

Joyce

UNITED STATES GOVERNMENT

memorandum

DATE: June 8, 1995

Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

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

SUBJECT: May 1995 Monthly Report

TO: Wallace H. Cheney, General Counsel

ATTN: Nancy Redding, Executive Assistant

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

Received 106 91 92 84 137
Answered 106 85 112 80 94

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

Pending 161 178 200 201 191
Received 72 73 64 52 60
Answered 54 47 59 53 44
Pending 178 200 201 191 207
Over Six Month 4 1 3 2 4

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

Pending 63 60 72 53 71
Received 36 53 51 51 50
Answered 40 44 66 32 19
Pending 60 72 53 71 104
Over 30 Days 36 34 28 32 70

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

Cases Pending 293 291 282 264 265
New Cases Received 8 12 13 21 13
Habeas Corpus 1 3 5 5 2
Bivens 4 8 3 6 6
FTCA 1 1 4 3 3
Other 2 0 1 7 2
Cases Closed 12 28 28 14 12
Cases Pending 291 202 204 205 256
Lit Reports Completed 14 15 15 15 11
Cases/Hearing or Trials 3 1 0 0 1
Settlements/Awards 0 1 1 0 0
\$ Settlements/Awards \$0 \$55 \$155 0 0
(\$ in Thousands)

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages **6**

To: <i>Nancy Redding</i>	From: <i>Kathy Haver</i>
Dept./Agency: <i>Gen. Dist.</i>	Phone #: <i>301/317-3122</i>
Fax #: <i>202/301-2995</i>	Page #:

NSN 7540-01-217-7362

5010-101

GENERAL SERVICES ADMINISTRATION

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

Bill Burlington, Regional Counsel, will travel to the Regional Office June 5-8, 1995, to attend 6th Circuit argument in Reed v. Reno, and visit Cumberland and Morgantown. June 27-29, 1995, I will attend a deposition at FCI Schuylkill and State Correctional Facility, Dallas, PA in the case of Van Wagoner v. Sally Johnson, et al.

Wanda Hunt, Deputy Regional Counsel, will be at FCI Ashland on a staff assist visit June 13-15. She will be providing training on June 16 to the West Virginia Public Defenders. Also in the audience will be Federal Judges, their law clerks, and attorneys from other states. On June 19 Wanda will be a guest speaker at a training session for the U. S. Attorney's Office in the Eastern District of Virginia.

Marian Callahan, Assistant Regional Counsel, provided Ethics Training during annual training for Mid-Atlantic Regional Office staff on May 31 and June 1. She will be on annual leave June 23-July 3, 1995.

Randy Everett, Legal Tech, USP Terre Haute, will be on annual leave June 10-17, 1995.

Tom Read, Attorney, FCI Memphis will be on annual leave June 12-16, 1995.

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

Prisoner Litigation Seminar

I personally thought the recent Prisoner Litigation Seminar in Tucson was excellent. I felt this seminar had more Bureau of Prisons involvement in the instruction, and consequently, was much more focused on the types of issues that arise in our litigation. My congratulations to all the Bureau people who helped plan this seminar!

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

SETTLEMENTS: None

ADVERSE DECISIONS OR SIGNIFICANT DECISIONS:

Woods v. Eogan, 92-CV-77077, E.D. Mich., FCI Milan

On May 18, 1995, Judge Gerald Rosen ruled against the Bureau in a petition for habeas corpus which raised sentence computation issues. An inmate who was borrowed on writ from state custody, and given a federal sentence, sought credit on his federal sentence for the time³⁰²⁵ he was in state custody.

The inmate argued that because the state judge ordered the state sentence to run concurrent with the federal sentence, our sentence began the date it was imposed. We argued that the state court had no authority to begin the federal sentence and the inmate was only "borrowed" from state custody on the writ. We also argued the inmate had not arrived in federal custody and as a result the federal sentence did not begin until after the expiration of the state sentence. We are considering a Motion for Reconsideration and/or an appeal.

Henthorn v. Hester, App. 94-5090, 6th Circuit, FCI Memphis

The Sixth Circuit affirmed the District Court's decision to grant summary judgment for the defendant. This was a Bivens action alleging a homosexual assault by staff.

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

Reed v. Reno, 94-5717, 6th Cir., FMC Lexington

On June 6th, the 6th Circuit will hear oral argument in this age discrimination case. We refused to hire plaintiff at FMC Lexington because she was over the age of 37. She contested our decision saying that the 1988 amendment to FERS, Title 5 U.S.C. Section 8401(17), required the head of the agency to review each position to see if the duties were such that employment should be restricted to the "young and physically vigorous." When this case was at the district court level, we were told that the agency had not conducted any formal review of positions after the 1988 amendment. Later, after the district court ruled in our favor and an appeal was taken by plaintiff, we were informed that in fact the Bureau and Department had conducted the individual review of positions that was required by the 1988 amendment.

We have submitted this newly discovered information to the 6th Circuit, and have suggested that they remand the case to the district court so that these critical new facts can be considered.

[REDACTED] I will attend the oral argument in Cincinnati.

Williams v. USA, 94-209, E.D. Ky., FCI Ashland

A pre-trial hearing was held before Judge Wilhoit on May 26, 1995, to discuss the government's pending motion to dismiss/motion for summary judgment. The government moved the court to dismiss the complaint on the basis that plaintiff's counsel had not cooperated in discovery by initiating any discovery, i.e., identifying expert witness, etc. Overall Judge Wilhoit seemed receptive to the government's argument

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and stated that he would take the matter under consideration and make a written opinion as expeditiously as possible.

Booth v. Brandenburg, TH 93-30-C, S.D. Ind., USP Terre Haute

Trial is scheduled for June 10, 1995, in this Bivens case. Plaintiff alleges that the officer used excessive force while escorting the inmate from the shower while in SHU. We were successful in getting all the defendants dismissed except one.

