

U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

July 11, 2001

**MEMORANDUM FOR CHRISTOPHER ERLEWINE
ASSISTANT DIRECTOR/GENERAL COUNSEL**

FROM: Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - June 2001

ADMINISTRATIVE REMEDIES												
	JA N	FE B	MA R	AP R	MA Y	JU N	JU L	AU G	SE P	OC T	NO V	DE C
RECEIVED	198	175	218	208	238	265						
ANSWERED	122	121	135	150	148	167						

TORT CLAIMS												
	JA N	FE B	MA R	AP R	MA Y	JU N	JU L	AU G	SE P	OC T	NO V	DE C
PENDING	225	227	231	239	260	252						
RECEIVED	72	49	86	72	69	53						
ANSWERED	80	48	69	61	68	48						
PENDING	217	228	248	250	261	257						
OVER SIX MO	0	0	0	0	0	0						

FOI/PRIVACY												
	JA N	FE B	MA R	AP R	MA Y	JU N	JU L	AU G	SE P	OC T	NO V	DE C
PENDING	43	57	45	57	33	35						
RECEIVED	102	56	89	71	80	72						
ANSWERED	95	68	77	95	78	81						
PENDING	57	45	57	33	35	26						
OVER 20 DAYS	3	3	5	1	2	0						

LITIGATION												
	JA N	FE B	MA R	AP R	MA Y	JU N	JU L	AU G	SE P	OC T	NO V	DE C
CASES RECD	17	11	21	19	10	10						
CASES CLOSED	5	5	12	17	12	9						
HABEAS CORPUS	11	4	13	8	3	5						
BIVENS	4	5	4	9	4	1						
FTCA	1	1	3	1	3	3						
OTHER	1	1	1	1	0	1						
LIT REPORTS	12	15	16	19	16	10						
HEARINGS/ TRIALS	1	0	1	2	0	0						
SETTLEMENTS/ AWARDS	0	0	0	0	0	2						

CASES WITH HEARINGS OR TRIALS

None

CASES WITH SETTLEMENTS OR AWARDS

a. Adverse judgments

In Reginald Lee Stafford v. Sam Pratt, a previously reported Seagoville case, an adverse decision was rendered regarding a Bureau of Prisons' custody classification and 3621(e) early release eligibility case pursuant to Program Statement 5100.07, Security Designation and Custody Classification Manual. The crux of the adverse decision focuses on the ruling of United States District Judge Barbara Lynn, wherein she rejected the Magistrate's Findings and concluded that the Respondents (BOP) "acted arbitrarily and capriciously in speculating that Mr. Stafford was not convicted of the sexual offense as a result of a plea bargain. The Court ORDERED that the BOP immediately remove Petitioner's PSF designation and recommend him for acceptance into a halfway house." The Court contends the BOP speculated the charge was based on a plea bargain and, thus, held we abused our discretion. A Motion for Reconsideration will be filed, as well as a provisional Notice of Appeal.

b. Tort Claim settlements

See Significant Tort Claims.

The previously reported Retana case was settled for \$190,000.

c. Other settlements

None

SIGNIFICANT CASES

None

SIGNIFICANT TORT CLAIMS

FMC FORT WORTH

The Office of Quality Management (OQM) reviewed two administrative tort claims (TRT-SCR-2001-03877 and TRT-SCR-2001-04579) regarding [REDACTED] wherein settlement was recommended. A settlement of \$3500.00 was negotiated to settle both claims, which OGC approved. The claims involved the care of the diabetic claimant's toe while in SHU, the subsequent amputation, and negligent post op care.

SIGNIFICANT ADMINISTRATIVE REMEDIES

None

UPCOMING TRIALS OR HEARINGS

FCI FORREST CITY

Albert Muick v. Edward Johnson. All claims were dismissed as to all defendants, except for plaintiff's 8th Amendment claim that he was forced to work beyond his physical capacity. An evidentiary hearing is scheduled for July 24, 2001, at 11:00 a.m.

