



U.S. Department of Justice

Federal Bureau of Prisons

Dublin, California 94568

February 6, 2001

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW

FROM: Harlan W. Penn, Regional Counsel  
SUBJECT: Monthly Report for January 2001

LITIGATION

**3621(e) CASES**

Field staff report providing additional assistance to USAO in response to the Supreme Court's decision in *Lopez vs. Gomez*.

**NEW CASES (Non 3621(e))**

*Barroca vs. Benov, et al.* - (DUB/WXR) Bivens complaint seeking also injunctive relief, complains of transfer from DUB to North County Jail. Interlaces access to court, retaliation, and medical care issues.

*Felix-Gutierrez vs. Adams* - (LOM) Habeas petition contesting denial of good time and inability to work during first three years of incarceration.

*Hood vs. Pontesso* - (PHX) Habeas petition by parolable inmate who is currently held beyond release date due to lack of acceptable release plan.

*Kellotat vs. Fitzmaurice, et al.* - (LOM) Bivens complaint alleging multiple claims such as due process violation on placement in SHU, First Amendment violations, retaliatory transfer, intentional infliction of emotion distress and wrongful identification as member of disruptive group.

*Keener vs. Jusino* - (SET) Habeas petition contesting classification.

*Laster vs. Adams* - (LOM) Habeas petition contesting denial of jail credit.

*MacMillan vs. Pontesso* - (PHX) Habeas petition challenging DHO decision.

*Parsons vs. Hood* - (SHE) Habeas petition contesting lack of medical care and seeking home confinement so he can obtain care of his choosing.

*Root vs. United States, et al.* - (LOS) *Bivens*/FTCA complaint alleging lack/denial of medical care at various institutions after slip and fall at LOS in December 1995.

*United States vs. Castro* - (TCN) Habeas petition by Arizona state inmate requesting designation to federal facility in order to have state and federal sentences run concurrent.

*Walker vs. Adams* - (LOM) Habeas petition challenging DHO action.

#### **SIGNIFICANT DEVELOPMENTS/APPEALS**

*Burzynski vs. Bailey* - (SAF) Previously denied habeas petition seeking compliance with alleged plea agreement regarding designation dismissed by Ninth Circuit on account of petitioner/appellant's failure to comply with filing requirements.

*Christoferson vs. Hood* - (SHE) *Bivens* complaint by former FCI/FPC Sheridan inmate seeking to visit his son currently incarcerated at FCI Sheridan dismissed without prejudice on agreement of parties to allow periodic, special visits.

*Ford vs. Pontesso* - (PHX) Court dismissed § 3621(e) habeas petition seeking year off. Petitioner ineligible due to 2 point weapon enhancement.

*Gray vs. Pontesso* - (PHX) Habeas petition challenging length of CCC placement denied by court.

*Holmes vs. United States* - (SDC) During mandatory settlement conference, plaintiff indicated he would dismiss case if U.S. would waive all terms of court-ordered probation and \$6,000 criminal fine. Judge told plaintiff request was improper and that it raised serious doubts as to why case was filed in the first place. Pre-trial conference calendered for February 14, 2001.

*Goldstein vs. U.S. Parole Commission* - (LOS) Case dismissed with prejudice pursuant to stipulation between parties.

*Resnick vs. Adams* - (LOS) Settlement offer of \$5,000 accepted in

medical malpractice case under FTCA. Bivens action against individual defendants to be dismissed.

*Rivero-Proenza vs. Reno, et al.* - (LOM) Habeas petition by INS detainee contesting placement in high security institution has been transferred to Eastern District of Texas for further proceedings.

*Salameh vs. Carlson, et al.* - (LOM) (Bivens complaint alleging excessive force.) Motion for Summary Judgement granted in part, denied in part. Two defendants and 8th Amendment claims survived. Pre-trial conference set for March 6, 2001.

*Smith vs. Graham County Jail, et al.* - (SAF) Bivens complaint alleging staff failed to assist him with legal matters while housed in county jail dismissed without prejudice.

*Spaan vs. Stidum* - (SAF) Lower court's dismissal of Bivens complaint regarding custody classification affirmed by Ninth Circuit.

*Woods vs. Rivera* - (SAF) Habeas petition contesting denial/revocation of CCC placement dismissed by court.

#### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Referred	15											
Accepted	0											
Declined	12											
Pending Decision	59											

#### NEW INFORMATION ON ACTIVE PROSECUTIONS

##### **ASSAULT**

*United States vs. Berry and Fink* - (SHE) Inmate on inmate assault trial scheduled for June 2001.

*United States vs. Guthrie* - (PHX) Inmate in staff assault case pled guilty to Assaulting Federal Officer. Sentencing scheduled for March 19, 2001.

*United States vs. Mendoza-Aguilar* - (TCN) Inmate on staff assault trial date scheduled for February 27, 2001.

*United States vs. Milton, et al.* - (LOM) Against defendant Milton, jury returned guilty verdict of Assault on Federal Officer with Intentional Striking (lesser included offense of charged crime -

Assault with Deadly Weapon), not guilty on charge of Conspiracy to Assault. Severed trial of Krause scheduled for February 27, 2001.

United States vs. Rowe, et al. - (LOM) 1995 riot case dismissed due to problems with witness statements caused by delay in prosecution.

#### CONTRABAND

United States vs. Kumar - (LOM) After appointment of new counsel, trial set for March 27, 2001.

#### STATISTICS

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98											

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43											
CLOSED	37											
PENDING	38											
30 DAYS	0											
6 MONTHS	0											
APPEALS	3											

\*Waiting for records from Archives.

FOI/PA PENDING MORE THAN 20 DAYS:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476											
NEW CASES RECEIVED	11											
HC	8											
FTCA	0											
BIVENS	3											
OTHER	0											
CLOSED	8											

<b>PENDING AT END OF MONTH</b>	479												
<b>LITIGATION REPORTS COMPLETED</b>	7												

ADMINISTRATIVE TORT CLAIMS													
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	
<b>RECEIVED</b>	40												
<b>CLOSED</b>	45												
<b>RECONSIDER</b>	0												
<b>PENDING</b>	98												
<b>OVER 6 MONTHS</b>	0												

Tort Claim Investigations Over 60 Days:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0



U.S. Department of Justice

Federal Bureau of Prisons

Dublin, California 94568

March 6, 2001

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW

FROM: *Harlan W. Penn*  
Harlan W. Penn, Regional Counsel

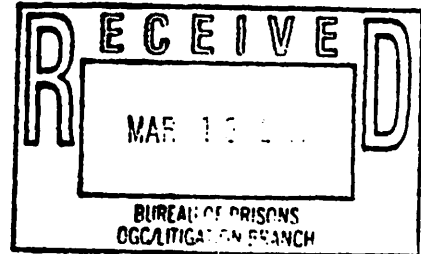
SUBJECT: Monthly Report for February 2001

LITIGATION

3621(e) CASES

No new petitions.

NEW CASES (Non 3621(e))



*Hsia v. Barron* (LOF) Petition for Writ of Habeas Corpus seeking jail credit allegedly wrongfully denied.

*Castillo v. United States* (SDC) FTCA/Bivens complaint alleging assault by arresting authorities and denial of adequate medical care while incarcerated.

*Rosas v. Trammel* (NEL/WXR) Petition for Writ of Habeas Corpus seeking credit for time spent while on writ.

*Rose v. Adams, et al.* (LOM) Bivens action by inmate alleging sexual harassment by staff.

*United States v. Huerta* (TCN) Petition for Writ of Habeas Corpus by Arizona DOC inmate seeking service of sentence in federal custody although primary jurisdiction appears to properly lie with state. Hearing scheduled for March 8, 2001.

SIGNIFICANT DEVELOPMENTS/APPEALS

*Adams v. Boston, et al.* (SHE) Bivens complaint alleging failure to protect dismissed by court after plaintiff withdrew complaint.

*Garofalo v. United States, Bureau of Prisons (SAF)* Complaint alleging former inmate did not receive required surgery prior to release was dismissed by court.

*Glasner v. United States (SHE)* Mediation of slip and fall FTCA action resulted in settlement of \$65,000.

*Gray v. Pontesso (PHX)* Petition for Writ of Habeas Corpus seeking maximum CCC placement dismissed by court.

*Holmes v. United States (SDC)* Two days before scheduled pre-trial conference, inmate agreed to dismiss case. Court dismissed case in entirety with prejudice. Complaint alleged inadequate medical care after fall while accessing top bunk.