Garland v. Kindt, IP 90-422-C, S.D. Ind., USP Terre Haute

This Bivens trial is scheduled for June 29, 1995. The plaintiff claims he notified the Warden he required protection and the Warden failed to take any action. Subsequently he was assaulted. The inmate was assaulted by Camp Hill inmates housed at USP Terre Haute; however, staff had no prior notification.

Wilson v. Bristol, et al., 93-3003 BRC, W.D. Tenn., FCI Memphis

Trial is scheduled for June 12, 1995, in this Bivens action alleging improper medical care.

Viers v. U.S., 93-CV-73542, E.D. Mich., FCI Milan

The final pre-trial hearing is scheduled for June 13, 1995. This is a FTCA case where the government discounted the plaintiff's mental anguish claim and offered the plaintiff \$7.42 for loss of his mirror and stamps. The inmate has been released and is no longer in the E.D. of Michigan.

REPRESENTATION NOT RECOMMENDED FOR STAFF: None

SIGNIFICANT FTCA CLAIMS:

T-BOP-95-51 Porter, Lydia, Reg. No. 59179-079

We face a serious liability issue concerning dental surgery at FMC Lexington. Delay in treatment resulting in an infection may indicate settlement at the administrative stage. The claim will be submitted to AFIP. Claimant is represented by counsel and seeks \$250,000.

SIGNIFICANT ADMINISTRATIVE REMEDIES: None.

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES:

Flick v. Leonard, 94-CV-71691, E.D. Mich., FCI Milan

We have been informed that inmate Flick has filed an appeal in this case. As you will recall, the district court ruled that our requirement that inmates ³⁰²⁷state their participation in

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common fare is for religious reasons, and our decision to temporarily remove Flick from common fare for eating off main line, did not violate RFRA.

New Litigation Cases by Institution and Type
Received During the Month of May 1995

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	0	2	1	0	0	1	0	1	1	0	0	0	0	0	6
FTCA	1	0	0	0	0	1	0	1	0	0	0	0	0	0	3
HC	0	0	0	0	1	0	0	0	0	0	1	0	0	0	2
OTH	0	0	0	0	0	0	1	1	0	0	0	0	0	0	2
TOT	1	2	1	0	1	2	1	3	1	0	1	0	0	0	13

3029

New Litigation Cases by Institution and Type
Received Calendar Year to Date

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	1	4	1	0	2	6	1	8	1	0	2	0	0	0	26
FTCA	1	0	0	0	2	1	1	3	4	0	0	0	0	0	12
HC	0	4	0	0	2	0	2	4	0	0	2	1	2	0	17
OTH	1	0	5	0	0	0	2	3	0	0	0	1	0	0	12
TOT	3	8	6	0	6	7	6	18	5	0	4	2	2	0	67

JUN-06-1995 13:43 FROM BOP MARO TO 9-2023072995 P.06

memorandum

DATE: July 5, 1995

Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

REPLY TO: ^{WMM} Bill Burlington, Regional Counsel
ATTN OF: Mid-Atlantic Region

SUBJECT: June 1995 Monthly Report

TO: Wallace H. Cheney, General Counsel

ATTN: Nancy Redding, Executive Assistant

ADMINISTRATIVE REMEDIES

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Received	106	91	92	84	137	131						
Answered	106	85	112	80	94	127						

TORT CLAIMS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	161	173	200	201	191	207						
# Received	72	73	64	52	60	76						
Answered	54	47	59	53	44	96						
Pending	178	200	201	191	207	180						
Over Six Month	4	1	3	2	4	0						

FOI/PRIVACY

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	53	60	72	53	71	104						
# Received	36	53	51	51	50	43						
# Answered	40	44	66	32	19	35						
# Pending	60	72	53	71	104	115						
# Over 30 Days	36	34	28	32	70	82						

LITIGATION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Pending	293	291	282	264	255	258						
New Cases Received	8	12	13	21	13	16						
Habeas Corpus	1	3	5	5	2	8						
Bivens	4	8	3	6	6	7						
FTCA	1	1	4	3	3	1						
Other	2	0	1	7	2	0						
Cases Closed	12	23	28	14	12	17						
Cases Pending	291	282	264	265	258	266						
Lit Reports Completed	14	15	15	15	11	14						
Cases/Hearing or Trials	3	1	0	0	1	4						
Payments/Awards	0	1	1	0	0	2						
Payments/Awards (in Thousands)	\$0	\$55	\$155	0	0	\$0.3						

OPTIONAL FORM NO. 10-1990

FAX TRANSMITTAL

3016
 To: Nancy Redding
 Dept. Assistant
 Exec. Asst.
 From: Kathy Abrons
 Phone: 301/312-3132

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

Bill Burlington, Regional Counsel, will be on annual leave July 11-21, 1995.

Wanda Hunt, Deputy Regional Counsel, will be presenting "The Effect of the Violent Crime Control and Law Enforcement Act of 1994 on Corrections," at NABCJ July 12, 1995.

Kathy Harris, Paralegal Specialist, will be on annual leave July 10-14, 1995.

Rick Shott, Attorney, USP Terre Haute, will be on annual leave July 3-7, 1995.

Bob Blackburn, Legal Tech, USP Terre Haute, will be on annual leave July 17-21, 1995.

We welcome Paul Layer back to the Region as the attorney at Cumberland, and also providing legal services to Morgantown.

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

FCI Memphis - We recently received an inquiry from a county attorney regarding whether the original deed to the property required that we continually use the property for a "youth institution." The attorney is suggesting that because we failed to operate Memphis as a youth institution, the county is now able to exercise a right of reentry onto our property, as a reversionary interest was retained by the grantor (county) when we were deeded the property. Tom Read and I have talked with George Younger and Marianne Cantwell and we feel that by opening a YCA unit at Memphis, we complied with the deed provision. We are researching the file to see if we ever gave the county notice that we would operate Memphis as an FCI with a YCA Unit. Even if we didn't give such notice, we feel laches may bar any attempt by the county to interfere with our present use of the land.

