

U.S. Department of Justice  
Federal Bureau of Prisons  
*Northeast Regional Office*

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*U.S. Custom House  
2nd & Chestnut Streets  
Philadelphia, PA. 19106*

June 15, 2000

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL  
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel  
SUBJECT: Monthly Report - May 2000

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

**A. Administrative Remedies - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	151	158	162	186	159							
Rec'd in month	175	167	223	165	186							
Ans'd in month	167	163	199	192	190							
Pending at End	158	162	186	159	155							
Over 30 days	0	0	0	0	0							

**B. Administrative Tort Claims - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295	291	284	306	286							
Rec'd in month	42	64	93	68	70							
Recons. rec'd	4	1	0	1	1							
Ans'd in month	50	72	71	89	91							
Pending at End	291	284	306	286	266							
Over 180 days	0	0	0	0	0							

**C. Tort Claim Investigation Status: As of May 31, 2000**

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	
SCH																
Pending	4	15	15	3	15	8	8	7	6	13	4	10	2	4	9	9
Over 60 days	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

**D. FOI/Privacy Act Requests - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17	12	11	26	32							
Rec'd in month	39	53	60	69	57							
Ans'd in month	34	54	45	63	43							
Pending at End	12	11	26	32	46							
Over 20 days	12	11	5*	1*	0							

\* Note: Archived records.

**E. FOIA Requests for records: As of May 31, 2000**

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	SCH
NER																
Pending	5	2	0	3	1	2	7	2	5	4	1	5	2	2	1	2
>20 days	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

**II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION****A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318	329	330	349	359							
New Cases	16	18	28	18	27							
Habeas Corpus	10	11	9	12	16							
FTCA	0	3	4	2	1							
Bivens	5	3	8	1	10							
Other	1	1	6	2	0							
Bivens/FTCA	0	0	1	1	0							
Lit Reports	8	10	8		21							
Cases Closed	12	17	9	8	24							

**B. NEW CASES/SETTLEMENTS/AWARDS/SIGNIFICANT OPINIONS:**

- 1) Beckwith v. U.S., 4:98-CV-1496 (MDPA) - Court adopts joint stipulation of dismissal for \$750.00 loss property case.
- 2) Bryant v. U.S., 3:99-CV-0467 (MDPA) On May 31, 2000, Court grants petition for early release (contrary to Magistrate's Report and Recommendation) finding that firearm enhancement is not proper basis for early release denial. Decision regarding reconsideration or appeal is pending.
- 3) Gambino v. Gerlinski, No. 99-2253 (3d Cir) - Court of Appeals

affirmed District Court's ruling which supported the Warden's denial of CCC placement to organized crime member. Court stated

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that 18 U.S.C. 3624 does not mandate CCC placement and BOP has broad discretion.

4) Lindsay v. Mendez, 3:CV-00-476 (MDPA) - Court denied habeas petition in which D.C. inmate housed in BOP custody sought denial of D.C. educational good time credit. Court noted that no equal protection or due process rights were violated and that interstate compact act does not apply to D.C. inmates within BOP custody. Court also noted that BOP is working on policy change.

**C. HEARINGS/TRIALS:** -

1) Toolasprashad v. Henry, 4:CV-97-1234 (MDPA)- This Bivens case is scheduled for jury selection on July 6, 2000. Remaining case is against five defendants and issue for trial is whether staff improperly transferred inmate.

2. United States v. Hilton, Crim No. (EDPA)- On May 25, 2000, Judge Weiner had a sentencing hearing for an inmate facing both state and federal sentences. On request from the AUSA, I assisted at the hearing to address concerns from the Judge on the interaction of the two sentences.

**D. RELIGIOUS CASES:** No new activity.

**E. ENSIGN AMENDMENT CASES:** - No new activity.

**F. PLRA 1915 DISMISSALS:** - None noted.

**III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:**

**REFERRALS:**

1) USP Allenwood - 5 referrals (2 Inmate on staff assault, 2 possession of weapon, 1 possible introduction of black tar heroin in soft cover book inside legal envelope).