*Pacheco-Camacho v. Hood (SHE)* Petition for Writ of Habeas Corpus decided by Ninth Circuit denying request for GCT on sentence of less than one year and one day. Parties had stipulated in district court to seek ruling by Ninth Circuit.

*Reyes v. United States, et al. (SDC)* Settlement conference unsuccessful in case alleging inadequate medical care. Discovery and other pre-trial proceedings to commence.

*Rogers v. Bureau of Prisons (PHX)* Bivens complaint alleging withholding or delay of legal mail dismissed by court. Original complaint alleging multiple claims of visitation denial, retaliation, disciplinary action against multiple defendants had been pared down to single defendant and single issue.

*Salameh v. Carlson, et al. (LOM)* Bivens complaint culled to two defendants and 8th Amendment claims. Pre-trial conference set for March 6, 2001, for trial preparation.

*Smith v. Graham County Jail (SAF)* Bivens complaint alleging denial of personal legal files and library access while at county jail dismissed by court without prejudice.

*Smith v. T'Kash (PHX)* Bivens complaint by WITSEC inmate complaining he is not eligible for education programs offered to inmates in general population has been dismissed without prejudice for failure to exhaust administrative remedies.

*Vander v. United States (SAF)* Ninth Circuit ordered appointment of counsel to inmate pursuing Demko case and asked whether or not *Wooten v. United States*, 825 F.2d 1039 (6th Cir. 1987) applies. AUSA was provided information advising that Wooten had unique facts and Sixth Circuit does not appear to allow a cause of action for inappropriate medical care following work accident.

*Vu v. Hood (SHE)* Petition for Writ of Habeas Corpus seeking 3621(e) eligibility notwithstanding INS detainer dismissed as moot. INS lifted detainer rendering subject eligible.

*Woods v. Rivera* (SAF) Petition for Writ of Habeas Corpus complaining of return to closer custody and loss of 3621(e) eligibility as a result of use of alcohol while at CCC was dismissed by court.

3621(e) cases at SET/SHE are under review to formulate unified response to Federal Public Defender's argument relating to APA.

#### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Referred	15	17										
Accepted	0	3										
Declined	12	9										
Pending Decision	59	64										

#### NEW INFORMATION ON ACTIVE PROSECUTIONS

##### **ASSAULT**

*United States v. Dustin Guthrie* (PHX) Inmate on staff assault on December 8, 1999, scheduled for sentencing March 12, 2001. Inmate pled guilty to assaulting officer January 11, 2001.

*United States v. Mendoza-Aguilar* (TCN) Inmate on staff assault trial continued to May 15, 2001.

*United States v. Ponce-Hernandez* (TCN) Previously reported trial date for inmate on staff assault has been canceled. No new trial date received.

*United States v. Milton, et al.* (LOM) Inmate on staff assault trial of Krause rescheduled for April 2001.

##### **HOMICIDE**

*United States v. Green* (LOM) Trial date set for May 29, 2001.

##### **CONTRABAND**

*United States v. Hankey* (LOM) Inmate pled guilty to possession with intent to distribute. Sentencing hearing set for April 30, 2001.



**OTHER**

*United States v. Newman* (LOS) Supreme Court denied certiorari in case involving inmate's request for credit for time spent in halfway house as condition of release pending trial and sentencing. Prosecutor will seek order with self-surrender date to allow Bureau to designate inmate for service of remaining six months of sentence. District Court Judge originally decided *Koray* was inapplicable due to its wrongful retroactive application.

**STAFF**

*United States v. Donaldson* (DUB) Recreation Specialist released on \$100,000.00 bond following his arrest for sexual abuse of a ward, accused of having sex with at least four female inmates.

*United States v. McKnight* (PHX) Retired Assistant Food Service Administrator accused of engaging in sexual acts with inmate scheduled for trial March 13, 2001.

**STATISTICS**

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67										

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35										
CLOSED	37	30										
PENDING	38	43										
30 DAYS	0	1										
6 MONTHS	0	0										
APPEALS	3	6										

FOI/PA PENDING MORE THAN 20 DAYS:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	1	0	0	0	0	1

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479										
NEW CASES RECEIVED	11	5										
HC	8	3										
FTCA	0	0										
BIVENS	3	2										
OTHER	0	0										
CLOSED	8	11										
PENDING AT END OF MONTH	479	473										
LITIGATION REPORTS COMPLETED	7	8										

ADMINISTRATIVE TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	40	26										
CLOSED	45	33										
RECONSIDER	0	0										
PENDING	98	91										
OVER 6 MONTHS	0	0										

Tort Claim Investigations Over 60 Days:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
	0	0	0	0	0	0	0	0	0	0	0	0	0	0



U.S. Department of Justice

Federal Bureau of Prisons

Dublin, California 94568

April 5, 2001

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

**FROM:** Harlan W. Penn, Regional Counsel  
**SUBJECT:** Monthly Report for March 2001

**LITIGATION**

**NEW 3621(e) CASES**

*Williams v. Herrera*, (LOM) Inmate's 3621(e) date removed after RDAP staff assessed inmate did not reside in "pure" RDAP housing unit.

*Dario Smith v. Hood*, (SHE) Inmate denied early release due to California Penal Code § 245.

**NEW CASES (Non 3621(e))**

*Harrell v. Penn*, (SET) FTCA action concerning lost property in which individual defendants are named.

*Lange v. Palmateer*, (SET CLC) Case by state inmate during which he subpoenaed BOP records, and BOP objected. A hearing is expected.

*In re: Pugachev*, (SET) Petition filed and granted to force feed inmate on hunger strike. Inmate was forced fed.

*Kent Smith v. United States*, (SHE) FTCA complaint alleging medical negligence. Administrative claim not yet exhausted.

*Taylor v. Federal Bureau of Prisons*, (WXR) Petition for Writ of

Habeas Corpus complaining of discrepancies in discipline process during which inmate was removed from CCC and returned to closer custody. Inmate also alleges loss of 3621(e) eligibility.

*Hodge v. Herrera*, (LOM) Inmate alleges due process violation when DHO did not call requested witnesses.

*Halsey v. Adams*, (LOM) Inmate alleges deliberate indifference to medical needs.

*Fortes v. Herrera*, (LOM) Inmate contesting disciplinary action that originated from FCI Allenwood.

*John Smith v. Kathleen Hawk Sawyer*, (PHX) WitSec inmate complains about television, education programs, and food service.

*Jose Balam Pech v. Warden Pontesso*, (PHX) Inmate filed habeas challenging DHO hearing in which he was ordered to pay restitution for drilling holes in a cable box.

*Sanders v. Trammel*, (NEL) Inmate filed emergency motion for "Continuation of Unrestricted Prepaid Telephone Time for Incarcerated Pro Se Litigant". Inmate with pro se criminal appeals and civil litigation, argues that the new phone restriction violates his rights as he relies on telephone contact to generate legal work.

*United States v. Gomez*, (District of Nevada) District Court issued order for a second 4241 evaluation by local BOP institution psychologist. Motion to Vacate the Order filed, explaining to the Court the procedure for forensic studies set forth in Psychology Service Manual, Chapter 9. Hearing on April 4, 2001, resulted in Court withdrawing the Order.

#### **SIGNIFICANT DEVELOPMENTS/APPEALS**

*Estrada v. Alvarado, et al.*, (LOM, by LOS CLC) Inmate alleges excessive force by staff in SHU. Favorable R & R has been issued recommending summary judgement and dismissal with prejudice.

*Moore v. Hedges*, (Long Beach CCM, by LOS CLC) Inmate alleged improper disciplinary action. District court has adopted favorable R & R, dismissing petition with prejudice.

*Resnick v. Adams*, (LOM, by LOS CLC) Inmate alleged medical neglect. Case settled for \$5,000.

*Frias v. BOP, et al*, (SDC) Inmate alleged improper vaccinations, failure to treat AIDS/Hep B/Hep C. Motion for summary judgement was granted, and the case dismissed.

*Reyes v. U.S. et al*, (SDC) Plaintiff alleged inadequate treatment

of small cut on hand which later required surgery. Case dismissed without prejudice on March 6, 2001.

*Cleveland v. Hood*, (SHE) Inmate claimed biased DHO due to different sanctions for different inmates for same conduct. Court upheld DHO's decision and dismissed case.

*Fugate v. Hood*, (SHE) Court previously granted early release to inmate, but Lopez now controls. A letter from BOP was sent advising court that inmate's eligibility will be adjusted pursuant to Lopez.

