

George J. ...

memorandum

DATE:
REPLY TO
ATTN OF:

February 1, 1995
M.D. Hood
Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - January 1, 1995 - January 31, 1995

TO: Wallace H. Cheney, Assistant Director/General Counsel
Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56											
# Answered	59											

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129											
# Received	20											
# Answered	61											
# Pending	88											
# Over Six Mon	3											

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224											
# Received	30											
# Answered	24											
# Pending	233											
# Over 30 Days	0											

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21											
Cases Closed	11											
Habeas Corpus	8											
Bivens	10											
FTCA	0											
Other	3											
Lit Reports	11											
Cases With Hearing or Trials	1											
Cases With Settlements or Awards	0											
Tort Claim Settlements	0											

SIGNIFICANT CASES

Spanjol v. U.S. . This is an FTCA suit filed in the Eastern District of Texas. The family of former inmate Vjekoslav Spanjol, deceased, allege that the Bureau provided inadequate medical care by failing to diagnose inmate's cancer. Seek \$12,500,000.00 in damages.

McAlpine v. Thompson, et al., CIV-94-1406-L, WD/OK. This is a RFRA case in which a Native American inmate has sued for the right to use peyote in his religious ceremonies. The Magistrate Judge has issued a Report and Recommendation recommending dismissal of the suit. The inmate has filed objections to the Report. We are awaiting a final ruling from the District Judge.

Berman v. Lamer, et al., C.A. No. 95-0054, ED/PA. We are working with the Northeast region in responding to this medical-based Bivens suit. The inmate, currently housed at FMC Fort Worth has requested an independent medical examination. A TRO hearing was held in Philadelphia on January 27. More information should be available in the Northeast Regions' report.

Chagra v. DOJ, et al. No. 4:95-CV-046-A, ND/TX. This is a mandamus/habeas/injunctive relief suit filed on behalf of a terminally ill inmate at FMC Carswell. The suit seeks relief which would result in the inmate's release from incarceration, and names as parties the BOP, Parole Commission, Pardon Attorney, and Attorney General. Chagra is an old law inmate who is already eligible for parole, and we have provided information to the AUSA that there is nothing the BOP could do, even if we were so inclined, to arrange her release.

Tran v. Hawk, et al., 4-94 CV-809-A, ND/TX. In this medical related Bivens suit, Judge McBryde has appointed an "Investigator" to look into plaintiff's allegations. We have been working closely with the U.S. Attorney's office, who have been in touch with the Torts Branch and the Appellate Division in D.C., all of whom believe this is an improper and illegal order. On January 27, we received the first contact from the "Investigator," who was seeking to talk with a number of our staff members who are defendants in the suit. The Investigator was referred to the U.S. Attorney's office for compliance with 28 C.F.R. 16.21.

CASES WITH HEARINGS OR TRIALS

Marie Fleming v. United States, 4:93-CV-0094-Y, ND/TX. FTCA suit wherein plaintiff's car was rear-ended by an inmate driver of a government vehicle. Plaintiff failed to appear for trial. Suit dismissed with prejudice with each party to bear their own costs.

SIGNIFICANT TORT CLAIM

An administrative claim has been filed, seeking three million dollars, based on the death of inmate Anastacio Tijerina.

Tijerina died at FMC Carville on March 20, 1993, of congestive heart failure. The claim alleges that the BOP and USMS ignored the inmate's medical needs by failing to provide him with surgery, or other appropriate medical care.

TRAVEL AND ANNUAL LEAVE

Mike Hood - February 13-17 - Washington, D.C.
An Tran - February 16-17 - Annual Leave

yojca

memorandum

DATE: March 1, 1995
 REPLY TO: *M.D. Hood*
 ATTN OF: Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - February 1, 1995 - February 28, 1995

TO: Wallace H. Cheney, Assistant Director/General Counsel
 Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64										
# Answered	59	56										

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88										
# Received	20	37										
# Answered	61	61										
# Pending	88	64										
# Over Six Mon	3	0										

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233										
# Received	30	25										
# Answered	24	25										
# Pending	233	233										
# Over 30 Days	0	0										

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14										
Cases Closed	11	10										
Habeas Corpus	8	4										
Bivens	10	7										
FTCA	0	3										
Other	3	0										
Lit Reports	11	16										
Cases With Hearing or Trials	1	0										
Cases With Settlements or Awards	0	0										
Tort Claim Settlements	0	0										

SIGNIFICANT CASES

Turner v. Wooten, et al. - EP-93-CA-172-B (WD/TX El Paso Division). This case was originally reported in the May 1993. The Assistant U.S. Attorney, Barry Robinson conflicted out of this case. We are currently awaiting a decision from DOJ regarding representation. One former staff member, Garrett Duckworth, D.O. will no longer be provided representation by DOJ.