2) FCI Fort Dix - 1 referral.

3) USP Lewisburg - 2 referrals (Inmate walkaway from camp; inmate assault on staff (during use of force inmate spit on and kicked officer))

**TRIALS/SENTENCING:**

1) U.S. v. Wigger, (MDPA) - On May 15, 2000, former LSCI Allenwood inmate Darrin Wigger, Reg. No. 46016-053, was sentenced to time served (18 days) for damaging a sprinkler head in the SHU.

2) On May 9, 2000, William Lefty Turner was indicted by a federal grand jury for escaping from FCI McKean's camp in April 2000.

**TRAVEL AND LEAVE SCHEDULE FOR JUNE 2000:**

[REDACTED] Travel b6  
June 2 - FCI Fairton tour with D.C. Judges  
June 6-7 - Training in Buffalo to 2d Cir. USPOs.  
June 14 - New Haven, CT - US Attorney award ceremony  
June 20-22 - OGC meeting in D.C.  
Annual Leave - June 23-28

[REDACTED] Travel - June 13, 2000 - FCC Allenwood meeting  
June 14 - New Haven, CT for award from US Attorney  
Annual Leave - None Scheduled

[REDACTED] Travel - None Scheduled  
Annual Leave - June 22-23

[REDACTED] Travel - June 14 - New Haven for US Attorney award  
Annual Leave - June 30

[REDACTED] Travel - None Scheduled  
Annual Leave - None scheduled

[REDACTED] Travel - MSTC June 5-16.  
Annual Leave - None scheduled

[REDACTED]

**U.S. Department of Justice**  
**Federal Bureau of Prisons**  
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*Philadelphia, PA. 19106*

July 17, 2000

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL  
 COUNSEL, FEDERAL BUREAU OF PRISONS**

**FROM:** Henry J. Sadowski, Regional Counsel  
**SUBJECT:** Monthly Report - June 2000

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

**A. Administrative Remedies - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	151	158	162	186	159	155						
Rec'd in month	175	167	223	165	186	210						
Ans'd in month	167	163	199	192	190	178						
Pending at End	158	162	186	159	155	187						
Over 30 days	0	0	0	0	0	0						

**B. Administrative Tort Claims - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295	291	284	306	286	266						
Rec'd in month	42	64	93	68	70	66						
Recons. rec'd	4	1	0	1	1	1						
Ans'd in month	50	72	71	89	91	66						
Pending at End	291	284	306	286	266	267						
Over 180 days	0	0	0	0	0	0						

**C. Tort Claim Investigation Status: As of June 30, 2000**

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	
SCH																
Pending	3	9	19	4	23	2	2	3	16	5	5	7	5	5	11	9
Over 60 days	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	0

**D. FOI/Privacy Act Requests - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17	12	11	26	32	46						
Rec'd in month	39	53	60	69	57	50						
Ans'd in month	34	54	45	63	43	66						
Pending at End	12	11	26	32	46	30						
Over 20 days	12	11	5*	1*	0	2*						

\* Note: Archived records.

**E. FOIA Requests for records: As of June 30, 2000**

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

**II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION****A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318	329	330	349	359	362						
New Cases	16	18	28	18	27	19						
Habeas Corpus	10	11	9	12	16	12						
FTCA	0	3	4	2	1	2						
Bivens	5	3	8	1	10	5						
Other	1	1	6	2	0	0						
Bivens/FTCA	0	0	1	1	0	0						
Lit Reports	8	10	8		21	15						
Cases Closed	12	17	9	8	24	15						

**B. NEW CASES/SETTLEMENTS/AWARDS/SIGNIFICANT OPINIONS:****NEW CASES:**

1) DeCarlo v. USA (4:CV-00-1059) (MDPA) (FTCA) - Plaintiff alleges negligent medical care for an apparent heart attack he suffered in SHU at the USP on December 22, 1997. Plaintiff seeks in excess of ten million dollars. Plaintiff is represented by counsel.

