

UNITED STATES GOVERNMENT

**memorandum**

**Date:** February 5, 1999

**Reply to:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** **Monthly Report - January 1999**

**To:** **Carolyn A. Sabol**, Deputy General Counsel  
 Federal Bureau of Prisons  
 Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117										
Rec's in month	43											
Recons. rec'd	1											
Ans'd in month	50											
Pending at end	115											
Over 180 days	7*											

\*Two (2) of the seven referred to OIA - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	54	16	2	0	2	3	3	2	7	2	1	1	19	0	5
>60 DAYS	23	9	0	0	0	0	2	0	0	2	0	0	10	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17										
Rec'd in month	26											
Ans'd in month	18											
Pending at end	17											
Over 30 days	0											

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	2	1	1	2	2	2	1	0	2	1	0	3	0	0
>30 DAYS														

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153												

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380										
New Cases	10											
Habeas Corpus	4											
FTCA	0											
Bivens	5											
Other	0											
Bivens/FTCA	1											
Lit Reports	10											
Cases Closed	3											

**B. SETTLEMENTS AND AWARDS:**

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

Joe Mohwish and Joe white v. Walyid Mahammed, et al., 5:98-cv-91BrS (S.D. Miss.) In this Bivens case, the plaintiffs allege retaliation for exercising their First Amendment rights and violation of their First Amendment rights. One of the plaintiffs also raises an Eighth Amendment claim for excessive use of force. Plaintiff Mohwish had filed administrative remedies and received an incident report for Refusing to Obey an Order in connection with not cleaning his area. He alleges this was retaliation. Plaintiff Mohwish wrote an affidavit to the Warden complaining that the incident report was false, a criminal violation and an act of stupidity by the staff member. He attached an affidavit from Plaintiff White supporting his version of events in connection with the incident report. The incident report was sustained by one of the defendants, and a sanction of 15 days commissary and visiting restriction was imposed. The same defendant wrote an incident report on each of the plaintiffs in connection with the above submissions. He wrote the incident report on Plaintiff Mohwish for Lying to Staff and Insolence based on the derogatory comments in the affidavit. He wrote the incident report on Plaintiff White because the information in his affidavit showed that he was in an unauthorized area when he observed the events in connection with the first incident report. One of the defendants upheld the charges against Plaintiff Mohwish and imposed sanction of 30 days loss of telephone privileges. The incident report against Plaintiff White was expunged. One of the defendants wrote an incident on Plaintiff White for putting telephone numbers of Plaintiff Mohwish's acquaintances on his telephone list when he did not know them. This incident report was expunged. Plaintiff Mohwish was found sitting down on the job, and after a brief discussion at the Lieutenant's Office, was handcuffed and placed in administrative detention. He alleges that his arm twisted too hard during handcuffing. The plaintiffs (primarily Plaintiff Mohwish) have filed numerous motions with the court and sought extensive discovery. The court has denied most of the motions. However, the court has granted the plaintiffs' request for an evidentiary hearing and entered an order stating its intention to hold an "omnibus hearing."

b5

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

New Cases:

III. TRAVEL SCHEDULE FOR February 1999:

[REDACTED] b6  
Travel - 02/06/99 - Columbus, South Carolina  
02/09 - 02/11/99 - Jackson, Mississippi  
02/17/99 - Pensacola, Florida

[REDACTED] b6  
Travel - 02/09 - 02/11/99 - Jackson, Mississippi

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel - 02/17 - 02/19/99 - Columbia, South Carolina

[REDACTED] b6  
Travel - 02/28 - 03/12/99 - Denver, Colorado

IV. Misc.:

[REDACTED]  
[REDACTED] b2

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

UNITED STATES GOVERNMENT

**memorandum**

**Date:** March 5, 1999

**Reply to:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** **Monthly Report - February 1999**

**To:** **Christopher Erlewine, Assistant Director/General Counsel**  
 Federal Bureau of Prisons  
 Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126									
Rec's in month	43	41										
Recons. rec'd	1	2										
Ans'd in month	50	39										
Pending at end	115	124										
Over 180 days	7*	9*										

\*Two (2) of the nine referred to OIA - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	66	11	3	0	3	1	4	5	8	2	2	0	17	2	2
>60 DAYS	32	5	0	0	0	0	1	0	0	0	0	0	9	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14									
Rec'd in month	26	26										
Ans'd in month	18	27										
Pending at end	17	14										
Over 30 days	0	0										

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	3	1	4	0	2	0	0	0	1	1	0	0	0	1	1
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152											

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365									
New Cases	10	9										
Habeas Corpus	4	7										
FTCA	0	0										
Bivens	5	2										
Other	0	0										
Bivens/FTCA	1	0										
Lit Reports	10	3										
Cases Closed	3	6										

**B. SETTLEMENTS AND AWARDS:**

Michael Deen, et al., v. United States of America., et al., Case No.: 1:97-CV-0967 (N.D. Ga.)

David Deen, Reg. No. 43892-019, then 34 years old, was serving a six (6) month sentence at the USP Atlanta camp for Manufacture and Attempt to Manufacture Methamphetamine. He was projected for release on September 2, 1994. On July 16, 1994, he died from heart failure. Review of the case showed it was indefensible. Two medications prescribed by different doctors, neither of which knew about the other's prescription, were incompatible without continuous monitoring. This was not done. Even the Government's medical expert agreed the medical care fell below the accepted standard. Other factors impacted the case. There were delays in obtaining medical treatment on the night of the inmate's death. There were severe conflicts among the several defendants.

Settlement authorization was obtained to concur in the U.S. Attorney's Office offering up to \$700,000 to settle. Subsequently, we were advised by the AUSA that the plaintiffs had accepted \$700,000 to settle the case.

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

Kilpatrick v. Houston, (EGL) 2/23/99 order to release petitioner from custody unless within 30 days unless the Bureau grants reduction under 3621(e).

Kennard v. Houston, (EGL), Sentence reduction.

McKie v. Houston, (EGL) 3621(e) 2 Level Enhancement.

Pate v. Houston, (EGL) 2/23/99 referred to BOP for reconsideration.

Watson v. Houston, (EGL) 3621(e) 2 Level Enhancement.

McDonald v. Houston, (EGL) 3621(e) 2 Level Enhancement.

General

b2

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:** None

**G. CRIMINAL CASES:**

New Cases:

III. TRAVEL SCHEDULE FOR March 1999:

[REDACTED]  
Travel - Jekyll Island - Pretrial Issues Conference - 3/1 - 3/5/99.

[REDACTED] -  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel - Denver, CO (MSTC) - 3/1 - 3/12/99 - Trainee Training.

b6

IV. Misc.:

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel



**UNITED STATES GOVERNMENT**  
**memorandum**

**Date:** April 5, 1999

**Reply to** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - March 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127								
Rec's in month	43	41	55									
Recons. rec'd	1	2	0									
Ans'd in month	50	39	61									
Pending at end	115	124	124									
Over 180 days	7*	9*	15*									

\*Two (2) of the nine referred to OIA - pending response.

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

	ATL	COL	EDG	EGGL	ESGT	GUAS	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	61	7	3	2	1	1	6	3	11	4	1	1	16	1	9
>60 DAYS	35	2	0	0	0	0	1	0	2	0	0	0	8	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7								
Rec'd in month	26	26	20									
Ans'd in month	18	27	26									
Pending at end	17	14	7									
Over 30 days	0	0	0									

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

	AT L	CO L	EG L	ES T	GU A	JES	MI A	MI M	MN A	MO N	PE N	TA L	TD G	YAZ	EDG
PENDING	3	2	1	0	0	1	0	0	0	0	0	0	1	0	0
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209										

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368								
New Cases	10	9	7									
Habeas Corpus	4	7	4									
FTCA	0	0	0									
Bivens	5	2	2									
Other	0	0	1									
Bivens/FTCA	1	0	0									
Lit Reports	10	3	5									
Cases Closed	3	6	4									

**B. SETTLEMENTS AND AWARDS:**

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

Kaminski v. Guida, 95-0898-CIV-MOORE (FFLS) - April 21 - Trial Date/Calendar Call (trial will be within next two week period.)

