



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

April 12, 1996

APR 15 1996

MEMORANDUM FOR WALLACE H. CHENEY
ASSISTANT DIRECTOR/GENERAL COUNSEL
CENTRAL OFFICE

FROM: 
Michael D. Hood, Regional Counsel

SUBJECT: Quarterly Report for January - March, 1996

Attached is our quarterly report for the above-noted months.

Attachments

LITIGATION NARRATIVES
JANUARY 1, 1996 - MARCH 31, 1996

SIGNIFICANT CASES

Crow v. Rich, et al.; 94-CR-017-001-B (ND/TX, Dallas Division)

Seagoville inmate has attempted to file habeas action (he has filed it under his criminal case number), challenging denial of his eligibility for one year sentence reduction under 18 U.S.C. § 3621(e). Inmate's crime fell under the "may be violent" section of the Program Statement, and he was denied sentence reduction based on two point enhancement for presence of firearm. A litigation report has been submitted (after consultation with the LCI and Litigation Branches in DC). A Motion to Dismiss was filed on February 21, 1996, and we are awaiting a copy of the Motion.

Washington v. Reno, et al.; Case Nos. 83-217 and 93-290

Prepared Declarations at FMC, Carswell for Camp Administrator Lisa Austin and Case Manager Tim Grace regarding the Motion for Enforcement, Renewal and Further Relief of Judge's Order Filed August 5, 1993, seeking that the Court enforce its previous Protective Order by not allowing inmates Robinson and Preston to be transferred as planned by FMC, Carswell. Also, the inmates request the Court enjoin the Bureau of Prisons from retaliating against the Plaintiffs of the ITS lawsuit.

Haughton v. Hawk, CIV-96-25-R (WD/OK)

It is a combination Bivens/Injunctive suit, and challenges our definition of "crime of violence" under 18 USC 3621(e) as it relates to one year off for drug treatment.

Agramonte v. U.S.; 3:94-CV-2015-G (ND/TX)

Medical malpractice case; pretrial hearing in April - possible settlement negotiations.

RELIGIOUS ISSUES

Susan Tinsley v. Thomasette Pittari; 4-95-CV-907-E (ND/TX)

The Plaintiff claims she is of an orthodox Christian faith that follows the tenets of the early Christian Church. She states that she is required to observe the double Sabbaths, or high holy days, by work proscription, which she states must be computed by a lunar calendar, not the solar calendar. Religious Services denied her request because the requested days were not recognized work proscription days according to the Federal Bureau of Prisons policy. Plaintiff cites Bivens and RFRA.

FTCA administrative claim filed by inmate Michael James Thundercloud, Reg. No. 06178-059, claiming that staff at FCI, Oakdale, damaged one eagle feather and one hawk feather beyond repair when this property was packed upon the inmate's placement into SHU on January 31, 1996. Inmate seeks \$14,000 for damage to the feathers, and \$214,000 for personal injury arising from being "spiritually and morally" damaged by the conduct of institution staff. We are working with the Bureau of Indian Affairs to assist the inmate in replacing the eagle feather.

Susan Tinsley v. Department of Justice, et al.

(The complaint has not been filed with the court as of March 26, 1996.)

Plaintiff claims Defendants have wrongly placed her in FRP refusal status due to her "religious beliefs", which has resulted in denial of rights and benefits.

CASES WITH SETTLEMENTS/AWARDS

Armstrong v. U.S.; 94-2562-B-M2 (MD/LA)

Lexington inmate filed suit for personal injury allegedly incurred at FMC, Carville in 1992 when handicapped commode railing gave way. Case was settled for approximately \$7,000, based primarily of inaccessibility of Carville records, and conflicting recollection of former Carville employees regarding facts of the incident.

Krumrye v. Reno; H-94-4354 (SD/TX)

EEO case - probationary employee fired for leaving key in lock; alleged gender based discrimination. Settlement agreement reached at mediation March 18, 1996 because of witness problems.

MEDICAL MALPRACTICE LITIGATION

Yousef Rouhani v. Six Unknown Federal Agents; 1:96CV005 (ND/TX)

Complains he was taken to hospital without medical records.

Benedetto Artino V. U.S.A.; 96-WY-4 (D/CO)

The inmate has filed suit for 3 million dollars, alleging our improper medical care lead to loss of his kidney.

CASES WITH HEARINGS OR TRIALS

Jerry Loudermilk v. Franco; EP-95-CA-436-H (WD/TX)

Magistrate scheduled an expedited evidentiary hearing in this habeas case for February 20, 1996, during which it was argued that plaintiff had not exhausted administrative remedies, and therefore a hearing on the merits was improper. Magistrate then ordered the filing of submissions by February 28, 1996, to address the issue of exhaustion, as well as the merits regarding whether drug treatment program, was eligible for early release under § 3621(e), despite being an inappropriate candidate for half-way house placement due to his violent offense conduct.

UPCOMING HEARING OR TRIALS

Amado Jose Torres v. Dr. Clinton Strong, et al.; CIV-94-356-B (WD/OK)

FTCA medical malpractice action, claiming inappropriate medical care by BOP, U.S. Marshals Service, and contract physician Dr. Strong for lower back problems. Scheduled for trial the week of April 15.

Agramonte v. U.S.; 3:94-CV-2015-G (ND/TX)

Mediation scheduled for April 15, 1996.

Potential evidentiary hearing in Denver regarding Timothy McVeigh week of April 8 - staff members from El Reno may be requested to testify regarding conditions of McVeigh's confinement.

SIGNIFICANT TORT CLAIM

T-SCR-96-113; Tony Johnigan, Reg. No. 27593-077, has filed a tort claim seeking \$75,000. Mr. Johnigan claims that Health Services staff at FCI, Seagoville failed to diagnose and treat him for a fractured ankle on February 5, 1996. He states that his foot was broken for 18 days before it was placed in a cast.

LITIGATION 2ND QTR SCRO

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	SET	AWD
MCR											
NER											
SER											
NCR											
SCR	61	34	5	20	2	54	300	19	1	2	0
WXR											
CO											
TOT											

NARRATIVE ANALYSIS NARRATIVE ATTACHED ON SEPARATE PAPER

DEFINITIONS

- LOC - LOCATION
- NUM - NUMBER OF TOTAL LAWSUITS FILED IN QUARTER
- HC - NUMBER OF HABEAS CORPUS ACTIONS FILED
- FTC - NUMBER OF FTCA ACTIONS FILED
- BIV - NUMBER OF BIVENS ACTIONS FILED
- OTH - OTHER ACTIONS FILED
- ANS - NUMBER OF LITIGATION REPORTS COMPLETED
- PEN - PENALTIES
- CLD - NUMBER OF ACTIONS CLOSED
- H/T - NUMBER OF HEARINGS OR TRIALS (INCLUDE INFO IN NARRATIVE)
- SET - NUMBER OF SETTLEMENTS (INCLUDE INFO IN NARRATIVE)
- AWD - NUMBER OF AWARDS (INCLUDE INFO IN NARRATIVE)
- GOVERNMENT ACTION AND DATE OF ACTION - (INCLUDE IN NARRATIVE)

2ND QTR SCRC

Tort Claims Second Quarter - FY96 (January 01, 1996 - March 31, 1996)

Loc	Num	PP	PI	PPPI	WD	Med	Set	Amnt	Pen	Den	OD	A/O	A/P
CR	128	88	21	5	0	14	11	3267	198	51	1	6	145