*United States v. Huerta* (TCN, by WRO CLC) Petition for Writ of Habeas Corpus by Arizona DOC inmate seeking service of sentence in federal custody although primary jurisdiction appears to properly lie with state. Matter was dismissed by petitioner prior to hearing scheduled for March 6, 2001, when AZ DOC agreed to transfer inmate to a state facility closer to his family.

*Mahler v. Gatten* (SHE, by WRO CLC) Inmate with joint disease alleged 8<sup>th</sup> Amendment violation when staff failed to provide him with lower bunk. Notice of Appeal filed in Bivens case to the District Court Order denying qualified immunity.

*Burridge v. Eric Krupp, et al* (NEL) Inmate alleged various Constitutional issues, e.g., asbestos and RFRA. Court of Appeals affirmed dismissal of Bivens action.

*Fottler, et al v. Morton, et al* (NEL) Bivens case alleging exposure to asbestos. Court denied defendant's Motion for Summary Judgement or to Dismiss, and denied qualified immunity. Court ordered government to respond to plaintiff's request for jury trial, non-opposition filed. Order granting jury trial issued March 30, 2001.

*Woods v. Bailey*, (TUC) Inmate challenged positive breathalyzer test. Case dismissed due to failure to exhaust.

*Gonzalez v Bailey*, (TUC) Inmate challenged criminal sentence via a 2241 petition, which was determined to be inappropriate. Affirmed by Ninth Circuit.

*Heath v. Pendleton*, (TUC) Habeas challenged DHO hearing, and court found in favor of the BOP. Affirmed by Ninth Circuit.

*Solano v. T'Kash, et al* (PHX) Bivens complaint alleging interference with mail, was dismissed for failure to exhaust administrative remedies.

*Blum v. Hardin-Cassel*, (PHX) Trial date set for June 26, 2001. Former inmate claims she was assigned a job inappropriate due to her medical limitations.

*Friedman v. U.S. BOP, (PHX)* Summary Judgement denied in case where inmate alleged staff showed other inmates SENTRY information regarding the plaintiff.

*Swan v. United States, et al (DUB)* Bivens/FTCA case concerning failure to protect/medical malpractice issues. Inmate alleged psychologist failed to disclose information arising from session that could have prevented attack by another inmate. Gov't prevailed via Summary Judgement on qualified immunity grounds, and on FTCA claim.

*Barroca v. Benov, et al (DUB)* Bivens case alleging retaliatory actions and interference with access to attorney and the courts. On March 15, 2001, Court granted plaintiff's request to amend complaint.

### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>Referred</b>	15	17	14									
<b>Accepted</b>	0	3	2									
<b>Declined</b>	12	9	9									
<b>Pending Decision</b>	59	64	38									

### NEW INFORMATION ON ACTIVE PROSECUTIONS

#### **ASSAULT**

*U.S. v. Dustin Guthrie, (PHX)* Inmate struck Lt. In face with closed fist. On 3/12/01, inmate sentenced to 37 months, and restitution of \$459.44.

*U.S. v. Milton, et al., (LOM)* Staff assaulted by two inmates with razor. First inmate (Milton) convicted of assault in January 2001. Inmate Krause's trial began on April 3, 2001.

*U.S. v. Suarez, et al., (TRM)* Indictment filed against two inmates for assault in December 2000. Scheduled for trial on April 10, 2001, but likely to be continued.

#### **HOMICIDE**

None.

#### **CONTRABAND**

*U.S. v. Juan Parrado-Herrera, (PHX)* Inmate rec'd marijuana and heroin via visiting room on April of 1999. Trial scheduled for 4/3/01.

**OTHER**

None.

**STAFF**

*U.S. v. Ellison McKnight*, (PHX) Retried staff is accused of engaging in sexual relations with an inmate. Change of plea expected to be entered on 4/12/01.

**STATISTICS**

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67	104									

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35	48									
CLOSED	37	30	53									
PENDING	38	43	38									
30 DAYS	0	1	0									
6 MONTHS	0	0	0									
APPEALS	3	6	5									

\*Waiting for records from Archives.

FOI/PA PENDING MORE THAN 20 DAYS:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479	473									
NEW CASES RECEIVED	11	5	14									
HC	8	3	6									
FTCA	0	0	2									
BIVENS	3	2	3									
OTHER	0	0	3									
CLOSED	8	11	10									

<b>PENDING AT END OF MONTH</b>	479	473	477										
<b>LITIGATION REPORTS COMPLETED</b>	7	8	12										

ADMINISTRATIVE TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>RECEIVED</b>	40	26	43									
<b>CLOSED</b>	45	33	23									
<b>RECONSIDER</b>	0	0	0									
<b>PENDING</b>	98	91	111									
<b>OVER 6 MONTHS</b>	0	0	0									

Tort Claim Investigations Over 60 Days:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0





U.S. Department of Justice

Federal Bureau of Prisons

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Dublin, California 94568

May 2, 2001

MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW

FROM: Harlan W. Penn, Regional Counsel  
SUBJECT: Monthly Report for April 2001

LITIGATION

NEW 3621(e) CASES

*Casarez v. Slade* (VIM) Petition for Writ of Habeas Corpus contesting 3621(e) ineligibility due to prior state conviction for assault with a deadly weapon.

*Fugate v. Hood* (SHE) Petition for Writ of Habeas Corpus seeking 3621(e) eligibility notwithstanding 2 point weapon enhancement. Court initially granted petition but now in light of *Lopez*, case has been reopened.

*Warden v. Hood* (SHE) Petition for Writ of Habeas Corpus contesting 3621(e) ineligibility, arguing Change Notice 3 was retroactively applied.

NEW CASES (Non 3621(e))

*Burrows v. Pontesso* (PHX) Petition for Writ of Habeas Corpus contesting DHO action which resulted in loss of 3621(e) eligibility.

*Gaiters v. Hood* (SHE) Petition for Writ Habeas Corpus filed by inmate under court ordered child support payments contests FRP inclusion of such order.

*Gallegos v. Slade* (VIM) Petition for Writ of Habeas Corpus contesting DHO action at FCI Big Spring.

*Godfrey v. Ashcroft* (SET) FTCA complaint from former employee seeking compensation for physical injuries sustained during employment (inmate on staff assault).

*Parker v. Herrera* (LOM) Petition for Writ of Habeas Corpus concerning allegedly inadequate medical treatment of prostate cancer.

*Suva v. United States* (LOS) FTCA claim seeking full compensation of an administrative claim for lost property. Investigation of claim resulted in depreciated offer and inmate declined.

*Taylor v. Hood* (SHE) Petition for Writ of Habeas Corpus complaining BOP violated his supervised release plan by not sending him to halfway house at end of his sentence.

#### **SIGNIFICANT DEVELOPMENTS/APPEALS**

*Bonderov v. Clark* (LOS) Petition for Writ of Habeas Corpus contesting 3621(e) ineligibility on account of prior manslaughter without gross negligence conviction has been granted and matter remanded to Bureau for reconsideration.

*Carrillo v. Adams, Hawk* (LOM) *Bivens* complaint alleging failure to protect dismissed by 9<sup>th</sup> Circuit. Underlying case previously dismissed by lower court.

*Castillo v. United States* (SDC) Early Neutral Evaluation set for June 18, 2001, in *Bivens*/FTCA suit alleging excessive force during arrest and denial of adequate medical care afterwards.

*Chasser v. Fitzpatrick* (LOM) Ninth Circuit upheld lower court's dismissal of Petition for Writ of Habeas Corpus alleging improper denial of early release and CCC placement.

*Davis v. Andrews* (WXR/TCI) Habeas petition seeking transfer to FCI McKean, previously denied by ED CA, was appealed by inmate to 9<sup>th</sup> Circuit. 9<sup>th</sup> Circuit affirmed lower court's decision.

*Frank v. Hood* (TCN) Petition for Writ of Habeas Corpus seeking credit for time spent in county jail on federal detainer was dismissed as moot.

*Leiphardt v. Clark* (LOS) Petition for Writ of Habeas Corpus contesting incident report was granted by court, remanding matter back to Bureau with directions to expunge file of original and rewritten incident report and all related documents. Appeal planned and AUSA concurs.

*Mendoza v. Adams* (LOM) Petition for Writ of Habeas Corpus regarding sentence computation was voluntarily dismissed.

*Parker v. Adams* (LOM) Petition for Writ of Habeas Corpus seeking release to Washington DC custody to serve remainder of concurrent sentence dismissed in District Court. Mandate subsequently

issued by 9<sup>th</sup> Circuit for failure to perfect appeal.

