted on charges of possessing contraband (heroin and alcohol).
- 6) On February 28, 2000, former FCI Loretto inmate Robert Taylor, Reg. No. 09154-067 (currently designated to FCI Allenwood) pleaded guilty to one count of possession of marijuana. In addition, his

visitor pleaded guilty to one count of distribution of marijuana

7) On March 24, 2000, FCI Fairton inmate [REDACTED], b7C is scheduled to go to trial for the stabbing of his cellmate with a sharpened instrument on December 29, 1999.

TRAVEL AND LEAVE SCHEDULE FOR MARCH 2000:

[REDACTED] b6 Travel - March 9, 2000 - U.S. Attorney Office
Brooklyn, NY
Annual Leave - None Scheduled

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

[REDACTED] b6 Travel - Sentencing Hearing - March 31, 2000
Garden City, New York
Annual Leave - None Scheduled

[REDACTED] b6 Travel - March 6-8 - FCI Fort Dix
March 13 - Lee v. U.S., Brooklyn, NY
Annual Leave - March 24, 2000

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

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

[REDACTED] b6

***** NOTE: NEW NERO TELEPHONE NUMBERS *****

MAIN NERO TELEPHONE NUMBER: 215-521-7300

[REDACTED]

[REDACTED] b6

U.S. Department of Justice

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Philadelphia, PA. 19106

April 10, 2000

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

FROM: Henry J. Sadowski, Regional Counsel

SUBJECT: Monthly Report - March 2000

I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT

A. Administrative Remedies - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	151	158	162									
Rec'd in month	175	167	223									
Ans'd in month	167	163	199									
Pending at End	158	162	186									
Over 30 days	0	0	0									

B. Administrative Tort Claims - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295	291	284									
Rec'd in month	42	64	93									
Recons. rec'd	4	1	0									
Ans'd in month	50	72	71									
Pending at End	291	284	306									
Over 180 days	0	0	0									

C. Tort Claim Investigation Status: As of March 31, 2000

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	SCH
Pending	3	9	9	0	8	4	2	2	7	6	1	2	2	4	3	8
Over 60 days	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0

D. FOI/Privacy Act Requests - 2000

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17	12	11									
Rec'd in month	39	53	60									
Ans'd in month	34	54	45									
Pending at End	12	11	26									
Over 20 days	12	11	5*									

* Note: These five FOIA requests are archived records.

E. FOIA Requests for records: As of March 31, 2000

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

II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318	329	330									
New Cases	16	18	28									
Habeas Corpus	10	11	9									
FTCA	0	3	4									
Bivens	5	3	8									
Other	1	1	6									
Bivens/FTCA	0	0	1									
Lit Reports	8	10	8									
Cases Closed	12	17	9									

B. NEW CASES/SETTLEMENTS/AWARDS/SIGNIFICANT OPINIONS:

1) Robinson v. U.S., 98-5841 (DNJ) - FTCA case was filed by Lorie Robinson, a civilian who alleged that, when she was visiting FCI Fort Dix, New Jersey, she injured her foot due to the negligence of the institution in maintaining the stairway. An arbitration hearing was held at which time the arbitrator recommended an award of \$20,000.00. We agreed to settle for \$20,000.00.

2) Morrison v. U.S., Civ. No. 99-240 (JAP) (DNJ) - FTCA case settled for \$1,050.00 for one box of lost property arising out of FCI Fairton.

C. HEARINGS/TRIALS: -

1) U.S. v. Bradley, 99 CV 1255 (DMass) - On March 1-2, 2000, FMC Devens staff attorney Darrel Waugh assisted the U.S. Attorney's Office with a commitment hearing. The hearing was held pursuant to 18 U.S.C. § 4246 (to determine present mental condition of imprisoned person due for release) regarding FMC Devens inmate Gregory Bradley, 16129-018. FMC Devens staff testified at the hearing. The Court continued the case to allow the Federal Defender and her expert to meet with the inmate again. On April 3, 2000, Chief Judge Young committed inmate Bradley after finding: (1) that the inmate is presently suffering from a mental disease; (2) his release would create a substantial risk of bodily injury to another person or serious damage to property of another; and (3) suitable arrangements for State custody are unavailable. This third element was the main issue and FMC Devens staff did a great job documenting that the statutory obligations were met.

2) U. S. v. Frierson, (99-10395) (1st Cir.) - Inmate was committed pursuant to 18 U.S.C. § 4245 in December 1999; he appealed the District Court judge's determination to conduct the hearing without allowing the inmate to be physically present in the courtroom. On April 4, 2000, not surprisingly, the Court of Appeals vacated the District Court's 4245 commitment order for inmate Frierson based upon the latter court's refusal to let the inmate attend the hearing. The opinion has yet to be published.

