

02/17/1993 12:07:16 =====

Joyce

UNITED STATES GOV. MEMORANDUM
FEDERAL BUREAU OF PRISONS
WESTERN REGIONAL OFFICE
DUBLIN, CALIFORNIA

DATE: 2/15/93

REPLY TO DOUGLAS CURLESS
ATTN OF: REGIONAL COUNSEL

SUBJECT: MONTHLY REPORT (JAN 1 - JAN 30)

TO: WALLACE H. CHENEY
GENERAL COUNSEL

STATISTICS:

TORT CLAIMS:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RCVD	30											
CLOSED	26											
PENDING	433											
OVERDUE	210											

TORT CLAIM INVESTIGATION STATUS: AS OF 12/31/1992
BRN LOM LOF LOC LOS NEL PHX PLE SAF SDC SHE TRM TCN

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PENDING OVER 60 DAYS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
	1	12	0	0	0	0	11	5	4	5	37	3

FOI/PA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RCVD	11											
CLOSED	27											
PENDING	131											
OVERDUE	42											

ADMIN. REM.:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RCVD	114											

LITIGATION:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN	565											
NEW	14											
HC	8											
FTCA	3											
BIVENS	3											
OTHER	1											
CLOSED	24											

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INS/SOLER:
NEW 18
PENDING 143

BROWN V. RISON/SENTENCING CASES:
NEW
PENDING: 5 (INCOMPLETE)

HENTHORN: 3
PROCESSED

LITIGATION MATTERS:

SUPREME COURT

9TH CIRCUIT

FRALEY V. BUREAU OF PRISONS, ET AL, CA9 93-35066
(CV 92-348 CI EWA) FRALEY SUED IN DISTRICT COURT TO RECEIVE "PRIOR CUSTODY CREDIT" FOR TIME SPENT IN HOME DETENTION AND ON ELECTRONIC MONITORING. DISTRICT COURT BRIDFING SCH: OPEN 3/29/93. ANSWER 4/28/93.

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***ANY OTHER REGION THAT HAS LITIGATED THIS ISSUE WE WOULD APPRECIATE RECEIVING COPIES OF BRIEFS, CASES, RESEARCH -- THIS MAY BE THE NEXT SENTENCING ISSUE APPEAL.

HAWKINS V. RILEY

MILLS V. TAYLOR, 9TH CIR. NO. 91-55362
OPS MEMO FOR ISM'S REGARDING APPLICATION OF 9TH CIR. LAW AWARDING HALF-WAY HOUSE TIME ON PRE-TRIAL RELEASE AS "PRIOR CUSTODY CREDIT". THE NEXT LITIGATION BATTLE LOOMS OVER APPLICATION TO INMATES SENTENCED IN OTHER CIRCUITS BUT NOW HOUSED IN THE 9TH CIR./WESTERN REGION OF BOP. ANYONE GETTING CASES IN YOUR REGION SEEKING APPLICATION OF SUCH CREDIT PLEASE NOTIFY WRO LEGAL AND COPY US WITH ANY PLEADINGS FILED. WRO HAS PREPARED A 9TH CIRCUIT SENTENCING ISSUES MANUAL - IT'S AVAILABLE TO ANYONE WHO WANTS A COPY.

U.S. DISTRICT COURTS

JENNINGS V. MITCHELL, ET AL., CV 89-4428-WJR(SH) (C.D.CA) - JUSTICE DEPT. HAS AUTHORIZED INDEMNIFICATION (\$156,000) FOR THE STAFF WHO SUFFERED THE ADVERSE JUDGMENT. U.S. ATTORNEY IS FILING APPEAL.