Variable Definition

Time Period

Num	- Number of claims filed	01/01/96	=< D_Accept	<= 03/31/96
PP	- Personal Property claims	01/01/96	=< D_Accept	<= 03/31/96
PI	- Personal Injury claims	01/01/96	=< D_Accept	<= 03/31/96
PPPI	- Both PP & PI claims	01/01/96	=< D_Accept	<= 03/31/96
WD	- Wrongful Death claims	01/01/96	=< D_Accept	<= 03/31/96
Med	- Medical claims	01/01/96	=< D_Accept	<= 03/31/96
Set	- Settled/approved claims	01/01/96	=< D_Closed	<= 03/31/96
Amnt	- Amount paid	01/01/96	=< D_Closed	<= 03/31/96
Pen	- Pending/open claims		▶▶ Entire Database	◀◀
Den	- Number of claims Denied	01/01/96	=< D_Closed	<= 03/31/96
OD	- Number of claims OverDue		▶▶ Entire Database	◀◀
A/O	- Avg number of days Overdue	01/01/96	=< D_Closed	<= 03/31/96
A/P	- Avg number of days to Process ..	01/01/96	=< D_Closed	<= 03/31/96
▶ Med	= PIM+ WDM+ PPPIM+ PPWDM			▶ WD = WD+ PPWD

▶ Press any key to continue ◀

2ND QTR SCRC

FOI/PA REQUESTS

LOC	NUM	PROC	PEND	OD	A/OD	A/P	CA
MXR							
NER							
SER							
NCR							
SCR	101	85	161	0	0	6 mos.	0
WXR							
CO							
TOT							

NARRATIVE ANALYSIS

DEFINITIONS

LOC - LOCATION

NUM - NUMBER FILED IN QUARTER

PROC - PROCESSED

PEND - PENDING

OD - OVERDUE

A/OD - AVERAGE NUMBER OF DAYS OVERDUE

A/P - AVERAGE LENGTH OF TIME TO PROCESS

CA - CIVIL ACTIONS FILED UNDER FOI/PA ACTS

LITIGATION NARRATIVES
APRIL 1, 1996 - JUNE 1, 1996

SIGNIFICANT CASES

Marchetti, et al. v. BOP, et al., C.A. No. 6:96CV026C, ND/TX

Case transferred from DDC, attempted class action filed by alien inmates, claiming they are denied equal protection by being housed in a contract facility (Eden Detention Center). Class certification has been denied, applications of approximately 20 additional inmates to join the suit have been denied, and the case has been severed into five separate actions - one for each original named plaintiff. We expect that the case may be dismissed under 28 USC § 1915(d), as there is 5th Circuit law directly on point.

United States v. Alicia Earl; 4:96-CV-356-E (ND/TX)

A motion for a commitment and expedited hearing was filed under 18 USC § 4245. A Federal Public Defender was appointed to represent Ms. Earl. An order was entered regarding the necessity of appointing an individual psychologist.

Edigin, et al v. County of Reeves, et al., No. P-95-CA-45-B
(WD/TX)

This FTCA claim, brought by former inmates at the Reeves County Law Enforcement Center alleged that the Bureau of Prisons had been negligent in failing to prevent an alleged assault on Nigerian inmates by Hispanic inmates. The case had originally been dismissed as to the U.S. because 6 months had not passed between the filing of the administrative tort claim, and the date suit was filed. After the administrative claim was denied (based on statute of limitations), we were brought back into the suit, and trial scheduled for the week of June 23. The court has now again dismissed the suit against the U.S. because the alleged assault occurred on July 19, 1993, and the administrative claim was not presented to the United States until July 20, 1995.

Stonecipher, et al. v. Turnbo, et al., C.A. No. 95-C01114-C
(ND/OK)

This Bivens case, brought by a former inmate and his wife, alleged that Regional and Community Corrections staff failed to provide appropriate medical care to plaintiff and claimed physical and mental anguish because he was required to make

payments on his fine or he would not be placed in a CTC. The case was dismissed for improper venue, but is subject to being refiled in Texas.

Loudermilk v. Franco, No. EP-95-CA-436-H (WD/TX)

As previously reported, the Magistrate recommended that this habeas petition be granted. Petitioner was denied halfway house placement, and therefore, could not receive a sentence reduction under 18 U.S.C. § 3621(e). The Judge dismissed the case for failure to exhaust administrative remedies. Inmate is now proceeding through the remedy system and we expect the case to be refiled.

Bostic v. Aguirre, EP-96-CA-139-DB (WD/TX)

Habeas Corpus petition wherein petitioner challenged the Bureau of Prison's Costs of Incarceration Fee (COIF) policy. Regional Counsel's Office and United States Attorney's Office are developing an approach to seek reconsideration by the District Court.

We received judgments of dismissal in two 3621(e) cases - Medina v. Franco, No. EP-96-CA-156-H, Western District of Texas, and Sorrells v. Bureau of Prisons, No. EP-96-CA-155-H, Western District of Texas. In addition, we have received a positive Report and Recommendation in another 3621(e) case out of Seagoville, Crow v. Rich, No. 3:96-CV-065, Northern District of Texas.

Richey v. Corum, EP-96-CA-241-H (WD/TX)

Bivens case wherein plaintiff alleges staff member assaulted him while he was in hard restraints in the Special Housing Unit. The matter was referred to the Office of Internal Affairs (OIA) for review. However, OIA instructed the Special Investigative Supervisor (SIS) Lieutenant at this institution to conduct the investigation is now complete, and concluded that the staff member, who is defendant Corum, acted properly.

Susan Tinsley v. Thomasette Pittari, et al., 4-95-CV-907-E

Provided the AUSA with a Supplemental Litigation Report to assist him in addressing the addition of Daryl DesJardin, Supervisory Chaplain, as a Defendant and the Preliminary Injunction Motion. Court allowed plaintiff to amend her Complaint and file against our objection.

Denver Reed v. Smith, Bidelspach, et al., CIV-96-874-C (WD/OK)

Alleges excessive use of force. The matter was initially received in the regional office. To date, none of the defendants have received service. The matter was referred to OIA while we were at the legal conference, and we have not heard back from them.

CASES WITH HEARING OR TRIALSAmado Jose Torres v. Dr. Clinton Strong, et al., CIV-94-356-B

FTCA medical malpractice action, claiming inappropriate medical care by BOP, U.S. Marshals Service, and contract physician Dr. Strong for lower back problems. Trial held April 15 and April 16. Judge recently ruled in our favor.

Anne M. Hammond v. Kathleen Hawk, et al.,

This case involves an inmate who was at FMC, Carswell and was sent to the MINT program. A hearing was held regarding issuance of a Temporary Restraining Order and/or Preliminary Injunction prohibiting removal of the inmate from Greenbrier Birthing Center. This case was filed in West Virginia and names Warden Bogan as a defendant.

United States v. Alicia Earl, 4:96-CV-356-E

Commitment hearing for Alicia Earl. Committed under 4245 and medications ordered.

CASE WITH SETTLEMENT OR AWARDDeborah Armstrong v. Department of Justice,
C.A. No. 3:95-CV-1329-G (ND/TX)

A court-ordered mediation was conducted in this case in mid-June. Plaintiff (a former employee) had alleged that she had been unfairly disciplined because of her gender and race. Settlement was reached as a result of mediation, in which plaintiff agreed to drop her monetary claims, and the Bureau agreed to provide a "neutral" reference in response to any inquiries from potential employers, except for law enforcement agencies, to whom a thorough vouchering would occur. We agreed that plaintiff's disciplinary file would not be disclosed except in response to requests from law enforcement entities, and plaintiff agreed never to seek employment with the BOP.

SIGNIFICANT TORT CLAIM

Inmate Cesar Givanni Morales-Morales, Reg. No. 59905-079, from FCI, Three Rivers has filed a tort claim (T-SCR-96-121) seeking \$1,200,000. The claim was accepted on April 3, 1996.

Mr. Morales-Morales alleges that while he was incarcerated at FCI, Texarkana he broke his left humerus while playing soccer. He states that Dr. Stringfellow authorized a "blind pinning with a sidle humeral locking nail" instead of a cast. On June 8, 1995, Mr. Morales-Morales arrived at FCI, Three Rivers.

Dr. Tharpe at FCI, Three Rivers referred him to community physician who recommend that the hardware be removed.

Mr. Morales-Morales states that the community physician stated removal of the hardware would reduce his pain by 50% Dr. Tharpe rejected the removal and Mr. Morales-Morales continues to be in pain.