FCI Manchester - Warden Mark Luttrell has expressed concern to me about being able to fill Mary Suter's position. I share that concern, and would like to explore options for Manchester. I know now that we have a Biver's jury trial scheduled for this fall (Dunlap), plus Manchester has the potential for generating a lot of legal work.

FCI Lexington - On Friday, July 7, our facilities people (including Kate Sutter) will meet with EPA representatives regarding a hazardous waste site (due to old UNICOR activities) at FMC Lexington, on which we have had a remediation plan for some time. We are concerned that EPA will determine that RCRA guidelines should apply, rather than CERCLA. If RCRA does apply, ~~307~~ Notice of Violation could issue

which could subject the Bureau to fines and penalties. We are hoping EPA will continue to monitor our remediation efforts under CERCLA, which does not contain penalty provisions.

USP Terre Haute - An Iowa state boarder, James M. Taylor, Reg. No. 05962-045, recently filed a habeas petition against the Warden at Terre Haute alleging denial of access to courts because he does not have access to Iowa state materials. Although the petition was dismissed without prejudice for failure to exhaust his administrative remedies, Judge McKinney stated the following: "This [respondent's] response takes a very dogmatic position that state officials are responsible for providing state legal assistance to inmates such as Mr. Taylor. Counsel for the respondent, should remind his client that Bounds v. Smith contains no such exception and that if the BOP fails to supply or make arrangements that are meaningful for legal materials and assistance to be supplied to inmates in its custody, it treads very thinly on what has been properly described as the most important of all federal rights." Warden Clark is initiating the paperwork to recommend returning Taylor to the state.

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

SETTLEMENTS:

Mears v. USA, 95-CV-70457-DT, E.D., Mich., FCI Milan

This FTCA case was settled for \$121.55. Plaintiff alleged that personal property was confiscated during a search of his cell without the proper forms being completed. Plaintiff denied the offered settlement of \$30.37 of his administrative claim. The AUSA handling the case felt that settlement in this case was appropriate since confiscation forms were not used during the search in question; it appears from Form 40's that plaintiff had at one time possessed the property claimed; and that the settlement should be based on replacement cost not the depreciated value of the property. The plaintiff has a rather large court ordered restitution which he is not making much progress toward paying. The AUSA is attempting to seek approval to apply this settlement toward the restitution.

Abecassis v. USA, 94-214, E.D. Ky., FCI Ashland

This FTCA claim seeking \$555 was settled for \$200. The basis for settlement was the government's inability to produce documents to support the its position. Consequently, it appeared the government was, in fact, negligent in handling the inmate's property.

ADVERSE DECISIONS OR SIGNIFICANT DECISIONS: None

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

Reed v. Reno, 94-5717, 6th Cir., FMC Lexington

On June 6th, the Sixth Circuit heard oral argument in this age discrimination case. Based on our providing the court with new information immediately before the Sixth Circuit argument, I expect the court to remand this case to the District Court and to require the government to pay attorneys fees for plaintiff's counsel.

Booth v. Brandenburg, TH 93-30-C, S.D. Ind., USP Terre Haute

~~A jury trial was held on June 13, 1995,~~ in this Bivens case. Plaintiff alleges that the officer used excessive force while escorting the inmate from the shower while in SHU. The verdict was for the defendant with significant costs imposed against the plaintiff.

Garland v. Kindt, IP 90-422-C, S.D. Ind., USP Terre Haute

~~A jury trial was held June 26-27, 1995,~~ in this Bivens case. Plaintiff, a federal prisoners, was assaulted by other inmates while incarcerated at USP Terre Haute in February 1990. Specifically, plaintiff alleged that he requested protective custody directly from the Warden prior to the attack but was denied. Plaintiff alleged that he had both personally confronted and sent warning letters to the Warden prior to the assault. Through trial defendant was able to establish that plaintiff's allegations of forewarning, and supporting documentary evidence, were after-the-fact fabrications. Following judgment for defendant, plaintiff was assessed costs to be determined. Trial in this case followed five years of delay as a result of plaintiff repeatedly "firing" several consecutive pro bono court appointed counsel. Plaintiff's case was attacked with the assistance of an FBI documents examiner. Post-trial jury discussions reflected astonishment that plaintiff's case warranted trial.

Viers v. U.S., 93-CV-73542, E.D. Mich., FCI Milan

The final pre-trial hearing was held on June 13, 1995. This is a FTCA case where the government discounted the plaintiff's mental anguish claim and offered the plaintiff \$7.42 for loss of his mirror and stamps. The inmate has been released and is no longer in the E.D. of Michigan and failed to appear at the hearing. The judge has issued a show cause order for the plaintiff to appear and state why he failed to appear at the

June 13 pre-trial hearing or the case will be dismissed for failure to prosecute.

Rickicki v. Hadden et al., 5:95-CT-473-H, E.D.N.C., FCI Butner

This Bivens action alleges that while at FCI Butner plaintiff contracted TB when an inmate with TB was placed in the general population. While there was an inmate with infectious TB at Butner during the time period in question, the plaintiff simply had a positive skin test and does not have TB.

Wilson v. Bristol, et al., 93-3003 BRO, W.D. Tenn., FCI Memphis

Trial was scheduled for June 12, 1995, in this Bivens action alleging improper medical care. However, prior to the trial the Judge finally granted the defendants' motion for summary judgment.

REPRESENTATION NOT RECOMMENDED FOR STAFF: None

SIGNIFICANT FTCA CLAIMS: None

SIGNIFICANT ADMINISTRATIVE REMEDIES: None.

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES:

Flick v. Leonard, 94-CV-71691, E.D. Mich., FCI Milan

We have been informed that inmate Flick has filed an appeal in this case. As you will recall, the district court ruled that our requirement that inmates state their participation in common fare is for religious reasons, and our decision to temporarily remove Flick from common fare for eating off main line, did not violate RFRA.