Philip Fairchild v. Marvin Morrison. In this previously reported case, regarding a factual dispute on the issue of whether due process was afforded the plaintiff in the disciplinary process, has been set for an evidentiary hearing on July 24, 2001, at 9:30 a.m.

MEDICAL MALPRACTICE

LITIGATION

None

TORT CLAIMS

See Significant Tort Claims heading.

ENSIGN AMENDMENT

None

LITIGATION

None

TORT CLAIMS

None

RELIGIOUS FREEDOM RESTORATION ACT

LITIGATION

None

TORT CLAIMS

None

PRISON LITIGATION REFORM ACT ORDERS

None

SITUATIONS OF INTEREST

None

CRIMINAL MATTERS AND PROSECUTIONS

FCC BEAUMONT (MEDIUM)

[REDACTED] was convicted on June 20, 2001, of Possessing Contraband in Prison. He had approximately 14 packets of marijuana in his secured locker (net weight of 2.5 grams) when staff searched his cell in August of 2000. No sentencing date has been set.

b7c

USP BEAUMONT

Following a sealed indictment, former Correctional Officer Sheffrey Ward was sentenced on June 27, 2001, to four years probation, a \$2,500 fine, and 100 hours of community service.

FDC HOUSTON

[REDACTED], a former FDC Houston correctional officer, was charged by Criminal Information on May 31, 2001, with engaging in a sexual act with an inmate in official detention and under [REDACTED]'s authority. As was previously reported, the female inmate told supervisory staff that she had engaged in sexual

relations with [REDACTED] in the staff restroom located in the female housing unit.

b7c

PERSONAL ISSUES

None

Scheduled Annual/Sick Leave:

[REDACTED]	- July 16-23	- Annual Leave
[REDACTED]	- July 25-31	- Annual Leave
[REDACTED]	- July 27	- Annual Leave

b6

Other Scheduled Absences:

U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

August 13, 2001

MEMORANDUM FOR CHRISTOPHER ERLEWINE
ASSISTANT DIRECTOR/GENERAL COUNSEL

FROM: Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - July 2001

ADMINISTRATIVE REMEDIES												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NO V	DEC
RECEIVED	198	175	218	208	238	265	233					
ANSWERED	122	121	135	150	148	167	206					

TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
PENDING	225	227	231	239	260	252	264					
RECEIVED	72	49	86	72	69	53	82					
ANSWERED	80	48	69	61	68	48	82					
PENDING	217	228	248	250	261	257	264					
OVER SIX MO	0	0	0	0	0	0	0					

FOI/PRIVACY												
	JA N	FE B	MA R	AP R	MA Y	JU N	JU L	AU G	SE P	OC T	NO V	DE C
PENDING	43	57	45	57	33	35	26					
RECEIVED	10 2	56	89	71	80	72	77					
ANSWERED	95	68	77	95	78	81	57					
PENDING	57	45	57	33	35	26	46					
OVER 20 DAYS	3	3	5	1	2	0	1					

LITIGATION												
	JA N	FE B	MA R	AP R	MA Y	JU N	JU L	AU G	SE P	OC T	NO V	DE C
CASES RECD	17	11	21	19	10	10	10					
CASES CLOSED	5	5	12	17	12	9	7					
HABEAS CORPUS	11	4	13	8	3	5	6					
BIVENS	4	5	4	9	4	1	1					
FTCA	1	1	3	1	3	3	1					
OTHER	1	1	1	1	0	1	2					
LIT REPORTS	12	15	16	19	16	10	9					
HEARINGS/ TRIALS	1	0	1	2	0	0	1					
SETTLEMENTS/ AWARDS	0	0	0	0	0	2	0					

CASES WITH HEARINGS OR TRIALS

McGuire v. Charles Turnbo, Case No. 4:91-CV-831-Y. In this previously reported FMC Fort Worth wrongful death case, the plaintiff, Ms. McGuire, alleged the BOP was negligent in allowing former inmate Shelia Moore, Ms. McGuire's daughter, to ingest cocaine. On July 2, 2001, the Fifth Circuit Court of Appeals dismissed the case because Ms. McGuire, appellant, failed to timely file brief and record excerpts.

