

Department of Correction Survey on Inmate Litigation (July 10, 2001)

This survey has five parts. Part I asks a few questions about the survey taker’s department/job. The rest is more in-depth: Part II asks about individual inmate lawsuits (cases brought by one or a few inmates or their families, nearly always seeking money damages), Part III about class action lawsuits (cases brought in the name of a large group of inmates, often seeking both money damages and some kind of court-ordered injunctive relief), Part IV about longstanding court orders (both current orders and recently terminated orders), and Part V asks for some overall assessments. In each case, any question about a “department” is intended to include cases involving the entire department or any inmate-related facility within it.

Check or X all that apply; fill in blanks where applicable.

I. Background	
1. What is the name/state of your department?	
2. What is the typical average daily population?	_____ ADP
3. What is rated/design capacity?	_____ capacity
4. What is the annual number of people admitted?	_____ annual admissions ___ DON'T KNOW
5. What is your job title/description?	(this question is directed at the primary survey-taker)
6. How much of your typical working week is spent on matters relating to inmate litigation?	___ (a) All or nearly all ___ (b) At least half ___ (c) Under half, but a significant amount ___ (d) Some ___ (e) Hardly any
7. Which (if any) of the following does your department have and use in responding to inmate litigation ?	check all that apply: ___ (a) Department counsel ___ (b) Attorney General's office lawyers ___ (c) outside counsel ___ (d) compliance officers ___ (e) litigation officers ___ (f) risk management personnel ___ (g) other: _____ ___ DON'T KNOW

II. INDIVIDUAL INMATE LAWSUITS	
<p>8. About how many individual inmate lawsuits (cases filed by one or a small group of inmates, usually seeking monetary compensation for some claimed injury) are filed against your department (or any facility in it) in a year?</p>	<p>___ individual inmate lawsuits/year</p> <p>___ DON'T KNOW</p>
<p>9. Over the past few years, what portion of the individual inmate lawsuits seek some kind of relief instead of or in addition to money damages? (e.g., change in policy, medical treatment, etc.)</p>	<p>Portion of individual inmate lawsuits seeking non-monetary relief:</p> <p>___ (a) none or almost none</p> <p>___ (b) some</p> <p>___ (c) about half</p> <p>___ (d) more than half</p> <p>___ (e) nearly all or all</p> <p>___ DON'T KNOW</p>
<p>10. Over the past few years, what have been the topics of these individual inmate lawsuits? (Check each that applies, or, if you know, estimate number.)</p>	<p>Check each that applies, or, if you know, estimate number per year:</p> <p>___ a) crowding</p> <p>___ b) medical facilities, staff, practices, or procedures</p> <p>___ c) suicide prevention</p> <p>___ d) use of force</p> <p>___ e) administrative segregation</p> <p>___ f) protective custody</p> <p>___ g) disciplinary segregation</p> <p>___ h) disciplinary procedures</p> <p>___ i) inmate-on-inmate violence</p> <p>___ j) other personal injury (e.g., slip & fall, work injury)</p> <p>___ k) loss or damage to property</p> <p>___ l) search policies</p> <p>___ m) security staffing</p> <p>___ n) counseling programs or staffing</p> <p>___ o) food services/nutrition/diet</p> <p>___ p) sanitation/living conditions</p> <p>___ q) recreation</p> <p>___ r) visiting, mail, phone</p> <p>___ s) fire safety</p> <p>___ t) access to lawyers</p> <p>___ u) law library services</p> <p>___ v) other library services</p> <p>___ w) religious programs or policies</p> <p>___ x) gender equity</p> <p>___ y) sexual assault/coercive sex by officer</p> <p>___ z) race discrimination</p> <p>___ aa) "totality of conditions"</p> <p>___ bb) other: _____</p> <p>___ DON'T KNOW</p>
<p>11. Over the past few years, approximately what portion of the individual inmate lawsuits have been filed in state court and in federal court?</p>	<p>___ % are filed in state court</p> <p>___ % are filed in federal court</p> <p>___ DON'T KNOW</p>

<p>12. Over the past three years, have the inmate plaintiffs in any of these individual inmate lawsuits been represented by counsel? Which ones? (Again, check each that applies, or, if you know, estimate the number.)</p>	<p>Estimated percentage of individual inmate lawsuits in which inmates are represented by counsel: _____%</p> <p>Check each that applies, or approx. # per year or %.</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>13. Over the past three years, has your department (or any facility in it) settled any individual inmate lawsuits for more than token damages?</p> <p>Check any that apply:</p>	<p><input type="checkbox"/> NO</p> <p>If any, check each that applies, or, if you know, estimate number per year:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>