2) Iravani v. Zenk (4:00-CV-1115) (MDPA) (Biv/TRO) - Plaintiff sought a TRO based upon alleged lack of adequate medical care. A

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hearing was started on June 22, 2000, however, before the hearing could be concluded, the Plaintiff received the requested medical care. Attorney Goldring assisted with the hearing.

#### SETTLEMENTS:

1) Scrima v. United States, 97 Civ 8433 (SDNY) - FTCA case in which inmate, now released, claimed he was attacked by a separatee when a cell door inexplicably opened in the SHU. Case was settled for \$ 1,000.

#### SIGNIFICANT OPINIONS:

1) Coulthurst v. U.S. 95-1316 (D. Conn) - On May 31, 2000, Second Circuit vacated the District Court's dismissal stating that FTCA claim is not barred by the discretionary function exemption because Plaintiff may be able to show that injuries caused in 1994 by faulty exercise machine may be due to FCI Danbury staff's failure to inspect equipment periodically or replace the cable.

2) Bryant v. USA (3:CV-99-0467) (MDPA) (HC) - On May 31, 2000, Court ordered the BOP to reconsider the Petitioner's eligibility for a one year sentence reduction based on Petitioner's successful completion of RDAP. Petitioner had been denied consideration based on a two point firearms enhancement. We have asked the court for reconsideration on the basis of the Supreme Court grant of certiorari in a related case.

3) Cunningham v. Jusino, (3:CV-99-0322) (MDPA) (HC) - Petitioner sought to overturn a DHO hearing regarding his absence from a halfway house after he completed the ICC program at Lewisburg. Court order dated June 27, 2000, granted the petition in part and held that Petitioner was not afforded the opportunity to call witnesses or to present documentary evidence. The Court ordered the BOP to either expunge the report or to conduct a rehearing within thirty days of the court's order. The Petitioner had been released on April 18, 2000, well before the Court's order. We are seeking reconsideration based on mootness.

#### C. HEARINGS/TRIALS: -

1) Toolasprashad v. Henry, 4:CV-97-1234 (MDPA)- This Bivens case,

arising out of FCI Allenwood, was scheduled for jury selection in July but has been postponed until January 2001, after difficulty

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ensuring that the Plaintiff received all of his legal property in time to prepare for trial. Remaining case is against five defendants and issue for trial is whether staff improperly transferred inmate.

2) Pri-Har v. Zenk (3:CV-00-749) (MDPA) (Biv) - A hearing was scheduled to determine whether a preliminary injunction should be issued regarding inmate Pri-Har's allegations of denial of access to the courts. Prior to the hearing, inmate Pri-Har was transferred from FCI Allenwood to LSCI Allenwood and the request for preliminary injunction was determined to be moot. The underlying Bivens complaint remains active. Attorney Goldring assisted in the hearing.

3) Iravani v. Zenk (4:00-CV-1115) - See above.

4) Committed fine hearing was held for FPC Allenwood inmate Elvin Perez Soto, Federal Register Number 03510-069, on June 30, 2000. The court ordered the defendant released at the appropriate time and reminded him of his obligation to pay his debts. Paralegal Specialist Jeff Fromm assisted in the hearing.

5) A bail hearing was held on June 29, 2000, for inmate John Glenn Keeling, Register Number 02241-041. Inmate Keeling is under an indictment for threatening federal officials and members of their families. A week after the hearing, the court ordered inmate Keeling held without bail. Supervisory Attorney Michael Sullivan assisted with the hearing and four USP Allenwood staff testified.