RFRA CASE

Myers v. Franco, EP-96-CA-156-H, (El Paso Division)

Habeas petition filed by purported founder of "Church of Marijuana," alleging we have violated his religious rights by not allowing him to smoke marijuana in prison. Published decision in District of Wyoming has already found that this is not a "religion" under RFRA. In addition, defendant was convicted of possession with intent to distribute marijuana - we anticipate rapid dismissal.

MEDICAL MALPRACTICE LITIGATION

Richard Lee Atkins v. George Killinger, et al., 4:96-CV-397-Y (ND/TX)

Alleging he received inadequate medical treatment for injuries he sustained at the Mansfield Law Enforcement Center. He alleges defendants at Mansfield and FMC Fort Worth failed to provide adequate follow-up treatment for his serious injuries.

PROSECUTION

Inmate Homicide, Sergio Garcia-Chavez at FCI Three Rivers. Matter currently being investigated by FBI. No indictment yet. Three suspects and at least one witness.



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

October 15, 1996

MEMORANDUM FOR WALLACE H. CHENEY
ASSISTANT DIRECTOR/GENERAL COUNSEL
CENTRAL OFFICE

FROM: Michael D. Hood, Regional Counsel

SUBJECT: Quarterly Report for July - September, 1996

Attached is our quarterly report for the above-noted months.

Attachments

LITIGATION

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	SET	AWD
MKR											
NER											
SER											
NCR											
SCR	49	26	6	17	1	33	265	10	5	2	0
WXR											
CO											
TOT											

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LITIGATION NARRATIVES
JULY 1, 1996 - SEPTEMBER 30, 1996

SIGNIFICANT CASES

Loren Green v. U.S., 4:96-CV-412-E (ND/TX)

Claims Bureau of Prisons negligence when he scalded himself in bath tub.

James B. Mitchell v. Officer Tonya, et al., 4:96-CV-367-A (ND/TX)

Alleging his constitutional rights were violated when correctional staff in the SHU confiscated legal materials with other inmates' names on them.

Wilson v. BOP, 4:96-CV-459-A (ND/TX) and Havrilchuck v. Reno, 4:96-CV-476-Y (ND/TX)

Both are cases dealing with one-year sentence reduction for DAP completion.

Tinsley v. Pittari, et al., 4-95-CV-907-E

Tinsley filed several additional pleadings and responses. The institution notified the plaintiff that her requested September religious observance would not be granted. The case was dismissed on October 8, 1996.

Haughton v. Hawk, CIV-96-25-R (WD/OK)

We received another affirmative judgment (our first out of WD/OK) regarding 18 U.S.C. § 3621(e) and the year off for drug treatment.

CASES WITH SETTLEMENT OR AWARD

Fuller v. USA, CA No. 95-2107-PHX (D/AZ)

This FTCA personal property case was finally settled and dismissed on July 22, 1996, for payment of \$450.00. It involved a missing ring.

Artino v. USA, CA No. 96-WY-4-CB (D/CO)

FTCA medical malpractice case, in which plaintiff alleged we failed to diagnose kidney stone, leading to necrosis of kidney. We were unable to obtain expert testimony to support our treatment, and settlement authority was granted by Central Office

July 31 for \$90,000. We have just received word that the case has been settled for approximately \$105,000, and have a call in to the Assistant U.S. Attorney to reconcile this discrepancy.

CASE WITH HEARING OR TRIAL

Fuller v. Martyn, et al., C.A. No. C-95-603 (SD/TX)

An evidentiary hearing was conducted on September 25, regarding the inmate's allegation of substandard medical care. The judge (a former registered nurse) has taken an unusual interest in this case. The three named defendants are the HSA, Medical Technician, and Chief Physician at Three Rivers. We continue to argue that plaintiff received appropriate care, and, furthermore, that all defendants are entitled to qualified immunity. This case bears close watching, given the reputation of the Judge (Janis Graham Jack), who, we have been informed, was recently reversed by the 5th Circuit when she held an AUSA in contempt.

Zacher v. Hawk, et al., C.A. No. C-96-40 (SD/TX)

A Spears hearing was held on this case on September 25. It was a rambling, baseless complaint, alleging improper classification, transfer, etc. The hearing was held before Judge Janice Graham Jack (see note above from Fuller v. Martyn case). The hearing was continued because plaintiff did not have his legal materials with him (he had been transported by the Marshals, who did not insure that his legal materials traveled with him). At second hearing, case was dismissed by Judge Jack.

Okonofua v. U.S., 4:96-CV-037-A (ND/TX)

A "trial" of this FTCA property claim was held before Judge McBryde on September 23. The inmate had filed suit for over \$1,000.00 for lost property. We acknowledged that certain property had been lost, but were unable to settle the administrative claim or the lawsuit because plaintiff failed to provide any proof of the value of the lost property. At trial, the Judge awarded plaintiff \$100.00 for one box of lost property, but offset that against an award of \$373.00 previously entered in favor of the U.S.A. for attorney's fees for plaintiff's earlier failure to respond to discovery. Thus, the net judgment was in favor of the U.S.A. for \$273.00.

Muniz v. Childers, A-95-CA-0289-JN (WD/TX)

On September 27, 1996, a hearing was conducted before Magistrate Albright in Austin. Muniz, now a free man, showed up and requested time to respond to the defendant's pending motion to dismiss, or in the alternative, for summary judgment. The

magistrate gave him until October 11, at which time, if he denies the motion, he will set the case for trial. Plaintiff filed a response which is currently being evaluated. This case is not a big concern however.

United States v. Rebecca Adoma, 4:96-CV-632-Y (ND/TX)

A mental health hearing was held at FMC, Carswell. She was committed for hospitalization pursuant to 18 USC 4245.

UPCOMING HEARING OR TRIAL

Spanjol v. US, CA No. 4:94-CV-237 (ED/TX)

This FTCA wrongful death/medical malpractice case was scheduled for trial August 12 and 13 in Sherman, Texas, but plaintiff's counsel was disqualified in August, 1996, and the trial date has been continued.

Schneider v. Brown, 1:96-CV-0151-C (ND/TX)

A Spears hearing will be held on October 22, 1996. This inmate alleges he was denied water during a hunger strike.

MEDICAL MALPRACTICE LITIGATION

Richard Lee Atkins v. George Killinger, et al., 4:96-CV-397-Y (ND/TX)

Alleging inadequate medical treatment for injuries he sustained to his face and teeth prior to his arrival at FMC, Fort Worth; seeking \$50,000 in general damages, punitive damages, and legal costs and expenses. In addition to federal defendants, Atkins is suing officials from the Mansfield Law Enforcement Center.

Carter v. Medical Review Board, et al., 95-CV-781-E (ND/TX)

Numerous complaints ranging from negligence in regard to her claustrophobia and sore gums to her denial of short line meals.

MEDICAL MALPRATICE TORT CLAIMS

LITTRELL, Okie, Register Number 13227-075 - Claimant submitted his claim to the Central Office, who in turn forwarded it to the South Central Regional Office, North Central Regional Office, and the Mid-Atlantic Regional Office. Claimant alleges that while he

was housed at FDC, Oakdale, Marion Camp, and FPC, Millington, Bureau of Prisons medical staff failed to diagnosis that he was suffering from throat cancer. Mr. Littrell is represented by counsel and seeks \$300,000.00 for personal injury. Initial investigation by staff at FMC, Fort Worth has indicated that there may be some negligence on the part of medical staff at FDC, Oakdale. Mr. Littrell was examined at FDC, Oakdale and staff diagnosed a swollen tonsil, and after he transferred to FPC, Millington he was diagnosed with a tumor on his tonsil. This investigation is in the beginning staff and medical staff at FMC, Fort Worth are currently doing a comprehensive review of the medical file. (Claim Number T-BOP-96-168)

BURT, Richard, Register Number 02403-095 - Claimant alleges that when he arrived in the Bureau of Prisons, "officials" were made aware that he suffered from ulcers. He further states that medical staff at FCI, Texarkana were medically indifferent by failing to provide him with medical treatment to prevent the perforation of the ulcer several weeks later. He is seeking \$600,000.00. (Claim Number T-SCR-96-352)