CASES WITH SETTLEMENTS OR AWARDS

a. Adverse judgments

Muick

In this previously reported FCI Forrest City case, Inmate Albert Muick alleged deliberate indifference to his medical needs because staff required him to work at tasks beyond his physical capacity. On July 27, 2001, Magistrate Judge H. David Young, in the Eastern District of Arkansas, issued an order to allow Inmate Muick to proceed to jury trial. Gwen Hodge, AUSA, Eastern District of Arkansas, filed an Objection to the Magistrate's Order. No trial date has been set.

Fairchild

In this FCI Forrest City case, Inmate Phillip Fairchild alleges his constitutional rights were violated when he was charged with offense 199, disruptive conduct most like Escape, and disciplinary sanctions were imposed. On July 27, 2001, Magistrate Judge H. David Young, in the Eastern District of Arkansas, issued a final order setting aside the disciplinary

hearing and ordering the BOP to restore all of Inmate Fairchild's privileges because he felt the only offense conduct of talking about an escape was insufficient to warrant disciplinary action. Consideration is being given to filing a Motion for Reconsideration.

b. Tort Claim settlements

None

c. Other settlements

None

SIGNIFICANT CASES

FCI EL RENO

Fortunatus Wilcox v. Fleming, CIV-99-0854-T. Although this case was decided in favor of the United States at the District Court level, the case was remanded by the Tenth Circuit on one issue: whether petitioner validly waived his right to call witnesses at the disciplinary hearing that formed the basis of this case. Upon remand, Senior United States District Judge Ralph Thompson dismissed the case as moot since Wilcox completed his federal sentence and was deported.

FMC FORT WORTH

In Todd v. Hawk, 4:98-CV-0556Y, the Fifth Circuit Court of Appeals affirmed the lower court's ruling in our favor. Inmate Todd filed a *Bivens* complaint alleging exposure to environmental tobacco smoke and asbestos at FMC Fort Worth.

SIGNIFICANT TORT CLAIMS

None

SIGNIFICANT ADMINISTRATIVE REMEDIES

None

UPCOMING TRIALS OR HEARINGS

Oral arguments have been set before the 8th Circuit in the Ware case for September 12, 2001. This is the FPC Nellis and FCI Forrest City case involving the Wardens' right to deny visitation without a due process hearing.

MEDICAL MALPRACTICE

LITIGATION

None

TORT CLAIMS

None

ENSIGN AMENDMENT

None

LITIGATION

None

TORT CLAIMS

None

RELIGIOUS FREEDOM RESTORATION ACT

LITIGATION

None

TORT CLAIMS

None

PRISON LITIGATION REFORM ACT ORDERS

None

SITUATIONS OF INTEREST

The Dallas CLC has prepared an adverse memorandum in the Reginald Lee Stafford v. Sam Pratt, Case No. 3-01-CV-0035-M (N.D. Tex). This previously reported case involves custody classification, Community Corrections Center (CCC) eligibility, and 3621(e) early release eligibility. The Court ruled that the BOP acted arbitrarily and capriciously in speculating that inmate Stafford was not convicted of the sexual offense as a result of a plea bargain. The U. S. Attorney's Office in conjunction with the Dallas CLC is filing a Motion for Reconsideration on August 13, 2001.

CRIMINAL MATTERS AND PROSECUTIONS

FCI BIG SPRING

On May 19, 2001, the Visiting Room Officer found six (6) small bags of marijuana in the shoe of inmate [REDACTED]. The inmate hit the officer's hand in an attempt to get the bags out of his hands. On July 17, 2001, a two count indictment was returned by the grand jury in Lubbock, Texas, charging inmate [REDACTED] with 18 U.S.C. § 1791(a)(2) and (b)(3), Providing or Possessing Contraband in Prison, and 18 U.S.C. §111(a)(1), Assault on Correctional Officer.