Pope v. BOP, et al. - 92-7-CIV-Gonzalez (USDC/SDFL). This EEO case was originally reported in October 1993. A former Chaplin at FCI, Bastrop who was terminated during his probationary period, alleges discrimination. The Bureau claims legitimate, non-discriminatory, non-pretextual reasons (insubordination, failure to provide religious services for all inmates) as the reasons for dismissal. We have been informed that the Magistrate assigned to this case recommends that this case be held for trial. The Assistant U.S. Attorney believes the trial will begin in April in Miami, Florida.

McGarrah v. Abbot and Federal Prison Industries - No. CIV-94-943-T-T, WD/OK. This case, in which the former inmate challenged Unicor's alleged reliance on a confidential informant in denying application for benefits under the Inmate Accident Compensation procedure, was dismissed with prejudice on February 23, 1995, for plaintiff's failure to comply with the court's orders.

UPCOMING HEARING

Chagra v. DOJ, et al., (ND/TX) - In this habeas/mandamus action filed by a terminally ill inmate, a hearing was scheduled for the afternoon of Thursday, March 2. On March 1, we received word that the case has been dismissed. Therefore, there will be no hearing.

SIGNIFICANT TORT CLAIMS

A staff member from the CCM Office in San Antonio was on temporary duty at the CCM Office in El Paso when he was involved in an automobile accident. The staff member was driving a government vehicle and collided with the rear of a civilian's pick-up truck causing approximately \$2,100 in damages. The staff member was issued a traffic citation for failure to control speed.

MEDICAL MALPRACTICE LITIGATION (UPDATE)

Spanjol, et al. v. Janet Reno, et al., United States District Court for the Eastern District of Texas, Civil No. 4:94-CV-237. The time to file an answer in this matter was extended until

March 18, 1995. A lengthy litigation report has been prepared and forwarded to the Assistant United States Attorney. We will appraise you of any further developments.

memorandum

DATE:

April 3, 1995

REPLY TO
ATTN OF:

Michael D. Hood, Regional Counsel

SUBJECT:

Monthly Report - March 1, 1995 - March 31, 1995

TO:

Wallace H. Cheney, Assistant Director/General Counsel
Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79									
# Answered	59	56	74									

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64									
# Received	20	37	30									
# Answered	61	61	57									
# Pending	88	64	37									
# Over Six Mon	3	0	2									

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233									
# Received	30	25	18									
# Answered	24	25	63									
# Pending	233	233	58									
# Over 30 Days	0	0	0									

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10									
Cases Closed	11	10	7									
Habeas Corpus	8	4	4									
Bivens	10	7	3									
FTCA	0	3	3									
Other	3	0	0									
Lit Reports	11	16	9									
Cases With Hearing or Trials	1	0	1									
Cases With Settlements or Awards	0	0	0									
Tort Claim Settlements	0	0	0									

[Handwritten Signature]
LITIGATION GRANTED

APR 05 95

OFFICE OF GENERAL COUNSEL
BUREAU OF PRISONS

RECONCILIATION OF TORT LOG AND ACCURATE COUNT OF FILES INDICATE THE NUMBER PREVIOUSLY RECORDED WAS INACCURATE.

* DISCOVERED THAT 64 OLD FOIA'S WERE CLOSED AND HAD NOT BEEN SUBTRACTED FROM PREVIOUS STATISTICS. 35 DUPLICATES WERE ALSO CLOSED OUT. (58 OLD PENDING AND 18 NEW PENDING = 76 TOTAL PENDING).

SIGNIFICANT CASES

Tran v. Hawk, et al. - 4:94-CV-809-A (ND/TX) - This is a Bivens case, in which the judge (McBryde) attempted to hold a Spears hearing in February. We declined the "invitation" to attend the Spears hearing, because the judge wanted us to make the individual defendants available. The judge then appointed an attorney to investigate the case, and ordered us not to transfer the inmate. The case was dismissed on March 10, and the inmate has filed an appeal to the Fifth Circuit.

