



U.S. Department of Justice
Federal Bureau of Prisons

Office of the Regional Director

Dublin, California 94568

April 23, 1997

MEMORANDUM TO WALLACE H. CHENEY, GENERAL COUNSEL

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

SUBJECT: Quarterly Report, Jan.-Mar. 1997

The following significant hearings or trials were held this quarter:

U.S. v. Larry Dean Murgage, murder of LOM inmate in which staff member died of a heart attack responding. Convicted at trial January 6, 1997.

Ramirez-Pacheco v. Reno (LOM), EEO case filed by former physician who claims he was harassed at FPC Lompoc because of his nationality. Trial January 21, 1997. Government found not liable.

Farmer's Insurance v. USA (BRN), FTCA case where civilian alleges inmate town driver caused collision. Trial February 27, 1997 in Los Angeles. Judge took under advisement and will issue decision by mail.

Jerry Michael Hildum v. United States, (SHE), trial February 12-13, 1997. Inmate alleged sexual assault by correctional officer. Court found plaintiff failed to prove case by preponderance of evidence and dismissed, entering judgment for defendants. AUSA Ken Bauman and SHE Attorney Toni Brown represented the defendant.

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The following are settlements this quarter:

Jimmy Joe Fields v. BOP, District of New Mexico. Estate of deceased inmate agreed to settle for \$40,000. Inmate, released from FCI Safford, alleged inadequate medical diagnosis and care for throat cancer.

Gainey v. Reno (TCN), EEO case filed by staff member at FCI TCN alleging that he suffered discrimination on the basis of status as a Native American and was victim of retaliation for filing EEO complaints. Mediation Hearing on March 7 resulted in settlement in the amount of \$182,000 including attorneys fees. Central Office staff represented BOP at mediation.

Please do not hesitate to contact our office if additional information is needed.

LITIGATION - - March QUARTER REPORT 1997

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
MXR												\$
NCR												\$
NER												\$
SCR												\$
SER												\$
WXR	56	31	7	14	4	29	335	65	4	0	2	\$ 222,000
CO												\$
TOT												\$

DEFINITIONS

LOC - Location
 NUM - Total Number of Lawsuits Filed in Quarter
 HC - Number of Habeas Corpus Actions Filed in Quarter
 FTC - Number of FTCA Actions Filed in Quarter
 BIV - Number of Bivens Actions Filed in Quarter
 OTH - Other Actions Filed in Quarter
 ANS - Number of Litigation Reports Completed
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LITIGATION ANALYSIS

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Tort Claims Second Quarter - FY97 (January 01, 1997 - March 31, 1997)

	Num	PP	PI	PPPI	WD	Med	Set	Amnt	Pen	Den	OD	A/O	A/P
	125	90	26	5	0	4	20	2385	95	122	4	46	100

	Variable Definition	Time Period
Num	Number of claims filed	01/01/97 =< D_Accept <= 03/31/97
PP	Personal Property claims	01/01/97 =< D_Accept <= 03/31/97
PI	Personal Injury claims	01/01/97 =< D_Accept <= 03/31/97
PPPI	Both PP & PI claims	01/01/97 =< D_Accept <= 03/31/97
WD	Wrongful Death claims	01/01/97 =< D_Accept <= 03/31/97
Med	Medical claims	01/01/97 =< D_Accept <= 03/31/97
Set	Settled/approved claims	01/01/97 =< D_Closed <= 03/31/97
Amnt	Amount paid	01/01/97 =< D_Closed <= 03/31/97
Pen	Pending/open claims	>> Entire Database <<
Den	Number of claims Denied	01/01/97 =< D_Closed <= 03/31/97
OD	Number of claims OverDue	>> Entire Database <<
A/O	Avg number of days Overdue	01/01/97 =< D_Closed <= 03/31/97
A/P	Avg number of days to Process ..	01/01/97 =< D_Closed <= 03/31/97
> Med	PIM+ WDM+ PPPIM+ PPWDM	> WD = WD+ PPWD

> Press any key to continue <



OPTIONAL FORM 88 (7-80)

FAX TRANSMITTAL

of pages > 6

To <i>Myra Hedin</i>	From <i>Harlan Penn</i>
Dept./Agency	Phone #
Fax #	Fax #

Justice
of Prisons

NSN 7540-01-317-7388

5088-101

GENERAL SERVICES ADMINISTRATION

Office of the Regional Director

Dublin, California 94568

June 11, 1998

MEMORANDUM TO WALLACE H. CHENEY, GENERAL COUNSEL

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

SUBJECT: Quarterly Reports for October to December, 1997
and January to March, 1998.