Sterling v. Keohane, 93-101-C-T/H, S.D. Ind., USP Terre Haute

In a second amended complaint, plaintiff raises an issue under RFRA. Plaintiff alleges that defendant's denied him an adequate religious diet. Plaintiff is a Seven Day Adventist and as such avers that he must not eat unclean meat or dairy products. Staff have discussed this with advisors from the Seven Day Adventist religion and have been told that as part of their faith they are to not eat unclean meat. However, the decision to avoid dairy products is left as a personal choice.

New Litigation Cases by Institution and Type
Received During the Month of June 1995

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	0	0	1	0	0	1	0	1	1	0	1	0	2	0	7
FICA	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
HC	0	0	1	0	0	1	0	2	0	0	2	1	1	0	8
OTH	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOI	0	0	2	0	0	2	0	3	1	0	3	1	4	0	16

3021

New Litigation Cases by Institution and Type
Received Calendar Year to Date

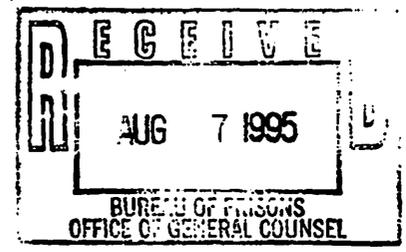
	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	1	4	2	0	2	7	1	9	2	0	3	0	2	0	33
FICA	1	0	0	0	2	1	1	3	4	0	0	0	1	0	13
HC	0	4	1	0	2	1	2	6	0	0	4	2	3	0	25
OTH	1	0	5	0	0	0	2	3	0	0	0	1	0	0	12
TOT	3	8	8	0	6	9	6	21	6	0	7	3	6	0	83

Joyce

memorandum

Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

DATE: August 4, 1995
 REPLY TO: *Comptroller* Bill Burlington, Regional Counsel
 ATTN OF: Mid-Atlantic Region
 SUBJECT: July 1995 Monthly Report
 TO: Wallace H. Cheney, General Counsel
 ATTN: Nancy Redding, Executive Assistant



ADMINISTRATIVE REMEDIES	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Received	106	91	92	84	137	131	125					
Answered	106	85	112	80	94	127	119					

TORT CLAIMS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	161	178	200	201	191	207	180					
# Received	72	73	64	52	60	76	55					
# Answered	54	47	59	53	44	96	32					
# Pending over Six Month	178	200	201	191	207	180	192					
	4	1	3	2	4	0	7					

FOI/PRIVACY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	63	60	72	53	71	104	115					
# Received	36	53	51	51	50	43	24					
# Answered	40	44	66	32	19	35	8					
# Pending Over 30 Days	60	72	53	71	104	115	131					
	36	34	28	32	70	82	111					

LITIGATION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Pending	293	291	282	264	265	258	266					
New Cases Received	8	12	13	20*	13	16	8					
Habeas Corpus	1	3	5	6*	2	8	4					
Bivens	4	8	3	4*	6	7	1					
FTCA	1	1	4	3	3	1	2					
Other	2	0	1	7	2	0	1					
Cases Closed	12	28	28	14	12	17	19					
Cases Pending	291	282	264	265	258	266	266					
Lit Reports Completed	14	15	15	15	11	14	13					
Cases/Hearing or Trials	3	1	0	0	1	4	0					
Settlements/Awards	0	1	1	0	0	2	1					
Settlements/Awards (in Thousands)	\$0	\$55	\$155	0	0	\$0.3	\$12.5					

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 5

To: Nancy Redding	From: Kathy Harris
Dep./Agency: Exec Asst	Phone: 301/317-3122
2989	
Fax: 202-2307-2995	

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

Bill Burlington, Regional Counsel, will be on travel to the Regional Office August 1-2, and to Annapolis for the National Legal Seminar August 10-18, 1995.

Kathy Harris, Paralegal Specialist, will be on annual leave August 21-25, 1995.

[REDACTED]

b6

Bob Blackburn, Legal Tech, USP Terre Haute, will be on annual leave August 7-11, 1995.

Welcome to Kathy Smallwood who was selected as Paralegal Specialist at FCI Memphis.

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

FMC Lexington - Criminal Cases

Inmate Roger Foster, Reg. No. 02525-088, was convicted of possession of marijuana. Sentencing is scheduled for October. During the first day of trial Judge Wilhoit gave a verbal order that the Assistant ISM bring a long sleeve shirt to the defendant within 15 minutes in a government car with the lights flashing. This resulted from the defendant complaining to the Judge that he had had a disagreement regarding covering of his tatoos while leaving the institution that day.

Inmate Juan Mason is scheduled to go to trial this week for possession of a shank in the institution.

FMC Lexington - On Friday, July 7, our facilities people (including Kate Sutter) met with EPA representatives regarding a hazardous waste site (due to old UNICOR activities) at FMC Lexington, on which we have had a remediation plan for some time. Apparently, EPA seemed favorably impressed with our efforts and did not indicate informally, that they intended to issue a Notice of Violation. We are still awaiting their written report.

[REDACTED]

b2

[REDACTED]. Marianne Cantwell has been extremely helpful to me on this and other matters.

FCI Memphis - We have discovered documents in the archives that indicate we did initially operate FCI Memphis as an institution for youthful offenders. As you may recall, an attorney for Shelby County has suggested that we failed to

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comply with a condition in the deed granting the property to the Federal government, to construct an institution for youthful offenders. The county was suggesting our failure to comply with this provision resulted in the property reverting to the county in fee simple. Marianne Cantwell is preparing a letter to be sent to the attorney indicating we believe these documents prove we complied with the condition in the deed.

FCI Memphis - Criminal Case - Inmate Alfonso Jones pled guilty to assault resulting in serious bodily injury within territorial jurisdiction, based on charges that he attempted to bite staff at FCI Memphis, while he knew that he was HIV positive. Inmate Jones has not been sentenced at this time, but according to the U.S. Attorney's Office he faces an additional 7- to 8-year sentence for this assault.

