

D. FOI/Privacy Act Requests - 1998

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	37	13	9	15	32	32	4					
Rec'd in month	34	28	32	38	41	31	45					
Ans'd in month	58	35	29	21	41	59	27					
Pending at End	13	9	15	32	32	4	22					
Over 20 days	1	1	0	1	1	0	6*					

* Records awaiting retrieval from archives.

E. FOIA Requests for records: As of July 31, 1998

	ALF	ALM	ALP	ALW	BRO	DAN	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	SCH
Pending	1	0	0	0	0	5	4	1	1	1	2	1	1	0	0
Over 20 days	0	0	0	0	0	3*	1*	0	0	1*	0	1*	0	0	0

*This file has not been received from archives.

II. LITIGATION ACTIVITY - 1998 NORTHEAST REGION**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Open	670	604	597	606	625	639	613					
New Cases	13	15	21	24	19	13	11					
Habeas Corpus	5	7	13	13	15	6	3					
FTCA	1	4	2	4	3	1	1					
Bivens	1	2	3	4	1	3	6					
Other	4	2	1	1	0	3	1					
Bivens/FTCA	2	0	2	2	0	0	0					
Lit Reports	8	10	10	9	9	10	4					
Cases Closed	66	7	12	5	5	26	14					

B. SETTLEMENTS AND AWARDS: - None**C. SIGNIFICANT CASES, TRIALS or HEARINGS:**

Significant New Cases:

McClurg v. Harding, 98-605 (D. Conn)Holder v. Harding, 98-656 (D. Conn)

FCI Danbury inmates Penelope McClurg, 21528-018 and Tinia Holder, 09474-424, filed separate, similar motions requesting an expedited hearing and temporary restraining order against the practice of cross-gender pat searches at FCI Danbury. Both

inmates have a history of being sexually abused and are assigned to the "Bridge Unit", which is a housing unit for women who have suffered traumatic experiences, including sexual assault/abuse. Counsel has been appointed to represent both inmates. Under informal pressure from the court, the Warden agreed to exempt the two inmates from routine cross-gender pat searches until a full hearing on the merits can be held. The hearing is currently scheduled for October 1998. We are trying to move up the hearing date.

Trials:

United States v. Hammer, M.D. PA

On July 24, 1998, the jury returned a death penalty verdict against inmate David Paul Hammer, 24507-077 for the murder of another inmate at USP Allenwood. Formal imposition of sentence was scheduled for September 17, 1998. The inmate fired his attorneys and moved for immediate imposition of the death penalty. After an August 3, 1998 hearing, Judge Muir issued an order for another competency hearing before ruling on the inmate's motion.

Hearings:

1) U.S. v. Castaldo, Crim. No. ----- (S.D.N.Y.)

On June 30, 1998, MCC New York received a memorandum from an AUSA indicating a credible source informed him that the life of inmate James Castaldo, 16032-050, may be in danger. Castaldo was removed from general population and placed in administrative detention pending a threat assessment. The inmate objected to the criminal trial judge. Judge Keenan requested a written explanation by 9:30 a.m. on July 2, 1998 and scheduled a hearing for 10:30 a.m. At the hearing, the Court determined the issue was not ripe since the threat assessment had not yet been completed. The Judge expressed some concern for the adequacy of the reasons on the administrative detention order. After the assessment was completed, the threat was found to be too vague. The inmate was released to general population on July 13, 1998. Clinton Stroble represented the MCC NY.

2) U.S. v. Muyet, Crim. No. ----- (S.D.N.Y.)

On July 27-29, 1998 the District Judge Peter K. Leisure held three hearings to address two allegations by inmate John Muyet,

E. ENSIGN AMENDMENT CASES:

Nyhus v. Reno, et al., C.A. No. 97-324E (W.D.Pa.)
Craviero v. Reno, et al., C.A. No. 97-31E (W.D.Pa.)

The above-referenced cases were both filed by FCI McKean inmates challenging various components of the Ensign Amendment and the BOP's policy change on personal property. The Magistrate Judge assigned to both cases issued a report and Recommendation dismissing the cases. She found that Bureau policy placed reasonable limitations and was within its discretion. The Court considered the Ensign amendment allegations voluntarily withdrawn since the Plaintiffs have filed, with the assistance of counsel, a new case styled as a class action (Wolf, Craviero, and Nyhuis v. Reno, et.al, 97-408E).