*Parrish v. Bailey* (SAF) Certificate of Appealability denied by 9<sup>th</sup> Circuit. Original petition challenged criminal conviction via § 2241 petition contesting conditions of confinement.

*Pitts v. Gill* (LOM) Petition for Writ of Habeas Corpus contesting DHO sanctions dismissed in District Court. Ninth Circuit dismissed action for failure to perfect appeal.

*Renner v. Hood* (WXR/SHE) *Bivens* complaint alleging denial of dental care dismissed with prejudice.

*Resnick v. Scott, et al.* (LOM) Petition for Writ of Habeas Corpus contesting DHO sanctions denied by District Court. Ninth Circuit dismissed inmate's appeal.

*Smith v. Hood* (SHE) Petitioner seeking 3621(e) eligibility which was denied on account of aggravated assault conviction was deemed eligible.

*Smith v. Hood* (SHE) Petition for Writ of Habeas Corpus contesting DHO action dismissed in Warden's favor.

*Solano v. T'Kash* (PHX) *Bivens* complaint regarding use of committed name dismissed for failure to exhaust administrative remedies.

#### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Referred	15	17	14	25								
Accepted	0	3	2	4								
Declined	12	9	9	16								
Pending Decision	59	64	38	72								

#### NEW INFORMATION ON ACTIVE PROSECUTIONS

##### HOMICIDE

*United States v. Green* (LOM) Trial set for May 29, 2001.

##### ASSAULT

*United States v. Bass* (SHE) Indictment expected for inmate assault on several staff.

*United States v. Escano* (TCN) Inmate on staff assault resulting in minor injuries accepted for prosecution.

*United States v. Mendoza-Aguilar* (TCN) Inmate on staff assault trial continued to May 15, 2001.

*United States v. Milton, et al.* (LOM) Jury returned guilty verdict against inmate Krause for assaulting officer with deadly weapon resulting in infliction of bodily injury. Inmate Krause acquitted of conspiracy. Scheduled for sentencing on July 16, 2001. Inmate Milton's sentencing date is May 21, 2001, on January 26 conviction of assaulting officer with intentional striking. Inmate Milton also acquitted of conspiracy.

*United States v. Ponce-Hernandez* (TCN) Arraignment in serious inmate on staff assault case to be rescheduled due to failure to serve writ on time.

*United States v. Suarez, et al.* (LOS) Two inmates pending May 15, 2001, trial for assaulting staff resulting in injuries have potential plea agreements pending. Bureau approved plea agreement available until May 1, 2001.

#### **ESCAPE**

*United States v. Ceja* (SDC) CCC escapee scheduled for sentencing June 4, 2001.

#### **CONTRABAND**

*United States v. Deguiar* (SHE) Inmate currently facing prosecution for introduction of narcotics.

*United States v. Hankey* (LOM) Inmate pled guilt to possession with intent to distribute. Sentencing hearing continued to July 30, 2001.

*United States v. Kumar* (LOM) Trial continued to May 29, 2001.

*United States v. Martinez* (LOM) Inmate visitor arrested at USP by FBI for smuggling drugs (24 balloons containing combination of methamphetamine, heroin, marijuana). Currently being held at MDC Los Angeles.

*United States v. Pagan-Gonzalez* (PHX) Inmate indicted for possession of contraband (heroin).

*United States v. Parrado-Herrera* (PHX) Trial for possession of contraband received from visitor scheduled for June 5, 2001.

*United States v. Shirley and Moraga* (SHE) Indictment in process for introduction of contraband.

*United States v. Verwolf* (SHE) Prosecution stayed pending outcome of trial of similarly charged defendant.

## STAFF

*United States v. Hagan* (SDC) Former staff member scheduled for sentencing on June 19, 2001, on charge of sexual act with a ward.

*United States v. McKnight* (PHX) Retired Assistant Food Service Administrator pled guilty to two counts of sexual abuse of a ward and sentencing scheduled for June 26, 2001. AUSA agreed to recommend probation and if magistrate does not accept plea agreement, defendant will be allowed to withdraw guilty plea.

*United States v. Washington* (SDC) Former staff member sentenced to three years supervised probation and 500 hours community service for misdemeanor conviction of sexual act with a ward.

## STATISTICS

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67	104	65								

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35	48	32								
CLOSED	37	30	53	33								
PENDING	38	43	38	37								
30 DAYS	0	1	0	4*								
6 MONTHS	0	0	0	0								
APPEALS	3	6	5	0								

\*Waiting for records from Archives, not considered overdue.

FOI/PA PENDING MORE THAN 20 DAYS:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479	473	477								
NEW CASES RECEIVED	11	5	14	10								
HC	8	3	6	8								
FTCA	0	0	2	2								
BIVENS	3	2	3	0								



U.S. Department of Justice

Federal Bureau of Prisons

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Dublin, California 94568

June 4, 2001

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

**FROM:** Harlan W. Penn, Regional Counsel

**SUBJECT:** Monthly Report for May 2001

**LITIGATION**

**NEW 3621(e) CASES**

*Van Sickel v. Hood* (SHE) Petition for Writ of Habeas Corpus contesting 3621(e) ineligibility due to prior aggravated assault conviction.

**NEW CASES (Non 3621(e))**

*Berry v. Pontesso* (PHX) Inmate sued for special spandex underwear. District Court dismissed case without response from agency. Inmate had been released from custody May 16, 2001.

*Gonzales v. Slade* (VIM) Petition for Writ of Habeas Corpus seeking pre-trial jail time credit.

*House v. Barron* (LOF) Petition for Writ of Habeas Corpus contesting DHO findings.

*Resnick v. Pollock, et al.* (LOS) Bivens complaint alleging deliberate indifference to back, leg, and foot medical problems.

*U.S. v. Ayala* (SET) Defendant in criminal case filed motion for injunction restricting BOP from housing him in SHU while trial is pending.

*U.S. v. Ferguson* (SET) Court ordered BOP to house state inmate in federal facility. Staff provided information for motion to vacate order and explained potential options to court.

*U.S. v. Johnson* (SET) Defendant in criminal case receiving four month sentence filed motion to vacate sentence based upon belief that SeaTac could not adequately treat his diabetes. Court held there is no evidence to indicate sub-standard care had been provided and there was no reason to indicate SeaTac would give other than the community standard of care.

*Wilson v. Slade* (VIM) Petition for Writ of Habeas Corpus contesting 1995 DHO determination arising at USP Lompoc.

#### **SIGNIFICANT DEVELOPMENTS/APPEALS**

*Baker v. United States* (SDC) *Bivens*/FTCA complaint alleging inadequate medical care and treatment of psychiatric condition transferred to Southern District from Central District of California. Plaintiff in separate action has sued the contract psychiatrist.

*Bilodeaux v. Fitzpatrick* (LOF) Decision by District Court to dismiss Petition for Writ of Habeas Corpus contesting 3621(e) ineligibility affirmed by Ninth Circuit.

*Casarez v. Slade* (VIM) After considerable wrangling by the USAO, a response was filed in support of Bureau's position that petitioner's prior California conviction for assault with a deadly weapon precludes him from early release.

*Castillo v. United States*, (SDC) *Bivens*/FTCA complaint alleging excessive use of force during arrest and inadequate medical care afterwards scheduled for early neutral evaluation conference on June 18, 2001.

*Flowers v. Finnerly, et al.* (LOS) As a decision has been made by Central Justice that no criminal indictment will take place, the stay is lifted a status report is due by June 4, 2001.

*Foley v. United States* (DUB) *Bivens*/FTCA action in which former DUB inmate alleges BOP, FBI, and OIG failed to protect her while she wore body microphone during investigation of staff. All *Bivens* defendants dismissed May 23, 2001. Case will proceed under FTCA.

*Fugate v. Hood* (SHE) Despite *Lopez* decision, court ordered BOP to enforce its earlier order which made petition 3621(e) eligible despite two point weapon sentence enhancement. Case being reviewed to determine if appeal is appropriate.

*Jackson v. U.S.* (DUB) FTCA action alleging staff allowed unsafe condition in DUB housing unit (uncovered vent hole) resulting in injury to leg settled for \$1,500. Administrative claim sought \$15,000.

*Mainard v. Fitzpatrick* (LOF) Ninth Circuit reversed District Court's denial of petitioner's Petition for Writ of Habeas Corpus involving DHO findings. Ninth Circuit directed incident report be expunged, GCT restored, and eligibility for 3621(e) release be re-evaluated.