On June 7, 2001, a fire destroyed FCI Big Spring's Vocational Training Building. An investigation was conducted. Inmate [REDACTED] was indicted on July 17, 2001, for his role in the cause of the fire. Inmate [REDACTED] was indicted on one count of 18 U.S.C. § 1791(a)(2) and (b)(5), Providing or Possessing Contraband in Prison.

FMC FORT WORTH

On July 6, 2001, former correctional officer, [REDACTED], pled guilty to 18 U.S.C. § 1791(a)(1), Providing a Prohibited Object, to wit, Marijuana, to an Inmate. Sentencing is scheduled for October 12, 2001.

FDC HOUSTON

On July 13, 2001, [REDACTED] a former FDC Houston correctional officer, pled guilty to Sexual Abuse of a Ward. Sentencing is scheduled for October 2, 2001. Reportedly, [REDACTED] was allowed to return to his previous employment at a state correctional facility.

Inmate [REDACTED] pled guilty on July 20, 2001, to Conspiracy to Manufacture Methamphetamine. In exchange for his plea, the government agreed to dismiss an obstruction of justice count, wherein the government was asserting that inmate [REDACTED] used an inmate telephone in an attempt to have an individual in the community prevent a witness from providing testimony relative to the drug related matter.

USP POLLOCK

Inmate [REDACTED] pled guilty to a charge of escape on July 23, 2001. Sentencing is scheduled for August 16, 2001. Inmate [REDACTED] walked away from the satellite camp on May 14, 2001, and was apprehended two days later in Chicago, Illinois.

FCI TEXARKANA

Inmates [REDACTED] were indicted on July 10, 2001, for their role in a gang-related assault on various inmates on January 19, 2001. Indictments are still pending for inmates [REDACTED] z for their roles in the assault.

b7c

Inmate [REDACTED] was indicated on July 10, 2001, for possession of a weapon in a correctional facility.

PERSONAL ISSUES

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b6

Scheduled Annual/Sick Leave:

- [REDACTED] - August 13-14 - Annual Leave
- [REDACTED] - August 27-31 - Annual Leave

Other Scheduled Absences:

- [REDACTED] - August 13-17 - Prison Litigation Seminar
South Carolina
- [REDACTED] - August 13-16 - Training



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

September 17, 2001

MEMORANDUM FOR CHRISTOPHER ERLEWINE
ASSISTANT DIRECTOR/GENERAL COUNSEL

FROM: Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - August 2001

Table with 13 columns (JAN-DEC) and 3 rows (RECEIVED, ANSWERED) under the heading ADMINISTRATIVE REMEDIES.

Table with 13 columns (JAN-DEC) and 5 rows (PENDING, RECEIVED, ANSWERED, PENDING, OVER SIX MO) under the heading TORT CLAIMS.

Table with 13 columns (JAN-DEC) and 5 rows (PENDING, RECEIVED, ANSWERED, PENDING, OVER 20 DAYS) under the heading FOI/PRIVACY.

LITIGATION												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
CASES RECD	17	11	21	19	10	10	10	14				
CASES CLOSED	5	5	12	17	12	9	7	14				
HABEAS CORPUS	11	4	13	8	3	5	6	6				
BIVENS	4	5	4	9	4	1	1	5				
FTCA	1	1	3	1	3	3	1	2				
OTHER	1	1	1	1	0	1	2	1				
LIT REPORTS	12	15	16	19	16	10	9	14				
HEARINGS/ TRIALS	1	0	1	2	0	0	1	1				
SETTLEMENTS/ AWARDS	0	0	0	0	0	2	0	1				