F. PLRA 1915 DISMISSALS: None

III. TRAVEL AND LEAVE SCHEDULE FOR AUGUST 1998:

Hank Sadowski -Travel - Aug. 31 - Sept. 2 - Sentencing Training
 Annual Leave - August 17 - 21

Mike Tafelski -Travel - None Scheduled
 Annual Leave - August 28, 1998

Toni Brown - Travel - None Scheduled
 Annual Leave - August 24, 1998

Les Owen - Reports to MDC Brooklyn on August 17, 1998

Ron Hill - Travel - None Scheduled
 Annual Leave - None Scheduled

James Vogel - Travel - None Scheduled
 Annual Leave - August 14, 1998



U.S. Department of Justice

Federal Bureau of Prisons

Western Regional Office
Dublin, California 94568

August 17, 1998

**MEMORANDUM TO WALLACE H. CHENEY
ASSISTANT DIRECTOR/GENERAL COUNSEL**

FROM: Harlan W. Penn, Regional Counsel
SUBJECT: Monthly Report for July 1998

»» CASES OF INTEREST ««

SUPREME COURT:

James Jacks v. Crabtree, et al. (SHE), petition for writ of certiorari filed January 7, 1998 by the Federal Public Defender/Oregon in this 3621(e) action, challenging BOP's use of prior criminal convictions in eligibility determinations for early release.

NINTH CIRCUIT MATTERS:

Timothy Robles vs. USA, et al. (No. CA9 96-56762)
Court of Appeals decided that Section 401 of the comprehensive Drug Abuse Prevention & Control Act of 1970 does not permit the U.S. Parole Comm. to impose a second term of special parole after it revokes the original special parole term. BOP was ordered recompute the sentence. USPC has issued a NOA, but Robles is in custody in Hawaii facing drug charges while on release for this appeal.

Miller v. Crabtree & U.S. Parole Comm., CV-97-1338-CO -Notice of Appeal filed.

DISTRICT COURT MATTERS:

Cordova v. Reno (TAF), first Bivens action filed by TAF inmate naming both BOP and Wackenhut (WCC) defendants. Inmate claims refusal of dental treatment while in USMS, BOP, and WCC facilities. Fresno USAO notified of case July 28, 1998.

Cox v. Bailey (SAF), CIV 97-749-TUC-FRZ. Habeas petition in which inmate challenges his criminal sentence pursuant to 28 U.S.C. § 2241. Court has followed the CA9 decision in *Lorentson* allowing filing due to limitations imposed by AEDPA.

Onaghise v. Bailey (SAF), CIV 8-232-TUC-RMB. Habeas petition in which inmate challenges his criminal sentence pursuant to 28 U.S.C. § 2241. Court has followed the CA9 decision in *Lorentson* allowing filing due to limitations imposed by AEDPA.

Lunenburg v. Clark (SAF), CV 98-2749-CBM(SH)(C.D. Cal.) This habeas petition for DAP credit was recently transferred to the District of Arizona (Tucson) from the Central District of California.

Forgac v. Perrill, et al. (SET), C98-563 (Western Dist. of WA) Bivens case alleges violations of Access to Courts: (law library, duplication of legal materials, legal mail, legal telephone calls) and Involuntary Servitude: Pretrial inmate sanctioned to perform extra duty.

Kwasigroch v. Perrill, et al. (SET), C98-554C (Western Dist. WA) Bivens case alleges violations of access to Courts: INS detainee access to Main Law Library.

Adams v. BOP, et al. (SET), C98-149FVS (Eastern Dist. WA) Bivens in which Plaintiff alleges sexual abuse by Geiger Corrections Center staff. Complaint will be dismissed if Plaintiff does not file an amended complaint by August 14, 1998.

Newson v. U.S.A. (NEL), \$6,000,000 FTCA case in which wife and husband sue U.S. for injuries she suffered in September 1994 auto accident involving inmate driver. BOP liability is clear under Nevada tort law, so damages is the main issue. Depositions are being conducted in July and August.