Attached are the FOI/PA and litigation forms reporting information for the October to December, 1997 quarter and the January to March, 1998 quarter. I believed the earlier period had been reported but cannot locate a copy of that report so it is being submitted now.

October to December, 1997.

There were two settlements or awards requiring narrative analysis during this period. There were no trials or hearings noted.

Harvin v. BOP (LOF). Bivens action filed by inmate who alleges he is Native American and claims he was denied Sweat Lodge. Inmate stipulated with Government that he was permitted to sweat and case was dismissed. He has now been released. No admission of liability, no financial compensation.

Janice West v. United States (DUB). FTCA action alleging visitor fell on broken walkway at DUB. Case settled for \$50,000.00.

January to March, 1998.

There were two settlements or awards requiring narrative analysis during this period. There were no trials or hearings noted. The unusually large number of closed cases reflects a review of all files with information from the Pacer system.

Wickliffe v. United States (NEL/LOF). FTCA case regarding lost inmate property settled for \$124.00. Form 40s could not establish proper handling of inmate's property between institutions.

Lucas v. White (DUB). FTCA, Bivens and injunctive action by three female inmates alleging they were subjected to sexual abuse and harassment. Private Settlement agreement to dismiss action in return for various training and policy initiatives and the payment of \$500,000.

Please do not hesitate to contact this office if additional information is needed.

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
MXR												\$
NCR												\$
NER												\$
SCR												\$
SER												\$
WXR	59	41	7	11	2	36	308	157			2	\$500,124
CO												\$
TOT												\$

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LITIGATION ANALYSIS

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LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
MXR												\$
NCR												\$
NER												\$
SCR												\$
SER												\$
WXR	51	37	4	7	3	27	407	31	0	0	2	\$ 50,000
CO												\$
TOT												\$

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LITIGATION ANALYSIS

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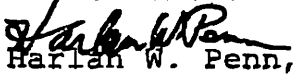
U.S. Department of Justice
Federal Bureau of Prisons

Office of the Regional Director

Dublin, California 94568

July 11, 1997

MEMORANDUM TO WALLACE H. CHENEY, GENERAL COUNSEL

FROM:  Harlan W. Penn, Regional Counsel

SUBJECT: April 1 - June 30, 1997 Quarterly Report

Attached are the statistical data for the Western Region for this quarter. The award and settlement figure reflects one award (actually a settlement reached in lieu of appeal after an adverse verdict) and two settlements.

(1) Graham v. USA was an FTCA action in which an inmate was hit by a roll of roofing material that fell through the roof of food service at FCI, Dublin. The matter settled for \$3500.

(2) Asberry v. BOP was an EEO action in which an employee was discharged from MDC, Los Angeles after episodes indicating he was unable to perform his duties. He asserted that he was the victim of retaliation for assisting female employees in reporting sexual harassment. The jury awarded him \$500,000 and the United States settled for a total of \$280,000, inclusive of attorneys fees.

(3) Moracco v. Reno was an FTCA action in which a former inmate at FCI, Safford complained that he was injured when he fell from a van while in leg irons and other restraints. The United States Attorneys Office in Tucson agreed to settle for \$12,363.

Please do not hesitate to contact me if you need additional information.

LITIGATION -

QUARTER REPORT

LOC	NUM	HC	FTC	BIV	OTH	ANS	PEN	CLD	H/T	AWD	SET	AWD/SET
MXR												\$
NCR												\$
NER												\$
SCR												\$
SER												\$
WXR	57	44	2	8	3	26	352	40	1	1	2	\$ 296,863
CO												\$
TOT												\$

DEFINITIONS

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LITIGATION ANALYSIS

Tort Claims Third Quarter - FY97 (April 01, 1997 - June 30, 1997)

BELOW ARE SUGGESTED TABLES FOR REPORTING REQUESTED DATA FOR OFFICE OF GENERAL COUNSEL. APPROPRIATE NARRATIVE ANALYSIS WILL BE INCLUDED.