CASES WITH HEARINGS OR TRIALS

None

CASES WITH SETTLEMENTS OR AWARDS

a. Adverse judgments

None

b. Tort Claim settlements

None

c. Other settlements

None

SIGNIFICANT CASES

FCI SEAGOVILLE

Groceman, et al. v. DOJ, et al., 3:01-CV-1619-G (N.D. Tex.). In this Bivens action, the plaintiff and his brother, both currently

designated at FCI Seagoville, claim that the application of the DNA testing and reporting procedures mandated under the DNA Analysis Backlog Elimination Act of 2000 violate their Fourth, Fifth, and Sixth Amendment rights. They sought both a temporary restraining order and a permanent injunction barring the statutorily required testing and reporting. On August 23, 2001, the court denied the plaintiffs' motion for a temporary restraining order.

[REDACTED] b5

SIGNIFICANT TORT CLAIMS

Webber: In this personal injury claim, inmate [REDACTED] alleges that FCI Big Spring staff have both negligently and intentionally denied him offense-specific sex-offender psychological treatment and have acted in concert to deny him a transfer and access to the Sex Offender Treatment Program at FCI Butner. He seeks compensation in the amount of \$3,600,000.00. (TRT-SCR-2001-06116) b7c

SIGNIFICANT ADMINISTRATIVE REMEDIES

None

UPCOMING TRIALS OR HEARINGS

Ware. 8th Circuit oral arguments scheduled September 12, 2001, in St. Louis (FCI Forrest City previously reported visitation case).

MEDICAL MALPRACTICE

LITIGATION

None

TORT CLAIMS

None

ENSIGN AMENDMENT

None

LITIGATION

None

TORT CLAIMS

None

RELIGIOUS FREEDOM RESTORATION ACT

LITIGATION

None

TORT CLAIMS

None

PRISON LITIGATION REFORM ACT ORDERS

None

SITUATIONS OF INTEREST

FMC CARSWELL

On August 3, 2001, a sentencing hearing was held in United States v. Lori Nelson. Counsel for the defendant, a presentence inmate at FMC Carswell, issued a subpoena for testimony of a treating physician in an attempt to obtain a downward departure for inmate Nelson. Al Munguia prepared Dr. Ballom, an FMC physician, for testimony, and attended the hearing.

FDC HOUSTON

On August 7, 2001, Jason Sickler accompanied the Food Service Administrator from FCI Seagoville, who testified in a federal criminal matter being tried in the Southern District of Texas. The staff member, subpoenaed by the defense, provided testimony regarding FCI Seagoville's purchase history of a meat substitute product called VitaPro. The case, which involves allegations of misconduct by Texas Department of Criminal Justice officials and is related to a matter involving a former governor of Louisiana, has received considerable coverage by the news media.

CRIMINAL MATTERS AND PROSECUTIONS

FCC BEAUMONT (MEDIUM)

Christina Hoy Thorne, a former contract teacher, pled guilty to violating 18 U.S.C. § 2244, Abusive Sexual Contact With A Person Who Was In Official Detention. On August 9, 2001 she was

sentenced to two years probation and a \$1,000 fine.

FCC BEAUMONT (USP)

Inmate Jesus Duarte pled guilty to violating 18 U.S.C. 1791(a)(2), Possession of Heroin. On August 20, 2001, he was sentenced to 33 months of imprisonment to be followed by a three-year supervised release term.

Inmate [REDACTED] entered a guilty plea on August 28, 2001, in connection with his earlier attempt to introduce a controlled substance into the institution. Specifically, inmate [REDACTED] mother attempted to provide him with marijuana by placing it inside a chili dog purchased in the institution visiting room. b7C

[REDACTED], a former staff member who was convicted on March 14, 2001, of Conspiracy to Possess With Intent to Distribute Crack Cocaine, is scheduled for sentencing on September 6, 2001.

FCI EL RENO

Several prosecutions are going forward regarding a large-scale conspiracy to introduce drugs into FCI El Reno. Several defendants have pled guilty and are cooperating with both the FBI and DEA. Approximately 11-12 inmates have indicated the willingness to enter pleas of guilty. Office of the Inspector General, FBI, and BOP staff continue the investigation.