FCI Ashland - Criminal Case - On July 21, inmate Vinson Hill was sentenced to 10 years by a Federal District Court judge, following his conviction for throwing hot grease on a fellow inmate while housed at FCI Ashland.

FCI Cumberland - Paul Layer, Attorney, conducted a tour of both the FCI and the FPC for a group of twelve Central Office Legal Interns on July 20, 1995.

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

SETTLEMENTS:

Amy Poirier v. U.S., 94-443, E.D. Ky., FMC Lexington

We finally reached agreement to settle this FTCA case for \$12,500. This case involved allegations of sexual misconduct by a food service cook foreman and sought \$250,000. We felt that if this case went to trial we risked higher liability because during staff interviews we learned that staff were aware of improprieties and had reported them to the Assistant Food Service Administrator and the SIS, but the allegations were not taken seriously. Additionally, Poirier had a long history of pre-incarceration sexual abuse. The cook foreman was in fact later fired.

ADVERSE DECISIONS OR SIGNIFICANT DECISIONS: None

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

Gilbert Mims v. Janet Reno, 94-238, E.D. Ky., FCI Ashland

We recently received a decision from Judge Wilhoit, dismissing this Bivens suit for failure to state a claim. Inmate Gilbert Mims had claimed that the Program Statement, "Custody Classification and Security Designations" discriminated

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MXR Monthly Report

against African American inmates, by scoring more severely, inmates convicted of possession of crack, as opposed to powder cocaine. I do not expect inmate Mims to appeal this decision.

Wood v. Bogan, 92-CV-77077, E.D. Mich., FCI Milan

We were happy to learn that the Department agreed to file a Notice of Appeal in this sentence computation case, as we feel the court wrongly followed the Croft decision and awarded federal sentence credit for time an inmate legitimately spent in state custody.

Shelton v. U.S., 1:94-0233, S.D. W. Va., FPC Alderson

We learned last week that we won this FTCA case regarding a salmonella outbreak at Alderson. Plaintiff had tried to use res ipsa loquitur to establish our negligence in serving undercooked eggs, which in turn caused the salmonella outbreak. The court said res ipsa should not apply, as all food was not in control of the institution, as inmates could get food from commissary, could steal it from the kitchen, etc. The court was extremely impressed with the testimony of the Alderson Food Service Administrator, Griff Cole, who conclusively established through his master menus that we did not serve eggs on any of the days close to the time plaintiff alleges she became ill.

REPRESENTATION NOT RECOMMENDED FOR STAFF: None

SIGNIFICANT FTCA CLAIMS: None

SIGNIFICANT ADMINISTRATIVE REMEDIES: None.

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES:

Haneef v. BOP et al., 2:95cv4, E.D. Va., FCI Petersburg

This action has been labeled a Bivens by the court. The complaint alleges denial by Petersburg staff of the right to engage in congregational (group) prayer as prescribed by his religion (Muslim). Plaintiff asserts as a result of engaging in congregational prayer in the housing units he was locked up in SHU and disciplined. Plaintiff seeks \$1 million in damages.

**New Litigation Cases by Institution and Type
Received During the Month of July 1995**

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
FTCA	0	0	0	0	1	0	0	1	0	0	0	0	0	0	2
HC	0	0	0	0	0	0	0	0	0	0	1	2	1	0	4
OTH	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
TOT	0	0	0	0	1	0	0	2	0	0	2	2	1	0	8

2993

**New Litigation Cases by Institution and Type
Received Calendar Year to Date**

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	1	4	2	0	2	6	1	9	2	0	4	0	2	0	33
FTCA	1	0	0	0	3	1	1	4	4	0	0	0	1	0	15
HC	0	4	1	0	2	1	2	6	0	0	5	4	4	0	29
OTH	1	0	5	0	0	0	2	4	0	0	0	1	0	0	13
TOT	3	8	8	0	7	8	6	23	6	0	9	5	7	0	90

110-24-1220

Joyce

UNITED STATES GOVERNMENT

memorandum

DATE: September 6, 1995

Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

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

SUBJECT: August 1995 Monthly Report

SEP 6 1995

TO: Wallace H. Cheney, General Counsel

ATTN: Nancy Redding, Executive Assistant

ADMINISTRATIVE REMEDIES	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Received	106	91	92	84	137	131	125	145				
Answered	106	85	112	80	94	127	119	106				

TORT CLAIMS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	161	178	200	201	191	207	180	192				
# Received	72	73	64	52	60	76	55	52				
# Answered	54	47	59	53	44	96	32	40				
# Pending per Six Month	178	200	201	191	207	180	192	183				
	4	1	3	2	4	0	7	0				

FOI/PRIVACY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	63	60	72	53	71	104	115	131				
# Received	36	53	51	51	50	43	24	44				
# Answered	40	44	66	32	19	35	8	33				
# Pending	60	72	53	71	104	115	131	140				
# Over 30 Days	36	34	28	32	70	82	111	103				

LITIGATION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Pending	293	291	282	264	265	258	266	266				
New Cases Received	8	12	13	20*	13	16	8	10				
Habeas Corpus	1	3	5	6*	2	8	4	4				
Bivens	4	8	3	4*	6	7	1	4				
FTCA	1	1	4	3	3	1	2	1				
Other	2	0	1	7	2	0	1	1				
Cases Closed	12	28	28	14	12	17	19	12				
Cases Pending	291	282	264	265	258	266	266	265				
Lit Reports Completed	14	15	15	15	11	14	13	9				
Cases/Hearing or Trials	3	1	0	0	1	4	0	2				
Settlements/Awards	0	1	1	0	0	2	1	0				
Settlements/Awards (in Thousands)	\$0	\$55	\$155	0	0	\$0.3	\$12.5	0				

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages **5**

To: <i>Nancy Redding</i>	From: <i>Kathy Harris</i>
Dept: Agency	Phone #
<i>Executive Asst.</i>	<i>301/317-3122</i>
Fax #	Fax #

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

Bill Burlington, Regional Counsel, will be on travel to the Regional Office September 16-20 for a Regional Warden's Meeting.