02/17/1993 12:08:04 =====

COUPAR V. BOP. 92-TSC-12 (AFFECTIONATELY KNOWN AS COUPAR III). NEW ADMINISTRATIVE LAW CASE (DEPARTMENT OF LABOR) SEEKING DAMAGES FROM BOP FOR "RETALIATORY TRANSFER". INMATE CONTENDS HE IS A "WHISTLE BLOWER" PURSUANT TO 29 CFR PART 24 AND ENTITLED TO DAMAGES FOR RETALIATORY TRANSFER FROM FCI TERMINAL ISLAND TO FCI LATUNA. INMATE HAS FILED 3 PREVIOUS ACTIONS WITH U.S. DEPT. OF LABOR (2 IN SCRO; 1 IN WRO). ALJ BOUBAR (COUPAR I) DISMISSED THE FIRST CASE FOR LACK OF JURISDICTION. ALJ SMITH (COUPAR II) FOUND HE HAD JURISDICTION AND ENTERED A RECOMMENDATION OF \$10,000 DAMAGES AND REINSTATEMENT TO UNICOR JOB AND BACK PAY. THE SECRETARY OF LABOR HAS NOT ACTED ON THIS RECOMMENDATION AND IS NOT EXPECTED TO FOLLOW THE RECOMMENDATION. ALJ MCCOLGIN (COUPAR III) INDICATED DURING A SCHEDULING CONFERENCE HE FELT ALJ SMITH WAS INCORRECT IN HIS DECISION AND HAS GIVEN COUPAR UNTIL FEBRUARY 8, 1993, TO DECIDE IF HE WISHES TO PURSUE THIS CASE OR TO FILE A MOTION TO DISMISS. TENTATIVE HEARING DATE SCHEDULED AT FCI OAKDALE FOR APRIL 20, 1993.

RELATED TORT CASES:

ESTATE OF PRATT V. U.S.A. CV 92-5682 R (W.D.WA) \$4.5M X 3

HUBS V. U.S.A., CV 93-13 JE (D.OR)

\$300,000

THESE SUITS ARISE OUT OF A TRAFFIC ACCIDENT INVOLVING A VAN FROM FCI SHE ON 1/2/91 IN WHICH INMATE PRATT WAS KILLED, HUBBS, A THIRD DRIVER, WAS INJURED. 2ND PARTY INVOLVED, DARIGOLD, HAS NOT YET FILED COMPLAINT;

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HOWEVER, DID FILE ADMINISTRATIVE CLAIM FOR \$13K. HAVING PREVIOUSLY FILED ADMINISTRATIVE TORTS AND THE TIME EXPIRED, COMPLAINTS ARE NOW FILED IN DISTRICT COURT. TORT CLAIMS PREVIOUSLY REFERRED TO CENTRAL OFFICE.

UPCOMING TRIALS:

U.S. V. BENSON, CR 91-1007, (C.D.CA) FEBRUARY 11, 1993
FORMER STAFF AT FCI TRM IS BEING PROSECUTED FOR INTRODUCTION OF CONTRA-BAND-DRUGS AT TRM. CASE IS GOING TO JURY TRIAL, SAME WEEK AS THE JURY SELECTION IN THE 2ND RODNEY KING TRIAL. HENTHORN REQUESTS COMPLETED 2/3/93.

CONCLUDED TRIALS:

U.S. V. SANTIAGO, C.D.CA. TRIAL BEGAN JANUARY 5, 1993. INMATE CHARGED WITH MURDERING ANOTHER INMATE AT USP LOMPOC. JURY RETURNED A GUILTY VERDICT AGAINST SANTIAGO ON 1/12/93.

HEARINGS FOR FEBRUARY/MARCH

WILMER V. MEYERS, N.D.CA (SAN FRANCISCO), MARCH 12, 1993. TELEPHONE CONFERENCE WITH INMATE PLAINTIFF AND COURT. MOTION FOR SUMMARY JUDGEMENT

2/17/1993 12:08:25 =====

IN BIVENS CASE. DOUG CURLESS/TINA ROBINSON.

POTNETIAL PROSECUTIONS:

U.S. V. MICHAEL D. HASH, TORT CLAIM NO. 92-08-400, S.D.CA. (SAN DIEGO). WE WERE ADVISED BY THE U.S. ATTORNEYS OFFICE THAT THEY ARE GOING TO SEEK PROSECUTION OF THE ABOVE NAMED INMATE FOR FILING A FALSE TORT CLAIM WITH THE BOP!!!!!!