TORT CLAIMS

LOC	NUM	PROP	PI	APPR	AMT	DEN	PEND	OD	A/O	A/P
WXR	129	92	24	10	795	61	121	6	38	64

<u>WD</u>	<u>MED</u>	<u>PPPI</u>
0	10	3

DEFINITIONS

- LOC - LOCATION
- NUM - NUMBER FILED IN QUARTER
- PROP - PROPERTY CLAIM
- PI - PERSONAL INJURY CLAIM
- APPR - APPROVED
- AMT - TOTAL AMOUNT APPROVED
- DEN - DENIED
- PEND - PENDING
- OD - NUMBER OVERDUE
- A/O - AVERAGE NUMBER OF DAYS OVERDUE
- A/P - AVERAGE LENGTH OF TIME TO PROCESS
- W/D - Wrongful Death
- MED - PIM & WDM & PPIM & PPWDM
- PPPI - Both Property and Personal Injury



U.S. Department of Justice

Federal Bureau of Prisons

Nothing to be reactivated
3/23/98

Office of the Regional Director

Dublin, California 94568

March 23, 1998

MEMORANDUM TO WALLACE H. CHENEY, GENERAL COUNSEL

FROM: Harlan W. Penn, Regional Counsel

SUBJECT: Quarterly Report for Period July to September, 1997

Attached are the FOI/PA and litigation forms reporting information for the July to September, 1997 quarter. As explained in the following paragraph, I am not including the Tort or Administrative Remedy forms this quarter.

Unless specifically requested, we will not include Tort, FOI or Administrative Remedy statistical forms in future quarterly reports. In each case the forms used require data already available in Central Office to be electronically or manually compiled here and then typed onto a blank form that is then faxed or mailed to Central Office and then, if used in further reports, copied from the faxed or mailed copy. The possibilities of clerical error are significant. The Tort information is compiled from the Tort Data Base which we transmit monthly to the DOJ Branch. The FOI reporting requirements have changed significantly in recent months. We provide the requested information to Renee Barley at the beginning of each month and also include information in the monthly report which is distributed by E-mail. The Central Office data base also has some of the information although it may not include all that is required by new DOJ Guidelines. Administrative Remedy information provided in previous reports was entirely transcribed from Sentry and then typed onto a form as described above. Eliminating the regional transcription and transmission of these statistics will save staff time and should improve the accuracy of national reports.

There were no settlements or awards requiring narrative analysis during the July to September period. The trials or hearings noted are described below:

U.S. v. Zubick, CV 97-3555-JGD (CDCA). [LOS] Three hearings held in Los Angeles re sentence computation/credit issues. Writ granted and inmate release ordered July 30, 1997. Case was unusually complicated by repeated efforts of District Court to revise sentence to take into account Ninth Circuit orders regarding two prosecutions involving similar conduct under old and new law.

Naidenoff v. Stratman, CV 96-2008 BTM(CGA) (CDCA). [SDC/PHX] Court-ordered immediate release of inmate following hearing regarding imposition of Special Parole Term Violation sentence and resulting computation based upon Parole Commission Notice of Action.

Low v. Clarke-Cain, CV 95-0888 RMT(SHx) (CDCA). [BRN] Religious Freedom Restoration Act case in which inmate seeks injunctive relief for practice of Satmar sect of Hasidic Judaism. Trial held September 29-30, 1997 in Los Angeles, but recessed for settlement discussions. Previously the Court ordered Low placed in a halfway house for High Holidays.



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Regional Director

Dublin, California 94568

January 14, 1998

MEMORANDUM TO WALLACE H. CHENEY, GENERAL COUNSEL

FROM: Harlan W. Penn, Regional Counsel

SUBJECT: Quarterly Report for Period July to September, 1997
Fourth Quarter FY'97

Attached are the FOI/PA and litigation forms reporting information for the July to September, 1997 quarter. As explained in the following paragraph, I am not including the Tort or Administrative Remedy forms this quarter.

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MXR												\$
NCR												\$
NER												\$
SCR												\$
SER												\$
WXR	49	34	2	5	7	20	387	14	3	0	0	\$ 0
CO												\$
TOT												\$

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LITIGATION ANALYSIS

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