6) U.S. v. Melvin Richards; 98CR1377 (SDNY) - On June 30, 2000, the Court issued an order directing the BOP to provide dental treatment to begin July 7, 2000. The Court conducted a hearing on June 21, 2000, where two opposing medical experts testified. Prior to his conviction and recommitment in Feb. 2000, the defendant had bridge and implant work. The Court heard medical testimony and criticized the BOP expert for refusing to acknowledge the defendant is in need of prompt treatment. The Judge found extensive dental treatment is medically necessary and urgently needed by the defendant and ordered the BOP to complete the needed bridge and implant treatment, or to furlough the defendant so that he can obtain private care at his own expense. In the alternative, the court indicated it would release the



defendant on bail so that private care may be obtained. We commenced treatment on Friday and are assessing our options.

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7) U.S. v. Dennis Nicholson; 95-60 (W.D.PA.) - On July 7, 2000, a supervised release violation hearing was held. While on supervised release, the defendant was charged with homicide in the state of Pennsylvania. The defendant was detained approximately 9 months pending trial. Since the defendant was found not guilty of the state charge, the court wanted to confirm whether the defendant would receive prior custody credit for this 9-month period if sentenced federally. The court specifically requested a BOP representative. Sr. Litigation Counsel Toni Brown attended the hearing and testified concerning the application of 18 U.S.C. § 3585(b) which governs prior custody credit, and U.S.S.G. § 7B1.3(e) which authorizes the court to increase the term of imprisonment upon revocation of supervised release to ensure the penalty is not decreased by time in official detention.

**D. RELIGIOUS CASES:** No new activity.

**E. ENSIGN AMENDMENT CASES:** - No new activity.

**F. PLRA 1915 DISMISSALS:** - None noted.

**III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:**

**REFERRALS:**

1) USP Allenwood - 8 referrals (2 Inmate on staff assault, 4 Inmate on inmate assault, 1 possession of weapon (7 inch shank), 1 introduction of narcotics through social visit).

2) LSCI Allenwood - 3 referrals (3 inmate on inmate fights)

3) USP Lewisburg - 5 referrals (3 introduction of narcotics, 1 inmate assault on staff, 1 inmate on inmate assault)

**TRIALS/SENTENCING:**

1) U.S. v. Robert Taylor, 97-CR-531- Former MDC Brooklyn staff member sentenced to 27 months for involvement in "Bad Fellas" case.

U.S. Department of Justice  
Federal Bureau of Prisons  
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August 17, 2000

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL  
COUNSEL, FEDERAL BUREAU OF PRISONS

FROM: Henry J. Sadowski, Regional Counsel  
SUBJECT: Monthly Report - July 2000

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

**A. Administrative Remedies - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	151	158	162	186	159	155	187					
Rec'd in month	175	167	223	165	186	210	157					
Ans'd in month	167	163	199	192	190	178	188					
Pending at End	158	162	186	159	155	187	156					
Over 30 days	0	0	0	0	0	0	0					

**B. Administrative Tort Claims - 2000**

	JAN	FEB	MAR	APR	MAY	JUN*	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295	291	284	306	286	266	291					
Rec'd in month	42	64	93	68	70	90	65					
Recons. rec'd	4	1	0	1	1	3	2					
Ans'd in month	50	72	71	89	91	68	57					
Pending at End	291	284	306	286	266	291	311					
Over 180 days	0	0	0	0	0	0	0					

\* Numbers have been revised since last month's report.

**C. Tort Claim Investigation Status: As of July 30, 2000**

SCH	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK
Pending	4	6	14	3	25	2	2	3	14	5	3	5	4	1	6

9  
 Over 60 days 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0  
 0

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**D. FOI/Privacy Act Requests - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17	12	11	26	32	46	30					
Rec'd in month	39	53	60	69	57	50	61					
Ans'd in month	34	54	45	63	43	66	49					
Pending at End	12	11	26	32	46	30	42					
Over 20 days	12	11	5*	1*	0	2*	4*					

\* Note: Archived records.