*Rivero-Provenza v. Reno* (LOM) Petition for Writ of Habeas Corpus transferred to Eastern District of Texas. Petition alleged illegal and unconstitutional conditions of detention after he was released by BOP to INS. Petitioner argues he is kept under custody, rules, regulation, and procedures intended for sentenced prisoners.

*Sherrod v. Rardin* (LOM) Ninth Circuit reversed District Court's denial of Petitioner's Petition for Writ of Habeas Corpus contesting DHO findings. District Court directed further response to petitioner's claims.

*Sledge v. Andrews* (TCI) Adverse decision issued May 10, 2001 granting DAP habeas petition and ordering release of TCI inmate. The court found that the inmate had been participating in the program and had received a favorable eligibility determination so as to fall into the excepted category of inmates created by *Cort v. Crabtree*. The following day the Court issued a supplemental order, instead placing the inmate in a CCC for transitional services.

#### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>Referred</b>	15	17	14	25	9							
<b>Accepted</b>	0	3	2	4	2							
<b>Declined</b>	12	9	9	16	4							
<b>Pending Decision</b>	59	64	38	72	75							

#### NEW INFORMATION ON ACTIVE PROSECUTIONS

##### **HOMICIDE**

*U.S. v. Green* (LOM) Court found inmate incompetent to stand trial. Inmate sent to medical center to restore competency. Further proceedings set for September 17, 2001.



## **ASSAULT**

*U.S. v. Milton, et al.* (LOM) Inmate Krause scheduled to be sentenced July 16, and inmate Milton's scheduled for June 6, 2001.

*U.S. v. Escano* (TCN) Inmate on staff assault resulting in minor injuries accepted for prosecution. Indicted May 9, 2001.

*U.S. v. Rodriguez-Lopez* (SDC) Inmate on staff assault with pool cue in early May 2001 being pursued by AUSA.

*U.S. v. Suarez, et al.* (LOS) Two inmates pending trial for assaulting staff resulting in injuries have accepted plea agreements. Sentencing scheduled for July 23, 2001.

Inmate Mosequeda-Gonzalez's sexual assault on female correctional officer (forcefully tried to kiss victim while sitting on top and simulating sex act) is being prepared by AUSA for indictment. Inmate had admitted he was going to rape the victim.

## **ESCAPE**

*U.S. v. Ceja* (SDC) CCC escapee scheduled for sentencing June 4, 2001.

*U.S. v. Gonzalez* (SDC) CCC escapee recently arraigned.

*U.S. v. Meza* (SDC) CCC escapee recently arraigned.

## **CONTRABAND**

*U.S. v. Hankey* (LOM) Inmate pled guilty to possession with intent to distribute. Sentencing hearing continued to July 30, 2001.

*U.S. v. Kumar* (LOM) Trial continued to July 10, 2001.

*U.S. v. Pagan-Gonzalez* (PHX) Inmate charged with possessing heroin scheduled for June 6, 2001, trial. Defendant filed motion requesting extension of trial date.

*U.S. v. Marin-Cuevas* (SHE) Inmate expected to be indicted for introduction of drugs into institution.

*U.S. v. Martinez* (LOM) Inmate visitor arraigned and entered not guilty plea May 7, 2001. Status conference set for June 25 and trial set for July 3, 2001.

*U.S. v. Parrado-Herrera* (PHX) Inmate charged with receiving marijuana and heroin through visiting room had trial date postponed to August 7, 2001.

Three previously rejected drug introduction cases from FCI Phoenix have been referred to Deputy Chief, Criminal Division, who is expected to approve prosecution of the cases by Phoenix legal staff.

#### **STAFF**

*U.S. v. Hagan* (SDC) Former staff member scheduled for sentencing on June 19, 2001, on charge of sexual act with a ward.

*U.S. v. McKnight* (PHX) Retired Assistant Food Service Administrator pled guilty to two counts of sexual abuse of a ward and sentencing scheduled for June 26, 2001. AUSA agreed to recommend probation and if magistrate does not accept plea agreement, defendant will be allowed to withdraw guilty plea.

#### **STATISTICS**

<b>ADMINISTRATIVE REMEDIES</b>											
<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>
98	67	104	65	67							

<b>FREEDOM OF INFORMATION/PRIVACY ACT:</b>												
	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b>	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>
<b>RECEIVED</b>	43	35	48	32	51							
<b>CLOSED</b>	37	30	53	33	49							
<b>PENDING</b>	38	43	38	37	39							
<b>30 DAYS</b>	0	1	0	4*	6*							
<b>6 MONTHS</b>	0	0	0	0	0							
<b>APPEALS</b>	3	6	5	0	2							

\*Waiting for records from Archives, not considered overdue.

<b>FOI/PA PENDING MORE THAN 20 DAYS:</b>														
<b>DUB</b>	<b>LOF</b>	<b>LOM</b>	<b>LOS</b>	<b>NEL</b>	<b>PHX</b>	<b>SAF</b>	<b>SDC</b>	<b>SET</b>	<b>SHE</b>	<b>TCI</b>	<b>TCN</b>	<b>TRM</b>	<b>VIM</b>	<b>TOTAL</b>
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479	473	477	472							
NEW CASES RECEIVED	11	5	14	10	9							
HC	8	3	6	8	5							
FTCA	0	0	2	2	0							
BIVENS	3	2	3	0	1							
OTHER	0	0	3	0	3							
CLOSED	8	11	10	15	7							
PENDING AT END OF MONTH	479	473	477	472	474							
LITIGATION REPORTS COMPLETED	7	8	12	8	8							

ADMINISTRATIVE TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY <sup>1</sup>	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	40	26	43	40	45							
CLOSED	45	33	23	28	91							
RECONSIDER	0	0	0	0	0							
PENDING	98	91	111	123	98							
OVER 6 MONTHS	0	0	0	0	0							

<sup>1</sup> Numbers adjusted as of June 1, 2001, by researching Lawpack.

Tort Claim Investigations Over 60 Days:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

#### MISCELLANEOUS

SeaTac CLC staff met with prosecutors from the Western District of Washington to discuss increasing the number of prosecutions for escapes, drug related offenses and other minor crimes occurring at SeaTac and two halfway houses located in the Western District. Staff also have been in constant contact with prosecutors from the District of Montana in an attempt to prosecute an inmate who escaped from a Montana halfway house and was missing for two days.

SeaTac CLC staff toured two halfway houses in the Western District of Washington to answer questions about the inmate discipline process in an attempt to strengthen chances of criminal prosecution.

Phoenix CLC staff met with AUSA, FBI, SIS regarding inmate homicide of May 9, 2001. Several search warrants will be issued in an attempt to gather more evidence against inmate suspect.



U.S. Department of Justice

Federal Bureau of Prisons

Dublin, California 94568

July 3, 2001

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

**FROM:** Harlan W. Penn, Regional Counsel  
**SUBJECT:** Monthly Report for June 2001

**LITIGATION**

**NEW 3621(e) CASES**

*Rodriguez-Lanz v. INS* (SHE) INS detainee sought release and INS agreed to same after completion of RDAP. Although qualified for programs at other institutions, his Mariel Cuban status precluded inclusion in RDAP at FCI Sheridan. Matter resolved when INS agreed to allow petitioner's participation in RDAP at Riverside, Florida CCC.

**NEW CASES (Non 3621(e))**

*Barnes v. Clinton, et al.* (LOM) Plaintiff seeks contract damages for unlawful imprisonment.

*Chang v. United States* (LOS) Petition for Writ of Habeas Corpus seeking jail/pre-trial custody credit.

*Clemons v. Hood* (SHE) Inmate challenged payment obligation under IFRP. Inmate subsequently withdrew complaint when relief granted via administrative remedy process.

*Jackson v. Bureau of Prisons* (LOM) Inmate filed suit in D.C. Circuit Court of Appeals contesting DHO findings.

*Janis v. Ashcroft, et al.* (LOM) Class action styled suit (11 inmate plaintiffs) challenging new 300 minute telephone limitation and management of inmate trust fund.

*Johnson v. Hood* (SHE) Petition for Writ of Habeas Corpus

challenging sentence computation.

*Wolff v. Hood* (SHE) *Bivens* complaint alleging failure to protect from inmate assault.

#### **SIGNIFICANT DEVELOPMENTS/APPEALS**

*Blum v. Hardin-Cassel* (PHX) Claim alleging job assignment contrary to medical condition going to trial on July 24, 2001. AUSA to file motion to dismiss in light of *Booth v. Churner*.