Turner v. Wooten - 92-CA-70-H (WD/TX) - In this Bivens case, involving allegations that the plaintiff was forced to work in deliberate indifference to his serious medical needs, a new attorney has been assigned to represent the defendants. Sal Dilessio, of the Constitutional Torts Branch, is taking the case over from AUSA Barry Robinson, who withdrew because of a conflict. This case has a long and tortured history, complicated even more by the fact that Dr. Garrett Duckworth, one of the named defendants, has filed for bankruptcy. Dr. Duckworth has named all codefendants, and AUSA Robinson, as potential creditors in his bankruptcy. Trial is currently scheduled for mid-May, in El Paso, but Mr. Dilessio is moving for a continuance to conduct discovery. Given the fact that the case has already been continued several times at plaintiff's behest, we are optimistic that our request for continuance will be granted. We are also working with the Constitutional Torts Branch to obtain representation for the defendants in Dr. Duckworth's bankruptcy, to protect their right to contribution on the off chance that the defendants are found liable to the plaintiff.

Sheets v. Clark, EP-95-CA-16-H (WD/TX) - On March 23, 1995, this Habeas Corpus petition was granted based on the fact that the Federal petition was granted based on the fact that the Federal Government had assumed primary jurisdiction of petitioner for servicing his federal sentence concurrent with his state sentence. Central Office was notified and a decision not to appeal the court's order was made.

SCR

UPCOMING TRIAL

Pope v. Reno, EEO case allegation arising out of the termination of probationary chaplain in 1989, is scheduled for trial in Miami on April 10. Mike Pybas, FDC, Miami, will represent the Bureau. To date, none of the numerous witnesses named by plaintiff in his pretrial statement have been subpoenaed. Ilona Holmes, the AUSA, relates that the plaintiff has repeatedly expressed the belief

*Transferred to TX abt about a wk. ago by judge in Miami.
Per Scott Bonson - doesn't know yet what court it's been assigned to. r. n. d. t. it*

3069

11-11-95

that the USA will pay the costs associated with producing the plaintiff's witnesses at trial.

MEDICAL MALPRACTICE LITIGATION

Taghipour v. Dan Chastine, et al., 1:94-CV-039-C (ND/TX) - Plaintiff alleges that he got struck in his left eye by a soccer ball during a game and suffered severe injuries which were aggravated by the lack of a prompt response and proper treatment from the medical staff at FCI, Big Spring.

TRAVEL

Mike Hood - April 3-7 - Washington, D.C.

memorandum

Joyce

MAY 5 1995

DATE:

May 3, 1995

REPLY TO
ATTN OF:

Michael D. Hood, Regional Counsel

SUBJECT:

Monthly Report - April 1, 1995 - April 30, 1995

TO:

Wallace H. Cheney, Assistant Director/General Counsel
Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79	55								
# Answered	59	56	74	55								

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64	137								
# Received	20	37	30	52								
# Answered	61	61	57	58								
# Pending	88	64	137	108								
# Over Six Mon	3	0	2	0								

FBI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233	76								
# Received	30	25	18	20								
# Answered	24	25	63	13								
# Pending	233	233	76	83								
# Over 30 Days	0	0	0	0								

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10	10								
Cases Closed	11	10	7	2								
Habeas Corpus	8	4	4	2								
Bivens	10	7	3	5								
FTCA	0	3	3	3								
Other	3	0	0	0								
Lit Reports	11	16	9	6								
Cases With Hearing or Trials	1	0	1	1								
Cases With Settlements or Awards	0	0	0	0								
Tort Claim Settlements	0	0	0	0								

MAY 0 5 95

SIGNIFICANT CASES

Bennett, et al. v. Kalista, et al. - A-95-CA-113-SS (WD/TX) - Allegations of constitutional violations arising from the disciplining of inmates during the food strike and work stoppage at FCI, Bastrop, in July, 1994.

New v. Brake - SA-95-CA-0125 (WD/TX) - The well-known preoperative transsexual returns to the federal forum to allege constitutional to press allegations that officials of the Bureau of Prisons, U.S. Probation Office, and the federal judge who sentenced the plaintiff have violated his constitutional rights by characterizing him in his PSI report as a homosexual, as well as other purported allegations.