**E. FOIA Requests for records: As of July 31, 2000**

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	SCH
NER																
Pending	2	0	4	1	3	1	4	1	5	6	2	2	2	1	6	1
>20 days	0	0	0	0	2	0	0	0	1	0	0	0	1	0	0	1

**II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318	329	330	349	359	362	364					
New Cases	16	18	28	18	27	19	17					
Habeas Corpus	10	11	9	12	16	12	10					
FTCA	0	3	4	2	1	2	0					
Bivens	5	3	8	1	10	5	4					
Other	1	1	6	2	0	0	1					
Bivens/FTCA	0	0	1	1	0	0	2					
Lit Reports	8	10	8		21	15	8					
Cases Closed	12	17	9	8	24	15	7					

**B. SIGNIFICANT LITIGATION MATTERS:**

NEW CASES:

1) Ni Fa Yi, et.al. v. Reno, et.al., 1:00CV3625 (DNJ) - 91 inmates signed an "Application for Temporary Restraining Order

and Preliminary Injunction" asking the Court to prohibit FCI Fort Dix from installing the ITS-II phone system on August 14, 2000. The inmates alleged a violation of the right to privacy and of equal protection. The Court, based upon the Government's response, ordered that the matter be transferred to the Eastern District of Kentucky as part of the Washington v. Reno case.

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SETTLEMENTS: None

SIGNIFICANT OPINIONS: None

CLOSED CASES:

1) Cope v. United States, 99-238 (EDPA)- On June 28, 2000, a trial was held in this tort claim case stemming from an alleged fall down a stairway at FCI Schuylkill in 1998. The Court found that the Plaintiff, who was represented by counsel, did not meet his burden of establishing government negligence. Les Owen, Assistant Regional Counsel, and Gene Dixon, Paralegal, FCI Schuylkill, assisted the AUSA.

2) Cunningham v. Jusino, (3:CV-99-0322) (MDPA) - Petitioner sought to overturn a DHO hearing regarding his absence from a halfway house after he completed the ICC program at Lewisburg. In an order dated June 27, 2000, the Court granted the petition in part and held that Petitioner was not afforded the opportunity to call witnesses or to present documentary evidence. The Court ordered the BOP to either expunge the report or to conduct a rehearing within thirty days of the court's order. The Petitioner had been released on April 18, 2000, before the Court's order. On July 19, 2000, the Court granted the Government's motion for reconsideration based on mootness.

**C. HEARINGS/TRIALS: -**

1) U.S. v. Seynabou, Crim. No. (SDNY) - On July 14, 2000, MCC New York staff, Dr. Glover and Dr. Ryan, testified as to the competency of inmate Seynabou, Reg. No. 48164-054, as it related to prescription medication she was taking.

2) U.S. v. Blanca Valencia Criminal No. 99-387, (EDNY)  
MDC Brooklyn received an Order to Show Cause for Emergent Medical Relief for inmate Blanca Valencia, Reg. No. 56924-053, who had already been transferred to FMC Carswell on July 5, 2000 due to a

high risk pregnancy. While at MDC Brooklyn, the inmate would not allow medical staff to examine her and refused medication on the advice of her attorney. Her attorney requested diagnostic testing, and termination of pregnancy, at Bureau expense. The AUSA challenged the propriety of moving the Sentencing Judge to review medical decision of the Bureau in Texas. The Court

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was also advised that, with the exception of the abortion, much of what the attorney was requesting was offered to the inmate. The Court agreed with the jurisdictional concerns, but requested the parties to try to agree to a resolution (which was quickly accomplished). Les Owen, Assistant Regional Counsel and Kecia Carter, MDC Brooklyn Paralegal attended the hearing.