TRIALS/HEARINGS: None

RELIGION: None

CASES DISMISSED PURSUANT TO PRISON LITIGATION REFORM ACT: None

ENVIRONMENTAL MATTERS: None

SETTLEMENTS: None

CRIMINAL CASE TRACKING

1. CRIMINAL CASES ACCEPTED FOR PROSECUTION AWAITING TRIAL/ DISPOSITION:

ASSAULT:

U.S. v. Julian Lee Simmons (LOM), assault of Correctional Officer that occurred on December 14, 1997. Case originally scheduled for trial on May 26, 1998, but trial date vacated due to inmate's conduct during hearing. Competency hearing ordered.

U.S. v. Jesus Martinez-Solares (TCN), Inmate had been found mentally incompetent to stand trial. This was erroneous. After study at USMCFP Springfield, inmate was found competent. Defense counsel wants his client to sign plea agreement, however, it is believed that his mental state has deteriorated and another study has been requested.

ESCAPE:

U.S. v. Terrance Nikrasch (LOM), former FPC inmate pled guilty to escape and possession of counterfeit currency. Sentencing September 28, 1998.

FRAUD/FORGERY:

U.S. v. Richard Lewis (TCN), FBI has interviewed inmate Lewis' Female accomplice in Las Vegas, Nevada. She has agreed to cooperate and has signed release for production of her original WestCare treatment records, which were forged by Lewis. Prosecution stayed pending AUSA's involvement in extradition of suspects in USBP Officer murder in Nogales. Suspects, including the shooter, are currently confined in Mexico.

HOMICIDE:

U.S. v. Roy Green (LOM), inmate indicted April 2, 1998 for murder of SOS Scott Williams (2 counts) and assaults on four other officers. Judge Marshall visited the visiting area provided at LOS and found violation of 18 U.S.C. §3005, which provides that counsel in capital cases shall have access to the accused "at all reasonable hours."

INTRODUCTION/POSSESSION OF CONTRABAND:

U.S. v. Lamarr Dunn (LOM), inmate pled guilty to two counts of Possession of Contraband, 18 U.S.C. §1791. One count involved Possession of Marijuana, the other count involved Possession of a Prohibited Object (weapon). Sentencing September 9, 1998.

PROPERTY: None

SEX OFFENSES:

RECEIVED	34	40	62	43	39	48	52					
CLOSED	38	64	47	36	58	29	57					
RECONSIDER	0	0	1	1	0	0	1					
PENDING	110	86	102	110	91	110	106					
OVER 6 MONTHS	1	3	3	2	1	0	0					

Tort Claim Investigations Over 60 Days:												
BRN	DUB	LOM	LOF	LOS	NEL	PHX	SAF	SDC	SHE	TRM	TCN	TOTAL
0	1	1	1	2	0	0	0	0	0	2	1	6

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	21	32	23	39	26	19	30					
CLOSED	27	24	33	33	29	21	29					
PENDING	14	22	12	18	15	13	14					
20 DAYS	2	0	0	0	2*	0	2**					
6 MONTHS	0	0	0	0	0	0	0					
APPEALS	0	0	1	1	4	1	2					

* In both cases, waiting for records from Records Center.

** Staff at SDC searching for old visitor logs & ISM at SHE unable to locate records.

FOI/PA PENDING MORE THAN 20 DAYS ON JULY 31, 1998:												
BRN	DUB	LOM	LOF	LOS	NEL	PHX	SAF	SDC	SHE	TRM	TCN	TOTAL
								1	1			2

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN CASES	297	306	311	312	329	325	325					
NEW CASES	24	21	17	18	18	9	15					
HC	19	17	5	14	13	5	8					
FTCA	1	1	5	1	1	1	1					
BIVENS	4	2	5	2	2	2	5					
OTHER	0	1	2	1	2	1	1					
CLOSED	134	12	11	17	1	13	15					
LITIGATION REPORTS	13	15	8	8	17	5	6					

memorandum

DATE: August 7, 1998 Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

REPLY TO: Bill Burlington, Regional Counsel
 ATTN OF: Mid-Atlantic Region

SUBJECT: July 1998 Monthly Report

TO: Wallace H. Cheney, General Counsel

ATTN: Amy Whalen Risley, Executive Assistant

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

Received 135 187 229 160 168 200 214
 Answered 143 181 178 201 174 194 156

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

Pending 230 195 179 190 191 195 154
 # Received 68 54 75 62 42 49 45
 # Answered 91 71 58 60 38 83 67
 # Pending 195 179 190 191 195 154 138
 # Over Six Month 0 0 0 0 0 1 0

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

Pending 13 23 12 23 24 18 35
 # Received 43 24 54 54 36 47 52
 # Answered 34 34 41 53 42 32 57
 # Pending 23 12 23 24 18 35 30
 # Over 20 Working Days 1 2* 0 0 4** 2* 3*

*File has been requested from archives. **One file requested from archives; another request archives sent wrong file.