SALDIVAR, Heriberto, Register Number 41673-079 - Claimant alleges that on February 15, 1996, he broke his foot and went to the Health Services Department for treatment. He claims that medical staff diagnosed his foot as only sprained and that he now has permanent damage. He seeks \$25,000.00 compensation. Investigation of the claim revealed that claimant received appropriate treatment and care. Claimant injured his ankle on the handball court and then walked to the Health Services Department, which is approximately 100-150 yards from the handball court. He was instructed to return to his housing unit and obtain a pass in order to be evaluated as an "emergency." He later returned with a slight limp, but without limping, gross deformity, or swelling. His range of motion was normal. He was treated with an ace bandage, anti-inflammatory medication, and instructed to use ice. He was placed on idle status for one day. The next day he returned complaining of more swelling and pain. Examination revealed swelling and tenderness, range of motion and circulation were good. A routine x-ray was ordered. The x-ray was taken on February 21, 1996, and a spiral fracture of the distal fibula, which remained non-displaced was revealed. Claimant was placed in a short leg cast and issued crutches and checked periodically. He had no further problems during his course of recovery. The cast was removed on March 27, 1996, and an x-ray was taken. The x-ray revealed good callous formation.

Rehabilitation exercises were initiated. He regained full function and use of his right ankle. (T-SCR-96-156)

CRIMINAL MATTERS/PROSECUTIONS**FBI, Three Rivers**

FBI has completed additional investigation into Garcia-Chavez homicide. It is anticipated that the case will be presented to the Grand Jury the week of August 14, 1996.

Garcia-Chavez homicide was rescheduled to go before the Grand Jury on September 25, 1996.

FMC, Fort Worth

Paulo Gutierrez, Reg. No. 22336-080, referred to FBI on June 16, 1996, for possible prosecution for ingestion of heroin balloons.

FPC, Bryan

Ron Schielack - This individual is accused of engaging in sexual relations with inmates who worked for him in the warehouse. He was the warehouse supervisor until he was approached regarding these allegations. At that time he resigned from the BOP. The case did go before the Grand Jury, and an Indictment was handed down. Mr. Schielack is expected to enter a plea in this case in the very near future.

██████████ - This individual is accused on engaging in sexual relations with inmates at FPC, Bryan, particularly one who he knew before he became a Correctional Officer. ██████████ has been on home duty for approximately four months. The OIG Agent Warren and AUSA Doyle (SD/TX), are still attempting to gather sufficient evidence to pursue formal criminal charges.

Ron Schielack, former warehouse supervisor, entered a guilty plea to two counts of a four counts indictment charging him with violation of 18 U.S.C. 2243(b), Sexual Abuse of a Ward. Sentencing is scheduled for December 6, 1996.

There is no change in the ██████████ case. ██████████ remains on home duty pending a decision by OIG as to whether charges will be filed.

A Physician's Assistant, ██████████, has had allegations raised by at least two inmates that he "molested" them while performing vaginal and rectal examinations. OIG was in the institution a few weeks ago to administer polygraphs to the inmates. Preliminary indications reveal no sign of deception on their part. ██████████ has declined to be polygraphed.

FMC, Carwell**United States v. Bridgett Bradford, 4:96-CR-077-E**

We are working with the AUSA setting up staff interviews and releasing subpoenaed documents. The AUSA and Warden have decided not to prosecute this.

FCI, El Reno

Inmate Dennis Sells, Reg. No. 06113-062, escaped 1991, and still at large.

Inmate Antonio Wilson, Reg. No. 07191-062, accused of assault/introduction of drugs and indictment is outstanding.

Inmate James Jones, Reg. No. 07148-062, accused of introduction of drugs and indictment outstanding.

Inmate William Hardwood, Reg. No. 03271-063, camp walk away and still at large, indictment outstanding.

Inmate Mark Robitaille, Reg. No. 07382-062, camp walk away and still at large, indictment outstanding.

Dennis Sells, Reg. No. 06113-062, Camp Escape. USM is investigating.

Antonio Wilson, Reg. No. 07191-062, Assault/Introduction Drugs, FBI has accepted.

James Jones, Reg. No. 07148-062, Introduction Drugs, FBI has accepted.

William Hardwood, Reg. No. 03271-063, Camp Escape, FBI has accepted.

Mark Robitaille, Reg. No. 07382-062, Camp Escape, Judge does not want to pursue since he is terminally ill; inmate is at Springfield.

FCI, TEXARKANA

On August 6, 1996, two inmates assaulted another inmate with a single edge razor blade. The inmate received lacerations to his left facial cheek and left side which required sutures to close. On August 7, 1996, the FBI responded and it was accepted for prosecution on September 10, 1996.

On September 11, 1996, The Grand Jury indicted inmate Ronald Pereira, Reg. No. 35839-004 for Possession of a Weapon. The

Grand Jury declined prosecution of Pereira and inmate Victor Ortega, Reg. No. 99878-024, on the Assault charges.

On August 3, 1996, staff observed a vehicle drop a package at the perimeter of the Federal Prison Camp. The package contained a 375ml bottle of Crown Royal whiskey. It was determined that the vehicle belonged to Curtis and Cassandra Rawls, relatives of inmate Derrick Rawls, Reg. No. 12480-076. The incident was referred for prosecution on August 28, 1996. On September 12, 1996, prosecution was declined.

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TRENTADUE, Kenneth Michael, Register Number 51098-098 - Jesse Trentadue is making claims on behalf of various family members and himself for the alleged wrongful death of his brother at FTC, Oklahoma City on August 21, 1996. Mr. Trentadue is an attorney in the Salt Lake City area. (T-SCR-96-322)

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Variable Definition

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 PPPI - Both PP & PI claims 07/01/96 =< D_Accept <= 09/30/96
 WD - Wrongful Death claims 07/01/96 =< D_Accept <= 09/30/96
 Med - Medical claims 07/01/96 =< D_Accept <= 09/30/96
 Set - Settled/approved claims 07/01/96 =< D_Closed <= 09/30/96
 Amnt - Amount paid 07/01/96 =< D_Closed <= 09/30/96
 Pen - Pending/open claims ▶▶ Entire Database ◀◀
 Den - Number of claims Denied 07/01/96 =< D_Closed <= 09/30/96
 OD - Number of claims OverDue ▶▶ Entire Database ◀◀
 A/O - Avg number of days Overdue 07/01/96 =< D_Closed <= 09/30/96
 A/P - Avg number of days to Process .. 07/01/96 =< D_Closed <= 09/30/96
 ▶ Med = PIM+ WDM+ PPPIM+ PPWDM ▶ WD = WD+ PPWD

▶ Press any key to continue ◀



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

October 15, 1996

MEMORANDUM FOR WALLACE H. CHENEY
ASSISTANT DIRECTOR/GENERAL COUNSEL
CENT OFFICE

FROM: Mich a D. Hood, Regional Counsel

SUBJECT: Quarterly Report for July - September, 1996

Attached is our quarterly report for the above-noted months.

Attachments

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LITIGATION NARRATIVES
JULY 1, 1996 SEPTEMBER 30, 1996

SIGNIFICANT CASES

Loren Green v. U.S., 4:96-CV-412-E (ND/TX)

Claims Bureau of Prisons negligence when he scalded himself in bath tub.

James B. Mitchell v. Officer Tonva, et al., 4:96-CV-367-A (ND/TX)

Alleging his constitutional rights were violated when correctional staff in the SHU confiscated legal materials with other inmates' names on them.

Wilson v. BOP, 4:96-CV-459-A (ND/TX) and Havrilchuck v. Reno, 4:96-CV-476-Y (ND/TX)

Both are cases dealing with one-year sentence reduction for DAP completion.

Tinsley v. Pittari, et al., 4-95-CV-907-E

Tinsley filed several additional pleadings and responses. The institution notified the plaintiff that her requested September religious observance would not be granted. The case was dismissed on October 8, 1996.