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:** None

**G. CRIMINAL CASES:**

United States v. Algarin, FPR, 98-195 (HL) : On 3-9-99 the trial of this former male officer for engaging in sexual conduct with a female inmate began. On 3-11-99, the jury returned a verdict of guilty. Sentencing is scheduled for June 30, 1999. Inmate [REDACTED] b7C has filed an administrative claim concerning this matter.

**New Cases:**

III. TRAVEL SCHEDULE FOR March 1999:

[REDACTED] b6  
Travel - RC/AGC Meeting April 26 - 30 - Washington, D.C.

[REDACTED] b6 -  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

IV. Misc.:

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

**UNITED STATES GOVERNMENT**  
**memorandum**

**Date:** May 5, 1999

**Reply to** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - April 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127	121							
Rec's in month	43	41	55	46								
Recons. rec'd	1	2	0	1								
Ans'd in month	50	39	61	53								
Pending at end	115	124	124	123	121							
Over 180 days	7*	9*	15*	16*								

\*Two (2) of the nine referred to OIA - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	56	9	5	1	2	1	7	2	14	4	0	1	14	2	3
>60 DAYS	25	2	0	0	0	0	1	0	0	0	0	0	2	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ending on 1 <sup>st</sup>	12	17	14	7	13							
ec'd in month	26	26	20	28								
as'd in month	18	27	26	22								
ending at end	17	14	7	13								
ver 30 days	0	0	0	0								

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	2	2	2	0	0	1	0	1	1	0	0	0	2	0	2
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209										



**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383							
New Cases	10	9	7	20								
Habeas Corpus	4	7	4	14								
FTCA	0	0	0	0								
Bivens	5	2	2	5								
Other	0	0	1	1								
Bivens/FTCA	1	0	0	0								
Lit Reports	10	3	5	24								
Cases Closed	3	6	4	5								

**B. SETTLEMENTS AND AWARDS:**

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

1. Magluta v. Haro, et al, 99-0900-CIV-MORENO (FFLS)(new case)

Salvator Magluta alleges various violations in connection with his placement into administrative detention. Basically, he alleges he has been placed in administrative detention without sufficient reason, without due process and that the conditions are bad. He alleges various inconveniences during attorney visits interfere with his counsel providing him effective assistance. He alleges denial of a religious visitor. His attorney has pled this in the form of a hybrid Habeas Corpus Petition with a Bivens claim. He seeks injunctive relief, attorney fees and unspecified damages. Magluta (and his codefendants Falcon and Lorenzo) filed several cases in the early and middle 1990s on similar, while they were facing prosecution on serious drug charges. Magluta has vast resources to litigate and the cases he files should never be taken lightly, so this case is reported as significant.

2. Magluta v. Samples, et al, 1:94-cv-2700-ODE (FGAN)(old case)

After the Court of Appeals overturned the dismissal of this case (See Monthly Report for December 1998), the district court ordered the parties to supplement the record on the remaining legal issues

raised by the defendants. The defendants supplemented the previously filed motion to dismiss and this awaits a decision. Note that this case has been pending for several years and is now active again. As noted above, Magluta has vast resources to litigate and the cases he files should never be taken lightly, so this case is reported as significant.

3. Kaminski v. Guida, 95-0898-CIV-MOORE (FFLS) - This case, which was reported as set for trial in last month's report, has been dismissed.

4. Joaquim Neves v. Willie Scott, et al., 1:98-cv98-cv-3658-WBH (N.D. Georgia)

The Plaintiff alleges he was sexually assaulted by a correctional officer [REDACTED] b7C, b6 on three occasions (12/25/97, 12/28/97 and 1/4/98). He contacted and was interviewed by the SIS. He alleges the SIS told him there was previous information the officer had attempted to sexually assaulted another inmate and Warden Scott, [REDACTED] b6 and he [REDACTED] b6 were aware of it since 1996. The plaintiff alleges the defendants failed to protect him from the assaults by the officer. In addition to the named defendants (Warden Scott and two SIS Lieutenants), the Plaintiff names John Doe and Jane Doe Correctional Officers as defendants. He states he will seek service on them after discovery of their identities. The Plaintiff seeks damages of \$3,000,000 total. [REDACTED]

[REDACTED] b5

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:** None

**G. CRIMINAL CASES:**

New Cases:

**III. TRAVEL SCHEDULE FOR May 1999:**

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel - None Scheduled

[REDACTED] b6

Travel -

[REDACTED] b6

Travel -

[REDACTED] b6

Travel - May 25-27, 1999 (Sentencing Training at the MSTC)

[REDACTED] b6

Travel -

IV. Misc.:

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

**UNITED STATES GOVERNMENT**  
**memorandum**

**Date:** June 16, 1999

**Reply to:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - May 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127	121	116						
Rec's in month	43	41	55	46	33							
Recons. rec'd	1	2	0	1	2							
Ans'd in month	50	39	61	53	39							
Pending at end	115	124	124	123	121							
Over 180 days	7*	9*	15*	16*	13*							

\*Three (3) of the thirteen referred to OIA - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	53	7	4	1	5	2	5	3	13	5	0	0	16	1	1
>60 DAYS	25	0	0	0	0	0	0	0	2	4	0	0	5	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9						
Rec'd in month	26	26	20	28	10							
Ans'd in month	18	27	26	22	14							
Pending at end	17	14	7	13	9							
Over 30 days	0	0	0	0	0							

**D. FOIA Requests for records: As of May 31, 1999**

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	2	2	0	0	0	1	0	1	0	0	0	0	1	0	2
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229								

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391						
New Cases	10	9	7	20	16							
Habeas Corpus	4	7	4	14	9							
FTCA	0	0	0	0	1							
Bivens	5	2	2	5	6							
Other	0	0	1	1	0							
Bivens/FTCA	1	0	0	0	0							
Lit Reports	10	3	5	24	11							
Cases Closed	3	6	4	5	8							

**B. SETTLEMENTS AND AWARDS:**

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

1. U.S. v. Battle, FGAN, 95-CR-528

Homicide of Officer D'Antonio Washington at USP, Atlanta, 12-23-1994. 11th Circuit Court of Appeals issued decision affirming Anthony Battle's conviction. Pending appeal to Supreme Court

**Significant New Cases:**

Eric Ufom v. Selma DeJesus-Zayas, FFLS, 99-0881-CIV-Highsmith- Plaintiff inmate alleges he was not given proper pschological diagnosis, treatment and medication at FDC Miami which made him attempt to escape by jumping two floors down to the ground injuring himself. After he was injured, a PA drug him on the floor and called him racial names.

III. TRAVEL SCHEDULE FOR June 1999:

[REDACTED] b6  
Travel - I will be attending the General Counsel Advisory Group in Washington, DC on June 28, 29, and 30, 1999.

[REDACTED] b6  
Travel - N/A

[REDACTED] b6  
Travel - N/A

[REDACTED] b6  
Travel - N/A

[REDACTED] b6  
Travel - N/A

[REDACTED] b6  
Travel - [REDACTED] will be TDY to USP-Marion from June 7 through June 18, 1999. b6

IV. Misc.:

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel



**UNITED STATES GOVERNMENT**  
**memorandum**

**Date:** July 14, 1999

**Reply to:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - June 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127	121	116	115					
Rec's in month	43	41	55	46	33	33						
Recons. rec'd	1	2	0	1	2	2						
Ans'd in month	50	39	61	53	39	55						
Pending at end	115	124	124	123	121	109						
Over 180 days	7*	9*	15*	16*	13*	15*						

\*Three (3) of the fifteen referred to OIA - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	61	4	0	1	3	2	4	3	7	6	2	1	12	3	5
>60 DAYS	31	0	0	0	0	0	2	1	5	4	0	0	8	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8				
Rec'd in month	26	26	20	28	10	35	23					
Ans'd in month	18	27	26	22	14	28	31					
Pending at end	17	14	7	13	9	16	8					
Over 30 days	0	0	0	0	0	0	0					

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	2	1	0	0	0	1	0	0	1	0	0	2	0	0	1
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229	279							

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200				
New Cases	10	9	7	20	16	13	9					
Habeas Corpus	4	7	4	14	9	9	5					
FTCA	0	0	0	0	1	0	1					
Bivens	5	2	2	5	6	3	0					
Other	0	0	1	1	0	0	2					
Bivens/FTCA	1	0	0	0	0	1	1					
Lit Reports	10	3	5	24	11	13						
Cases Closed	3	6	4	5	8	24	189					

\* Many of the 189 cases closed were as a result of our files and database being updated.