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

Cases Pending 338 331 329 314 273 261 261
 New Cases Received 7 16* 4* 11 16 13 36
 Habeas Corpus 4 7 4 3 6 7 11
 Bivens 1 5* 0* 6 5 5 3
 FTCA 1 2 0 1 2 1 2
 Other 1 2 0 1 3 0 20
 Cases Closed 14 19 21 62 28 12 25
 Cases Pending 331 329 314 273 261 261 272
 Lit Reports Completed 15 12 14 8 13 21 7
 Cases/Hearings or Trials 2 2 1 4 0 0 0
 Settlements/Awards 1 2 0 1 2 0 0
 \$ Settlements/Awards \$147.7 \$52.0 0 \$13.9* \$9.0 0 0
 (\$ in Thousands)

*Corrected figures

ITEMS OF INTEREST, PERSONAL LEAVE, BUSINESS TRIPS, MOVES, ETC.

Bill Burlington, Regional Counsel, August 31-Sept. 2, 1998 will be at the MSTC Denver for Sentencing Training.

This month we welcome Alicia Daniels-Lewis to the Regional Office, as our new Honors Attorney. Alicia comes to us from North Carolina Central University, in Durham. Alicia, is married and has a 12 year old son. We look forward to Alicia starting work with us on August 31, 1998. We also bid a fond adieu to Dave Recker, who will be moving in early September to FCC Florence, Colorado. Dave has done a great job during his year with us, and will be missed by everyone. We wish Dave the best of luck in his new challenging assignment.

Milt Williams, Paralegal, FCI Petersburg, and Randy Smith, Paralegal, FCI Elkton, will attend the Sentence Computation Training in Aurora August 31-September 2.

As of August 5, 1998, we bid farewell to Shannon Cheek, the summer intern at FCI Manchester from Eastern Kentucky University. We thank her for the excellent assistance she provided.

SITUATION OF INTEREST, CONTACT WITH FEDERAL BENCH, HAZARDOUS WASTE SITES, ETC.:

FCI Petersburg - Judge Robert Merhige, Federal District Judge, Eastern District of Virginia, retired in June. Robert Jaspen, Chief of Civil for the E.D. of Virginia resigned from the U.S. Attorney's Office to take a job in the Staff Attorney's Office of the Fourth Circuit. During his approximately 23 years in the U.S. Attorney's Office, Bob has handled numerous FCI Petersburg cases.

FMC Lexington - Joe Tang, Attorney, assisted with coordinating a visit from the Chief of the Civil Division, E.D. Kentucky, and two civil AUSAs. This visit was arranged to educate the U.S. Attorney's staff about Lexington's medical services and improving interoffice relations. Medical staff gave a presentation on various aspects of the medical care provided at Lexington. The visitors were also given a tour, along with a question and answer session. The feedback from the visitors was very positive, and both parties feel a similar tour can be done in the future for pro se clerks, other U.S. Attorney's office staff, etc.

FMC Lexington - On July 10, 1998, Judge Forester wrote a letter to Warden Holland criticizing our use of a P.A. to perform a routine physical on a pre-sentenced 18 U.S.C. § 3552 inmate Forester referred to Lexington for a medical and psychological evaluation. Judge Forester was also critical of

the fact the medical summary did not specify which doctors reviewed x-rays and other test results. Judge Forester concluded the letter stating if we do not have the proper staffing to conduct these §3552 evaluations in the future, he will no longer refer them to Lexington. The summary prepared by staff was a standard summary which Judges have never complained about in the past. Typically, Judges want a short summary written for non-medical persons. In response, Joe Tang, Attorney, FMC Lexington, assisted in preparing a letter to Judge Forester informing him that P.A.'s are qualified to do routine physical exams and prepare evaluation summaries, but his concerns were noted, and in the future Lexington would have physicians review the findings and prepare the summaries. We also provided Judge Forester with the more detailed information he was seeking. Joe personally delivered the letter to the Judge's law clerk. The law clerk, who leaves this month, is apparently the one who has been "pushing" the medical cases filed against the staff at FMC Lexington, as well as the Dumphord case.