*Fellows v. Federal Bureau of Prisons* (PHX) Complaint seeking dentures dismissed by court.

*Flowers v. Finnerly* (sic) & *Flowers v. United States* (LOM) Cases transferred from C.D. CA to Constitutional Torts Branch, Main Justice. New AUSA believes FTCA case can be settled with *Bivens* suit dismissed pursuant to judgement bar. Jury verdicts to be researched and settlement memo forthcoming.

*Leiphardt v. Clark* (LOS) Pursuant to Court's Order, petitioner's incident report was expunged and good time restored.

*Mitchell v. U.S.* (PHX) Ninth Circuit dismissed claim of failure to protect holding no negligence on the part of BOP in case where plaintiff was assaulted by other inmates.

*Smith v. FCI* (SHE) FTCA allegations of medical malpractice dismissed for failure to exhaust administrative claim procedure.

*U.S. v. Lazarenko* (DUB) Pretrial inmate has asked Court to order additional phone minutes. Inmate has multiple legal actions in U.S. and abroad, and claims the need to make numerous legal calls, including third party calls for translation purposes. Judge visited the institution with counsel and agreed with our plan to provide more staff-assisted attorney calls rather than increase available ITS minutes.

*Vander v. U.S. Department of Justice* (SAF) Government filed reply brief in case asking whether compensation for alleged inadequate medical care can be pursued under FTCA or whether IACA the exclusive remedy.

*Williams v. Herrera* (LOM) Petition for Writ of Habeas Corpus contesting denial of 3621(e) eligibility due to failure to reside in "pure" RDAP housing unit for requisite time frame was dismissed due to petitioner's failure to exhaust administrative remedies.

#### **CRIMINAL CASE TRACKING**

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>Referred</b>	15	17	14	25	9	10						
<b>Accepted</b>	0	3	2	4	2	1						
<b>Declined</b>	12	9	9	16	4	7						
<b>Pending Decision</b>	59	64	38	72	75	77						

## **NEW INFORMATION ON ACTIVE PROSECUTIONS**

### **HOMICIDE**

*U.S. v. Fink & Berry* (SHE) Attempt murder charge against two inmates. Both pled guilty to lesser charge of assault. Sentencing set for August 2001.

### **ASSAULT**

*U.S. v. Milton, et al.* (LOM) Inmate Milton sentenced to 36 month term of imprisonment to run consecutive to current term and another yet to be served term originating in M.D. Penn. (also for assaulting correctional officer). \$100 special assessment and \$6,678 restitution order imposed. Inmate Krause scheduled to be sentenced July 16, 2001.

*U.S. v. Mendoza-Aguilar* (TCN) Inmate on staff assault trial postponed to July 10, 2001.

*U.S. v. Ponce-Hernandez* (TCN) Inmate on staff assault trial set for August 14, 2001.

*U.S. v. Suarez, et al.* (LOS) Two inmates accepted plea agreements for assaulting officer resulting in injury and assault within maritime and territorial jurisdiction. Sentencing scheduled for July 23, 2001.

### **ESCAPE**

*U.S. v. Ceja* (SDC) CCC escapee sentenced to 4 months incarceration and 3 years supervision.

*U.S. v. Meza* (SDC) CCC escapee pled guilty and sentencing is set for September 4, 2001.

### **CONTRABAND**

*U.S. v. Hankey* (LOM) Inmate pled guilty to possession with intent to distribute. Sentencing hearing continued to July 30, 2001.

*U.S. v. Kumar* (LOM) Inmate's attorney withdrew from case and new counsel appointed. Trial continued to August 14, 2001.

U.S. v. Martinez (LOM) Inmate visitor case. Status conference set for July 16 and trial set for August 7, 2001.

U.S. v. McConville (PHX) Inmate to be prosecuted for introduction of contraband when he passed a balloon containing heroin in a dry cell.

#### **STAFF**

U.S. v. Donaldson (DUB) Former Recreation Specialist charged with sexual contact with a ward. Trial set for September 11, 2001.

U.S. v. Hagan (SDC) Former staff member sentencing rescheduled for July 10, 2001, on conviction of sexual act with a ward.

U.S. v. McKnight (PHX) Retired Assistant Food Service Administrator pled guilty to two counts of sexual abuse of a ward with sentencing postponed to July 31, 2001.

#### **STATISTICS**

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67	104	65	67	67						

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35	48	32	51	42						
CLOSED	37	30	53	33	49	36						
PENDING	38	43	38	37	39	45						
30 DAYS	0	1	0	4*	6*	5*						
6 MONTHS	0	0	0	0	0	0						
APPEALS	3	6	5	0	2	4						

\*Waiting for records from Archives, not considered overdue.

FOI/PA PENDING MORE THAN 20 DAYS:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479	473	477	472	474						
NEW CASES RECEIVED	11	5	14	10	9	8						



<b>HC</b>	8	3	6	8	5	5						
<b>FTCA</b>	0	0	2	2	0	0						
<b>BIVENS</b>	3	2	3	0	1	1						
<b>OTHER</b>	0	0	3	0	3	2						
<b>CLOSED</b>	8	11	10	15	7	7						
<b>PENDING AT END OF MONTH</b>	479	473	477	472	474	475						
<b>LITIGATION REPORTS COMPLETED</b>	7	8	12	8	8	9						

ADMINISTRATIVE TORT CLAIMS												
	<b>JAN</b>	<b>FEB</b>	<b>MAR</b>	<b>APR</b>	<b>MAY</b> 1	<b>JUN</b>	<b>JUL</b>	<b>AUG</b>	<b>SEP</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>
<b>RECEIVED</b>	40	26	43	40	45	41						
<b>CLOSED</b>	45	33	23	28	91	18						
<b>RECONSIDER</b>	0	0	0	0	0	0						
<b>PENDING</b>	98	91	111	123	98	121						
<b>OVER 6 MONTHS</b>	0	0	0	0	0	0						

Tort Claim Investigations Over 60 Days:														
<b>DUB</b>	<b>LOF</b>	<b>LOM</b>	<b>LOS</b>	<b>NEL</b>	<b>PHX</b>	<b>SAF</b>	<b>SDC</b>	<b>SET</b>	<b>SHE</b>	<b>TCI</b>	<b>TCN</b>	<b>TRM</b>	<b>VIM</b>	<b>TOTAL</b>
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

### MISCELLANEOUS

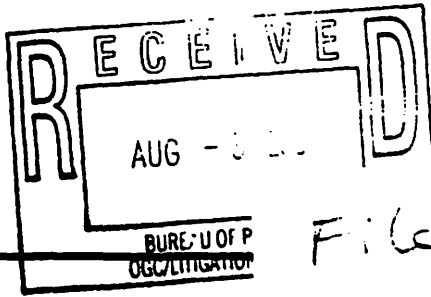
Construction of two new housing units at FCI Lompoc has been halted due to environmental issues.

CLC SeaTac Attorney Advisor Doug Goldring met with AUSA Noonan and discussed increasing number of prosecutions relating to drugs in the institution and escapes from CCCs.

U.S. District Court Judge Rosalyn Silver is scheduled to tour FCI Phoenix on July 10, 2001.

<sup>1</sup> Numbers adjusted as of June 1, 2001, by researching Lawpack.

CLC Phoenix Attorney Advisor Matt Carney and Warden Bernie Ellis met with new U.S. Attorney Paul Charlton on June 19, 2001.



U.S. Department of Justice

Federal Bureau of Prisons

alifornia 94568

August 3, 2001

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

**FROM:** *Harlan W. Penn*  
Harlan W. Penn, Regional Counsel

**SUBJECT:** Monthly Report for July 2001

**LITIGATION**

**NEW CASES (Non 3621(e))**

*Chang v. U.S.* (LOS) Petition for Writ of Habeas Corpus alleging sentence improperly calculated. Requests that supervised release term be revoked/expunged in exchange for allegedly not properly being credited correct jail credit.

*Hood v. Pontesso* (PHX) Complaint regarding parole release date. Inmate dismissed previous case on May 10, 2001, but has now refiled.

*Knaeble v. Nelson* (SHE) Bivens/FTCA complaint alleging inadequate medical treatment following work-related injury.

*U.S. v. Sedliar* (LOM) Motion to correct sentence filed on behalf of FCI Lompoc inmate. One of the grounds for relief alleges agency is unable to provide proper medical care.

**SIGNIFICANT DEVELOPMENTS/APPEALS**

*Foley-Clark v. U.S.* (DUB) FTCA action filed by former inmate who wore wire during investigation which resulted in prosecution of staff for inmate sexual abuse. Preparing interrogatories and deposition notice to plaintiff.