**B. SETTLEMENTS AND AWARDS:**

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:** The following cases are on appeal in the Northern District of Florida. The district courts in these cases held that the new regulations regarding BOP's authority under 3621(e) are invalid because they achieve the same results as the old regulations.

Chris J. Pate v. Samuel Houston, No. #:99 cv10/LAC/MD, N.D. Fla, February 22, 1999;  
Gerald McKie v. Samuel Houston, No. 3:99cv14/RV/MD, N.D. Fla., March 3, 1999;  
George B. Knight v. Samuel Houston, No. 3:98cv13/LAc/MD, N.D. Fla, April 1, 1999.

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

**Significant New Cases:**

**III. TRAVEL SCHEDULE FOR June 1999:**

██████████ b6  
Travel - Washington, D.C. (6/27/99 - 7/2/99)

██████████ b6  
Travel - N/A

██████████ b6  
Travel - )

██████████ b6  
Travel - N/A

██████████ b6  
Travel - Marion, IL (6/6/99 - 6/19/99)

**IV. Misc.:**

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

**UNITED STATES GOVERNMENT**  
**memorandum**

**Date:** August 5, 1999

**Reply to** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - July 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127	121	116	115	136				
Rec'd in month	43	41	55	46	33	33	44					
Recons. rec'd	1	2	0	1	2	2	1					
Ans'd in month	50	39	61	53	39	55	39					
Pending at end	115	124	124	123	121	109	114					
Over 180 days	7*	9*	15*	16*	13*	15*	16*					

\*Four (4) of the sixteen referred to OIA from ATL - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	64	8	1	2	7	3	3	4	8	4	1	1	13	3	9
>60 DAYS	31	0	0	0	0	1	2	1	5	2	0	0	12	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8				
Rec'd in month	26	26	20	28	10	35	23					
Ans'd in month	18	27	26	22	14	28	31					
Pending at end	17	14	7	13	9	16	8					
Over 30 days	0	0	0	0	0	0	0					

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	2	1	0	0	0	1	0	0	1	0	0	2	0	0	1
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229	279	??						

\*The Executive Office indicates that during the month of July staff responsible for receipting administrative remedies was on leave one week and in training one week which accounts for the low number of remedies received during the month of July.

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200				
New Cases	10	9	7	20	16	13	9					
Habeas Corpus	4	7	4	14	9	9	5					
FTCA	0	0	0	0	1	0	1					
Bivens	5	2	2	5	6	3	0					
Other	0	0	1	1	0	0	2					
Bivens/FTCA	1	0	0	0	0	1	1					
Lit Reports	10	3	5	24	11	13	9					
Cases Closed	3	6	4	5	8	24	189					

\*Many of the 189 cases closed were as a result of updating our files and database.

**B. SETTLEMENTS AND AWARDS:**


**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**


*Clifford Lewin v. W. Scott et al.*, 1:97-CV-0048 - BIVENS suit against Warden Scott, Dr. DiSanto and Dr. Grant for providing hernia operation three years after inmate complained and was advised he would receive an operation. Settlement Conference held on 7/30/99. Defendant's offer of \$2,500 was rejected by the plaintiff. The plaintiff made an offer of \$78,000 and would not go below \$60,000. AUSA will be making a request for defendants to have separate counsel appointed due to conflict of interest.

*Williams Joseph Mylett v. United States of America* 1:98-CV-8173 - FTCA case in which the plaintiff is suing for failure to properly diagnose and treat a retinal detached while incarcerated at FCI, Jesup. Mediation date of 7/26/99 postponed (no new date) to allow plaintiff to take deposition of government's medical expert. Settlement recommended in the amount of \$189,000.00.

*Lorenzo Pena Morfe v. United States*, 99-1520 - FTCA case in which inmate contends that staff was negligent in assigning him to mop a flooded area without any kind of safety equipment or orientation.

As a result of the staff's alleged negligence, the plaintiff alleges he sustained a serious knee injury. The inmate is requesting \$5,000,000.00 as compensation for his injuries.

*United States v. Juan Rodriguez Lopez*, 94-076 (DRD), Urgent motion requesting the BOP to show cause why defendant has been confined in segregation for the last six months. Report was prepared explaining the BOP's policy on the issue of administrative detention and the security reasons that compel defendant's continued placement in administrative detention. 

 b5 The defendant filed a second motion requesting a hearing, indicating that the defendant disagrees with the reasons outlined in the Government's response to his first motion.

*Yawn v. Reno*, CV 299-153 - EEO Sexual Harrassment case

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**



**G. CRIMINAL CASES:**

On March 15, 1999 an officer conducting a search in the TV room of a housing unit at FCC Coleman discovered that one of the chairs in the TV room had a white cloth concealed in a wrapping of tape wound around one of the legs. Upon removing and opening the cloth, the officer discovered that it contained an envelope in which there was an unknown substance. Subsequent testing of the substance revealed that it was Lysergic Acid Diethylamide (LSD) on blotter paper. Total weight was 2.143 grams. During the search, inmate [REDACTED] b7C, admitted to the officer that the chair was his. The case was referred to the FBI on March 19, 1999. The FBI accepted case for investigation and possible presentation to the USAO for prosecution. The USAO initially declined referral based on small quantity and limited availability of prosecutorial resources. Both FBI and the Wardens disagree with the declination because of the serious security risk LSD poses in an institution environment and the need to pursue the case for deterrence value. The USAO has agreed to re-evaluate the referral upon re-submission by the FBI after completion of further investigation. As of July, 1999 the case has been presented to the AUSA on two separate occasions. The AUSA has declined this case based on the fact that there are no witnesses that observed the inmate place the LSD on the chair in a unit television room.

*United States v. Algarin*, 99-195 (HL), Rafael Algarin de Jesus, former correctional officer, was charged with one count, for having sexual contact with an inmate. Rafael Algarin was found guilty as charged. On June 30, 1999, the Court sentenced the inmate to five months followed by one year supervised release. On July 1, 1999, the former officer was designed to FCI, Ashland; surrendered to the Marshals office on July 6, 1999 and arrived at FCI, Ashland on July 12, 1999.

*United States v. Cruz*, 99-194 (CC), Officer indicted for having sexual contact with an inmate. The trial date for this case has been indefinitely postponed. The defense attorney filed a motion to suppress the identification of defendant Cruz as an officer engaging in sexual contact with the inmate allegedly because that identification was tainted. This suppression hearing has been rescheduled for September 14, 1999, because the victim is presently incarcerated in a County Jail.

*United States v. Raymond Cabassa, et al*, Criminal No. 95-405, defendant, pro se, filed a motion to sequester five cooperating witnesses who are housed in the cooperating witness unit at MDC, Guaynabo. A response was submitted to the AUSA explaining that MDC, Guaynabo does not have facilities to sequester inmates.

**Significant New Cases:**

*Monroy-Vargas v. U.S.* - 99-1635-CIV-MO, FFLS - The plaintiff/inmate alleges that while he was at the FDC Miami in April 1996, something fell into his left eye and he was treated at an outside

medical clinic in Miami. He was transferred in September 1996, even though he continued to need treatment from the outside facility there. He was sent to USP Lewisburg and then to FCI, Ft. Dix where he has not received proper and adequate medical care. He asserts that he continues to suffer severe pain and loss of vision in his left eye. Plaintiff is requesting \$1,000,000 in damages.

III. TRAVEL SCHEDULE FOR August 1999:

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel -

[REDACTED] b6  
Travel - N/A

[REDACTED] b6  
Travel -

IV. Misc.:

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

8/99  
4  
Med Mal

Q2FRA

TES GOVERNMENT  
orandum

Date: August 5, 1999

Reply to: Sherree L. Sturgis, Regional Counsel, Southeast Region  
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - August 1999

To: Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ending on 1*	84	117	126	127	121	116	115	136	146			
Rec'd in month	43	41	55	46	33	33	44	78				
Recons. rec'd	1	2	0	1	2	2	1	2				
Ans'd in month	50	39	61	53	39	55	39	57				
Pending at end	115	124	124	123	121	109	114	146				
Over 180 days	7*	9*	15*	16*	13*	15*	16*	20*				

\*Three (3) of the twenty referred to OIA from ATL - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	80	9	4	3	6	4	2	2	9	9	1	0	10	4	2
>60 DAYS	40	0	0	0	3	0	2	0	4	2	1	0	8	0	0

SER Monthly Report - August, 1999  
Page 2

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8	14			
Rec'd in month	26	26	20	28	10	35	23	32				
Ans'd in month	18	27	26	22	14	28	31	25				
Pending at end	17	14	7	13	9	16	8	14				
Over 30 days	0	0	0	0	0	0	0	0				

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	1	3	1	2	0	1	1	0	1	1	0	0	1	1	1
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229	279	132	278					

\*The Executive Office indicates that during the month of July staff responsible for receipting administrative remedies was on leave one week and in training one week which accounts for the low number of remedies received during the month of July.