FOIA Appeal Decision - An inmate at Terre Haute filed a FOIA request in early 1996 seeking a copy of his complete psychology file. Everything was released to him but what was considered MMPI raw test data. He appealed that decision to the regional office and we supported the withholding. The inmate appealed to OIP. OIP has been struggling with this issue since October of 1996 mostly due to staff turnover. We have had discussions with OIP staff on numerous occasions and have provided them information from our Psychology Administrator regarding Psychologist's Code of Ethics. This month we received a copy of OIP's letter to the former inmate which released the grid where the inmate filled in a circle to represent his response to a question, but supported our withholding of the actual MMPI raw test data. We are not sure if it made a difference in this case, but the inmate had been provided with a written summary of the test results. We were pleased to receive this favorable decision.

Prisoner Litigation Reform Act:

FMC Lexington - Jones v. Holland - We have just received a copy of the memo from the Civil Division, recommending against an appeal in this case. We still feel this case should be appealed, as the procedure followed by the court in this case represents the typical, current practice in the Eastern District of Kentucky--a practice that is at odds with the clear mandate of the PLRA. The U.S. Attorney and the Civil Division concede the errors by the court, but recommend against appeal based on the nominal award of attorneys fees. We still feel this is an excellent opportunity to receive a published appellate court opinion in a BOP case requiring exhaustion in a Bivens action under PLRA.

SUBSTANTIVE PLEADINGS (COMPLAINT, MOTION FOR SUMMARY JUDGMENT, ETC.): None

SETTLEMENTS: None

ADVERSE DECISIONS OR SIGNIFICANT DECISIONS:

FCI Memphis - Rowland v. US - After Rowland violated the terms of his supervised release, the sentencing court imposed a second term of imprisonment. Upon completion of the second term, the U.S. Parole Commission claimed that it also had jurisdiction over Rowland and ordered him to serve yet another term of imprisonment for the same violations. As a result, Rowland brought a habeas corpus petition seeking his release. The District Court granted the petition and the Government appealed. On July 17, 1998, the Sixth Circuit affirmed the District Court's decision in favor of Rowland.

UPDATE ON CASES, TRIALS OR HEARINGS, ETC. NOTED IN PRIOR REPORTS:

FCI Petersburg - Bergquist v. US, et al. - In a court order filed July 17, 1998, the government's Motion to Dismiss on procedural grounds (lack of formal service upon the U.S., and statute of limitations for filing the complaint) was denied. The court noted the pro se inmate complaint was received by the court prior to the SOL, although not stamped as officially filed until after the SOL. The court also noted because the court was responsible for service, the lack of service argument fails. Bergquist is now represented by counsel. The case involves allegations that medical staff's delay in diagnosing plaintiff's colon cancer resulted in his having to undergo extensive and painful chemotherapy. The AUSA will be at Petersburg on August 12, 1998, to review the medical operation and speak to medical staff prior to obtaining an expert witness. She will interview the former medical officer on August 13.

FCI Petersburg - Platshorn v. Hahn - The saga continues with this sentence computation case involving the issue of aggregation of parolable and non-parolable sentences. After both the appellant and appellee filed long informal briefs with the Fourth Circuit, Platshorn's attorney filed a reply brief, which is not permitted under the informal briefing rules of the Fourth Circuit, along with a motion to supplement the record. The AUSA filed a motion in opposition explaining that documents filed by Platshorn's attorney were incomplete and inaccurate.

FCI Manchester - Shehee v. Robertson - As previously reported, a Notice of Appeal was filed April 28, in this Bivens case as a protective measure. The AUSA has now received a decision from the Office of the Solicitor General approving the appeal for all but one defendant.

USP Terre Haute - The U.S. District Court for the District of Utah issued a TRO on July 10, 1998, prohibiting the BOP from transferring William Thurmond from the District or the State of Utah. A hearing was held on July 28, 1998, on the TRO in which Judge Jenkins ordered the BOP to prepare a declaration from Warden Clark basically stating that the Warden had reviewed the transfer documents, was willing to accept the inmate, and believed the inmate would be safe at USP Terre Haute. Inmate Thurmond was being housed in the Utah Department of Corrections because he had previously cooperated with authorities concerning a homicide at USP Terre Haute in 1983. Warden Clark reviewed the transfer packet and did not agree with the inmate being designated to USP Terre Haute. Legal staff at Terre Haute advised legal staff in the Western Regional Office and that office stated they would redesignate the inmate to another institution.