*Lopez v. U.S.* (LOS) FTCA trial in inmate on inmate assault previously scheduled for July 31 was continued to September 11,

2001, to allow agency opportunity to consider plaintiff's settlement proposal. Agency declines proposal and AUSA has requested additional documents.

*Marshall v. Hood, Hansen v. Hood, Foster v. Hood, Broxson v. Hood, Sorenson v. Hood, Williams v. Hood, & Mankertz v. Hood (SHE)* Petitions for Writ of Habeas Corpus seeking 3621(e) eligibility voluntarily dismissed by petitioners in light of *Lopez v. Davis*.

*Perez v. Acosta & Lathers (SDC)* Bivens complaint alleging sexual battery. Hearing on government's motion to dismiss or in the alternative, motion for summary judgement on behalf of warden is scheduled for August 6, 2001.

*Resnick v. Adams, et al (LOM)* Bivens complaint alleging First Amendment violation by not being provided a Kosher diet had unfavorable R&R issued. However, district court judge declined to accept it and granted summary judgement on basis of qualified immunity. Inmate was represented by pro bono counsel.

*Romero v. U.S. (PHX)* Tentative settlement in the amount of \$86,000 reached in wrongful death case (1995 suicide in SHU) during pre-trial conference.

*Washington v. Adams (LOM)* Petition for Writ of Habeas Corpus contesting classification matter dismissed. Inmate has indicated he will appeal.

*Woodworth v. U.S. (LOS)* FTCA complaint regarding exposure to toxic chemicals in UNICOR was dismissed by court citing exclusiveness of Inmate Accident Compensation Act.

Status reports have been filed in remaining Petitions for Writ of Habeas Corpus seeking 3621(e) eligibility which were stayed pending *Lopez v. Davis*. A ruling on all cases expected soon.

#### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Referred	15	17	14	25	9	10	29					
Accepted	0	3	2	4	2	1	2					
Declined	12	9	9	16	4	7	18					
Pending Decision	59	64	38	72	75	77	86					

## **NEW INFORMATION ON ACTIVE PROSECUTIONS**

### **ASSAULT**

*U.S. v. Bass* (SHE) Indictment anticipated in inmate assault on several staff.

*U.S. v. Escano* (TCN) Inmate on staff assault trial scheduled for August 28, 2001.

*U.S. v. Lauka* (SHE) Inmate on inmate assault (with razor blade requiring 34 sutures to close injury) accepted for prosecution.

*U.S. v. Milton, et al.* (LOM) Inmate Krause sentencing continued to August 27, 2001.

*U.S. v. Mendoza-Aguilar* (TCN) Inmate on staff assault trial postponed to September 18, 2001.

*U.S. v. Ponce-Hernandez* (TCN) Inmate on staff assault trial set for August 14, 2001.

*U.S. v. Suarez, et al.* (LOS) Inmate on staff assault case. Defendant Pedro pled guilty to obstructing/impeding officer and was sentenced to six months incarceration with two years supervised release to follow. Defendant Suarez pled guilty to assaulting an officer resulting in bodily injury and was sentenced to 18 months incarceration with two years supervised release to follow. The latter's sentence to run concurrent to any other federal sentence.

### **ESCAPE**

*U.S. v. DiCarlo* (PHX) Inmate charged with escape from CCC and is suspected of several bank robberies in two states. Expected to be charged with these offenses as well.

### **CONTRABAND**

*U.S. v. Butler & Thomas* (SHE) Through telephone monitoring, inmates were discovered planning to introduce narcotics through visiting room. Following visit and during dry cell monitoring of both inmates, 21 balloons containing marijuana were discovered. Additionally, inmates' visitors relinquished to staff 12 balloons of marijuana. Later at the motel where the visitors were staying, they relinquished an additional 51 balloons of marijuana to FBI.

*U.S. v. Gonzalez* (PHX) Inmate pled guilty to possession of contraband in prison (heroin) and received 27 month sentence consecutive to current sentence.

*U.S. v. Hankey* (LOM) Inmate pled guilty to possession with intent to distribute. Sentencing hearing continued to August 20, 2001.

U.S. v. Kumar (LOM) Trial continued to October 2, 2001.

U.S. v. Marin-Cuevas (SHE) Inmate expected to be indicted on charges of introduction of narcotics into FCI Sheridan.

U.S. v. Martinez (LOM) Inmate visitor case. Trial set for August 7, 2001, but plea is anticipated.

U.S. v. Parrado-Herrera (PHX) Trial for possession of contraband in prison (received heroin and marijuana in visiting room) postponed to September 4, 2001.

#### STAFF

U.S. v. Donaldson (DUB) Former Recreation Specialist charged with sexual contact with a ward. Charges dismissed pending new indictment.

U.S. v. McKnight (PHX) Sentencing of retired Assistant Food Service Administrator pleading guilty to two counts of sexual abuse of a ward postponed to a later date due to defense counsel illness.

#### STATISTICS

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67	104	65	67	67	34	34				

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35	48	32	51	42	40					
CLOSED	37	30	53	33	49	36	49					
PENDING	38	43	38	37	39	45	36					
30 DAYS	0	1	0	4*	6*	5*	7*					
6 MONTHS	0	0	0	0	0	0	0					
APPEALS	3	6	5	0	2	4	2					

\*Waiting for records from Archives, not considered overdue.

**FOI/PA PENDING MORE THAN 20 DAYS:**

DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

**LITIGATION:**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>OPEN AT BEGINNING OF MONTH</b>	476	479	473	477	472	474	475					
<b>NEW CASES RECEIVED</b>	11	5	14	10	9	8	4					
<b>HC</b>	8	3	6	8	5	5	2					
<b>FTCA</b>	0	0	2	2	0	0	0					
<b>BIVENS</b>	3	2	3	0	1	1	1					
<b>OTHER</b>	0	0	3	0	3	2	1					
<b>CLOSED</b>	8	11	10	15	7	7	10					
<b>PENDING AT END OF MONTH</b>	479	473	477	472	474	475	469					
<b>LITIGATION REPORTS COMPLETED</b>	7	8	12	8	8	9	6					

ADMINISTRATIVE TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	40	26	43	40	45	41	39					
CLOSED	45	33	23	28	91	18	30					
RECONSIDER	0	0	0	0	0	0	0					
PENDING	98	91	111	123	98	121	128					
OVER 6 MONTHS	0	0	0	0	0	0	0					

Tort Claim Investigations Over 60 Days:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

#### MISCELLANEOUS

U.S. District Court Judge Rosalyn Silver and staff toured FCI Phoenix July 10, 2001.

FCI Phoenix Warden Ellis met with federal judges and other Phoenix-area federal law enforcement heads June 27 to discuss issues of mutual concern.

On July 19, 2001, three Phoenix city officials and an engineering consulting firm met with FCI Phoenix staff to discuss possible location of landfill adjacent to FCI Phoenix. Three agency attorneys from Real Estate section appeared telephonically at the hearing. City personnel stated the nearby site is one of eight locations being considered for the landfill. They indicated a strong preference for this site due to anticipated transportation savings in the amount of several hundred million dollars.

On July 16, 2001, CLC SeaTac Attorney Doug Goldring met with the new Civil Chief and current Criminal Chief of the U.S. Attorneys Office, Portland, Oregon, to discuss relations between agencies. It was felt the meetings were extremely positive.

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<sup>1</sup> Numbers adjusted as of June 1, 2001, by researching Lawpack.





**U.S. Department of Justice**

**Federal Bureau of Prisons**

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*Dublin, California 94568*

September 6, 2001

**MEMORANDUM FOR CHRISTOPHER ERLEWINE, ASSISTANT DIRECTOR/  
GENERAL COUNSEL, GENERAL COUNSEL & REVIEW**

**FROM:** Harlan W. Penn, Regional Counsel

**SUBJECT:** Monthly Report for August 2001

**LITIGATION**

**NEW CASES (3621(e))**

*Brown v. Hood, Junker v. Hood, McKinzie v. Hood, Norgaard v. Hood, Tuite v. Hood (SHE)* Petitions for Writ of Habeas Corpus attempting to invalidate DAP regulations as violative of the APA.

*Samson v. Slade (VIM)* Petition for Writ of Habeas Corpus contesting 3621(e) ineligibility due to conviction for felon in possession of a firearm.

**NEW CASES (Non 3621(e))**

*Billman v. Herrera (LOM)* Petition for Writ of Habeas Corpus contesting parole status and discipline finding while at CCC.