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200	204			
New Cases	10	9	7	20	16	13	9	19				
Habeas Corpus	4	7	4	14	9	9	5	10				
FTCA	0	0	0	0	1	0	1	3				
Bivens	5	2	2	5	6	3	0	1				
Other	0	0	1	1	0	0	2	3				
Bivens/FTCA	1	0	0	0	0	1	1	2				
Lit Reports	10	3	5	24	11	13	9	7				
Cases Closed	3	6	4	5	8	24	189	15				

\*Many of the 189 cases closed July were as a result of updating our files and database.

**B. SETTLEMENTS AND AWARDS:**

**Pending Settlement Authority - *Jibri A. Rahman v. United States CV-98-N-1671***- authority to settle the case for an amount not to exceed \$20,000. FTCA case in which the inmate alleges medical staff failed to provide appropriate medical care for a hand injury and failed to provide appropriate post surgery physical therapy.

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

***Kalka v. Pontesso, 97-2113-PHX-ROS(VAM)*** - Request for Contempt Sanctions against Warden M. E. Ray, Associate Warden Mike Richer, Unit Manager Jack Fox, Attorney Advisor Tami Rippon and Director Hawk-Sawyer. Inmate alleges retaliation for exercising his access to courts and failure to take action to prevent retaliation.

***Monroy-Vargas v. United States of America 99-1635-CIV-MO (RENO)*** - FTCA case in which the plaintiff alleges that while he was at the FDC Miami in April 1996, something fell into his left eye and he was treated at an outside medical clinic in Miami. He was transferred in September 1996 even though he continued to need treatment from the outside facility there. He was sent to USP Lewisburg and then to FCI, Ft. Dix, where he has not received proper and adequate medical care.

He asserts that he continues to suffer severe pain and loss of vision in his left eye. The inmate is requesting \$1,000,000 as compensation for his injuries.

*Eubanks v. United States*, 99-S-776-N - FTCA case in which inmate alleges that in January 1996, he complained to medical staff at MON of external hemorrhoids and rectal bleeding, and he informed them that a doctor had said he was concerned that he had cancer. No tests were done and he was not referred for evaluation. In September 1996, he developed an inguinal hernia and anemia. On referral to a physician for colonoscopy, carcinoma was identified. In November 1996, h was seen by an outside doctor and told that the carcinoma had grown so large it was necessary to resection the colon and divert to a clostomy in order to remove the cancer completely. He had the operation in November 1996. He alleges that his claim was submitted to the SERO on November 20, 1998, and "rejected" in January 1999. His administrative claim requested \$500,000 in damages. **Note: There was a previous Bivens case on this situation. - *Eubanks v. Hernandez, et al.*, 98-W-1312-N (M.D. Alabama). This case is still pending.**

*Lawton v. United States*, 99-6169-CIV-MIDDLEBROOKS), the inmate alleges he was not given proper medical treatment for his back ailments at USP Atlanta, causing them to become progressively worse to the point they are debilitating. He seeks damages of \$605,000.

*Jibri A. Rahman v United States*, CV-98-N-1671-E. FTCA case in which the trial began on August 17 and ended August 18, 1999. This case involved a former inmate who alleges Bureau of Prisons' medical staff failed to provide appropriate medical care subsequent to an injury he sustained to two fingers of his left hand. He further alleges that appropriate physical therapy was not provided following surgery. He contends that the lack of appropriate medical care has resulted in pain, permanent disability, disfigurement and he will continue to suffer pain, lost wages and medical and hospital expenses. The Judge did not make a decision at the conclusion of the trial, but instead requested additional information from the plaintiff's attorney in the form of a post trial brief. The Judge expressed his concern regarding the lack of communication between FCI, Talladega 's medical staff and the consultant surgeon as well as the obvious need for a more structured means of conveying requirements for Bureau of Prisons health care procedures to the consultant. The Judge requested a more concise statement regarding the jurisdictional basis for the claim from the plaintiff's attorney. He further stated that although the plaintiff alleged negligence pursuant to the Federal Tort Claims Act, information was also included which implied the standard breached by Bureau of Prisons staff was that of 18 U.S.C. Section 4042. The Judge stated that if 18 U.S.C. Section 4042 would be the applicable standard then the review would only be that of "ordinary care." However, under the FTCA Alabama statute entailed the review of the Medical Liability Act of 1987 which calls for "substantial harm."

#### **D. RELIGIOUS CASES:**

#### **E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

*United States v. Cruz*, 99-194 (CC), Officer indicted for having sexual contact with an inmate. The trial date for this case has been indefinitely postponed. The defense attorney filed a motion to suppress the identification of defendant Cruz as an officer engaging in sexual contact with the inmate allegedly because that identification was tainted. This suppression hearing has been rescheduled for September 14, 1999, because the victim is presently incarcerated in a County Jail.

**III. TRAVEL SCHEDULE FOR September 1999:**

[REDACTED]

A/L - 9/16 through 10/6/99  
Travel -

[REDACTED]

Travel -

b6

[REDACTED]

Travel -

[REDACTED]

Travel - N/A

[REDACTED]

Travel -

**IV. Misc.:**

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

UNITED STATES GOVERNMENT  
**memorandum**

Date: October 5, 1999

Reply to: Sherree L. Sturgis, Regional Counsel, Southeast Region  
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - September 1999

To: Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ending on 1*	84	117	126	127	121	116	115	136	146	153		
Rec'd in month	43	41	55	46	33	33	44	78	55			
Recons. rec'd	1	2	0	1	2	2	1	2	1			
Ans'd in month	50	39	61	53	39	55	39	57	49			
Pending at end	115	124	124	123	121	109	114	146	153			
Over 180 days	7*	9*	15*	16*	13*	15*	16*	20*	23*			

\*Three (8) of the twenty-three referred to OIA from ATL - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	82	6	4	3	5	4	3	2	9	12	1	0	10	4	1
>60 DAYS	41	1	0	0	0	0	2	0	4	2	1	0	8	0	0



**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8	14	10		
Rec'd in month	26	26	20	28	10	35	23	32	31			
Ans'd in month	18	27	26	22	14	28	31	25	33			
Pending at end	17	14	7	13	9	16	8	14	31			
Over 30 days	0	0	0	0	0	0	0	0	0			

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	3	2	0	1	0	0	0	1	0	1	0	1	1	0	0
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
	153	152	209	170	229	279	132	278	175			

\*The Executive Office indicates that during the month of July staff responsible for receipting administrative remedies was on leave one week and in training one week which accounts for the low number of remedies received during the month of July.

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200	204			
New Cases	10	9	7	20	16	13	9	19	16			
Bivens	5	2	2	5	6	3	0	1	2			
Bivens/FTCA	1	0	0	0	0	1	1	2	1			
FTCA	0	0	0	0	1	0	1	3	0			
Habeas Corpus	4	7	4	14	9	9	5	10	10			
Other	0	0	1	1	0	0	2	3	3			
Lit Reports	10	3	5	24	11	13	9	7				
Cases Closed	3	6	4	5	8	24	189	15	13			

\*Many of the 189 cases closed July were as a result of updating our files and database.

**B. SETTLEMENTS AND AWARDS:**

**Pending Settlement Authority - *Jibri A. Rahman v. United States* CV-98-N-1671-** authority to settle the case for an amount not to exceed \$20,000. FTCA case in which the inmate alleges medical staff failed to provide appropriate medical care for a hand injury and failed to provide appropriate post surgery physical therapy.