3) United States v. Hammer - On Tuesday, July 18, 2000, oral argument was presented before the Court of Appeals for the Third Circuit concerning whether inmate David Paul Hammer, Reg. No. 24507-077, should be permitted to withdraw his appeal. In 1998, Hammer was convicted and sentenced to death for the 1996 strangulation death of his cellmate at USP Allenwood. Inmate Hammer, who has been granted pro se status by the Third Circuit, has vacillated as to whether he wants the appeal to proceed or be withdrawn. Of particular note was the presence and participation of inmate Hammer via video conferencing capabilities from USP Terre Haute. The oral argument lasted almost two hours. The Court commented very favorably on the use of this technology and expressed its appreciation to staff at USP Terre Haute who assisted in coordinating this effort.

**D. RELIGIOUS CASES:** No new activity.

**E. ENSIGN AMENDMENT CASES:** - No new activity.

**F. PLRA 1915 DISMISSALS:** - None noted.

**III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:**

**REFERRALS:**

1) USP Allenwood - 10 referrals (3 Inmate on staff assaults(minor injuries), 3 Inmate on inmate assaults, 4 possession of contraband (3 sharpened instruments and 1 narcotics (11.01 grams of heroin in a mattress)).

2) FCI Allenwood - 1 referral (Inmate assault on staff, minor injury).

3) LSCI Allenwood - 2 referrals (1 inmate on inmate fight, 1 undetermined inmate injury)

4) FPC Allenwood - 1 referral (Inmate Franklyn Garcia, Reg. No. 15371-057, walked away and remains on escape status).

5) MDC Brooklyn - 1 referral (Inmate on staff assault.)

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6) USP Lewisburg - 8 referrals (5 Introduction of narcotics, 1 each - inmate on inmate assault, inmate on staff assault, attempted escape)

7) FCI Otisville - 1 referral (Camp inmate Gray-Santana, Reg. No. 20341-038, walked away on July 22, 2000. He was apprehended four days later.)

**TRIALS/SENTENCING:**

1) U.S. v. Omar Talib - Former MCC New York correctional officer was sentenced to 2 months in prison for engaging in illegal sexual activity with an inmate.

2) U.S. v. Curtis, FCI McKean inmate Todd Curtis, Reg. No. 03512-036, was sentenced to 33 months, consecutive to his current term, for possession and use of a controlled substance in a federal prison. This prosecution stems from a September 1999, near fatal overdose of heroin.

**TRAVEL AND LEAVE SCHEDULE FOR AUGUST 2000:**

Hank Sadowski    Travel: August 9 - OGC Reengineering Meeting  
                         August 10 - FCI Fort Dix - Common Fare Review  
                         August 25 - FCI Otisville to attend presentation  
                         of General Counsel Award to Ms. Bingham

bl

Annual Leave - August 23-24

Mike Tafelski    Travel - August 7-9 - Berman trial, Scranton, PA  
                         Annual Leave - August 21, September 1

Toni Brown        Travel - None Scheduled  
                         Annual Leave - None Scheduled

Les Owen          Travel - None Scheduled  
                         Annual Leave - August 10-11, 2000

Patty Gotts        Travel - None Scheduled

**U.S. Department of Justice**  
**Federal Bureau of Prisons**  
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September 22, 2000

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/GENERAL  
 COUNSEL, FEDERAL BUREAU OF PRISONS**

**FROM:** Henry J. Sadowski, Regional Counsel  
**SUBJECT:** Monthly Report - August 2000

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Pending at End	158	162	186	159	155	187	156	136				
Over 30 days	0	0	0	0	0	0	0	0				

**B. Administrative Tort Claims - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	295	291	284	306	286	266	291	311				
Rec'd in month	42	64	93	68	70	90	65	74				
Recons. rec'd	4	1	0	1	1	3	2	3				
Ans'd in month	50	72	71	89	91	68	57	98				
Pending at End	291	284	306	286	266	291	311	290				
Over 180 days	0	0	0	0	0	0	0	0				

**C. Tort Claim Investigation Status: As of August 31, 2000**

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	PHL	RBK
SCH																
Pending	4	9	14	2	16	3	3	0	22	6	0	5	2	2	2	5

3  
 Over 60 days 0 0 0 0 3 0 0 0 0 0 0 0 0 0 0 0  
 0

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**D. FOI/Privacy Act Requests - 2000**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Pending on 1st	17	12	11	26	32	46	30	42				
Rec'd in month	39	53	60	69	57	50	61	49				
Ans'd in month	34	54	45	63	43	66	49	58				
Pending at End	12	11	26	32	46	30	42	31				
Over 20 days	12	11	5*	1*	0	2*	4*	1				

\* Note: Archived records.