MATTERS OF INTEREST/CONCERN:

(*INDICATES AN ATTACHMENT - IF YOU ARE RECEIVING THIS VIA SENTRY AND WISH A COPY OF AN ATTACHMENT PLEASE CALL VALERIE STEWART AT FTS 468-4723)

A QUESTION WAS RECENTLY POSED TO OUR OFFICE CONCERNING THE PROCESSING OF EMPLOYEE CLAIMS. DURING ANNUAL TRAINING, ONE OF THE INSTITUTIONS APPARENTLY EXPERIENCED SOME STAFF DISCORD WHEN EMPLOYEES WERE ADVISED THAT THE AGENCY HAS UP TO SIX MONTHS WITHIN WHICH TO RENDER A DECISION ON ADMINISTRATIVE CLAIMS. WE WERE ASKED WHY A MORE LIBERAL USE OF THE BOPCA STATUTE RATHER THAN THE CECA OPTION WAS NOT ADOPTED TO EXPEDITE RESPONSE.

WHEN AN INVESTIGATION ABOUT AN EMPLOYEE CLAIM IS RECEIVED FROM THE INSTITUTION, WE ATTEMPT TO PROCESS IT UNDER THE MOST APPROPRIATE STATUTE

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THAT CORRELATES TO THE FACTUAL BASIS AND WOULD PERMIT THE MOST EXPEDIENT RESPONSE. IF GOVERNMENT NEGLIGENCE CAN BE CONSTRUED, THE CLAIM IS PROCESSED UNDER THE FTCA RATHER THAN CECA. IF THE CLAIM AROSE DURING THE

NORMAL COURSE OF DOING ONE'S JOB AND IT DOES NOT INVOLVE OUR MISSION OF THE CUSTODY AND CARE OF INMATES OR IS OTHERWISE NOT UNIQUE TO A PRISON SETTING, THE CLAIM IS PROCESSED UNDER THE CECA PROVISIONS. IF THE CLAIM INVOLVES OUR MISSION OF THE CUSTODY AND CARE OF INMATES AND IS UNIQUE TO A PRISON SETTING, THEN IT IS TREATED UNDER THE BOPCA STATUTE.

VERY FEW OF OUR EMPLOYEE CLAIMS ARE PROCESSED UNDER THE BOPCA PROVISIONS BECAUSE THE FACTS DO NOT FALL WITHIN THE NARROW CONSTRAINTS OF THE LANGUAGE OF THE STATUTE. INSTEAD, THE MAJORITY OF THE CLAIMS HAVE BEEN ALMOST EVENLY PROCESSED UNDER THE FTCA OR CECA.

DUE TO OUR APPROXIMATE FOUR MONTH BACKLOG OF OVERDUE CLAIMS, WE HAVE NOT BEEN ABLE TO PROCESS EMPLOYEE CLAIMS IMMEDIATELY UPON RECEIPT OF THE INVESTIGATION FROM THE INSTITUTION. WE HAVE HAD TO PRIORITIZE OUR TASKS PERHAPS IN DEFERENCE TO STAFF AND ATTEMPT TO PROCESS THOSE CLAIMS THAT POSE THE MOST PRESSING LIKELIHOOD OF LITIGATION. EVEN THOUGH WE HAVE THE OPTION OF PROCESSING CLAIMS UNDER BOPCA RATHER THAN CECA, THIS OPTION WILL NOT EXPEDITE RESPONSE SINCE WE ARE NOT PRESENTLY TREATING RECENT EMPLOYEE CLAIMS ANY DIFFERENT THAN THOSE RECEIVED FROM INMATES OR CIVILIANS.