3) U. S. v. Ossie Trader, Crim. No. 94-534-2, (EDPA) - On March 20, 2000, the Court held a sentencing hearing. The defendant moved for downward departure based in part upon alleged rehabilitation and supported his request with program certificates from FCI Schuylkill. The defendant was convicted of armed bank robbery offenses and was facing more than 20 years. FCI Schuylkill Drug Treatment Specialist Alice Gilbert testified that the certificates presented by the inmate, which purportedly had her signature on them, were false. The Court denied the defendant's motion for downward departure and imposed a 240 month sentence based largely upon the testimony of Ms. Gilbert which revealed that the defendant's supporting documentation regarding education courses was fraudulent. FCI Schuylkill Paralegal Specialist Gene Dixon and Senior Litigation Counsel Toni Brown attended the hearing.

D. RELIGIOUS CASES: No New Activity

E. ENSIGN AMENDMENT CASES: -

1) Wolf, et al. v. Reno, Civil No. 978-408 (WDPA) - This is the class action 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. The class consists of all current and future FCI McKean inmates. No new activity.

F. PLRA 1915 DISMISSALS: - None reported

III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:

REFERRALS:

1) USP ALLENWOOD - 5 referrals (2 minor inmate on staff assaults, 1 inmate on inmate assault with weapon, 1 possession of a narcotics (brown tar heroin), 1 possession of contraband (nine inch piece of sharpened metal in mattress))

2) LSCI Allenwood - 1 referral (1 Inmate on inmate assault)

3) FMC Devens - 1 referral (Inmate on staff assault - minor injury. Denied)

4) USP Lewisburg - 2 referrals (Inmate assault on staff - minor injuries; inmate on inmate assaults involving total of seven different inmates)

5) FCI McKean - 1 referral (Inmate on staff assault - minor injury. Likely to be denied as inmate released.)

TRIALS/SENTENCING:

1) The People of New York v. Isa Gray - The case was tried in Essex County (New York) Court between March 15, 2000, and March 21, 2000. Inmate Isa Gray, Reg. No. 13342-058, was found guilty of Second Degree Manslaughter, Criminal Possession of a Weapon and Promotion of Prison Contraband surrounding the murder of inmate Vernon Miller at FCI Ray Brook on May 31, 1999. Inmate Gray was tried in state court because of the lack of federal jurisdiction over the property occupied by FCI Ray Brook. Sentencing is expected to be held in May. He faces a consecutive New York state sentence of 5 to 15 years.

2) U. S. v. Teddy Moore, Cr. No. 4:CR-99-0248 (MDPA) On March 16, 2000, USP Allenwood inmate Teddy Moore, 05917-032, was sentenced to 40 months after pleading guilty to a single count of sending threatening communications through the U.S. Mail. The letter was intended for a federal judge while the inmate was housed in the SHU at USP Allenwood.

3) U. S. v. Duane Beatty, Cr. No. -- (DNJ) On March 9, 2000, FCI

Fairton inmate Duane Beatty, 37628-054, pled guilty to the August 31, 1999 assault of a staff member (without serious injury). Sentencing is scheduled for June 11, 2000.

4) U. S. v. Edwin Rivera, Cr. No. (SDNY)
On March 2, 2000, four MCC NY staff testified in the trial of inmate Edwin Rivera, 40841-054. Inmate Rivera was tried for slashing another inmate in the face.

5) U. S. v. Doris Johnson, Cr. No. (SDNY)
On March 22, 2000, former MCC New York correctional officer Doris Johnson was sentenced to two years probation and special assessment. She pled guilty in September 1999 to having sexual contact with an inmate at MCC NY.

SAMS: The Special Administrative Measures imposed on six MCC NY inmates were extended another 120 days.

TRAVEL AND LEAVE SCHEDULE FOR APRIL 2000:

[REDACTED]	Travel - None Scheduled Annual Leave - None Scheduled
[REDACTED]	Travel - None Scheduled Annual Leave - April 21, 25, 28
[REDACTED]	Travel - None Scheduled Annual Leave - April 7, 2000
[REDACTED]	Travel - April 5 - FCI Fort Dix Annual Leave - April 24, 2000
[REDACTED]	Travel - None Scheduled Annual Leave - April 6 -7, 2000
[REDACTED]	Travel - None Scheduled Annual Leave - None Scheduled

DL