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

*Fran Cervantes v. Warden Wiley* CV-99-H-1911-E - *Habeas Corpus Petition*. Petitioner alleges that he is a State of Texas prisoner in BOP custody pursuant to a prisoner transfer agreement. He asserts that he needs Texas legal materials to pursue legal matters in connection with the charges he was convicted of in Texas. He makes passing references to transfer procedures which do not provide for a hearing, an administrative appeal of his CIM classification and falsified evidence and information in reports (apparently he is referencing false evidence in reports by Texas authorities). His two asserted causes of action focus on the issue of access to Texas legal research materials to work on his criminal case. As relief, he requests the court to relieve him of the deprivation of Texas legal materials.

*Lawrence Lawton v. United States of America 99-6169-CIV-MIDDLEBROOKS - FTCA case* in which the plaintiff alleges he was not given proper medical treatment for his back ailments at USP Atlanta, causing them to become progressively worse to the point they are debilitating. He seeks damages of \$605,000.

*Eubanks v. United States, 99-S-776-N - FTCA case* in which inmate alleges that in January 1996, he complained to medical staff at MON of external hemorrhoids and rectal bleeding, and he informed them that a doctor had said he was concerned that he had cancer. No tests were done and he was not referred for evaluation. In September 1996, he developed an inguinal hernia and anemia. On referral to a physician for colonoscopy, carcinoma was identified. In November 1996, he was seen by an outside doctor and told that the carcinoma had grown so large it was necessary to resection the colon and divert to a colostomy in order to remove the cancer completely. He had the operation in November 1996. He alleges that his claim was submitted to the SERO on November 20, 1998, and "rejected" in January 1999. His administrative claim requested \$500,000 in damages. **Note: There was a previous Bivens case on this situation. - *Eubanks v. Hernandez, et al., 98-W-1312-N (M.D. Alabama)*. This case is still pending.**

*Lawton v. United States, 99-6169-CIV-MIDDLEBROOKS*), the inmate alleges he was not given proper medical treatment for his back ailments at USP Atlanta, causing them to become progressively worse to the point they are debilitating. He seeks damages of \$605,000.

*Cara L. Trent v. Janet Reno, et al CV-499-184 - (S.D. Georgia)*. This is a Title VII sexual discrimination case in which the plaintiff alleges she was employed by UNICOR at JES as a Fabric Worker Supervisor in December 1996. In about March 1997, coworkers began to spread a false rumor that she was having affairs with inmates. A correctional officer came to her and said he had heard bad things about her and warned her not to make him run to a body alarm. He asked her if she would have sex with him and his girlfriend. As a result of the rumor, she was alienated by many of her coworkers. She informed her supervisor and the factory manager, but no steps were taken. In April 1997, another Fabric Worker Supervisor began making sexual advances, which she refused. After the refusal, he began to refer to her in derogatory terms and engaged in numerous other acts of harassment. She reported these acts to her supervisor and the factory manager and was referred to the Human Relations Manager. She was told that those things did not sound like something the other Fabric Worker Supervisor would do. Thereafter, she suffered various acts of discrimination such as refusal of overtime work, verbal abuse and threats of discipline. When she went to exchange some of the institution's "extra step" chits for a T-shirt, the person in charge suggested she had earned the chits on her knees and suggestively offered her more chits. When she was terminated, standard procedures were not followed. She did not receive a performance improvement plan (PIP). Two less qualified male Fabric Worker Supervisors were retained in UNICOR. The plaintiff alleges a hostile work environment and wrongful termination. She seeks back pay, front pay, lost benefits, damages for emotional distress, attorney fees and costs. The Labor Law Branch has been

notified and a copy of the complaint forwarded to that office. AUSA Melissa Mundell is handling the case with the assistance of Mike Dedman, Paralegal FCI Jesup.

**D. RELIGIOUS CASES:**

Plaintiff/inmate Robert Nelson alleges that he is a Hebrew Israelite and members of that religion have been denied the right to have a separate meeting. They were offered opportunity to meet along with Jewish inmates. However, they were denied separate as a religion. The BOP's Religious Issues Committee made this determination. The is a violation of his First Amendment right to free exercise of religion, and that, Eighth and Fourteenth Amendments as well. He seeks to pursue the case as a class the court to enter a preliminary and permanent injunction directing the defendants independent services and recognition of the Hebrew Israelite religion. He also seeks 100 damages for himself and \$2,000,000 for the other members of the class. The caption of the complaint states the defendants are the "Religious Issues Committee" the "Southeast Regional Director's Office" and the "Religious Services Senior Chaplain" at FCI Estill.

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

*United States v. Cruz*, 99-194 (CC), Officer indicted for having sexual contact with an inmate. The trial date for this case has been indefinitely postponed. The defense attorney filed a motion to suppress the identification of defendant Cruz as an officer engaging in sexual contact with the inmate allegedly because that identification was tainted.

**III. TRAVEL SCHEDULE FOR September 1999:**

[REDACTED]

Travel - GCAG meeting, Washington, D.C. - 10/18-21

[REDACTED]

Travel -

b6

[REDACTED]

Travel -

[REDACTED]

1999  
2  
filed

2 1st A  
Religion  
Cases

UNITED STATES GOVERNMENT  
**memorandum**

**Date:** December 6, 1999

**Reply to:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - October 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127	121	116	115	136	146	153	158	
Rec'd in month	43	41	55	46	33	33	44	78	55	40		
Recons. rec'd	1	2	0	1	2	2	1	2	1	3		
Ans'd in month	50	39	61	53	39	55	39	57	49	49		
Pending at end	115	124	124	123	121	109	114	146	153	158		
Over 180 days	7*	9*	15*	16*	13*	15*	16*	20*	23*	28*		

\*Three (8) of the twenty-eight referred to OIA from ATL - pending response.

**B. Tort Claim Investigation Status: As of October 30, 1999**

	ATL	COL	EDG	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	77	7	3	0	6	3	4	0	12	12	3	0	18	6	1
>60 DAYS	45	0	0	0	3	1	0	0	7	7	0	0	11	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8	14	10	15	11
Rec'd in month	26	26	20	28	10	35	23	32	31	21	20	
Ans'd in month	18	27	26	22	14	28	31	25	33	17	24	
Pending at end	17	14	7	13	9	16	8	14	10	15	11	
Over 30 days	0	0	0	0	0	0	0	0	0	0	0	

**D. FOIA Requests for records: As of October, 30, 1999**

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	1	2	0	1	1	0	0	0	1	1	1	1	0	0	1
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229	279	132	278	175	157	169		

\*The Executive Office indicates that during the month of July staff responsible for receipting administrative remedies was on leave one week and in training one week which accounts for the low number of remedies received during the month of July.

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200	204	207	207	209
New Cases	10	9	7	20	16	13	9	19	16	16	14	
Habeas Corpus	4	7	4	14	9	9	5	10	10	4	5	
FTCA	0	0	0	0	1	0	1	3	0	1	1	
Bivens	5	2	2	5	6	3	0	1	2	9	7	
Other	0	0	1	1	0	0	2	3	3	2	1	
Bivens/FTCA	1	0	0	0	0	1	1	2	1	0	0	
Lit Reports	10	3	5	24	11	13	9	7	6	8		
Cases Closed	3	6	4	5	8	24	189	15	13	16	12	

\*Many of the 189 cases closed July were as a result of updating our files and database.

**B. SETTLEMENTS AND AWARDS:**

**Settlement Authority Approved - *Jibri A. Rahman v. United States* CV-98-N-1671-** authority has been obtained to settle this case for an amount not to exceed \$20,000. FTCA case in which the inmate alleges medical staff failed to provide appropriate medical care for a hand injury and failed to provide appropriate post surgery physical therapy.

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

*Kilpatrick v. Houston, App. No. 99-10862 (11<sup>th</sup> Cir.)*. This case is set for oral argument on Tuesday, November 30, 1999. AUSA Priesser representing.

*Clifford Lewin v. W. Scott et al., 1:97-CV-0048*. Bivens suit against Warden Scott, Dr. DiSanto and Dr. Grant for providing hernia operation three years after inmate complained and was advised he would receive an operation. Settlement conference held on 7/30/99. Defendant's offer of \$2,500 was rejected by the plaintiff. The plaintiff made an offer of \$78,000 and would not go below \$60,000. On 10/6/99 the AUSA handling the case made a request for defendants to have separate counsel appointed due to conflict of interest. Settlement request and been updated and resubmitted. Trial date scheduled for January 18, 2000.