Haughton v. Hawk, CIV-96-25-R (WD/OK)

We received another affirmative judgment (our first out of WD/OK) regarding 18 U.S.C. 3621(e) and the year off for drug treatment.

CASES WITH SETTLEMENT OR AWARD

Fuller v. USA, CA No. 95-2107-PHX (D/AZ)

This FTCA personal property case was finally settled and dismissed on July 22, 1996, for payment of \$450.00. It involved a missing ring.

Artino v. USA, CA No. 96-WY-4-CB (D/CO)

FTCA medical malpractice case, in which plaintiff alleged we failed to diagnose kidney stone, leading to necrosis of kidney. We were unable to obtain expert testimony to support our treatment, and settlement authority was granted by Central Office

2

July 31 for \$90,000. We have just received word that the case has been settled for approximately \$105,000, and have a call in to the Assistant U.S. Attorney to reconcile this discrepancy.

CASE WITH HEARING OR TRIAL

Fuller v. Martyn, et al., C.A. No. C-95-603 (SD/TX)

An evidentiary hearing was conducted on September 25, regarding the inmate's allegation of substandard medical care. The judge (a former registered nurse) has taken an unusual interest in this case. The three named defendants are the HSA, Medical Technician, and Chief Physician at Three Rivers. We continue to argue that plaintiff received appropriate care, and, furthermore, that all defendants are entitled to qualified immunity. This case bears close watching, given the reputation of the Judge (Janis Graham Jack), who, we have been informed, was recently reversed by the 5th Circuit when she held an AUSA in contempt.

Zacher v. Hawk, et al., C.A. No. C-96-40 (SD/TX)

A Spears hearing was held on this case on September 25. It was a rambling, baseless complaint, alleging improper classification, transfer, etc. The hearing was held before Judge Janice Graham Jack (see note above from Fuller v. Martyn case). The hearing was continued because plaintiff did not have his legal materials with him (he had been transported by the Marshals, who did not insure that his legal materials traveled with him). At second hearing, case was dismissed by Judge Jack.

Okonofua v. U.S., 4:96-CV-037-A (ND/TX)

A "trial" of this FTCA property claim was held before Judge McBryde on September 23. The inmate had filed suit for over \$1,000.00 for lost property. We acknowledged that certain property had been lost, but were unable to settle the administrative claim or the lawsuit because plaintiff failed to provide any proof of the value of the lost property. At trial, the Judge awarded plaintiff \$100.00 for one box of lost property, but offset that against an award of \$373.00 previously entered in favor of the U.S.A. for attorney's fees for plaintiff's earlier failure to respond to discovery. Thus, the net judgment was in favor of the U.S.A. for \$273.00.

Muniz v. Childers, A-95-CA-0289-JN (WD/TX)

On September 27, 1996, a hearing was conducted before Magistrate Albright in Austin. Muniz, now a free man, showed up and requested time to respond to the defendant's pending motion to dismiss, or in the alternative, for summary judgment. The

magistrate gave him until October 11, at which time, if he denies the motion, he will set the case for trial. Plaintiff filed a response which is currently being evaluated. This case is not a big concern however.

United States v. Rebecca Adoma, 4:96-CV-632-Y (ND/TX)

A mental health hearing was held at FMC, Carswell. She was committed for hospitalization pursuant to 18 USC 4245.

UPCOMING HEARING OR TRIAL

Spanjol v. US, CA No. 4:94-CV-237 (ED/TX)

This FTCA wrongful death/medical malpractice case was scheduled for trial August 12 and 13 in Sherman, Texas, but plaintiff's counsel was disqualified in August, 1996, and the trial date has been continued.

Schneider v. Brown, 1:96-CV-0151-C (ND/TX)

A Spears hearing will be held on October 22, 1996. This inmate alleges he was denied water during a hunger strike.

MEDICAL MALPRACTICE LITIGATION

Richard Lee Atkins v. George Killinger, et al., 4:96-CV-397-Y (ND/TX)

Alleging inadequate medical treatment for injuries he sustained to his face and teeth prior to his arrival at FMC, Fort Worth; seeking \$50,000 in general damages, punitive damages, and legal costs and expenses. In addition to federal defendants, Atkins is suing officials from the Mansfield Law Enforcement Center.

Carter v. Medical Review Board, et al., 95-CV-781-E (ND/TX)

Numerous complaints ranging from negligence in regard to her claustrophobia and sore gums to her denial of short line meals.

MEDICAL MALPRATICE TORT CLAIMS

LITTRELL, Okie, Register Number 13227-075 - Claimant submitted his claim to the Central Office, who in turn forwarded it to the South Central Regional Office, North Central Regional Office, and the Mid-Atlantic Regional Office. Claimant alleges that while he

was housed at FDC, Oakdale, Marion Camp, and FPC, Millington, Bureau of Prisons medical staff failed to diagnosis that he was suffering from throat cancer. Mr. Littrell is represented by counsel and seeks \$300,000.00 for personal injury. Initial investigation by staff at FMC, Fort Worth has indicated that there may be some negligence on the part of medical staff at FDC, Oakdale. Mr. Littrell was examined at FDC, Oakdale and staff diagnosed a swollen tonsil, and after he transferred to FPC, Millington he was diagnosed with a tumor on his tonsil. This investigation is in the beginning staff and medical staff at FMC, Fort Worth are currently doing a comprehensive review of the medical file. (Claim Number T-BOP-96-168)

BURT, Richard, Register Number 02403-095 - Claimant alleges that when he arrived in the Bureau of Prisons, "officials" were made aware that he suffered from ulcers. He further states that medical staff at FCI, Texarkana were medically indifferent by failing to provide him with medical treatment to prevent the perforation of the ulcer several weeks later. He is seeking \$600,000.00. (Claim Number T-SCR-96-352)

SALDIVAR, Heriberto, Register Number 41673-079 - Claimant alleges that on February 15, 1996, he broke his foot and went to the Health Services Department for treatment. He claims that medical staff diagnosed his foot as only sprained and that he now has permanent damage. He seeks \$25,000.00 compensation. Investigation of the claim revealed that claimant received appropriate treatment and care. Claimant injured his ankle on the handball court and then walked to the Health Services Department, which is approximately 100-150 yards from the handball court. He was instructed to return to his housing unit and obtain a pass in order to be evaluated as an "emergency." He later returned with a slight limp, but without limping, gross deformity, or swelling. His range of motion was normal. He was treated with an ace bandage, anti-inflammatory medication, and instructed to use ice. He was placed on idle status for one day. The next day he returned complaining of more swelling and pain. Examination revealed swelling and tenderness, range of motion and circulation were good. A routine x-ray was ordered. The x-ray was taken on February 21, 1996, and a spiral fracture of the distal fibula, which remained non-displaced was revealed. Claimant was placed in a short leg cast and issued crutches and checked periodically. He had no further problems during his course of recovery. The cast was removed on March 27, 1996, and an x-ray was taken. The x-ray revealed good callous formation.

Rehabilitation exercises were initiated. He regained full function and use of his right ankle. (T-SCR-96-156)

CRIMINAL MATTERS/PROSECUTIONS**FCI, Three Rivers**

FBI has completed additional investigation into Garcia-Chavez homicide. It is anticipated that the case will be presented to the Grand Jury the week of August 14, 1996.

Garcia-Chavez homicide was rescheduled to go before the Grand Jury on September 25, 1996.

FMC, Fort Worth

Paulo Gutierrez, Reg. No. 22336-080, referred to FBI on June 16, 1996, for possible prosecution for ingestion of heroin balloons.

FPC, Bryan

Ron Schielack - This individual is accused of engaging in sexual relations with inmates who worked for him in the warehouse. He was the warehouse supervisor until he was approached regarding these allegations. At that time he resigned from the BOP. The case did go before the Grand Jury, and an Indictment was handed down. Mr. Schielack is expected to enter a plea in this case in the very near future.