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IT IS RECOMMENDED THAT INSTITUTION LEGAL STAFF INFORM EMPLOYEES AT THE TIME OF FILING THAT THE AGENCY IS ALLOTTED UP TO SIX MONTHS TO PROCESS THE CLAIM AND THAT A SEVERAL MONTH DELAY WILL MOST LIKELY BE ENCOUNTERED. IF THE CLAIM IS NOT ROUTINE AND IS OF A PRESSING NATURE (E.G., THE AMOUNT REQUESTED IS LARGE OR THE CLAIM SEEKS REPAIR COSTS OF ONE'S SOLE SOURCE OF TRANSPORTATION), PLEASE ALERT US AND WE WILL LOOK AT PROCESSING IT IN A MORE TIMELY MANNER.

THE NEW LMS COORDINATOR FOR THE WESTERN REGIONAL OFFICE WILL BE JANELLE BROCK. PLEASE ADDRESS ANY QUESTIONS OR CONCERNS TO HER AT FTS 468-4741.

ETHICS TRAINING:

JENIFER GRUNDY, ASSISTANT REGIONAL COUNSEL, AND TIM ROBERTS, MDC LOS ANGELES STAFF ATTORNEY ARE CONDUCTING ETHICS TRAINING FOR WRO. THEY WILL BE TRAVELLING THROUGHOUT THE REGION DURING FEBRUARY THRU APRIL.

"LAW" - LEGAL ASSOCIATES WEST OF SACRAMENTO, CA.

MIKE DEDMAN WAS CONTACTED BY A DEPUTY DISTRICT ATTORNEY REGARDING THIS SUPPOSED LAW OFFICE WHICH HAS BEEN SENDING SOLICITATIONS INTO INMATES. APPARENTLY IT IS RUN BY A WILLIAM MARTIN RAVENSCROFT WHO IS NOT AN

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ATTORNEY AND IS BEING PROSECUTED. CONTACT VALERIE STEWART IF YOU RECEIVE ANY INFORMATION ABOUT HIS BUSINESS AT YOUR INSTITUTION.

SETTLEMENTS:

ZANZUCCHI V. USA CV 88-

PERSONNEL MATTERS:

WRO

DOUG CURLESS -

TOUR PLE 2/9 WITH 3 VISITING PAKISTANI JUDGES
CENTRAL OFFICE/WXR LMS TELECONFERENCE 2/9

RC/AGC TELECONFERENCE 2/26 10:00PST

ANNUAL LEAVE 2/11 - 2/12

VALERIE STEWART -

ANNUAL LEAVE 2/16 - 2/19

JENIFER GRUNDY -

TDY AT LOM 2/1 - 2/5; ETHICS TRAINING NEL 2/12;

TUC 2/16 - 2/17; SAF 2/18 - 2/19

JANELLE BROCK -

JANET AUGUSTINE -

GLORIA POUPAR

ANNUAL LEAVE 2/12

JUANITA JIGGETS -

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LIDA PAETZKE

INSTITUTION STAFF:

ANDREA DAHLSTEN: ANDREA REPORTS TO MCC SAN DIEGO AS THE ATTORNEY-ADVISOR
AS OF 1/12/93.

DARREN BRACY/LOM DARREN IS HOLDING THE FORT AT USP LOMPOC UNTIL A NEW
ATTORNEY IS ON BOARD. JENIFER GRUNDY, ASSISTANT REGIONAL COUNSEL IS
PROVIDING BACKUP UNTIL MATT CARNEY ARRIVES.

MATT CARNEY

MATT WAS SELECTED AS ATTORNEY-ADVISOR USP LOMPOC.
REPORTING DATE OF APRIL 5, 1993.

18/1993 12:28:00 =====

UNITED STATES GOV. MEMORANDUM
FEDERAL BUREAU OF PRISONS
WESTERN REGIONAL OFFICE
DUBLIN, CALIFORNIA

DATE: 3/16/93

REPLY TO DOUGLAS CURLESS
ATTN OF: REGIONAL COUNSEL

SUBJECT: MONTHLY REPORT (FEB 1 - FEB 28)

TO: WALLACE H. CHENEY
GENERAL COUNSEL

STATISTICS:

TORT CLAIMS:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RCVD	30	7										
CLOSED	26	18										
PENDING	433	422										
OVERDUE	210	198										