**E. FOIA Requests for records: As of August 31, 2000**

	ALF	ALM	ALP	ALW	BRO	DAN	DEV	FAI	FTD	LEW	LOR	MCK	NYM	OTV	RBK	SCH
NER																
Pending	0	3	4	0	2	1	4	1	4	7	1	1	0	0	2	0
>20 days	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0

**II. LITIGATION ACTIVITY - 2000 NORTHEAST REGION**

**A. SUMMARY REPORT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Open on 1st	318	329	330	349	359	362	364	374				
New Cases	16	18	28	18	27	19	17	19				
Habeas Corpus	10	11	9	12	16	12	10	8				
FTCA	0	3	4	2	1	2	0	2				
Bivens	5	3	8	1	10	5	4	7				
Other	1	1	6	2	0	0	1	2				
Bivens/FTCA	0	0	1	1	0	0	2	0				
Lit Reports	8	10	8		21	15	8	10				
Cases Closed	12	17	9	8	24	15	7	16				

**B. SIGNIFICANT LITIGATION MATTERS:**

NEW CASES:

1) Ni Fa Yi, et.al. v. Reno, et.al., 1:00CV3625 (DNJ) - 91 inmates requested an injunction from the Court to prohibit FCI Fort Dix from installing the ITS-II phone system on August 14, 2000. The inmates alleged a violation of the right to privacy and of equal



protection. The Court, based upon the Government's response, ordered that the case be transferred to the Eastern District of Kentucky as part of the Washington v. Reno case. After the case was transferred to the Eastern District of Kentucky, the court

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dismissed it stating that the inmates had not suffered any actual injury, thus did not have standing to challenge the implementation of the new system. In addition, the Court held that since Plaintiff's did not exhaust the administrative remedy process, the case could also be dismissed pursuant to 42 USC § 1997e.

**CLOSED CASES:**

1) Corley v. U.S., 93-CV-1421 (M.D.PA.)

Plaintiff granted judgement (requested by government) of \$1200 for property loss which occurred in 1992 during transfer between USP Lewisburg and District of Columbia. The Court dismissed Plaintiff's claim for emotional distress as he failed to provide any evidence of physical injury as required by the PLRA.

2) Cuoco v. Quinlan, et.al., 91-7279 (2d Cir.)

Second Circuit reversed District Court and entered judgement in favor of remaining defendants based upon qualified immunity and exclusiveness of FTCA remedy. The District Court had denied our motion for summary judgment on the issue of whether the preoperative male transsexual inmate was constitutionally entitled to female hormonal treatments.

**C. HEARINGS/TRIALS: -**

1) U.S. v. Jones, Cr. No. 99-1003 (E.D.PA.)

On August 30, 2000, Magistrate Judge Faith Angell held a hearing regarding medical treatment options available to federal pretrial detainee, Alexander Jones, 53747-066, who is charged with Simple Assault by Threatening to Kill and Assault Veteran's Administration Employees, in violation of 18 U.S.C. Section 13. In December 1999, Jones was found incompetent to stand trial and committed to the custody of the Attorney General. In June 2000, FMC Butner staff determined that his mental illness was controlled with medication. After his arrival at FDC Philadelphia on July 12, 2000, he complained that the medication was producing unpleasant side effects and the dosage was decreased. Inmate decompensated. In August, inmate Jones was seen by a defense psychologist, who determined that Jones was not competent to stand trial. At the

hearing, AUSA and Public Defender suggested to the court that the inmate should be returned to a mental health facility, and after he attains competence, he should be returned to FDC Philadelphia. The Court concurred. Joyce Horikawa assisted the AUSA.