*Jeff Dorsey et al. V. Keohane et al. 1:98-CV-0919*. Three inmates challenged the constitutionality of the four point restraint policy. Two of the inmates were dismissed. Discovery allowed by limited to qualified

immunity issue regarding four point restraints of plaintiff Lealon Muldrow. Depositions of the defendants have been taken.

*Desmond Lawrence v. Tom Keohane 1:97-CV-0036.* Inmate alleges that he was assaulted by the defendant with a broom stick in retaliation for his assault on a staff member. Plaintiff was appointed counsel in August 1999. Discovery meetings held and depositions have been taken. The trial date is scheduled for November 30, 1999.

*United States v. David Figueroa, 98-223 (CC):* Hearing held on defendant's urgent motion requesting medical treatment for client who allegedly has a mass in his chest. The Health Services Administrator at GUA explained to the Court about the inmate's condition and the proper referrals had been made.

*Lawrence Lawton v. United States of America 99-6169-CIV-MIDDLEBROOKS - FTCA case* in which the plaintiff alleges he was not given proper medical treatment for his back ailments at USP Atlanta, causing them to become progressively worse to the point they are debilitating. He seeks damages of \$605,000.

**New Cases:**

*Michael Anthony Warren v. Willie James Scott, et al., 1:98-CV-3367-MHS (N.D. Georgia).* Plaintiff alleges his several medications, which had been prescribed for him at the USMCFP, were canceled by a physician's assistant when he arrived at USP Atlanta. Although he talked with several people about it, the medications were not reinstated. He suffered a psychiatric episode where he tried to kill himself and was rushed to an outside hospital. He wants \$1,000,000 from each defendant and declaratory and injunctive relief.

*Darell Dexter Thomas v. Willey Scott, et al., 1:98-CV-568-CAM (N.D. Georgia).* The Plaintiff alleges he was placed in disciplinary segregation in the SHU for two weeks even though he is paralyzed from the waist down and uses a wheelchair. There are no cells for handicapped inmates, so he was forced to choose between crawling to the commode or lying in bed and soiling himself. He alleges cruel and unusual punishment because the cell has no handicapped accessories. He wants \$1,000,000 from each defendant.

*Michael Henry Smith v. Lt. Alviderez, et al., 5:99 CV-1148BrS (S.D. Mississippi).* Plaintiff alleges various acts of retaliation for using the administrative remedy process. Events started at FCI Jesup and continued at FCI Yazoo City. He wants \$5,000 from each defendant and for the BOP to sanction the defendants and take corrective action to vitalize the administrative remedy program.

*Olga Martin v. United States of America, 99-2468\_CIV-HIGHSMIT (S.D. Florida).* Plaintiff alleges that when she went to visit at FCI Miami, she sat on a picnic table bench which was unsecured and improperly maintained. She alleges the picnic table overturned which caused her to fall to the ground, hitting her neck and head on another picnic table.



*Hewlett v. Davis, 93-CV-1973.* Inmate alleges he was "homosexually" assaulted by a staff physician during a medical examination. This case is from 1993 and may present problems regarding information gathering.

*Michael Warren v. Scott et al. 1:98-CV-3367.* Plaintiff alleges that he was denied psychiatric medication and that the defendant's actions amounted to cruel and unusual punishment.

*Harry Terrell v. Scott 1:99-CV-2986.* Plaintiff alleges that he was assaulted by members of the SORT team upon his arrival at USP ATL in 1995. Case was dismissed for failure to exhaust administrative remedies under case number 96-CV-2986.

**D. RELIGIOUS CASES:**

Plaintiff/Inmate [REDACTED] alleges he has been denied the right to have a separate Jewish inmates. However, they were denied. The Religious Issues Committee made this determination denying his right to free exercise of religion, and that it is a violation of his First Amendment right to free exercise of religion, and that it is a violation of his First Amendment right to free exercise of religion. He seeks \$150,000 damages for himself. The complaint states the defendants are the "Religious Issues Committee" the "Southern District Senior Chaplain" at FCI Estill.

brew Israelite and members of that religion have been denied the opportunity to meet along with other inmates of that religion. The BOP's Religious Issues Committee asserts this is a violation of his First Amendment right to free exercise of religion, Eighth and Fourteenth Amendments as well. The complaint states the defendants are the "Director's Office" and the "Religious Services

[REDACTED]

b5

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

*United States v. Cruz*, 99-194 (CC), Officer indicted for having sexual contact with an inmate. The trial date for this case has been indefinitely postponed. The defense attorney filed a motion to suppress the identification of defendant Cruz as an officer engaging in sexual contact with the inmate allegedly because that identification was tainted. This suppression hearing scheduled for September 14, 1999 was postponed until October 18, 1999. Defense counsel GUA with a subpoena for records which has been complied with. Defense counsel filed an ex parte motion to compel GUA to produce records. During the suppression hearing, the issue of the whereabouts of the victim came up as her testimony is needed. The Court ruled upon a motion by defense counsel that if the victim is noted located by November 5, 1999, the case would be dismissed.

*United States v. Rondon*: Inmate at GUA indicted for attempting to bring drugs into the MDC. Inmate pled guilty to charges and is facing an eight year additional sentence. Individuals who aided in the introduction of the drugs also pled guilty.

**III. TRAVEL SCHEDULE FOR October 1999:**

[REDACTED]

Travel - New Attorney Training 11/15-19/99 - Washington, D.C.

[REDACTED]

Travel -

[REDACTED]

Travel - New Attorney Training 11/15-19/00 - Washington, D.C.

[REDACTED]

Travel -

[REDACTED]

Travel -

[REDACTED]

Travel -

**IV. Misc.:**

[REDACTED]

cc: Regional Director and Deputy Regional Director, SER

b6

UNITED STATES GOVERNMENT  
**memorandum**

**Date:** December 6, 1999

**Reply to Attn of:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** Monthly Report - November 1999

**To:** Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1*	84	117	126	127	121	116	115	136	146	153	158	184
Rec'd in month	43	41	55	46	33	33	44	78	55	40	40	
Recons. rec'd	1	2	0	1	2	2	1	2	1	3	3	
Ans'd in month	50	39	61	53	39	55	39	57	49	49	41	
Pending at end	115	124	124	123	121	109	114	146	153	158	184	
Over 180 days	7*	9*	15*	16*	13*	15*	16*	20*	23*	28*	27*	

\*Eight (8) of the twenty-seven referred to OIA from ATL - pending response.

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

	ATT.	COL	EDG	EGIL	EST	GUA	JES	MEA	MMI	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	87	10	5	0	8	3	6	12	10	11	3	0	15	3	6
>60 DAYS	44	0	0	0	3	0	0	0	5	6	0	0	6	0	1

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Page 2

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8	14	10	15	12
Rec'd in month	26	26	20	28	10	35	23	32	31	21	20	
Ans'd in month	18	27	26	22	14	28	31	25	33	17	24	
Pending at end	17	14	7	13	9	16	8	14	10	15	11	
Over 30 days	0	0	0	0	0	0	0	0	0	0	0	

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

	ATL	COL	FGI.	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	1	2	0	1	1	0	0	0	1	1	1	1	0	0	1
>30 DAYS															

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL.	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229	279	132	278	175	157	169		

\*The Executive Office indicates that during the month of July staff responsible for receipting administrative remedies was on leave one week and in training one week which accounts for the low number of remedies received during the month of July.

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200	204	207	207	209
New Cases	10	9	7	20	16	13	9	19	16	16	14	
Habeas Corpus	4	7	4	14	9	9	5	10	10	4	5	
FTCA	0	0	0	0	1	0	1	3	0	1	1	
Bivens	5	2	2	5	6	3	0	1	2	9	7	
Other	0	0	1	1	0	0	2	3	3	2	2	
Bivens/FTCA	1	0	0	0	0	1	1	2	1	0	0	
Lit Reports	10	3	5	24	11	13	9	7	6	8	6	
Cases Closed	3	6	4	5	8	24	189	15	13	16	12	

\*Many of the 189 cases closed July were as a result of updating our files and database.

**B. SETTLEMENTS AND AWARDS:**

**Settlement Authority Approved - *Jibri A. Rahman v. United States CV-98-N-1671***- authority has been obtained to settle this case for an amount not to exceed \$20,000. FTCA case in which the inmate alleges medical staff failed to provide appropriate medical care for a hand injury and failed to provide appropriate post surgery physical therapy.