TORT CLAIM INVESTIGATION STATUS: AS OF 12/31/1992
BRN LOM LOF LOC LOS NEL PHX PLE SAF SDC SHE TRM TCN

18/1993 12:28:04 =====

PENDING OVER 60 DAYS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
	1	13	0	0	1	0	0	15	8	7	6	39	5

FOI/PA	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RCVD	11	36										
CLOSED	27	16										
PENDING	131	151										
OVERDUE	42	43										

ADMIN. REM.:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RCVD	114											

LITIGATION:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN	565	562										
NEW	14	9										
HC	8	5										
FTCA	3	1										
BIVENS	3	2										
OTHER	1	1										
CLOSED	24	12										

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INS/SOLER:	
NEW	11
PENDING	146

SETTLEMENT:
QUACKENBUSH \$7,500

LITIGATION MATTERS:

SUPREME COURT

DANNIE MARTIN, SAN FRANCISCO CHRONICLE V. RISON, ET AL.
ON FEBRUARY 22, 1993, THE SOLICITOR GENERAL FILED A RESPONSE TO
PLAINTIFFS' PETITION FOR CERTIORARI IN THE DANNIE MARTIN CASE. WE HOPE
TO LEARN IF THE SUPREME COURT IS GOING TO ACCEPT CERT. IN THE NEAR FUTURE.

9TH CIRCUIT COURT OF APPEALS

JORDAN, ET AL. V. GARDNER, ET AL. 9TH CIR. NOS. 90-35307; 90-35552 EN
BANC OPINION FEBRUARY 25, 1993.
IN A 7-4 EN BANC DECISION, THE 9TH CIRCUIT COURT OF APPEALS HELD CROSS

03/18/1993 12:28:14 =====

GENDER RANDOM PAT SEARCHES (MALE CORRECTIONAL OFFICERS/FEMALE INMATES ONLY) CONSTITUTE A VIOLATION OF THE 8TH AMENDMENT PROHIBITION AGAINST CRUEL AND UNUSUAL PUNISHMENT. THE MAJORITY (4 JUDGES) HELD RANDOM PAT SEARCHES OF FEMALES IS AN 8TH AMENDMENT VIOLATION DUE TO THE HIGH PERCENTAGE OF FEMALE INMATES WHO HAVE BEEN PHYSICALLY AND SEXUALLY ABUSED. THREE JUDGES IN CONCURRING OPINIONS FELT THE PRACTICE OF RANDOM PAT SEARCHES WAS VIOLATIVE OF THE 4TH AMENDMENT. THE MAJORITY SEEMED TO FOCUS ON THE TESTIMONY OF THE PSYCHIATRIST TESTIFYING ON BEHALF OF THE INMATES. THE COURT ALSO FELT THE RATIONALE FOR THE CHANGE IN WASHINGTON DOC'S POLICY WAS MORE FOR THE CONVENIENCE OF THE EMPLOYEES UNION THAN FOR THE SECURITY OF THE INSTITUTION.

THE DISSENT (J. TROTT, C.J. WALLACE CONCURRING IN A SEPARATE OPINION) FELT THE ISSUE WAS ONE OF 4TH AMENDMENT ONLY. THE TURNER TEST SHOULD BE APPLIED. THE DISSENT THEN ANALYZES THE WASHINGTON DOC POLICY AND FINDS IT TO BE REASONABLE UNDER TURNER.

CENTRAL OFFICE HAS CONTACTED ALL STATE DOC'S IN THE 9TH CIRCUIT TO INQUIRE ABOUT THEIR CROSS GENDER RANDOM PAT SEARCH POLICIES. ALL STATES IN THE 9TH CIRCUIT (EXCEPT HAWAII) DO CROSS GENDER RANDOM PAT SEARCHES. THEY ARE STUDYING THE OPINION AT THIS TIME. WASHINGTON DOC WOULD LIKE TO PETITION FOR CERT., HOWEVER, THE ATTORNEY GENERAL AND GOVERNOR MAY NOT SUPPORT THE

03/18/1993 12:28:18 =====

PETITION.