- This individual is accused on engaging in sexual relations with inmates at FPC, Bryan, particular) one who he knew before he became a Correctional Officer. has been on home duty for approximately four months. The gent Warren and AUSA Doyle (SD/TX), are still attempting to gather sufficient evidence to pursue formal criminal charges.

Ron Schielack, former warehouse supervisor, entered a guilty plea to two counts of a four counts indictment charging him with violation of 18 U.S.C. 2243(b), Sexual Abuse of a Ward. Sentencing is scheduled for December 6, 1996.

There is no change in the case. **111111kremains** on home duty pending a decision by OIG as to whether charges will be filed.

A Physician's Assistant, has had allegations raised by at least two inmates that he "molested" them while performing vaginal and rectal examinations. OIG was in the institution a few weeks ago to administer polygraphs to the inmates. Preliminary indications reveal no sign of deception on their part. has declined to be polygraphed.

FMC, CarvellUnited States v. Bridgett Bradford, 4:96-CR-077-E

We are working with the AUSA setting up staff interviews and releasing subpoenaed documents. The AUSA and Warden have decided not to prosecute this.

PC', El Reno

Inmate Dennis Sells, Reg. No. 06113-062, escaped 1991, and still at large.

Inmate Antonio Wilson, Reg. No. 07191-062, accused of assault/introduction of drugs and indictment is outstanding.

Inmate James Jones, Reg. No. 07148-062, accused of introduction of drugs and indictment outstanding.

Inmate William Hardwood, Reg. No. 03271-063, camp walk away and still at large, indictment outstanding.

Inmate Mark Robitaille, Reg. No. 07382-062, camp walk away and still at large, indictment outstanding.

Dennis Sells, Reg. No. 06113-062, Camp Escape. USM is investigating.

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William Hardwood, Reg. No. 03271-063, Camp Escape, FBI has accepted.

Mark Robitaille, Reg. No. 07382-062, Camp Escape, Judge does not want to pursue since he is terminally ill; inmate is at Springfield.

FCI, TEXARKANA

On August 6, 1996, two inmates assaulted another inmate with a single edge razor blade. The inmate received lacerations to his left facial cheek and left side which required sutures to close. On August 7, 1996, the FBI responded and it was accepted for prosecution on September 10, 1996.

On September 11, 1996, The Grand Jury indicted inmate Ronald Pereira, Reg. No. 35839-004 for Possession of a Weapon. The

Grand Jury declined prosecution of Pereira and inmate Victor Ortega, Reg. No. 99878-024, on the Assault charges.

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▶ WD = WD+ PPWD

▶ Press any key to continue •



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

January 16, 1997

MEMORANDUM FOR WALLACE H. CHENEY
ASSISTANT DIRECTOR/GENERAL COUNSEL

FROM: *M D Hood*
Michael D. Hood, Regional Counsel

SUBJECT: Quarterly Report for October - December, 1996

Attached is our quarterly report for the above-noted months.

Attachments

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages *15*

To <i>Myra</i>	From <i>M Hood</i>
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GENERAL SERVICES ADMINISTRATION

LITIGATION NARRATIVES
OCTOBER 1, 1996 - DECEMBER 31, 1996

SIGNIFICANT CASES**Yeteto v. Ralph, 92-1139-A (WD/OK)**

Case arising out of El Reno resurfaced; District court decides that case has merit after four years dormancy. Key issue is proper service of process to all named defendants where defendants are now all in various locations throughout the Bureau, and some have resigned.

Stewart v. Ralph, EP-96-CA-453F (WD/TX)

The case is interesting because it is based on a Hindu inmate's complaint that the common fare meal plan violates his 8th Amendment rights because it contains items such as meat, fish, poultry, eggs, onions and garlic that may not be offered before God in prayer. The inmate also complains that he is not allowed to remove offensive items from his tray for fear of being removed from the common fare meal plan.

Terise Ahr v. Federal Bureau of Prisons, 43932-272, District Court of Brazos County, Texas

This is a case which has been filed in state court in regard to the Bureau's alleged failure to comply with the terms of a settlement agreement between Ms. Ahr, a former employee, and the Bureau. We are working with the Assistant U.S. Attorney, Robert Bernard, to have the case removed to Federal court. Following the removal, we will respond to the merits of the case.

Loudermilk v. Franco, EP-96-423-H

Received a favorable decision. The case involved early release under 3621(e), and our decision not to place the inmate in a halfway house for transitional services.

Daas v. Scott, et al., C.A. No. CV96-0724 (WD/LA)

Plaintiff is a detainee at FDC Oakdale. He has alleged that he has been retaliated against (in the form of disciplinary action and AD placement) for filing lawsuits/grievances. The Magistrate Judge has taken a particular interest in the case, and a motion to dismiss has been filed, along with a "Report" detailing the reasons for plaintiff's latest placement in AD.

William Paul Shaver v. United States Bureau of Prisons, et al., C.A. No. 4:96CV419 (ED/TX)

In this Habeas action, the inmate alleges he is improperly incarcerated. He asserts that the petition for revocation of

supervised release was filed more than five months after the supervision should have been terminated.

FMC Fort Worth has received 10 Habeas Corpus petitions requesting deportation pursuant to the new INS procedure.

CASE WITH SETTLEMENT OR AWARD

Venegas v. Warden, 96-1359LC (WD/LA)

We received an adverse decision in this 3621(e)e case out of the Western District of Louisiana, Lake Charles Division. The court relied upon the reasoning of Downey, held that the language of 3621(e) is not ambiguous (i.e., that the term "crime of violence" has an accepted meaning and definition), and that our interpretation "conflicts with the plain language of the statute." The court then went on to order that the inmate get the one year reduction. Our motion for reconsideration has been denied. U.S. Attorney's office is recommending appeal.

Cardona-Sandoval v. Brush, No. 96-1583 (WD/LA)

We received an adverse decision on this habeas case. The offender was on parole, got picked up for committing a crime while on parole, and received a sentence for that new crime. The Parole Commission took a long time to file a parole violator detainer, and the new conviction was subsequently overturned. We gave the inmate credit against his parole violator term for all days after the filing of the parole detainer, but not any time prior to filing of the detainer. The USPC asked us to nunc pro tunc the detainer back to the date of inmate's arrest, but we couldn't because the detainer wasn't in existence at the time. We asked the USPC to take the inmate's "dead time" into account in imposing the violator term, but they felt their regulations prohibited them from doing that. The judge has now ordered that the "dead time" be credited to the parole violator term. Neither the Parole Commission nor our office recommends appeal. The inmate was originally scheduled for release on November 25, 1996. This moves his release date up by about a week or 2. Since he is being turned over to INS for deportation back to Columbia, all this does is move the deportation up by a week or so.

CASE WITH HEARING OR TRIAL

Glenn H. Zacher v. Kathleen Hawk, et al., C.A. No. 96-405

A Spears hearing was conducted on October 8, 1996. Case dismissed.

L.J. and Maylene Carter v. USA, C.A. No. LR-C-95-407 (ED/AR)

A hearing was held on October 23, in Little Rock, Arkansas. This is the case in which we assessed subsistence fees against 2 defendants who were direct court commitments to the CCC, despite the fact that the J&C imposed a fine, and contained the standard language "This fine includes cost of incarceration and/or supervision." The hearing went surprisingly well, but we are in the process of supplementing the record (the Judge asked for additional documentation) and no ruling has been issued yet.

U.S. v. Joseph Clinton Weinmunson, III, CR. No. 96-10008-01 (WD/LA)

A hearing was held on October 29, in Shreveport, Louisiana. This criminal case involved Sentencing Guidelines issues, and the Judge's desire that the defendant serve his term of imprisonment in a CCC. Because of the nature of the defendant's offense (possession of child pornography), we did not follow the Judge's "recommendation" for halfway house placement. Other issues (e.g., a claim by the USPO that we had "promised" to place this inmate in a CCC) were also involved. At the hearing, the Judge resentenced the defendant to probation with a condition of one year CCC placement.