Johnson v. U.S., et al. - 4-95-CV-268-A (ND/TX) - Involves a challenge to the notification procedures of the Crime Control Bill. Plaintiff's request for a TRO has been dismissed, but Judge McBride has "invited" the Government to respond to Plaintiff's request for a permanent injunction.

UPCOMING TRIAL

In Spaniol v. U.S., a wrongful death FTCA suit filed in the Eastern District of Texas, we have tentatively scheduled the deposition of the plaintiff (wife of the deceased inmate) for May 19. We also have a case conference scheduled for June 16. (The Civil Reform Plan of Eastern District of Texas does not exempt cases in which the government is a party, and we have produced, prior to discovery, large amounts of documentation. The case conference is also provided for in the Reform Plan).

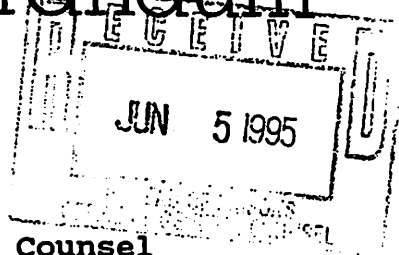
TRAVEL

Michael Hood - May 23-26 - Tucson, Arizona

Scott Bomson - May 16-17 - Oklahoma City, Oklahoma
May 23-26 - Tucson, Arizona

Linda Nutt - May 22-26 - El Paso, Texas

memorandum



DATE: June 2, 1995
 REPLY TO: Michael D. Hood, Regional Counsel
 ATTN OF:

SUBJECT: Monthly Report - May 1, 1995 - May 31, 1995

TO: Wallace H. Cheney, Assistant Director/General Counsel
 Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79	55	73							
# Answered	59	56	74	55	55							

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64	137	108							
# Received	20	37	30	52	25							
# Answered	61	61	57	58	54							
# Pending	88	64	137	108	79							
# Over Six Mon	3	0	2	0	0							

LIABILITY/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233	76	83							
# Received	30	25	18	20	15							
# Answered	24	25	63	13	33							
# Pending	233	233	76	83	65							
# Over 30 Days	0	0	0	0	0							

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10	10	9							
Cases Closed	11	10	7	2	1							
Habeas Corpus	8	4	4	2	6							
Bivens	10	7	3	5	3							
FTCA	0	3	3	3	0							
Other	3	0	0	0	0							
Lit Reports	11	16	9	6	5							
Cases With Hearing or Trials	1	0	1	1	0							
Cases With Settlements or Awards	0	0	0	0	0							
Tort Claim Settlements	0	0	0	0	0							

SIGNIFICANT CASES

Ala, et al. v. Reeves County Sheriff, et al. - P-95-CA-027 (WD/TX) - This is a Bivens lawsuit filed on behalf of a number of inmates by the Texas Civil Rights Project. The inmate plaintiffs were all housed in the Reeves County Law Enforcement Center (RCLEC) in 1993 on a contract basis. After a disturbance, the inmates were removed to the Reeves County Jail, where they allege they were beaten by deputies of the Reeves County Sheriff's Department. The Complaint also alleges that Regional Director Turnbo can be held personally liable for failing to appropriately supervise and/or train the employees of RCLEC and the Sheriff's Department. Administrative Tort Claims were filed contemporaneously with the Complaint.

Diane Pitts v. Janet Reno, et al. - 4-95-CV-065-A (ND/TX) - Court granted leave to file an Amended Complaint. Additional affidavits and exhibits are being prepared.

Mary Louise Carter Johnson v. United States of America, et al. - 4-95-CV-268-A (A) (ND/TX) - Challenge to notification of local law enforcement prior to inmate's release according to the new Violent Crime Control Act. Alleges ex post facto issues.