Marian Callahan, Assistant Regional Counsel, will be on annual leave September 25, 1995 for Rose Hashanah.

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

Criminal Case - FPC Alderson (S.D. W.Va.) - Former Alderson inmate Alfreda Murray was indicted by a federal grand jury in Charleston, for escape from the custody of the Attorney General. Inmate Murray was serving a sentence for a drug offense at the time of her escape. If convicted, she could face a possible five additional years in prison plus a fine of up to \$250,000. This is the case we previously reported (May report) where the U.S. Attorney's Office initially declined prosecution, but then agreed to reconsider when Warden Wise explained how important it was to prosecute escapes from an institution like Alderson, that has minimal perimeter security.

Milton Soto-Carrero v. DOJ (MSBP--Milan) - On August 14, 1995, we received the initial decision upholding our termination of former Milan employee, Milton Soto-Carrero. Mr. Soto-Carrero was removed when among other things, he informed his union representative that he had come to work one day with a semi-automatic rifle in the trunk of his car and sat in the parking lot contemplating whether he should bring the gun into the institution and "blow people away." From my perspective, the initial decision is unreasonably critical of two of the Bureau's charges and only sustains two of the four charges filed against Mr. Soto-Carrero. Kevin Walasinski is working with Paul Jessup to fashion exceptions to the initial decision.

Contact with the Judiciary - (Larry Chambers, former Milan inmate now at Leavenworth) Avern Cohn, U.S. District Court Judge, E.D. Michigan, has contacted me regarding his efforts to halt threatening communications from Leavenworth inmate Larry Chambers to fellow U.S. District Court Judge, Gerald E. Rosen. Inmate Chambers has a history of writing threatening communications. When the court initially expressed concern, the local U.S. Attorney, Saul Green, expressed his opinion that there was little that could be done to stop such communications. When contacted by Judge Cohn, I expressed the opinion that should threatening communications continue, an order could be fashioned that would allow us to screen all inmate Chamber's outgoing correspondence, and when threatening material was discovered, to forward it to the U.S. Attorney for prosecution. Judge Cohn ~~2972~~med satisfied and has

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MXR Monthly Report

communicated to John Shaw and I that he will consider such an order if inmate Chambers writes any further threatening communications.

FCI Ashland - On August 7, 1995, Randy Smith, Paralegal Specialist, visited with AUSA's Dell Litrell and Shelley Chatfield to discuss ways to ensure that all cases are being tracked appropriately and that he is receiving copies of all filed pleadings. On August 31 Randy visited the courthouse to research the status of his current cases. While there he had an opportunity to visit with Magistrate Judge Peggy Patterson and her law clerk, Lisa Gracia.

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

SETTLEMENTS: None

ADVERSE DECISIONS OR SIGNIFICANT DECISIONS: None

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

Burkhart v. Hahn, 91-3026-4A, W.D. Tenn., FCI Memphis

On August 25, 1995, Tom Read was involved in setting aside a default judgment that had been entered over three years ago by Judge McRay. Judge McRay has since retired and Julia Gibbons, Chief Judge, took over the case. Judge Gibbons did not confine the August 25th hearing to damages, but rather looked behind the judgment, determined that there had been no retaliation or improper medical care, and dismissed the case. We are extremely happy to finally have this Bivens default judgment satisfactorily resolved.

Haddad v. BOP, 95-CV-73129-DT, E.D. Mich., FCI Milan

A hearing was held August 10, 1995, regarding Haddad's request for a TRO. Haddad alleged that FCI Milan could not provide appropriate medical care for his pre-existing health condition. The Chief of Health Programs at Milan provided testimony regarding the care we are providing Haddad. The court dismissed the TRO.

Darrick S. Leacock v. USDOJ, 1:95-0532, S.D. W.Va. (FPC Alderson)

In this Title VII action filed by a former physician at FPC Alderson, he alleges he was discriminated against because he was a member of a particular class, i.e., of African descent. His original EEO complaint, filed May 27, 1993, alleged he was fired because of his race. On BOP's motions and findings and conclusions without a hearing, the Administrative Judge issued a recommended decision of no ~~2970~~ discrimination. The

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Administrative Judge's recommendation was adopted by the Department of Justice.

REPRESENTATION NOT RECOMMENDED FOR STAFF: None

SIGNIFICANT FTCA CLAIMS:

T-MXR-95-363 Civilian Regis Linn - While visiting an inmate at FCI Ashland, Mr. Linn was struck in the right wrist by a piece of ceiling fan. Mr. Linn alleges as a result of his injury he is suffering pain and stiffness of the right shoulder. The claimant asserts that orthopedic testing found a positive Kemp's cervical compression, Soto Hall shoulder depression for the right side cervical range and that all areas of motion are restricted with right rotation and right lateral flexion restricted the most. Claimant is seeking \$100,000.

SIGNIFICANT ADMINISTRATIVE REMEDIES: None.

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES:

FCI Milan - We have two religious issues at the early administrative remedy stage that we are watching. In the first, Nation of Islam inmates are asking that they be allowed to participate in the sweat lodge ceremony, citing the provision of our policy that states a religious group may not restrict attendance or participation in a religious activity on the basis of race, color, nationality or creed. We plan to ask them to clarify if they are switching their religious affiliation to "Native American," or if they are contending that the sweat lodge is required as a tenant of the Nation of Islam faith.

A second issue concerns a request by Native American inmates to wear different color headbands. The institution would like to eliminate the different colors, as they tend to be affiliated with different prison gangs. We are encouraging them to look at a neutral headband that contains symbols of the Native American Faith, and then suggest they prohibit other headbands. We will keep you posted.