REPRESENTATION NOT RECOMMENDED FOR STAFF: None

SIGNIFICANT FTCA CLAIMS: None

MEDICAL MALPRACTICE CASES UPDATE:

FMC Lexington - Walls v. Holland, et al. - Judge Forester denied plaintiff's Motion for a TRO to prevent his transfer back to his parent institution. Plaintiff alleges deliberate indifference to his medical needs, i.e., treatment of his hand which was damaged in an UNICOR accident at FCI Allenwood. This ruling is significant because Judge Forester gave us only two days to respond and a hearing was anticipated by the U.S. Attorney's Office.

SIGNIFICANT ADMINISTRATIVE REMEDIES: None

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES:

FCI Beckley - Perkins v. Barnard, et al. - This was a Bivens suit alleging a pat search by a female officer violated a male inmate's constitutional rights. The inmate did not allege a violation of RFRA. The case has been dismissed for Failure to State a Claim.

ALTERNATIVE DISPUTE RESOLUTION EFFORTS: None

18 U.S.C. § 3621(e) LITIGATION:

FCI Morgantown - Kirby v. Bledsoe - This case represents our first challenge to the new Program Statement 5162.04, Categorization of Offenses. Kirby was initially found ineligible under P.S. 5162.02 (922(g) conviction), and declined participation in RDAP since he was ineligible for the year off. Kirby exhausted his administrative remedies under the old program statement. Subsequently, Kirby was told he is not eligible under P.S. 5162.02 based on the Director's discretion. Kirby is challenging the new program statement on the basis that it is unlawful and is an attempt by the BOP to circumvent the will of Congress.

SIGNIFICANT NEW CRIMINAL REFERRALS SINCE LAST MONTH'S REPORT:-

FCI Beckley - Fred Brunet, Reg. No. 18375-018, was scheduled to be sentenced for Possession of Contraband (Marijuana, Heroin, Pills) on July 24, 1998. The sentencing has been rescheduled for August 27. The female visitor who brought the drugs into the facility was sentenced in July to 15 months imprisonment.

FMC Lexington - On July 2, 1998, William Davis, Reg. No. 11187-058, and James Thornton, Reg. No. 04919-028, were indicted by a Lexington grand jury for Possession of Narcotics. A visitor, Antonio Ferrell, introduced narcotics to Davis in FMC Lexington's visiting room.

FCI Beckley - Brian Clarke, Reg. No. 12541-014, was sentenced on July 27, 1998 to 24 months imprisonment for Possession of Contraband (a weapon).

FCI Cumberland - On July 7, 1998, inmate Mark Bundy pled guilty to Assault with a Dangerous Weapon. The indictment was dismissed against inmate Marcel Washington. These two inmates were originally indicted for Retaliation against a Federal witness and assaulting another inmate on March 11, 1997.

FMC Lexington - The U.S. Attorney's Office finally chose to decline prosecution on inmate John Werner, Reg. No. 07251-050, for assaulting an officer in November 1997, during a struggle over a syringe Werner had in his possession. Werner had been continued over a number of grand juries in 1998, before the U.S. Attorney's Office decided to decline, based on the allegedly minor nature of the assault. Werner was subsequently released from our SHU and transferred to MCFP Springfield after Joe Tang, institution attorney, discovered the assaulted officer was uncomfortable with Werner's return

to Lexington's open population.

SUCCESSFUL PROSECUTIONS OR ANY ACQUITTALS SINCE LAST MONTH'S
REPORT: None

REHABILITATION ACT: None

Ensign Amendment Cases: None

Dismissals Under PLRA:

FCI Milan - Demma v. Parker, et al - We received a favorable
R&R reviewing the case under the PLRA based on the Waiver of
Reply. The Court stated under the PLRA revisions to section
1915, the case should be dismissed.