UPCOMING HEARING

Hernandez v. Reno - EP-93-CA-396-H (WD/TX) - EEO case in Western District of Texas, currently scheduled for trial June 19. Allegations of discrimination based on nationality (Hispanic) and age (44). We have a summary judgment motion pending. In addition, we expect that a continuance will be granted as the plaintiff is scheduled to undergo surgery the week of the trial.

memorandum

DATE:

June 30, 1995

REPLY TO
ATTN OF:*Michael D. Hood*
Michael D. Hood, Regional Counsel

SUBJECT:

Monthly Report - June 1, 1995 - June 30, 1995

TO:

Wallace H. Cheney, Assistant Director/General Counsel
Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79	55	73	88						
# Answered	59	56	74	55	55	59						

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64	137	108	79						
# Received	20	37	30	52	25	26						
# Answered	61	61	57	58	54	29						
# Pending	88	64	137	108	79	76						
# Over Six Mon	3	0	2	0	0	0						

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233	76	83	65						
# Received	30	25	18	20	15	36						
# Answered	24	25	63	13	33	37						
# Pending	233	233	76	83	65	64						
# Over 30 Days	0	0	0	0	0	0						

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10	10	9	18						
Cases Closed	11	10	7	2	1	6						
Habeas Corpus	8	4	4	2	6	12						
Bivens	10	7	3	5	3	1						
FTCA	0	3	3	3	0	4						
Other	3	0	0	0	0	1						
Lit Reports	11	16	9	6	5	12						
Cases With Hearing or Trials	1	0	1	1	0	0						
Cases With Settlements or Awards	0	0	0	0	0	0						
Tort Claim Settlements	0	0	0	0	0	0						

UPCOMING TRIALS

Arner v. Wooten - EP-93-CA-172-F (WD/TX) - Currently scheduled for trial week of July 31, 1995, in El Paso, Texas.

Arturo Hernandez v. United States - EP-93-CA-396 (WD/TX) - Trial date has been set for October 10, 1995.

memorandum

DATE: August 3, 1995

REPLY TO
ATTN OF:

Michael D. Hood, Regional Counsel

SUBJECT:

Monthly Report - July 1, 1995 - July 31, 1995

TO:

Wallace H. Cheney, Assistant Director/General Counsel
Central Office

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79	55	73	88	103					
# Answered	59	56	74	55	55	59	74					

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64	137	108	79	76					
# Received	20	37	30	52	25	26	29					
# Answered	61	61	57	58	54	29	24					
# Pending	88	64	137	108	79	76	52					
# Over Six Mon	3	0	2	0	0	0	0					

FOIA/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233	76	83	65	64					
# Received	30	25	18	20	15	36	33					
# Answered	24	25	63	13	33	37	36					
# Pending	233	233	76	83	65	64	28					
# Over 30 Days	0	0	0	0	0	0	0					

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10	10	9	18	21					
Cases Closed	11	10	7	2	1	6	5					
Habeas Corpus	8	4	4	2	6	12	12					
Bivens	10	7	3	5	3	1	5					
FTCA	0	3	3	3	0	4	2					
Other	3	0	0	0	0	1	2					
Lit Reports	11	16	9	6	5	12	12					
Cases With Hearing or Trials	1	0	1	1	0	0	2					
Cases With Settlements or Awards	0	0	0	0	0	0	0					
Tort Claim Settlements	0	0	0	0	0	0	0					

GNIFICANT CASES

Armstrong v. Attorney General - 3:95-CV-1329-G (ND/TX) - This is an EEO suit filed by a former Seagoville employee, alleging racial discrimination.

Ayala, et al. v. Reeves County Sheriff, et al. - P-95-CA-29 (WD/TX) - This Bivens suit alleging supervisory liability against Director Turnbo for actions of contract prison facility, was filed in May, 1995. We have submitted a litigation report, and expect a motion to dismiss to be filed shortly.

Pitts v. Janet Reno, et al. - 4-95-CV-065-A (ND/TX) - Order and Final Judgment were entered on July 6, 1995. Evidence showed that plaintiff was not denied access to law books.

Johnson v. United States of America, et al. - 4-95-CV-268-A (ND/TX) - This case challenges notification of local law enforcement prior to inmate's release according to the new Violent Crime Control Act.

Joseph Okonofua v. USA, et al. - CV-95-2089 (ED/NY) - Bivens/Tort; named two individual defendants and USA; alleging BOP lost personal property upon his transfer from Otisville to Fort Worth.

Samuel John Major Davis, Jr. v. Warden - 4:95-CV-507-Y (ND/TX) - Habeas; alleging BOP have improperly used detainer placed by INS to negatively impact his security/custody, challenges the propriety of the detainer.

amos v. U.S. - EP-94-432 - Plaintiff claims that she was wheeling her handicapped daughter toward the visiting room and a result of clumps of dried concrete on the walkway, her daughter's wheelchair got stuck throwing her daughter forward and causing her serious injuries. Plaintiff claims that at the time of the incident, there were not appropriate handicap facilities at FPC, La Tuna.