USP Terre Haute - During the month, several Regional remedy appeals have been filed with inmates complaining of the current institution practice of selling prayer oil in the commissary, and discontinuing Special Purchase Orders for the purchase of prayer oil from an outside vendor. At the present time, this issue is under consideration by institutional, regional, and central office staffs.

New Litigation Cases by Institution and Type
Received During the Month of August 1995

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	0	1	0	0	0	0	2	0	0	0	1	0	0	0	4
FTCA	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
HC	0	1	2	0	1	0	0	0	0	0	0	0	0	0	4
OTH	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
TOT	0	2	2	0	2	0	2	0	1	0	1	0	0	0	10

2975

New Litigation Cases by Institution and Type
Received Calendar Year to Date

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	1	5	2	0	2	6	3	9	2	0	5	0	2	0	37
FTCA	1	0	0	0	3	1	1	4	5	0	0	0	1	0	16
HC	0	5	3	0	3	1	2	6	0	0	5	4	4	0	33
OTH	1	0	5	0	1	0	2	4	0	0	0	1	0	0	14
TOT	3	10	10	0	9	8	8	23	7	0	10	5	7	0	100

Joyce

memorandum

DATE: October 5, 1995

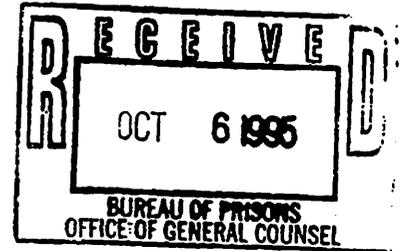
Mid-Atlantic Regional Office, Annapolis Junction, MD 20701

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

SUBJECT: September 1995 Monthly Report

TO: Wallace H. Cheney, General Counsel

ATTN: Nancy Redding, Executive Assistant



ADMINISTRATIVE REMEDIES	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Received	106	91	92	84	137	131	125	145	148			
Answered	106	85	112	80	94	127	119	106	141			

TORT CLAIMS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	161	178	200	201	191	207	180	192	183			
# Received	72	73	64	52	60	76	55	52	37			
# Answered	54	47	59	53	44	96	32	40	71			
# Pending over Six Month	178	200	201	191	207	180	192	183	144			
	4	1	3	2	4	0	7	0	1			

FOI/PRIVACY	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
# Pending	63	60	72	53	71	104	115	131	140			
# Received	36	53	51	51	50	43	24	44	44			
# Answered	40	44	66	32	19	35	8	33	38			
# Pending	60	72	53	71	104	115	131	140	144			
# Over 30 Days	36	34	28	32	70	82	111	103	105			

LITIGATION	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Cases Pending	293	291	282	264	265	258	266	266	265			
New Cases Received	8	12	13	20*	13	16	8	10	15			
Habeas Corpus	1	3	5	6*	2	8	4	4	7			
Bivens	4	8	3	4*	6	7	1	4	5			
FTCA	1	1	4	3	3	1	2	1	0			
Other	2	0	1	7	2	0	1	1	3			
Cases Closed	12	28	28	14	12	17	19	12	18			
Cases Pending	291	282	264	265	258	266	266	265	263			
Lit Reports Completed	14	15	15	15	11	14	13	9	10			
Cases/Hearing or Trials	3	1	0	0	1	4	0	2	0			
Settlements/Awards	0	1	1	0	0	2	1	0	0			
\$ Settlements/Awards	\$0	\$55	\$155	0	0	\$0.3	\$12.5	0	0			

(in Thousands)
Corrected figures

OPTIONAL FORM 95 (7-93)

FAX TRANSMITTAL

of pages **6**

To: <i>Nancy Redding</i>	From: <i>Kathy Harris</i>
Date: <i>10/5/95</i>	Page: <i>301/317-3122</i>
File #: <i>200/307-2995</i>	Fax #:

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

Bill Burlington, Regional Counsel, will be in Leesburg, Virginia, October 3-6 for Review of Functions; then October 10-12 he will be in Memphis for an after action review of the alleged rape of an inmate hostage. He will be on annual leave October 13-17.

Paul Layer, Attorney, FCI Cumberland, will attend Supervisor Training at the institution October 23-25, 1995.

We want to wish Deidre Williams, Paralegal Specialist, well on her tour at FCI Miami. We appreciate all the excellent work Deidre did in the Regional Office during her trainee year.

Welcome to Matthew Mellady who transferred to Memphis as Attorney this month.

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

Criminal case - FMC Lexington - United States v. Eddie Smith (E.D. Ky). On September 25, 1995, former FMC Lexington correctional officer Eddie Smith went on trial for allegedly having sex with several women who were incarcerated at FMC Lexington. On September 27th, the jury convicted Eddie Smith on three counts of Aggravated Sexual Abuse by Force or Threat, three counts of Sexual Abuse of a Ward, and one count of Perjury. The minimum guidelines for these offenses is 210 months. Mr. Smith has been taken into custody. Sentencing is set for December. Several of these women have filed FTCA suits against the United States based on the theory that we failed to protect them from an officer with a history of sexually abusing inmates. These civil cases have been held in abeyance pending the outcome of the criminal trial.

FCI Milan - Judge LaPlata, Eastern District of Michigan, was the guest speaker at early recall Friday, September 29, 1995, in honor of Hispanic Heritage Month.

Criminal Sentencing - FCI Memphis - Inmate Alphonso Jones was sentenced on Friday, September 29th to 77 months, consecutive to his present term. Jones had pled guilty to assault resulting in serious bodily injury based on charges of attempting to bite staff knowing that he was HIV positive.

Criminal Case - FPC Cumberland - Paul Layer, Attorney, FCI Cumberland, is working closely with the criminal AUSA in prosecuting inmate Bailey, a camp escapee. Trial is set for November 20, 1995 in Baltimore.