New Litigation Cases by Institution and Type
Received During the Month of July 1998

	ALD	ASH	BEC	BUT*	CUM	ELK	LEX	MAN	MEM	MIL	MRG	PET	SEY	THA	TOT
BIV	0	0	0	0	2	0	0	0	0	1	0	0	0	0	3
FTCA	1	0	0	0	0	0	0	0	0	1	0	0	0	0	2
HC	0	1	1	0	5	0	0	0	0	1	2	1	0	0	11
OTH	0	0	0	20	0	0	0	0	0	0	0	0	0	0	20
TOT	1	1	1	20	7	0	0	0	0	3	2	1	0	0	36

*Represents both the FCI and LSCI

New Litigation Cases by Institution and Type

Received Calendar Year to Date

	ALD♦	ASH	BEC♦	BUT*	CUM	ELK●	LEX	MAN	MEM	MIL	MRG●	PET	SEY	THA	TOT
BIV	0	1	0	1	3	2	6	1	1	3	2	2	0	3	25
FTCA	1	0	0	0	2	0	0	2	0	3	0	0	0	1	9
HC	1	2	1	3	9	2	0	1	3	7	4	3	1	5	42
OTH	0	0	1	20	2	2	0	1	1	0	0	0	0	0	27
TOT	2	3	2	24	16	6	6	5	5	13	6	5	1	9	103

*BUT represents both the FCI and the LSCI ●Corrected figure (case counted twice) ♦Case counted for BEC should have been ALD.



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

Dallas, Texas 75219

August 5, 1998

MEMORANDUM FOR WALLACE H. CHENEY
ASSISTANT DIRECTOR/GENERAL COUNSEL

FROM: Michael D. Hood, Regional Counsel

SUBJECT: Monthly Report - July 1998

ADMINISTRATIVE REMEDIES												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	160	180	189	163	197	190	186					
ANSWERED	90	108	141	85	158	138	125					

TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
PENDING	133	156	195	201	193	193	176					
RECEIVED	56	67	52	48	45	47	52					
ANSWERED	33	36	46	45	53	61	54					
PENDING	156	187	201	205	185	179	174					
OVER SIX MO	0	1	1	1	1	1	1					

FOI/PRIVACY												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
	N	B	R	R	Y	N	L	G	P	T	V	C
PENDING	56	56	54	15	21	21	24					
RECEIVED	28	30	43	88	45	42	38					
ANSWERED	28	22	82	70	41	39	46					
PENDING	56	54	15	33	21	24	16					
OVER 20 DAYS	22	45	13	10	9	9	8					

LITIGATION

to Lexington's open population.

SUCCESSFUL PROSECUTIONS OR ANY ACQUITTALS SINCE LAST MONTH'S
REPORT: None

REHABILITATION ACT: None

Ensign Amendment Cases: None

Dismissals Under PLRA:

FCI Milan - Demma v. Parker, et al - We received a favorable
R&R reviewing the case under the PLRA based on the Waiver of
Reply. The Court stated under the PLRA revisions to section
1915, the case should be dismissed.

New Litigation Cases by Institution and Type
 Received During the Month of July 1998

	ALD	ASH	BEC	BUT*	CUM	ELK	LEX	MAN	MEM	MIL	MRG	PET	SEY	THA	TOT
BIV	0	0	0	0	2	0	0	0	0	1	0	0	0	0	3
FTCA	1	0	0	0	0	0	0	0	0	1	0	0	0	0	2
HC	0	1	1	0	5	0	0	0	0	1	2	1	0	0	11
OTH	0	0	0	20	0	0	0	0	0	0	0	0	0	0	20
TOT	1	1	1	20	7	0	0	0	0	3	2	1	0	0	36

*Represents both the FCI and LSCI

New Litigation Cases by Institution and Type

Received Calendar Year to Date

	ALD♦	ASH	BEC♦	BUT*	CUM	ELK●	LEX	MAN	MEM	MIL	MRG●	PET	SEY	THA	TOT
BIV	0	1	0	1	3	2	6	1	1	3	2	2	0	3	25
FTCA	1	0	0	0	2	0	0	2	0	3	0	0	0	1	9
HC	1	2	1	3	9	2	0	1	3	7	4	3	1	5	42
OTH	0	0	1	20	2	2	0	1	1	0	0	0	0	0	27
TOT	2	3	2	24	16	6	6	5	5	13	6	5	1	9	103

*BUT represents both the FCI and the LSCI ●Corrected figure (case counted twice) ♦Case counted for BEC should have been ALD.