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

*Kilpatrick v. Houston. App. No. 99-10862 (11<sup>th</sup> Cir.)*. This case is set for oral argument on Tuesday, November 30, 1999. AUSA Priesser representing.

*Desmond Lawrence v. Tom Keohane 1:97-CV-0036*. Inmate alleges that he was assaulted by the defendant with a broom stick in retaliation for his assault on a staff member. Plaintiff was appointed counsel in August 1999. Discovery meetings held and depositions have been taken. The trial date is scheduled for November 30, 1999.

**New Cases:**

*Olga Martin v. United States of America, 99-2468 CIV-HIGHSMIT (S.D. Florida)*. Plaintiff alleges that when she went to visit at FCI Miami, she sat on a picnic table bench which was unsecured and improperly maintained. She alleges the picnic table overturned which caused her to fall to the ground, hitting her neck and head on another picnic table.

*Hewlett v. Davis, 93-CV-1973.* Inmate alleges he was "homosexually" assaulted by a staff physician during a medical examination. This case is from 1993 and may present problems regarding information gathering.

*Michael Warren v. Scott et al. 1:98-CV-3367.* Plaintiff alleges that he was denied psychiatric medication and that the defendant's actions amounted to cruel and unusual punishment.

*Harry Terrell v. Scott 1:99-CV-2986.* Plaintiff alleges that he was assaulted by members of the SORT team upon his arrival at USP ATL in 1995. Case was dismissed for failure to exhaust administrative remedies under case number 96-CV-2986.

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**G. CRIMINAL CASES:**

**III. TRAVEL SCHEDULE FOR November 1999:**

[REDACTED]  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel -

[REDACTED]  
Travel -

b6

**IV. Misc.:**

[REDACTED]

UNITED STATES GOVERNMENT

**memorandum**

**Date:** January 5, 1999

**Reply to:** Sherree L. Sturgis, Regional Counsel, Southeast Region  
**Attn of:** Federal Bureau of Prisons, Atlanta, GA 30331

**Subject:** **Monthly Report - December 1998**

**To:** **Carolyn A. Sabol**, Acting Assistant Director/General Counsel  
 Federal Bureau of Prisons  
 Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1998**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st		113	69	69	89	104	101	88	104	107	112	128
Rec's in month	39	55	88	38	63	36	74	38	49	50	59	38
Recons. rec'd	0	3	4	2	1	0	3	0	0	01	01	01
Ans'd in month	22	49	69	52	46	58	54	29	55	58	55	44
Pending at end	117	118	107	103	111	101	88	81	100	104	118	118
Over 180 days	6	3	1	3	2	3	0	*1	*2	0	0	*7

\*Two (2) of the seven referred to OIA

**B. Tort Claim Investigation Status: As of December 31, 1998**

	ATL	COL	E D G	E G L	E S T	G U A	J E S	M I A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	55	16	2	1	2	5	4	5	4	2	1	1	18	1	5
>60 DAYS	27	9	0	0	0	0	3	0	0	2	0	0	6	0	0

ATL - 2 of >60 Days referred to OIA

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**C. FOI/Privacy Act Requests - 1998**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	12	18	19	21	15	31	27	14	14	12	11
Rec'd in month	21	9	18	19	15	24	24	29	35	41	24	17
Ans'd in month	10	18	22	26	41	14	33	44	43	44	28	17
Pending at end	24	21	19	25	15	7	27	14	14	12	11	12
Over 30 days	4	4	3	6	2	2	9	2	0	0	0	0

**D. FOIA Requests for records: As of December 31, 1998**

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	1	2	1				2		3			1	1	1
>30 DAYS														

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
195	169	201	217	167	115	176	229	239	159	152	190	

**II. LITIGATION ACTIVITY - 1998 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	606	515	525	535	537	542	539	531	<b>661</b> **	594	600	606
New Cases	16	2	18	15	15	10	11	24	14	6	14	10
Habeas Corpus	10	1	9	6	8	8	6	12	8	0	4	5
FTCA	0	0	2	2	2	0	1	1		0	1	1
Bivens	5	1	6	5	5	2	4	8	5	3	6	3
Other	1	0	1	2	0	0	0	2	1	1	3	1
Bivens/FTCA	0	0	0	0	0	0	0	1		2	0	0
Lit Reports	11	1	2	5	5	0				0	11	10
Cases Closed	77	9	8	5	13	5	14	32	<b>109</b> *	73	8	10

\*\* ACTUAL COUNT OF OPEN CASES

\* CLOSED AFTER REVIEW WITH INST. LEGAL STAFF'S CASE LOGS



B. SETTLEMENTS AND AWARDS:

C. SIGNIFICANT CASES, TRIALS or HEARINGS:

Viera v. U.S., 2-97-0499-12 (FSC)

The inmate alleges the BOP did not properly treat an injury he sustained to his Achilles tendon while playing basketball. The tendon was sutured and stapled by an outside orthopedic surgeon. One of the staples became infected. He was treated with antibiotics. Because the infection worsened, he was transferred to an outside hospital and the surgeon provided further treatment.. His leg eventually healed with some scarring. [REDACTED]

[REDACTED] b5 The plaintiff's expert orthopedic doctor assigned Viera a 5% whole person permanent impairment rating, but did not state that the care he received from the BOP fell below the standard of care. The treating orthopedic doctor was the Government's expert witness. His testimony was entered by deposition. [REDACTED]

[REDACTED] b5 The case was tried on December 21 & 22, 1998, in Charleston, South Carolina. At trial, the plaintiff's attorney called the government's witnesses to put on his case. He also conceded the treating BOP physician was qualified as an expert. Other than the inmate, the plaintiff had no witnesses, but did enter two videotaped depositions of experts into the record. Van Vandivier attended the trial. Closing argument was put off until December 28, 1998. After closing arguments, the judge stated there was not enough evidence to find the Government provided negligent medical care resulting in the injury to the plaintiff, and since the court was searching for the truth, he permitted the plaintiff's counsel an additional 30 days to take another deposition of his expert witness. [REDACTED]

[REDACTED] b5

Magluta v. Samples, et al., App. No. 97-8417 (11<sup>th</sup> Cir.)

On December 10, 1998, the court issued its ruling reversing the district court's dismissal of the case on the basis of the fugitive from justice doctrine. The Court of Appeals held that the district court abused its discretion because there was no nexus between the plaintiff's fugitive status and the Bivens case. A local rule of court in the Northern District of Georgia provides that when a motion is not responded to this indicates no opposition. The district court could have dismissed the case

under this rule. The court of Appeals returned the case to the district court for consideration of whether the case should be dismissed under this rule or for further proceedings.

Freson v. U.S. et al., 97-1373-CIV-GRAHAM (FFLS)

In this Bivens/FTCA case, a courier who was making a delivery to FCI Miami alleges that he became involved in a verbal altercation with a Lieutenant who assaulted him by hitting him with his fist, causing him to strike a flagpole with his face, break his glasses and sustain injury. The U.S. Attorney has taken a personal interest and is handling this case himself. The court ruled in favor of the defendants, finding that the Lt. acted in self defense.

D. RELIGIOUS CASES:

E. ENSIGN AMENDMENT CASES:

F. PLRA 1915 DISMISSALS:

G. CRIMINAL CASES:

New Cases:

III. TRAVEL AND LEAVE SCHEDULE FOR January 1999:

██████████ b6

01/08/99 Annual Leave to travel to Wally Cheney's Retirement dinner

██████████ b6

Annual Leave -  
1/08/99, to travel to Wally Cheney's Retirement dinner

██████████ b6

Travel - 01/04/99 - 01/08/99 Military Duty

cc: Regional Director and Deputy Regional Director, SER  
All Regional Counsel and Associate General Counsel

UNITED STATES GOVERNMENT  
**memorandum**

Date: January 5, 2000

Reply to: Sherree L. Sturgis, Regional Counsel, Southeast Region  
Attn of: Federal Bureau of Prisons, Atlanta, GA 30331

Subject: Monthly Report - December 1999

To: Christopher Erlewine, Assistant Director/General Counsel  
Federal Bureau of Prisons  
Washington, D.C. 20534

**I. ADMINISTRATIVE LEGAL ACTIVITIES - SUMMARY REPORT**

**A. Administrative Tort Claims - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	84	117	126	127	121	116	115	136	146	153	158	184
rec'd in month	43	41	55	46	33	33	44	78	55	40	40	47
Recons. rec'd	1	2	0	1	2	2	1	2	1	3	3	1
Ans'd in month	50	39	61	53	39	55	39	57	49	49	41	57
Pending at end	115	124	124	123	121	109	114	146	153	158	184	161
Over 180 days	7*	9*	15*	16*	13*	15*	16*	20*	23*	28*	27*	24*

\*Eight (8) of the twenty-four referred to OIA from ATL - pending response.