THE FIVE FEDERAL INSTITUTIONS IN WXR CURRENTLY HOUSING FEMALE PRETRIALERS AND SENTENCED OFFENDERS (FCI DUBLIN, MDC LOS ANGELES, MCC SAN DIEGO, FPC PHOENIX, AND FCI TUCSON) HAVE SUSPENDED CROSS GENDER PAT SEARCHES UNTIL FURTHER NOTICE FROM CENTRAL OFFICE AND WXR.

WETTMORE V. GARDNER, ET AL. CA9 NO. 90-35348 FILED 3/3/93.
9TH CIRCUIT DECISION (1 WEEK AFTER JORDAN SUPRA.) REVERSING JUDGMENTS ENTERED AGAINST WASHINGTON DOC STAFF FOR 1983 VIOLATIONS OF INMATES' CIVIL RIGHTS. WASHINGTON STATE DOC INMATES SUED STATE DOC DIRECTOR AND STAFF FOR THEIR POLICY REQUIRING DIGITAL RECTAL SEARCHES OF INMATES PRIOR TO ENTRY IN INTENSIVE MANAGEMENT UNIT. THE U.S. DISTRICT COURT REFUSED TO

CONSIDER DEFENDANT'S MOTION FOR QUALIFIED IMMUNITY UNTIL AFTER CLOSE OF EVIDENCE IN THE TRIAL.

9TH CIRCUIT (3 JUDGES NOT SITTING ON THE JORDAN EN BANC SUPRA) REVERSED STATING QUALIFIED IMMUNITY SHOULD BE DECIDED PRIOR TO TRIAL AND FURTHER HELD THESE TYPES OF SEARCHES WERE DONE AT USP MARION, SANCTIONED BY FEDERAL REGULATIONS 28 CFR 541.48(A) (1986), AND UPHELD BY CASE LAW. THE COURT HELD THE WASHINGTON DOC STAFF WERE ENTITLED TO QUALIFIED IMMUNITY AND REVERSED.

03/18/1993 12:28:22 =====

U.S. V. JONES CA9 NO. 92-10258. ARGUED 3/8/93 SAN FRANCISCO. U.S. ATTORNEY JOHN MENDEZ, N.D. CAL, ARGUED THE 9TH CIRCUIT SHOULD NOT FOLLOW THE 2ND CIRCUIT LINE OF CASES ALLOWING FOR DOWNWARD DEPARTURE FROM THE SENTENCING GUIDELINES BASED ON AN INMATE'S YOUTHFUL PHYSICAL APPEARANCE, SEXUAL ORIENTATION, AND HIS POTENTIAL FOR RAPE AND VICTIMIZATION. IN A 2-1 OPINION, LARA V. U.S., 902 F.2D 599 (2D CIR. 1990) THE 2ND CIRCUIT FOUND IT APPROPRIATE FOR A DOWNWARD DEPARTURE BASED ON THE ABOVE CHARACTERISTICS. THE COURT INDICATED THE BOP COULD NOT PROTECT THIS YOUTHFUL, BISEXUAL, FEMININE INMATE. THE 2ND CIRCUIT CONTINUED WITH THIS LINE OF CASES U.S. V. GONZALEZ 945 F.2D 525 (2D CIR. 1991); U.S. V. RICHEY 949 F.2D 61 (2D CIR. 1991)& AND IT WAS SUBSEQUENTLY PICKED UP BY THE 8TH CIRCUIT; U.S. V. LONG 977 F.2D 1264 (8TH CIR. 1992).