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2) United States v. Furino, Crim. No. 00 — (E.D.N.Y.)  
On August 31, 2000, Judge Nickerson had a hearing to show cause why MDC Brooklyn should not release Furino 59021-053 from SHU. Inmate Furino was placed in administrative detention after receipt of a letter from AUSA requesting he be separated from 9 other inmates. At this time, Furino has separatees on every floor of both buildings and at MCC New York. The Court recognized the difficulties in managing a prison. The Court was advised that MDC Brooklyn would be opening another unit in several weeks and that Furino could be released from SHU at that time. The Judge quickly stated that he did not run the prisons and denied the motion. MDC Brooklyn Attorney Advisor Azzmeiah V. (Vazquez) Ward assisted at the hearing.

3) Banks. v. Olson, (DNJ)  
FCI Fairton inmate Philip Banks, 49142-066, requested a preliminary injunction to prevent the Warden from enforcing telephone restrictions imposed by the DHO. After a hearing in District Court on August 31, 2000, the matter was resolved by agreeing to allow the inmate to file an administrative remedy slightly beyond the ordinary time frames. FCI Fairton Attorney Roberta Truman assisted at the hearing.

4) United States v. Irrizarri (5:95-HC-340-F) (E.D.N.C.)  
On August 30, 2000, a hearing was held in which the inmate challenged his 18 U.S.C. § 4246 commitment. The Court heard testimony from both sides and took the matter under advisement. FMC Devens Attorney Advisor Darrel Waugh assisted FMC Butner Attorney Advisor Mike Bredenberg in preparing for and presenting the hearing which was done via video conference between the United States District Courts in Boston, Massachusetts, and Raleigh, North Carolina.

**D. RELIGIOUS CASES:** No new activity.

**E. ENSIGN AMENDMENT CASES:** - No new activity.

**F. PLRA 1915 DISMISSALS:** - None noted.

**III. CRIMINAL REFERRALS/PROSECUTIONS/TRIALS:**

REFERRALS:

1) FCI Allenwood - 3 referrals (Inmate on inmate assault; inmates

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on inmate assault with boiling liquid; inmate in possession of blank Treasury checks).

2) LSCI Allenwood - 1 referral (1 inmate on staff assault, minor injury)

3) MDC Brooklyn - 1 referral (Inmates on inmate assault.)

4) USP Lewisburg - 4 referrals (2 each - inmate on inmate assault, inmate on staff assault)

5) FCI McKean - 3 referrals (inmate on staff assault, inmates on inmate assault, 2 possession/manufacture of weapons)


**TRIALS/SENTENCING:**

1) U.S. v. Russo - FCI McKean inmate Michael Russo, 06989-052, was sentenced to 9 months in prison, consecutive to current 120 month sentence, for possession of marijuana while at FCI McKean.


2) U.S. v. Betancourt-Ceja, (MDPA)

On Friday, September 1, 2000, LSCI Allenwood inmate Martin Betancourt-Ceja, Register No. 20990-086, was sentenced to 30 months (consecutive to current sentence) for assaulting a food service foreman in December 1999. Judge Muir, in imposing the high end of the guideline, stated that any assault by inmates on staff would not be tolerated.

**TRAVEL AND LEAVE SCHEDULE FOR SEPTEMBER 2000:**

 Travel: 9/6 - 9/8 - OGC Reengineering Meeting  
9/14 - Albany, NY to attend presentation of  
General Counsel Award to AUSA

Annual Leave - None Scheduled

 Travel - 9/27-28-Visit to MDC Brooklyn, MCC New York

Annual Leave - None Scheduled