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

	ATL	COL	E D G	E G L	E S T	G U A	J E S	MI A	MIM	MNA	MON	PEN	TAL	TDG	YAZ
PENDING	78	9	8	0	7	2	5	3	11	11	3	0	14	3	7
>60 DAYS	43	0	0	0	3	0	2	0	6	6	1	0	7	0	0

**C. FOI/Privacy Act Requests - 1999**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1 <sup>st</sup>	12	17	14	7	13	9	16	8	14	10	15	11
Rec'd in month	26	26	20	28	10	35	23	32	31	21	20	17
Ans'd in month	18	27	26	22	14	28	31	25	33	17	24	14
Pending at end	17	14	7	13	9	16	8	14	10	15	11	15
Over 30 days	0	0	0	0	0	0	0	0	0	0	0	0*

\*Eight (8) requests, according to the date received by Central Office, were overdue when received by SERO, but were processed timely once received by SERO.

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

	ATL	COL	EGL	EST	GUA	JES	MIA	MIM	MNA	MON	PEN	TAL	TDG	YAZ	EDG
PENDING	0	2	2	0	0	1	1	0	0	0	0	3	2	0	2
>30 DAYS															

\*The remaining two requests pending are being handled/processed by the SERO.

**E. ADMINISTRATIVE REMEDIES**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
153	152	209	170	229	279	132	278	175	157	169	170	

\*The Executive Office indicates that during the month of July staff responsible for receipting administrative remedies was on leave one week and in training one week which accounts for the low number of remedies received during the month of July.

**II. LITIGATION ACTIVITY - 1999 SOUTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	373	380	365	368	383	391	380	200	204	207	207	209
New Cases	10	9	7	20	16	13	9	19	16	16	14	12
Habeas Corpus	4	7	4	14	9	9	5	10	10	4	5	11
FTCA	0	0	0	0	1	0	1	3	0	1	1	0
Bivens	5	2	2	5	6	3	0	1	2	9	7	1
Other	0	0	1	1	0	0	2	3	3	2	1	0
Bivens/FTCA	1	0	0	0	0	1	1	2	1	0	0	0
Lit Reports	10	3	5	24	11	13	9	7	6	8	6	10
Cases Closed	3	6	4	5	8	24	189	15	13	16	12	5

\*Many of the 189 cases closed July were as a result of updating our files and database.

**B. SETTLEMENTS AND AWARDS:**

**Settlement Authority Approved -**

**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

*U.S. v. Bridgett Bradford, 4:98cr76-RH.* The inmate was convicted of two counts of Assaulting Federal Officers, 18 U.S.C., Section 111 on December 17, 1999. Sentencing is set for March 1, 2000. The inmate will be transferred to a state placement in California next week.

*Lorenzo Pena Morfe v. United States of America, Civ. No. 99-1520: FTCA* in which the plaintiff contends that he slipped and fell while working as a result of government negligence. A motion to dismissed was filed based on the Inmate Accident Compensation Act and its bar of the lawsuit based on work related injuries. The court granted the motion to dismiss.

**New Cases:**

*Alicea Torres v. United States, 99-1805 (PG): FTCA* case in which the plaintiff contends that while playing basketball at the recreation yard at the MDC, he executed an evasive maneuver and slipped and fell in a slippery substance that was on the floor of the basketball court. Plaintiff contends that

he was not warned of the dangerous conditions of the floor and that there were no staff members present to ensure that the floor was not slippery. Plaintiff contends that, upon falling, he received a hard blow to his head and lost consciousness. Plaintiff contends that the injuries he sustained were proximately caused by the negligence of MDC staff in failing to adequately inspect and supervise the basketball court while plaintiff was playing and after inmates used the court. Plaintiff contends that MDC had a duty to maintain the basketball court free of slippery substance. Prepared a detailed litigation report about Puerto Rico negligence's laws and the landowner's duty of care. We filed an answer and are preparing to take the deposition of the plaintiff.

*Younglao v. United States, 98-1153 (DRD)*: FTCA action in which the plaintiff contends that was injured as a result of government negligence since he was housed in the same cell with an inmate who was dangerous to self and others and who had possessed dangerous weapons in the past. Deposition of the plaintiff was taken. The plaintiff had filed a motion for summary judgement. The government will respond by January 10, 1999. Approval has been obtained from DOJ-Collete Winston to raise the discretionary function exception as a bar to this lawsuit.

*Domingo Santana Rosa v. United States, et al*: FTCA/Bivens lawsuit in which the plaintiff contends that he was assaulted by another inmate as a result of government negligence. The plaintiff contends that the inmate who assaulted him was a trust agent of the government (unit orderly) and as a result the government is responsible for that inmate's assault on the plaintiff. The plaintiff attempted to effect service on the Warden for the inmate (who is also a defendant on the case). Prepared representation request for Warden Gonzalez who was not even the Warden in Guaynabo when the incident giving rise to the complaint occurred.

*Olga Martin v. United States of America, 99-2468\_CIV-HIGHSMIT (S.D. Florida)*. Plaintiff alleges that when she went to visit at FCI Miami, she sat on a picnic table bench which was unsecured and improperly maintained. She alleges the picnic table overturned which caused her to fall to the ground, hitting her neck and head on another picnic table. Most recently, the plaintiff's husband has filed an administrative claim alleging loss of consortium. The claim was rejected due to the fact the case is pending and it appears the claimant was included as a plaintiff in the above case when filed with the court.

*Zack McCain, Jr. V. Kathleen Hawk Sawyer, et. al., 2:99-3602-12AJ*. The plaintiff is suing the Director, the Warden at this institution and the Regional Director of the Southeast Region over the Zimmer Amendment. The United States Attorney's Office has not been served yet.

**D. RELIGIOUS CASES:**

**E. ENSIGN AMENDMENT CASES:**

**F. PLRA 1915 DISMISSALS:**

**USA v. William Sablan and Rudy Sablan, USP Florence**

William Sablan and Rudy Sablan were housed in a SHU cell with inmate Joey Estrella on October 10, 1999, at the USP. At 3:02 a.m., while making the 3:00 a.m. count, staff observed inmate Estrella laying on the cell floor with a gaping wound in his abdomen and with two cuts to his neck. It was later determined that inmate Estrella died from massive blood loss from the neck wounds. William Sablan admitted to the FBI that he killed inmate Estrella, however, statements in Guamanian on the video tape, as well as statements of inmates celled near the crime scene, indicate that Rudy Sablan was involved in the killing. Information provided to USAO to assist in referral to DOJ for death penalty consideration.

**U.S.A v. Francis and Haney, USP Florence**

Pre-trial hearing held on November 19, 1999, in this attempted escape case. Court denied Haney's motion to use duress as a defense. Trial date set for April 17, 2000. Court indicates the matter will not be continued. The institution was advised by the U.S. Marshals Service in Arizona that they received a subpoena to the architect of USP Florence for all records related to design and construction of facility. We will oppose any release of records or testimony that would jeopardize security.

**U.S.A. v. Scott Alex Schofler and Damion Johnson, USP Leavenworth**

A trial date of February 8, 2000, has been set for the prosecution of inmates Scott Alex Shofler and Damion Johnson for the murder of inmate Smothers. The trial is expected to last 2 weeks.

**PERSONNEL ISSUES**

**STAFF TRAVEL AND LEAVE**

[REDACTED]	1/18 - 1/21	Washington, D.C.	
[REDACTED]	1/18 - 1/21	Washington, D.C.	b6
[REDACTED]	None scheduled		
[REDACTED]	None scheduled		
[REDACTED]	1/10 - 1/14	Washington, D.C.	
[REDACTED]	None scheduled		
[REDACTED]	1/10	AL	
[REDACTED]	None scheduled		