FCI FORREST CITY

On July 24, 2001, at approximately 9:32 a.m., staff were escorting Inmate [REDACTED] to the Special Housing Unit when he began cursing and resisting staff. As staff attempted to regain control of the inmate, he kicked staff and struck the Compound Officer in the right lower leg. Inmate [REDACTED] was placed on the ground and controlled by staff. He was then lifted and transported to the Special Housing Unit without further incident. The FBI was notified and an investigation continues. b7C

FCI OAKDALE

[REDACTED] Recreation Specialist, resigned from his position of employment following allegations of introduction of contraband. The matter is currently being reviewed by the FBI.

FTC OKLAHOMA CITY

On August 20, 2001, inmate [REDACTED] set a mattress on

fire in the holdover housing unit. One officer sustained minor throat irritation secondary to smoke inhalation. There were no inmate injuries. The U.S. Attorney's Office has declined to prosecute the matter for lack of credible testimony.

On July 16, 2001, while screening inmate mail staff discovered two clear packages of a white substance hidden inside the flaps of a card addressed to inmate [REDACTED]. The substance tested positive for heroine. The U.S. Attorney's Office has accepted this matter for prosecution. b7c

USP POLLOCK

On August 17, 2001, satellite camp inmate Lee Roberts pled guilty to escape and was sentenced to one additional month of confinement, 36 months supervised release and a \$1000 fine. Additionally, the Court recommended that the inmate be confined closer to his home.

Two inmate-on-inmate assaults associated with the institution lock-down of July 28 - August 7, 2001, were referred to the Grant Parish District Attorney's Office. That office declined prosecution of both matters, and the Warden concurs with those determinations. Efforts to obtain concurrent jurisdiction remain underway and are currently pending action by the Governor of Louisiana.

FCI SEAGOVILLE

On August 3, 2001, inmate [REDACTED], who is a presentence inmate in the FCI Seagoville jail unit, received an incident report after telephone monitoring staff heard an ITS telephone conversation in which he attempted to coerce his daughter into smuggling marijuana to him through visitation. The matter was referred to the AUSA in the criminal case in which inmate [REDACTED] is pending sentencing. The AUSA has decided not to seek a separate indictment for this behavior, but instead will request that the judge in inmate [REDACTED] current case take this matter into account in inmate [REDACTED] forthcoming sentencing. Inmate [REDACTED] appeared before the DHO on August 30, 2001 and was found to have committed the prohibited acts of attempted introduction of drugs/drug items and criminal telephone abuse. b7c

FCI TEXARKANA

Update: Inmate Bernardo Garcia received a 12-month sentence for his escape from the satellite camp in January 2001.

Inmates [REDACTED] were indicted on July 10, 2001, for their role in a gang-related assault on various inmates on January 19, 2001. We are still awaiting indictments for [REDACTED] for their roles. b7

Inmate [REDACTED] was indicated on July 10, 2001, for Possession of a Weapon in a Correctional Facility.

FCI THREE RIVERS

On August 20, 2001, Jorge Guzman-Carmona was sentenced to 18 months of confinement and three years of supervised release, to be served concurrently with his current sentence, along with a \$100.00 fine and a \$100.00 special assessment, for possession of contraband in prison in violation of 18 U.S.C. § 1791(2). He had entered a plea of guilty on June 11, 2001.