UPCOMING HEARINGS OR TRIALS

Ransom v. U.S. - 92-0971 (WD/LA) - This FTCA suit, in which the inmate is seeking approximately \$900 in damages, is scheduled for trial in September, 1995.

Spanjol v. U.S. - 4:94-CV-237 (ED/TX) - This FTCA suit is set for a case management conference on August 11. We will be deposing the plaintiff (wife of deceased former inmate) on August 8.

MEDICAL MALPRACTICE LITIGATION

Thomas Arthur Cicalese v. David Haas, et al. - 4:95-CV-463-A (ND/TX) - Bivens, alleging defendants were deliberately indifferent to his medical needs, i.e., failure to properly treat his psoriasis.

memorandum

August 31, 1995

DATE:

REPLY TO
ATTN OF:

Michael D. Hood, Regional Counsel

SUBJECT:

Monthly Report - August 1, 1995 - August 31, 1995

SEP 5 1995

TO:

Wallace H. Cheney, Assistant Director/General Counsel
Central Office

Attention: Nancy Redding, Executive Assistant

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79	55	73	88	103	53				
# Answered	59	56	74	55	55	59	74	99				

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64	137	108	79	76	52				
# Received	20	37	30	52	25	26	29	36				
# Answered	61	61	57	58	54	29	24	36				
# Pending Over Six Mon	88	64	137	108	79	76	52	52				
	3	0	2	0	0	0	0	0				

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233	76	83	65	64	63				
# Received	30	25	18	20	15	36	31	18				
# Answered	24	25	63	13	33	37	32	8				
# Pending Over 30 Days	233	233	76	83	65	64	63	73				
	0	0	0	0	0	0	0	0				

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10	10	9	18	21	18				
Cases Closed	11	10	7	2	1	6	5	7				
Habeas Corpus	8	4	4	2	6	12	12	8				
Bivens	10	7	3	5	3	1	5	6				
FTCA	0	3	3	3	0	4	2	2				
Other	3	0	0	0	0	1	2	2				
Lit Reports	11	16	9	6	5	12	12	11				
Cases With Hearing or Trials	1	0	1	1	0	0	2	1				
Cases With Settlements or Awards	0	0	0	0	0	0	0	0				
Tort Claim Settlements	0	0	0	0	0	0	0	0				

LITIGATION BRANCH

SEP 05 1995

SIGNIFICANT CASES

Jackson, et al. v. Bush, et al. - Cause No. 9503273, District of Travis County, Texas - Case filed in state court by Texas state inmates, alleging that TDCJ new non-smoking policy violates 8th Amendment. Plaintiffs attempt to bring the Attorney General and DOJ into the case by alleging that they have failed in their oversight duties as allegedly imposed by the decrees in Ruiz v. Estelle.

L.J. and Maylene Carter v. U.S. - LR-C-95-407 (ED/AR) - Plaintiffs have filed an FTCA suit, attempting to recover subsistence payments collected while they were serving their sentences in halfway house, allegedly in violation of J & C Order. A litigation report has been provided to the U.S. Attorney's office, and we are awaiting a copy of the motion to dismiss or for summary judgment.

Todd v. Hawk - Appeal No. 94-10742 (5th Cir.) - This Fifth Circuit case arises out of a decision in the Northern District of Texas, granting qualified immunity to a number of Bivens defendants. In light of the 5th Circuit's recent decision in Schultea v. Wood, 5th Circuit has ordered that case be remanded to trial court to allow plaintiff another chance to overcome the qualified immunity defense.

[REDACTED]

Tran v. Hawk - 4:94-CV-809-A (ND/TX) - This Bivens case was dismissed by Judge McBryde, after the court-appointed "expert witness" concluded (in a report we were not allowed to see) that there was no evidence to support the claim. The plaintiff has appealed to the Fifth Circuit, and our reply brief has been filed.

Ransom v. U.S. - C.A. No. 92-0971, (WD/LA) - This FTCA case is scheduled for trial the week of September 25. As of August 30, we agreed with the U.S. Attorney's office to settle this case for approximately \$800.00, which will be paid by the U.S. Attorneys office to a university of plaintiff's choice, as tuition for a graduate level course.