*Bourgeois v. Herrera (LOM)* Petition for Writ of Habeas Corpus seeking jail credit.

*Diamond v. Herrera (LOM)* Petition for Writ of Habeas Corpus contesting DHO action.

*Harden v. Herrera, U.S. v. Montalvo, Marulanda v. Herrera, Hellum v. Herrera, Ortiz-Martinez v. Herrera (LOM)* Motions or petitions seeking stay of transfer to USP Pollock. Petitioners/movants at various stages of designation or transfer. Some petitioners are contesting underlying criminal convictions.

*Janis v. Reno, et al.* (LOM) *Bivens* complaint alleging numerous civil rights violations at various institutions. Seventy-six defendants are named.

*Laza v. Herrera* (LOM) Petition for Writ of Habeas Corpus challenging continued confinement. Petitioner is INS detainee, Mariel Cuban.

*Merz v. Barron* (LOM) Petition for Writ of Habeas Corpus contesting DHO action.

*Palmer v. U.S. DOJ* (SAF) FTCA complaint alleging denial of dental implants while at FCI Safford and denial of implants and floss while in county facility as pre-trial detainee.

*Renteria-Ambriz v. Pontesso* (PHX) Petition for Writ of Habeas Corpus seeking jail credit already credited toward state sentence.

*Uplinger v. Barron* (LOM) *Bivens* complaint contesting constitutionality of testing under the DNA Backlog Elimination Act.

*U.S. v. Welty* (TCN) Petition for Writ of Habeas Corpus seeking pretrial sentence credit for period served on state sentence.

*Wolff v. Hood* (SHE) *Bivens* complaint alleges no-smoking policy in SHU violates plaintiff's rights and results in physical and emotion suffering.

#### **SIGNIFICANT DEVELOPMENTS/APPEALS**

*Ames v. Pontesso* (PHX) FTCA complaint regarding lost property dismissed on account of law enforcement exception.

*Balam-Pech v. Pontesso* (PHX) Petition for Writ of Habeas Corpus contesting DHO finding dismissed.

*Breen v. Hood* (SHE) Ninth Circuit upheld district court's denial of Petition for Writ of Habeas Corpus seeking 3621(e) eligibility notwithstanding prior bank robbery.

*Coupar v. Siefert* (LOS) FTCA/*Bivens* complaint alleging Warden denied phone calls and visits was dismissed without prejudice to plaintiff commencing new action after exhausting FTCA and administrative remedies.

*Foley-Clark v. U.S.* (DUB) FTCA action filed by former inmate who wore wire during investigation which resulted in prosecution of staff for inmate sexual abuse. Continuing to prepare interrogatories for plaintiff. Deposition of plaintiff anticipated in the near future.

*Hsia v. Barron, et al.*, (LOM) Petition for Writ of Habeas Corpus seeking jail credit denied.

*Puerta v. US, et al.*, (LOM) Ninth Circuit affirmed lower court's dismissal of FTCA/*Bivens* complaint alleging inadequate medical care, improper job assignment, and inadequate access to law library.

*Rose v. Adams, et al.*, (LOM) *Bivens* complaint alleging sexual harassment by staff dismissed.

*Tezak v. Pendleton* (TCN) Petition for Writ of Habeas Corpus seeking 3621(e) eligibility notwithstanding conviction for threatening a witness was denied.

*Vander v. U.S. DOJ* (SAF) Oral argument scheduled for September 9 in case claiming Inmate Accident Compensation Act is not the exclusive remedy against U.S. when inmate suffers work-related injury.

*Wood v. Pontesso* (PHX) Petition for Writ of Habeas Corpus seeking 3621(e) eligibility denied.

#### CRIMINAL CASE TRACKING

Criminal Cases												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Referred	15	17	14	25	9	10	29	34				
Accepted	0	3	2	4	2	1	2	1				
Declined	12	9	9	16	4	7	18	16				
Pending Decision	59	64	38	72	75	77	86	103				

#### NEW INFORMATION ON ACTIVE PROSECUTIONS

##### HOMICIDE

*U.S. v. Greene* (LOM) Interim report concerning defendant's competency issued. Status hearing set for September 17, 2001.

##### ASSAULT

*U.S. v. Escano* (TCN) Inmate on staff assault trial scheduled for October 16, 2001.

*U.S. v. Milton, et al.* (LOM) Inmate on staff assault. Inmate Krause sentenced to 120 months confinement, consecutive to current term. Also ordered to pay \$6,678 restitution and \$100 special assessment.

*U.S. v. Mendoza-Aguilar* (TCN) Inmate on staff assault trial postponed to October 30, 2001.

*U.S. v. Mosqueda-Gonzalez* (TCN) Inmate to be arraigned September 5 for abusive sexual contact and assault on federal officer.

*U.S. v. Ponce-Hernandez* (TCN) Inmate on staff assault trial set for September 18, 2001.

#### **ESCAPE**

*U.S. v. Javier* (TCN) Inmate escape from CCC to be tried October 2, 2001.

*U.S. v. Layne* (PHX) Inmate escape from CCC trial continued to October 2, 2001. Plea agreement expected.

*U.S. v. Pedro* (TCN) Inmate escape from CCC sentenced to 6 month consecutive term.

*U.S. v. Thomas* (PHX) Inmate escape from CCC to be tried September 25, 2001.

#### **CONTRABAND**

*U.S. v. Davis* (LOS) Indictment filed against inmate for possessing contraband (amphetamines and marijuana) in prison.

*U.S. v. Hankey* (LOM) Inmate pled guilty to possession with intent to distribute; sentenced to 151 months consecutive to current term.

*U.S. v. Martinez* (LOM) Inmate visitor case. Defendant pled guilty to attempting to provide contraband to prison inmate. Sentencing set for October 15, 2001.

*U.S. v. Parrado-Herrera* (PHX) Trial for possession of contraband in prison (received heroin and marijuana in visiting room) postponed to October 9, 2001. Guilty plea anticipated.

*U.S. v. Rosales* (TRM) Indictment file against inmate for possessing contraband (heroin) in prison.

#### **STAFF**

*U.S. v. McKnight* (PHX) Sentencing of retired Assistant Food Service Administrator pleading guilty to two counts of sexual abuse of a ward postponed to October 4, 2001.

# STATISTICS

ADMINISTRATIVE REMEDIES											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
98	67	104	65	67	67	34	116				

FREEDOM OF INFORMATION/PRIVACY ACT:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	43	35	48	32	51	42	40	49				
CLOSED	37	30	53	33	49	36	49	47				
PENDING	38	43	38	37	39	45	36	38				
30 DAYS	0	1	0	4*	6*	5*	7*	7*				
6 MONTHS	0	0	0	0	0	0	0	0				
APPEALS	3	6	5	0	2	4	2	2				

\*Waiting for records from Archives, not considered overdue.

NUMBER OF FOI/PA PENDING:														
ATW	DUB	LOM	HON	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	OTHER
0	7	6	1	0	3	3	1	0	7	0	2	1	0	7

LITIGATION:												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
OPEN AT BEGINNING OF MONTH	476	479	473	477	472	474	475	469				
NEW CASES RECEIVED	11	5	14	10	9	8	4	22				
HC	8	3	6	8	5	5	2	13				
FTCA	0	0	2	2	0	0	0	1				
BIVENS	3	2	3	0	1	1	1	3				

LITIGATION:												
OTHER	0	0	3	0	3	2	1	5				
CLOSED	8	11	10	15	7	7	10	9				
PENDING AT END OF MONTH	479	473	477	472	474	475	469	482				
LITIGATION REPORTS COMPLETED	7	8	12	8	8	9	6	10				

ADMINISTRATIVE TORT CLAIMS												
	JAN	FEB	MAR	APR	MAY <sup>1</sup>	JUN	JUL	AUG	SEP	OCT	NOV	DEC
RECEIVED	40	26	43	40	45	41	39	47				
CLOSED	45	33	23	28	91	18	30	68				
RECONSIDER	0	0	0	0	0	0	0	0				
PENDING	98	91	111	123	98	121	128	107				
OVER 6 MONTHS	0	0	0	0	0	0	0	1				

Tort Claim Investigations Over 60 Days:														
DUB	LOF	LOM	LOS	NEL	PHX	SAF	SDC	SET	SHE	TCI	TCN	TRM	VIM	TOTAL
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

<sup>1</sup> Numbers adjusted as of June 1, 2001, by researching Lawpack.