ON 11/1/91 THE U.S. SENTENCING COMMISSION RESPONDED TO THE LARA LINE OF CASES WITH GUIDELINE AMENDMENT #386, HOWEVER THE COMMISSION OMITTED A SPECIFIC CITATION TO LARA. THE FEDERAL PUBLIC DEFENDER IN SAN FRANCISCO IS ARGUING LARA DEPARTURES STILL EXIST. AN EXPANSION OF THE LARA LINE OF CASES COULD CAUSE BOP PROBLEMS IN THE FUTURE. THE COURT IMPLIES BOP CANNOT ADEQUATELY ADDRESS SAFETY REQUIREMENTS FOR INMATES COMING INTO THE SYSTEM. THESE OBSERVATIONS COULD BE USED AGAINST BOP IN FAILURE TO PROTECT LAWSUITS AND WRONGFUL DEATH CASES. WE MAY ALSO BE CALLED UPON AT

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SENTENCING HEARINGS TO GIVE THE COURT INFORMATION ON WHERE INMATES CAN BE HOUSED "SAFELY". THIS WOULD ERODE OUR ABILITY TO PLACE INMATES IN FACILITIES WITHOUT COURT INTERFERENCE.

AN OPINION IS EXPECTED WITHIN THE NEXT THREE MONTHS. DOUG CURLESS IS HANDLING.

FRALEY V. BUREAU OF PRISONS, ET AL. CA9 93-35066, (CV 92-348 CI EWA) FRALEY SUED IN DISTRICT COURT TO RECEIVE "PRIOR CUSTODY CREDIT" FOR TIME SPENT IN HOME DETENTION AND ON ELECTRONIC MONITORING. DISTRICT COURT BRIEFING SCH: OPEN 3/29/93, ANSWER 4/28/93.

MILLS V. TAYLOR, 9TH CIR. NO. 91-55362. OPS MEMO FOR ISM'S REGARDING APPLICATION OF 9TH CIRCUIT LAW AWARDDING HALF-WAY HOUSE TIME ON PRE-TRIAL RELEASE AS "PRIOR CUSTODY CREDIT". THE NEXT LITIGATION BATTLE LOOMS OVER APPLICATION TO INMATES SENTENCED IN OTHER CIRCUITS, BUT NOW HOUSED IN THE 9TH CIRCUIT/WESTERN REGION OF THE BOP. ANYONE GETTING CASES IN YOUR REGION SEEKING APPLICATION OF SUCH CREDIT, PLEASE NOTIFY WXR LEGAL AND COPY US WITH ANY PLEADINGS FILED.

U.S. DISTRICT COURTS

03/18/1993 12:28:32 =====

ESTATE OF PRATT V. U.S.A. CV 92-5682 R WD WA \$4.5M X 3
HUBBS V. U.S.A., CV 93-13 JE D. ORE \$300,000
THESE SUITS ARISE OUT OF A TRAFFIC ACCIDENT INVOLVING A VAN FROM FCI,
SHERIDAN ON 1/2/91 IN WHICH INMATE PRATT WAS KILLED; HUBBS, A THIRD
DRIVER, WAS INJURED. SECOND PARTY INVOLVED, DARIGOLD, HAS NOT YET FILED A
COMPLAINT; HOWEVER, DID FILE AN ADMINISTRATIVE TORT CLAIM AND THE TIME HAS
EXPIRED. COMPLAINTS ARE NOW FILED IN DISTRICT COURT. TORT CLAIMS
PREVIOUSLY REFERRED TO CENTRAL OFFICE.

U.S. V. BENSON, CR 91-1007 CDCA FEBRUARY 11, 1993
THIS PROSECUTION WAS DISMISSED ON MOTION OF THE U.S. AFTER SUPPRESSION
HEARINGS IN WHICH STAFF TESTIFIED AND COURT HELD THAT DETAINED STAFF'S
REQUEST FOR A UNION REPRESENTATIVE WAS TANTAMOUNT TO INVOKING MIRANDA
PROTECTIONS AND NO FURTHER QUESTIONING (BY FBI) SHOULD HAVE TAKEN PLACE.

FORMER STAFF AT FCI, TERMINAL ISLAND IS BEING PROSECUTED FOR INTRODUCTION
OF CONTRABAND DRUGS AT TRM. CASE WAS SET FOR JURY TRIAL.