Whitney Broach v. Christopher M. Zepher, et al.,
C.A. No. H-96-1450 (SD/TX)

An emergency telephone hearing was conducted on October 11, as a result of petitioner's emergency petition, asking that the Bureau of Prisons not release her. Ms. Broach claimed that she was in need of surgery for removal of leaking breast implants (true), and that the Bureau of Prisons had an obligation to pay for her surgery. Thus, she sought an order that she be kept in custody so that the surgery could be performed at the government's expense. The Community Corrections Office in Houston was instrumental in gathering information on extremely short notice (approximately 24 hours lead time), whereby we proved to the judge that Ms. Broach had been offered the surgery in the past by the BOP, but refused those offers. The emergency petition was denied.

A Spears hearing was held December 30 on this case which was originally filed as a habeas, but was "converted," at the Court's behest, to a potential Bivens claim. The case involves allegations regarding disciplinary action taken at a Houston CCC, as well as failure to provide plaintiff with surgery for removal of leaking breast implants. No ruling has been issued yet, but we are extremely confident that the court will dismiss the case as to the BOP defendant.

Vallier v. Harris, et al., No. A-93-CA-41 (WD/TX)

We prevailed on all claims in this Bivens case. The case, involving allegations of deliberate indifference to medical needs (failure to diagnose and/or treat a heart attack) was handled by Martin Sweaney (FCI Bastrop) and Assistant U.S. Attorney Harold Atkinson. In addition, our Honors Attorney, Marsha Foulks, attended the trial, (conducted November 12 and 13) and sat as 3d chair. After several hours of deliberation, the 6 person jury ruled in favor of our staff members on all claims. The inmate was represented by counsel.

MEDICAL MALPRACTICE

Torts:

Inmate Richard Burt, Reg. No. 02403-095, of FCI Texarkana, requests \$600,000.00 for personal injury for alleged medical indifference. He claims medical staff failed to treat him for ulcers resulting in emergency surgery for an ulcer perforation. He claims he is not treated for severe arthritis or a skin disorder. Investigation is pending. (T-SCR-96-352)

Inmate Edward Funches, Reg. No. 37764-054, from FMC, Fort Worth has filed a tort claim alleging that medical staff failed to properly treat him for a decubitus ulcer and as a result he was required to undergo a surgical procedure. He is seeking \$1.5 million in damages. (T-SCR-96-415)

Inmate Jose Reynoso-Olascoaga, Reg. No. 64714-079, from FCI, Big Spring has filed a tort claim alleging that he did not receive adequate treatment for a broken jaw.

Mr. Reynoso-Olascoaga alleges that on May 11, 1996, while he was walking on the track at FCI, Big Spring, he was struck with a bat thrown from the adjacent softball field. The inmate was taken to a community hospital, but there was no dentist or oral surgeon available and the inmate was given a pain medication and ice pack and sent back to the institution for the night. The inmate was examined the next day in the institution hospital, and the medical staff advised him that his jaw would have to be wired closed. The inmate refused the procedure at that time. It is unknown if the procedure was later performed. The inmate is seeking \$10 million in damages. (T-SCR-96-430)

LITIGATION:**Johnigan v. Trueblood, et al., No. 3:96-CV-2434-T**

Plaintiff alleges medical staff misdiagnosed his broken foot and he suffered severe pain as a result.

CRIMINAL MATTERS/PROSECUTIONS**FPC BRYAN**

Assistant U.S. Attorney Gerald Doyle, Southern District of Texas-Houston, declined prosecution in the Vincent Rosas case. Mr. Doyle cited the lack of credible and forthcoming witness testimony as the basis for not prosecuting. However, new information has surfaced and the matters will be represented to the U.S. Attorney's Office. We have issued a letter to Mr. Rosas proposing termination. Vincent Rosas has been issued a proposal letter indicating he will be terminated on December 27, 1996. He appeared and provided a response to Warden Beasley regarding the proposal on December 17, 1996. A letter regarding the final decision is in the review process, and should be issued within the next few days.

Ron Scheilack, former Materials Handler Supervisor, was sentenced on December 6, 1996, to a five year term of probation, 4 months home confinement, and fined \$2,000. He is also prohibited from seeking employment with any Federal, state or local law enforcement agency during the term of his probation.

The investigation into allegations of sexual impropriety by [REDACTED] Physician Assistant, continues. OIA agents and an AUSA from Main Justice (Civil Rights) will be in the institution during the week of January 1997 to interview the subject and others. As an offshoot of the [REDACTED] case, allegations of sexual impropriety have been raised against [REDACTED] Correctional Officer. During an interview of an inmate involved in the [REDACTED] case, a semen sample was provided by the inmate who claimed it had been from Officer [REDACTED]. OIG and the FBI have confirmed that the sample is semen and have apparently determined the blood type of the person who produced the semen. During their visit in January 1997, a search warrant will be executed in order to obtain a blood sample from Officer [REDACTED].

FMC CARSWELL

Staff Chaplain may be indicted under 18 USC Section 2243(b), Sexual Abuse of a Ward, and/or a misdemeanor regarding making false statement during an official investigation.

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FCI EL RENO

Ramos-Juarez, Raul, Reg. No. 56817-079, Possession of Weapon, FBI accepted.

Muniz, Eduardo, Reg. No. 69237-080, Possession of Weapon, FBI accepted.

Watts, Christopher, Reg. No. 25757-077, Assault on Inmate, FBI declined - no staff witnesses.

Hilliard, Rocky, Reg. No. 12401-076, Possession of Narcotics, FBI investigating.

Erving, Anthony, Reg. No. 18804-016, Assault on Inmate, FBI accepted.

Sells, Dennis, Reg. No. 06113-062, Camp Escape, USM investigating.

Wilson, Antonio, Reg. No. 07191-062, Assault/Introduction of Drugs, indicted.

Jones, James, Reg. No. 07148-062, Introduction of Drugs, FBI indicted.

Luevano, Juan, Reg. No. 22720-077, Introduction of Drugs/Assault, indicted. Hardwood, William, Reg. No. 03271-063, Camp Escape, FBI accepted.

Harris, Jerry, Reg. No. 12187-064, Introduction of Drugs, FBI declines due to small amount.

Perez, Virginio, Reg. No. 60665-080, Camp Escape, USM investigating.

Aerceo, Elido, Reg. No. 76999-080, Camp Escape, USM investigating.

FMC FORT WORTH

The FBI has declined to prosecute for injection of heroin balloons Gutierrez, Paulo, Reg. No. 22336-080. The Warden is aware of the declination.

FCI OAKDALE

Inmate Soeung Chhunn, Reg. No. 05755-041, stabbed inmate Jonathan Lock, Reg. No. 10020-265, on the SHU recreation yard in November, 1996. The investigation has been referred to the FBI. The

investigation should soon be completed and the case forwarded to the U.S. Attorney's Office.

Inmate Donald Smith, Reg. No. 10043-078, walked away from the camp. This camp inmate was on an "extended unapproved furlough" in early December, 1996. (He went to visit his wife in Beaumont). Initially referred to FBI because of possible kidnaping; however, once that was disproved, the FBI backed out of the picture. The institution then referred the complaint to the U.S. Marshal's Service. The investigation should be complete or very close to being completed. It will then be forwarded to the U.S. Attorney's Office.

FTC OKLAHOMA

One matter of sexual assault was referred to the FBI, but the matter was declined and referred to the Oklahoma City Police Department instead.

Two incidents were reported to the FBI, one inmate assault on inmate and one inmate assault on staff for spitting. The FBI decided not to submit these matters to the U.S. Attorney's Office for prosecution.

FCI TEXARKANA

Several matters were referred to the U.S. Attorney's office for prosecution.

On October 16, 1996, four balloons containing marijuana were confiscated from inmate Martin Jackson, Reg. No. 07953-055. The FBI was contacted on October 17, 1996, and declined prosecution. This matter will be re-presented to the FBI and if necessary to the U.S. Attorney's office.