Edigin, et al. v. Reeves County, Texas, et al. - P-95-CA-45, (WD/TX) - This new FTCA suit alleges negligence on the part of both the U.S. and Reeves County Texas in operation of the Reeves County Law Enforcement Center, a contract facility in Pecos, Texas. Plaintiffs allege that they were beaten by other inmates in a racial incident, and that staff were aware of racial problems in the institution but failed to take appropriate action to prevent injuries. We believe that we have a good statute of limitations argument, in that the alleged assaults occurred in July 1993, and although plaintiffs allege that they filed FTCA claims with the BOP, neither Central Office nor the SCRO have any evidence that such claims were ever filed.

Wali Muhammed v. United States - 5:95-CV-38 (ED/TX) - Plaintiff alleges deliberate indifference to his medical condition while at FCI, Texarkana and inappropriate job assignment which plaintiff alleges was inconsistent with his physical condition. Plaintiff also contends that he was exposed to asbestos while at FCI, Texarkana in violation of his Eighth Amendment

protected rights against cruel and unusual punishment. In his original complaint, plaintiff contends that his right to practice religion was violated based on staff member's refusal to give plaintiff a picture taken at the institution as part of the Nation of Islam's Saviours Day Celebration. Plaintiff alleges that the Warden ordered the staff member to release the picture and that the staff member knowing that plaintiff had a climbing restriction refused to release the picture unless plaintiff climbed two flights of stairs to his office to get it. Plaintiff alleges this action violated the American with Disabilities Act.

Courteney K. Thomas v. Reno - 1:94-CV-094-C (WD/TX) - EEO case in which employee claimed she was fired in retaliation for her allegations of sexual harassment and rape by another BOP employee. Employee was fired because of her failure to pass the firearms portion of the Glynco training. Our motion for summary judgment was granted on August 25, 1995.

UPCOMING HEARINGS OR TRIALS

New v. USA - SA-94-CA-0335 (WD/TX) - FTCA action alleging negligent failure to protect, as well as negligent failure to provide medical attention subsequent to inmate-on-inmate attack, is scheduled for trial in San Antonio on September 11, 1995.

SIGNIFICANT TORT CLAIM

Inmate John E. Clark, Reg. No. 09108-058, has submitted a tort claim alleging that he has been exposed to asbestos and lead based paint.

Mr. Clark states that while he was incarcerated at FCI, Seagoville he was housed in Building 9 and each morning upon awaking he discovered that his body was "covered with asbestos dust and chips that constantly fell from the ceiling as well as flakes of lead based paint..." A review of SENTRY admission and release entries revealed that Mr. Clark was housed at FCI, Seagoville from October 1992 through January 1993. He alleges that he was diagnosed with cancer on June 9, 1994, at which time he was incarcerated at Seymour Johnson.

Mr. Clark, who is 38 years of age, claims that he now has cancer and his life expectancy is one to four years. He claims personal injury damages in the sum of three million dollars.

memorandum

RECEIVED
 GOVERNMENT
 OCT 10 1995
 BUREAU OF PRISONS
 OFFICE OF GENERAL COUNSEL

DATE: October 3, 1995
 ATTENTION: Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - September 1, 1995 - September 30, 1995

TO: Wallace H. Cheney, Assistant Director/General Counsel
 Central Office

Attention: Nancy Redding, Executive Assistant

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Received	56	64	79	55	73	88	103	53	63			
# Answered	59	56	74	55	55	59	74	99	50			

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	129	88	64	137	108	79	76	52	52			
# Received	20	37	30	52	25	26	29	36	48			
# Answered	61	61	57	58	54	29	24	36	35			
# Pending	88	64	137	108	79	76	52	52	*158			
# Over Six Mon	3	0	2	0	0	0	0	0	0			

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	224	233	233	76	83	65	64	63	73			
# Received	30	25	18	20	15	36	31	18	31			
# Answered	24	25	63	13	33	37	32	8	20			
# Pending	233	233	76	83	65	64	63	73	84			
# Over 30 Days	0	0	0	0	0	0	0	0	0			