U.S. V. DELONEY, CR, D. AZ MARCH 9, 1993
PRESECUTION OF FORMER FOOD SERVICE SECRETARY FOR BRINGING DRUGS INTO FCI,
PHOENIX FOR INMATES. MOTIONS HEARING MARCH 9; TRIAL SET FOR MARCH 22,
1993. JANE HASCHEMEYER COVERING.

03/18/1993 12:28:37 =====

WILMER V. MEYERS, N.D. CAL (SAN FRANCISCO) MARCH 12, 1993
TELEPHONE SCHEDULING CONFERENCE WITH INMATE PLAINTIFF AND COURT. MOTION
FOR RECONSIDERATION OF SUMMARY JUDGMENT FILED TO BE CONSIDERED BY THE
COURT. DISCOVERY CUT-OFF 6/30/93. TWO DAY TRIAL SET FOR 9/20/93. DOUG
CURLESS, TINA ROBINSON.

TRIALS

FANT V. BOP, C.D. CAL (LOS ANGELES) TRIAL MARCH 9-11, 1993.
INMATE BROUGHT FTCA CLAIM FOR MEDICAL MALPRACTICE CLAIMING OVER \$250,000
IN DAMAGES. THREE DAY TRIAL TO THE COURT CONCLUDED 3/11/93. POST-TRIAL
BRIEFS TO BE SUBMITTED BY END OF MONTH. JOHN NORDIN, AUSA AND DEE ALFORD
HANDLING.

SETTLEMENTS

ZANZUCCHI V. WYNBERT, ET AL., CIV 86-1335-PHX-RCB; ZANZUCCHI V. U.S., CV
88-0915-PHX.

ORIGINAL BIVENS CASE CONSOLIDATED WITH FTCA CLAIM. USDC DISMISSED THE

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BIVENS AND FTCA COMPLAINT. INMATE APPEALED TO 9TH CIRCUIT. 9TH CIRCUIT
UPHELD DISMISSAL OF BIVENS ACTION, BUT REMANDED THE FTCA CLAIM. WE AUTHOR
IZED AUSA TO SETTLE FOR \$21,000 IN ANNUITY FOR INMATE'S CHILD IN APRIL OF
1992. PARALEGAL JANE HASCHEMEYER DISCOVERED CASE SETTLED IN DECEMBER OF
1992 FOR \$25,000. NO NOTICE GIVEN TO BOP. (THE SILVER LINING TO THIS
CLOUD IS THAT INMATE WAS DIRECTED TO PAY \$24,000 TO EX-WIFE FOR BACK CHILD
SUPPORT; \$800 TO ATTORNEY; NET TO INMATE \$200.)

MATTERS OF INTEREST/CONCERN:

THE NEW LMS COORDINATOR FOR THE WESTERN REGION WILL BE JANELLE BROCK.
PLEASE ADDRESS ANY QUESTIONS OR CONCERNS TO HER AT FTS 468-4741.

ETHICS TRAINING:

COMPLETED:

TIM ROBERTS: MDC LOS ANGELES 2/3; FPC BORON 2/11-12; FCI TRM 2/16-17; MCC
SAN DIEGO 2/18.

JENIFER GRUNDY: FPC NELLIS 2/11-12; FCI SHERIDAN 3/1-2.

SCHEDULED:

TIM ROBERTS: FCI PHOENIX 3/22-23; SEATTLE CCM 4/1 (GEIGER CAMP).

JENIFER GRUNDY: WXR 3/19 AND 3/25; FCI TUCSON 3/29-30; FCI SAFFORD 3/31-

03/18/1993 12:28:45 =====

4/1.

PERSONNEL MATTERS:

WXR

DOUG CURLESS: 3/23-3/26 AUSA TRAINING WITH SHERREE STURGIS IN PUERTO
RICO.

JENIFER GRUNDY: TDY AT USP LOMPOC 3/8-3/17; ETHICS TRAINING (SEE ABOVE).

LIDA PAETZKE: ANNUAL LEAVE 3/15-3/19.

GLORIA POUPAR: NLTC TRAINING (AURORA) 3/22-4/9.