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

SETTLEMENTS:

Thomas v. U.S., 95-3027, C.D. Cal., USP Terre Haute
Wishon

We have made inmate Thomas an offer of \$7,500 to settle this medical malpractice suit. Inmate Thomas has diabetes and has had both of his legs amputated below the knee. A physician from the Veterans Administration has criticized the care we provided at Terre Haute and Springfield. We expect inmate Thomas to accept our offer in the instant suit, and to agree not to file another suit about the care he received at Terminal Island. He was at Terminal Island when his second leg was amputated.

ADVERSE DECISIONS OR SIGNIFICANT DECISIONS:

Webster v. Bogan, 95-CV-71111-DT, E.D. Mich., FCI Milan

This case involves the same issue as the Wood v. Bogan case where the District Court followed Croft and awarded Wood credit toward his federal sentence for time spent in state custody. In both cases the inmate was in state custody; "borrowed" on a writ ad prosequendum; sentenced in Federal court; returned to state custody; sentenced in state court to a sentence concurrent with the Federal sentence; began serving his state sentence; and at the completion of the state sentence came into federal custody to serve the federal sentence. We have received the R&R in this case and were surprised by the fact the Magistrate Judge supported the Bureau's position that the inmate was not entitled to credit against his federal sentence for time spent serving his state sentence. Webster did refer to Croft in his petition.

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

Rock v. United States, 93-159-C, S.D. Ind., USP Terre Haute

This FTCA case is set for trial on October 13, 1995. This involves property that the inmate alleges was improperly confiscated. The administrative claim was for \$101.75.

Bourque v. Hurst, 93-3092-G, W.D. Tenn., FCI Memphis

Pre-trial hearing in this case is set for October 13, with trial set for October 25. This is a Bivens action alleging deliberate indifference to the plaintiff's medical needs.

REPRESENTATION NOT RECOMMENDED FOR STAFF: None

SIGNIFICANT FTCA CLAIMS: None

SIGNIFICANT ADMINISTRATIVE REMEDIES: None.

NEW RFRA CASES AND UPDATES ON PREVIOUSLY REPORTED CASES:

USP Terre Haute - the American Indian Law Clinic, University of Colorado, Boulder, has written suggesting that our policy of not allowing American Indian inmates to burn sacred herbs in their cells may violate RFRA. Terre Haute does allow burning of sacred herbs, but only in the Chapel or during the Sweat Lodge ceremony. Christopher Lamarr, the clinic director, suggests that our policy of allowing inmates to smoke in their cells undermines our security argument which is put forth to justify prohibiting American Indian inmates from burning sacred herbs in their cells. We will be responding to this letter explaining why we disagree with them.

USP Terre Haute - A Moorish Science Temple inmate has filed a BP-9 asking that he be allowed to wear a pen (letters "M.A.") on his lapel. The institution has an Institution Supplement which allows pens to be worn, as long as they are not displayed on the outer layers of clothing. We will respond that he can wear the pen on the inside of his clothes, but may not display the pen on outer garments.

Favorable 6th Circuit Decision - in Virgil Abdur-Rahman v. Michigan Dep't of Corrections, No. 94-2238 (Decided June 21, 1995), the court upheld the Michigan Department of Corrections refusal, on security grounds, to release Muslim inmates from work for Friday Jumah prayer. Based on testimony from a Muslim leader that Muslims are excused from worship if they are sick or have to work, the court found the Friday services were not a central tenet of the Muslim faith. The court further held application of the rule did not substantially burden the inmate's practice of his religion stating, "Reasonable time, place, or manner restrictions upon communal religious gatherings do not necessitate the identification of a compelling state interest."

This decision will be very helpful in our Petersburg case where a Muslim inmate (Haneef) claims our refusal to allow him to conduct group prayer outside the chapel violates RFRA.

FCI Petersburg - Petersburg has responded to four RFRA administrative remedies during the month. All four were from inmate Wallace, Reg. No. 08955-058 who is a Rastafarian. This is a brief recap of his complaints and the institution's response. Wallace alleged denial of special food item for Rastafarian ceremonial meal. The institution tried to accommodate the special food requests as near as possible. Wallace requested additional chapel time for Rastafarian's stating that other groups were receiving more time. The institution will set aside additional time for the Rastafarians with the arrival of the new Chaplain. However, in the past when extra time was made available the Rastafarians failed to utilize the time. Wallace also complained that other groups have been given free film for

their annual feast and the Rastafarians have not. Wallace was informed the past practice of providing free film has been discontinued. Wallace complained because his request that a Rastafarian be permitted to assist in the preparation of the ceremonial meal was denied. At Petersburg only inmates assigned to food service may assist in meal preparation. There was one Rastafarian assigned to food service at the time. Due to the additional work involved, the Rastafarian assigned to food serviced declined being involved in the preparation of the ceremonial meal.

**New Litigation Cases by Institution and Type
Received During the Month of September 1995**

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	0	2	0	0	1	0	0	1	0	0	0	0	1	0	5
FTCA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HC	1	1	1	0	1	0	0	1	0	0	1	1	0	0	7
OTH	1	0	0	0	1	0	0	0	0	0	0	0	0	1	3
TOT	2	3	1	0	3	0	0	2	0	0	1	1	1	1	15

**New Litigation Cases by Institution and Type
Received Calendar Year to Date**

2955

	ALD	ASH	BUT	CUM	LEX	MAN	MRG	MIL	MEM	MLL	PET	SEY	THA	MXR	TOT
BIV	1	7	2	0	3	6	3	10	2	0	5	0	3	0	42
FTCA	1	0	0	0	3	1	1	4	5	0	0	0	1	0	16
HC	1	6	4	0	4	1	2	7	0	0	6	5	4	0	40
OTH	2	0	5	0	2	0	2	4	0	0	0	1	0	1	17
TOT	5	13	11	0	12	8	8	25	7	0	11	6	8	1	115