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
New Cases Recd	21	14	10	10	9	18	21	18	18			
Cases Closed	11	10	7	2	1	6	5	7	10			
Habeas Corpus	8	4	4	2	6	12	12	8	8			
Bivens	10	7	3	5	3	1	5	6	4			
FTCA	0	3	3	3	0	4	2	2	3			
Other	3	0	0	0	0	1	2	2	3			
Lit Reports	11	16	9	6	5	12	12	11	9			
Cases With Hearing or Trials	1	0	1	1	0	0	2	1	0			
Cases With Settlements or Awards	0	0	0	0	0	0	0	0	2			
Tort Claim Settlements	0	0	0	0	0	0	0	0	0			

*RECONCILIATION OF TORT LOG AND ACCURATE COUNT OF FILES INDICATE THE NUMBER PREVIOUSLY RECORDED WAS INCORRECT.

SIGNIFICANT CASES

Stanley J. Kaster, M.D. v. Janet Reno, et al. - 4-95CV-635-Y, (ND/TX) - This action was instituted by Stanley J. Kaster, M.D., a former psychiatrist at the Federal Medical Center, Carswell (FMC, Carswell). The plaintiff seeks damages under the Federal Torts Claims Act (FTCA) under 28 U.S.C. 1346(b), 5 U.S.C. 702, and 5 U.S.C. 5596. The basis of his complaint is that the named defendants breached a verbal employment contract with him relating to on-call responsibilities. He states that his termination constitutes a legal wrong because it was based on his notification to the administration of "dangerous conditions" and his seeking correction.

Herman Pleasant v. Mr. Woods, et al. - B-94-225, (SD/TX) - Alleging improper medical treatment for injured finger. Seeking compensatory damages in the amount of \$500,000 from Warden Woods and \$200,000 from the remaining defendants; punitive damages in the amount of \$1,000,000 from each defendant and any other relief as granted. Assistant U.S. Attorney is doubtful case will proceed.

Mary Louise Johnson v. U.S., et al. - 4-95-CV-268-A (ND/TX) - Lawsuit challenged our policy on "Release of Notification of Violent Offenders" as violative of ex post facto clause. Case was dismissed on September 12, for lack of ripeness, as the plaintiff is not due for release until the next century. The decision did not address whether this portion of the VCCLEA of 1994 violates the ex post facto clause.

Courtenay Kaiser Thomas v. Reno - 1:94-CV-094-C (WD/TX) - This EEO case out of Big Spring was scheduled for trial September 5. Summary judgment has been entered in our favor, but plaintiff's attorney has stated she will appeal the decision.

New v. U.S. - SA-94-CA-0335 (WD/TX) - This FTCA suit involved allegations by a preoperative transsexual inmate that staff at FPC, La Tuna failed to adequately protect him, and that he was assaulted by another inmate. Plaintiff also alleged medical malpractice. Trial was held on September 12. At the close of plaintiff's evidence, and before we put on any evidence, the Magistrate Judge entered judgment in our favor.

Gaither v. Reno - This EEO case was tried in Abilene the week of September 5. The case was handled by the North Central Regional office, as the allegations of discrimination stemmed from FCI, Oxford. Assistant Regional Counsel Dan Eckhart (NCRO) second-chaired the case, at which Regional Directors Turnbo and Ingram testified. The case was taken under advisement, and judgment subsequently entered in favor of the U.S.A.

Carol McLemore v. A.F.G.E. Local 171, et al. - No. CJ-95-6529-63. This is a defamation suit, filed in state court in Oklahoma, alleging that a number of union officers at FCI El Reno defamed the plaintiff by repeating allegations that she had sexually harassed a male staff member. We have been in contact with the U.S. Attorney's office, and the Torts Branch, discussing possible representation, certification, and removal.

CASES WITH SETTLEMENT

Joyce Price v. Bureau of Prisons, et al., 4:95-CV-641-A (ND/TX) - This case involved an inmate tort claim for \$38.00 which was dismissed with prejudice on September 8, 1995, upon verbal agreement of the inmate with the Judge. The Education Department bought items valued at \$38.50 for the Plaintiff on the agreement she would dismiss the case.

Ransom v. U.S. - 92-0971 (WD/LA) - This FTCA suit was settled for approximately \$800. Plaintiff had filed suit several years ago, alleging that staff failed to assist him in either taking his correspondence course final exam, or obtaining an extension on the exam, when he was placed in administrative detention. [REDACTED] b2