PERSONAL ISSUES

[REDACTED]

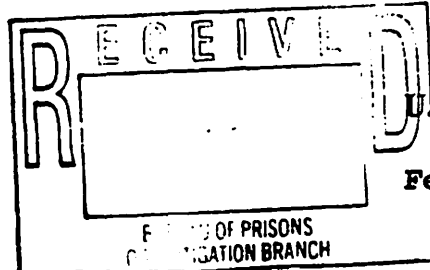
[REDACTED] b6

Scheduled Annual/Sick Leave:

- [REDACTED] - September 10-21 - Annual Leave
- [REDACTED] - September 10-21 - Annual Leave & Military Leave
- [REDACTED] - September 13 & 14 - Military Leave
- [REDACTED] - September 20 & 21 - Annual Leave

Other Scheduled Absences:

- [REDACTED] - September 11 & 12 - Appellate Arguments before Eighth Circuit Court of Appeals St. Louis, MO



U.S. Department of Justice
Federal Bureau of Prisons

OC *File*

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

FROM: *Harlan W. Penn*
Harlan W. Penn, Regional Counsel

SUBJECT: Monthly Report for September 2001

LITIGATION

NEW CASES (Non 3621(e))

Burrell v. BOP, et al (SDC) Complaint contesting custody classification.

Corbeil v. United States (LOM) FTCA complaint regarding loss of personal property.

Garrett v. United States (LOM) Inmate filed emergency motion in Ninth Circuit requesting that he not be transferred.

Howard v. Adams (LOM) *Bivens* complaint alleging deliberate indifference.

Kennedy v. Herrera (LOM) Inmate motion to prevent transfer.

Marti v. United States (LOS) Petition for Writ of Habeas Corpus contesting DHO finding.

Montalvo v. Herrera (LOM) Petition for Writ of Habeas Corpus seeking to halt transfer.

Sykes v. Herrera (LOM) Petition for Writ of Habeas Corpus contesting DHO finding.

U.S. v. Zeferino (LOM) Request for Temporary Restraining Order and Injunction for refusing to take medication.

SIGNIFICANT DEVELOPMENTS/APPEALS

Bell v. U.S. District Courts, et al (SET) Bivens complaint complaining of access to SET law library, and other issues, dismissed without service of process due to improper venue.

Blum & Blum v. Candelaria, et al (PHX) Bivens complaint regarding parole issues but also naming BOP staff. BOP staff dismissed by district court and plaintiffs appealed to Ninth Circuit. Circuit dismissed appealed due to lack of final judgement in case.

Camarena v. Adams (LOM) Petition for Writ of Habeas Corpus contesting classification matter. Ninth Circuit affirmed lower court's dismissal of petition.

Cash v. Adams (LOM) Petition for Writ of Habeas Corpus contesting DHO finding denied.

Castillo v. U.S. (SDC) Complaint alleging deliberate indifference to injury sustained during USMS arrest. Hearing on plaintiff's motion for leave to file amended complaint scheduled for November 9, 2001.

Davis v. Reno (LOM) Complaint relating to cell move and subsequent incident report dismissed for failure to prosecute.

Hellum v. Herrera, Ortiz-Martinez v. Herrera, U.S. v. Montalvo, Kennedy v. Herrera, Harden v. Herrera (LOM) Petitions or motions seeking to prevent transfer dismissed or denied.

House v. Barron (LOM) Petition for Writ of Habeas Corpus contesting DHO findings dismissed with prejudice.

Longo v. Benov (DUB) Petition seeking 3621(e) eligibility denied with court holding Lopez controlled and Director's discretion was proper basis for denial.

Mahler v. United States (SHE) Ninth Circuit heard argument on September 12 on the discretionary function/qualified immunity wrongful death case. Plaintiff had appealed the District Court decision dismissing case on basis of discretionary function.

Mainard v. Fitzpatrick (LOM) Ninth Circuit reversed lower court's denial of Petition for Writ of Habeas Corpus contesting DHO findings. Ninth Circuit directed report be expunged, GCT restored and eligibility for early release be reevaluated.

Tezak v. Pendleton (TCN) Inmate appealed to the Ninth Circuit the district court's dismissal of his RDAP petition in which he prayed for early release consideration notwithstanding prior conviction for threatening a witness.

Uplinger v. Barron (LOM) Inmate challenge to constitutionality of testing under DNA Backlog Elimination Act dismissed with leave to amend.