On October 17, 1996, inmate Ramirez, Reg. No. 27688-077, was assaulted by inmate Hernandez, Reg. No. 72163-079, at the satellite camp. Inmate Hernandez struck inmate Ramirez with a combination lock and a clothes iron. The assault was reported to the FBI on October 21, 1996. The FBI declined prosecution.

On November 12, 1996, Inmates Cordona-Rodriguez, Reg. No. 61017-079, and Morris Haughton, Reg. No. 50380-079, became involved in a heated verbal argument in the Dining Hall. Haughton then assaulted Cordona-Rodriguez by cutting him across the forehead with a single edge razor blade. Cordona-Rodriguez received 32 sutures to close the wound. The incident was referred to the FBI on November 12, 1996. On December 4, 1996, Inmate Morris Haughton, Reg. No. 50380-079, was indicted.

FCI THREE RIVERS

On November 13, 1996, UNICOR staff observed inmates Carlos Dolores-Rodriguez, Reg. No. 33472-198, and Juan Alberto Gonzales, Reg. No. 54431-080, in a verbal confrontation which led to inmate Gonzalez attempting to strike inmate Dolores-Rodriguez with a screwdriver. Inmate Dolores-Rodriguez avoided the blow and simultaneously struck inmate Gonzalez on the left side of the neck with a utility knife causing a deep laceration. Both inmates separated and dropped their weapons when ordered to do so by staff. Inmate Gonzales was airlifted to a local hospital. He has been released from the hospital and is recovering from his injury. Dolores-Rodriguez was treated for a small abrasion to his left knee and placed in administrative detention. The FBI was notified. The U.S. Attorney's Office declined prosecution because the circumstances did not warrant prosecution, as the inmate's actions would be construed as self defense. The Warden concurs with the decision to not prosecute the inmates. Both inmates are pending disciplinary action and be recommended for separation status.

The U.S. Attorney's Office is awaiting the results of additional forensic evidence to be released by the FBI in the Garcia-Chavez homicide case for presentation of an indictment to the grand jury.

Thomas Summerville, Reg. No. 01970-190, is pending prosecution for phone/credit card fraud. Inmate established an outside contact whom was employed with a moving company. This individual provided inmate with customer names, credit card and social security numbers. The credit cards were used to order various items which were delivered to the inmate's residence. This activity occurred over a long period of time and involves the FBI, CIA and several state agencies. The CIA is interested in prosecution.

SIGNIFICANT TORT CLAIMS**MEDICAL**

Inmate Eric LAWRENCE, Register Number 60517-080, filed an administrative claim number T-SCR-96-470, on December 24, 1996, alleging that medical staff at FMC, Fort Worth has been negligent because he has received his Insulin injections two hours late for three weeks. He claims that his body has had to adjust to receiving the shots later and that it is "taxing on his system." He also states that because of the medical treatment he has received over the last four years for his diabetic condition, he has suffered a stroke and is now legally blind. He seeks sixty thousand dollars (\$60,000.00) compensation for personal injury.

Inmates Gene GRAVENMEIR, Register Number 08224-097; George JANIS, Register Number 37039-198; and Robert BUTLER, Register Number 68846-079 have filed administrative tort claims alleging that they are being exposed to second hand smoke at FMC, Fort Worth.

Mr. Gravenmeir (T-SCR-96-391) seeks \$5,030,000.00. The investigation by staff at FMC, Fort Worth indicates that Mr. Gravenmeir has been incarcerated in the BOP since July 3, 1996. He currently has been housed at FMC, Fort Worth due to his medical history of hypertension, major depression, and a previous cerebrovascular accident in July 1995. On October 9, 1996, Mr. Gravenmeir was referred to the institution psychologist who noted that he was irritable due to being housed in an area where smoking is permitted. On October 11, 1996, he was evaluated and treated for a possible upper respiratory infection and on October 18, 1996, he was evaluated by a contract psychiatrist. Mr. Gravenmeir was treated on October 30, 1996, for a runny nose and he complained of inmates smoking around him. His lungs were clear and a normal nasal mucosa. On November 6, 1996, he again complained to medical staff about the smoking, and he said that the smoking was causing him to cough; the examination was normal. Staff indicate that there is nothing to indicate that Mr. Gravenmeir has suffered because of second hand smoke.

Mr. Janis (T-SCR-96-427) seeks \$12,940,000.00. The investigation reveals that he has been incarcerated in the BOP since April 27, 1995. He has sought treatment on multiple occasions for a dry cough, and has been diagnosed with an upper respiratory infection.

On November 12, 1996, he complained to medical staff that the smoking in the housing units is causing his cough, runny nose, and watery eyes. The physician noted that the runny nose, cough, and watery eyes was secondary to smoke in the environment. Mr. Janis had a heart condition and breathing problems prior to being incarcerated and at his own admission, it was related to second hand smoke. However, he alleges that inmates are allowed to smoke in common areas in the housing unit.

Robert Butler (T-SCR-96-446) seeks \$286,000.00 in damages. He has not made any specific allegations regarding his injuries. He simply states that he has been exposed to second hand smoke since his first day of incarceration. We have not received an investigation from institution regarding this claim.

It should be noted that FMC, Fort Worth implemented a "non-smoking" policy in Dallas and Fort Worth Units beginning January 2, 1997.

LITIGATION

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	SET	AWD
NCR											
NER											
SER											
NCR											
SCR	54	39	3	8	4	31	233	32	6	2	0
WCR											
CS											
TOT											

NARRATIVE ANALYSISNARRATIVE ATTACHED ON SEPARATE PAPER**DEFINITIONS**

LOC - LOCATION
NUM - NUMBER OF TOTAL LAWSUITS FILED IN QUARTER
HC - NUMBER OF HABEAS CORPUS ACTIONS FILED
FTC - NUMBER OF FTC ACTIONS FILED
BIV - NUMBER OF BIVENS ACTIONS FILED
OTH - OTHER ACTIONS FILED
ANS - NUMBER OF LITIGATION REPORTS COMPLETED
PEN - PENALTY
CLD - NUMBER OF ACTIONS CLOSED
H/T - NUMBER OF HEARINGS OR TRIALS (INCLUDE INFO IN NARRATIVE)
SET - NUMBER OF SETTLEMENTS (INCLUDE INFO IN NARRATIVE)
AWD - NUMBER OF AWARDS (INCLUDE INFO IN NARRATIVE)
GOVERNMENT ACTION AND DATE OF ACTION - (INCLUDE IN NARRATIVE)

Tort Claims First Quarter - FY97 (October 01, 1996 - December 31, 1996)

Loc	Num	PP	PI	PPPI	WD	Med	Set	Amnt	Pen	Den	OD	A/O	A/P
SCR	113	86	23	3	0	1	16	2780	150	74	0	0	136

Variable Definition

Time Period

- Num - Number of claims filed 10/01/96 =< D_Accept <= 12/31/96
- PP - Personal Property claims 10/01/96 =< D_Accept <= 12/31/96
- PI - Personal Injury claims 10/01/96 =< D_Accept <= 12/31/96
- PPPI - Both PP & PI claims 10/01/96 =< D_Accept <= 12/31/96
- WD - Wrongful Death claims 10/01/96 =< D_Accept <= 12/31/96
- Med - Medical claims 10/01/96 =< D_Accept <= 12/31/96
- Set - Settled/approved claims 10/01/96 =< D_Closed <= 12/31/96
- Amnt - Amount paid 10/01/96 =< D_Closed <= 12/31/96
- Pen - Pending/open claims >> Entire Database <<
- Den - Number of claims Denied 10/01/96 =< D_Closed <= 12/31/96
- OD - Number of claims OverDue >> Entire Database <<
- A/O - Avg number of days Overdue 10/01/96 =< D_Closed <= 12/31/96
- A/P - Avg number of days to Process .. 10/01/96 =< D_Closed <= 12/31/96
- > Med = PIM+ WDM+ PPPIM+ PPWDM > WD = WD+ PPWD

> Press any key to continue <