Vander v. U.S. DOJ (SAF) Oral argument held before the Ninth Circuit on whether IACA is exclusive remedy for inmate work injury. AUSA believed oral argument went well.

VanSickle v. Hood (SET) District court granted 3621(e) Petition for Writ of Habeas Corpus. Inmate was denied eligibility due to prior state conviction for assault with a deadly weapon. Decision to appeal pending.

CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Referred	15	17	14	25	9	10	29	34	14			
Accepted	0	3	2	4	2	1	2	1	0			
Declined	12	9	9	16	4	7	18	16	7			
Pending Decision	59	64	38	72	75	77	86	103	110			

NEW INFORMATION ON ACTIVE PROSECUTIONS

ASSAULT

U.S. v. Mosqueda-Gonzalez (TCN) Inmate arraignment in case alleging abusive sexual contact and assault on federal officer delayed because inmate was transfer to USMCFP for mental health treatment.

U.S. v. Ponce-Hernandez (TCN) Inmate on staff assault trial continued to October 12, 2001.

U.S. v. Rodriguez-Lopez (SDC) Inmate on staff assault. Defendant expected to plead guilty but at last minute, asserted "self-defense". Motions hearing calendered for October 22, 2001.

ESCAPE

U.S. v. DiCarlo (TCN) Inmate escapee from CCC suspected of several bank robberies in Texas and New Mexico. Escape case dismissed without prejudice because inmate received life sentence in another district.

U.S. v. Havier (TCN) Inmate escapee from CCC pled guilty and sentencing is scheduled for November 15, 2001.

U.S. v. Little (SET) Inmate escape prosecution. Guilty plea being negotiated in exchange for a 6-12 month sentence.

U.S. v. Nelson (LOS) 1995 FPC Boron escape set for trial October 4, 2001.

CONTRABAND

U.S. v. Kumar (LOM) Trial continued to January 14, 2002.

U.S. v. Verwolf (SET) Case stayed pending outcome of trial in U.S. v. Gutierrez.

STATISTICS

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67	104	65	67	67	34	116	103			

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35	48	32	51	42	40	49	35			
CLOSED	37	30	53	33	49	36	49	47	32			
PENDING	38	43	38	37	39	45	36	38	41			
30 DAYS	0	1	0	4*	6*	5*	7*	7*	4*			
6 MONTHS	0	0	0	0	0	0	0	0	0			
APPEALS	3	6	5	0	2	4	2	2	0			

*Waiting for records from Archives, not considered overdue.

NUMBER OF FOI/PA PENDING:														
ATW	DUB	LOM	HON	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	OTHER
0	4	4	0	0	1	1	2	0	1	1	0	0	0	3

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479	473	477	472	474	475	469	482			
NEW CASES RECEIVED	11	5	14	10	9	8	4	22	9			

LITIGATION:

HC	8	3	6	8	5	5	2	13	3			
FTCA	0	0	2	2	0	0	0	1	1			
BIVENS	3	2	3	0	1	1	1	3	2			
OTHER	0	0	3	0	3	2	1	5	3			
CLOSED	8	11	10	15	7	7	10	9	15			
PENDING AT END OF MONTH	479	473	477	472	474	475	469	482	476			
LITIGATION REPORTS COMPLETED	7	8	12	8	8	9	6	10	4			

ADMINISTRATIVE TORT CLAIMS

	JAN	FEB	MAR	APR	MAY ¹	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	40	26	43	40	45	41	39	47	39			
CLOSED	45	33	23	28	91	18	30	68	22			
RECONSIDER	0	0	0	0	0	0	0	0	0			
PENDING	98	91	111	123	98	121	128	107	124			
OVER 6 MONTHS	0	0	0	0	0	0	0	1	1			

Tort Claim Investigations Over 60 Days:

DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

¹ Numbers adjusted as of June 1, 2001, by researching Lawpack.