<p>14. Over the past three years, has your department lost any trials in any individual inmate lawsuits? Which ones?</p>	<p><input type="checkbox"/> NO</p> <p>Check each that applies, or (if you know) approx. #:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>15. Approximately how much money has your department paid out in settlements or litigated damages (judge or jury verdicts) over the past three years in individual inmate lawsuits?</p>	<p>Settlements and verdicts:</p> <p>_____ Total money paid out in individual lawsuits, including attorneys' fees, if any (write \$0 if none)</p> <p>_____ Attorneys' fees</p> <p>If you know, approx. amount paid out in each category:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>

<p>16. Currently, how important is your department's interest in avoiding/managing inmate individual inmate lawsuits for policy development or other planning?</p>	<p>___ (a) extremely important ___ (b) quite important ___ (c) somewhat important ___ (d) not very important ___ (e) not important at all</p> <p>___ DON'T KNOW</p>
<p>17. Currently, how burdensome are individual inmate lawsuits for your department?</p>	<p>___ (a) extremely burdensome ___ (b) quite burdensome ___ (c) somewhat burdensome ___ (d) not very burdensome ___ (e) not burdensome at all</p> <p>___ DON'T KNOW</p>
<p>18. Has your department changed any policies/procedures/ practices in recent years, as a result of individual inmate lawsuits?</p>	<p>___ (a) No ___ (b) Yes. ___ DON'T KNOW</p> <p>If yes, please describe:</p> <p>(continue on attached sheet if necessary)</p>
<p>19. What has been the impact of the federal Prison Litigation Reform Act (effective date 1996) and/or its state court counterparts on the individual inmate lawsuits filed against your department?</p>	<p>Check all that apply:</p> <p>___ (a) No impact</p> <hr/> <p>___ (b) Increase in total number of lawsuits ___ (c) Decrease in total number of lawsuits ___ (d) No change in total number of lawsuits</p> <hr/> <p>___ (e) Increase in number/proportion of frivolous lawsuits ___ (f) Decrease in number/proportion of frivolous lawsuits ___ (g) No change in number/proportion of frivolous lawsuits</p> <hr/> <p>___ (h) Increase in burden created by lawsuits ___ (i) Decrease in burden created by lawsuits ___ (j) No change in burden created by lawsuits</p> <hr/> <p>___ (k) Change in type/subject matter of lawsuits Please describe: _____ _____</p> <hr/> <p>(l) Other effect: _____</p> <hr/> <p>___ DON'T KNOW</p>

<p>20. Overall, in your opinion, how true are each of the following statements about individual inmate lawsuits:</p> <p>(a) "Individual Inmate litigation is a very good thing, overall. Although some of the cases are frivolous, the possibility of being sued encourages us to keep up with best practices."</p> <p>(b) "Individual inmate litigation is sometimes justified – where something went seriously wrong, it's only fair that we be held accountable. But such cases are few and far between. Most of the lawsuits are totally unjustified and a waste of time."</p> <p>(c) "Overall, inmates just shouldn't be allowed to sue, especially for damages. The lawsuits they file aren't just frivolous, they're harassment. People should be able to do the difficult job of running a prison without looking over their shoulders and having to justify their decisions to some judge."</p>	<p>Please answer each: 1= entirely true 5 = entirely false</p> <p>(a) 1 2 3 4 5</p> <p>(b) 1 2 3 4 5</p> <p>(c) 1 2 3 4 5</p>
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III. CLASS ACTION LAWSUITS	
<p>21. Estimate the number of inmate class action lawsuits (cases brought in the name of a large group of inmates, often seeking both money damages and some kind of court-ordered relief), filed against your department (or any facilities in it) over the last three years. If none, skip to question 32 (page 11).</p>	<p>___ No class action lawsuits in three years</p> <p>IF NO LAWSUITS, SKIP TO QUESTION 32 (page 11).</p> <p>___ class action lawsuits in three years.</p> <p>___ DON'T KNOW</p>
<p>22. Are the inmate class action lawsuits filed against your department (or any facility in it) typically focused on damages or on court-ordered (or negotiated) injunctive relief?</p>	<p>___ (a) damages</p> <p>___ (b) court ordered or negotiated injunctive relief</p> <p>___ (c) both, or it varies</p> <p>___ DON'T KNOW</p>
<p>23. What have been the topics of these inmate class action lawsuits (check each that applies, or, if you know, estimate number)</p>	<p>Check each that applies, or estimate number:</p> <p>___ a) crowding</p> <p>___ b) medical facilities, staff, practices, or procedures</p> <p>___ c) suicide prevention</p> <p>___ d) use of force</p> <p>___ e) administrative segregation</p> <p>___ f) protective custody</p> <p>___ g) disciplinary segregation</p> <p>___ h) disciplinary procedures</p> <p>___ i) inmate-on-inmate violence</p> <p>___ j) other personal injury (e.g., slip & fall, work injury)</p> <p>___ k) loss or damage to property</p> <p>___ l) search policies</p> <p>___ m) security staffing</p> <p>___ n) counseling programs or staffing</p> <p>___ o) food services/nutrition/diet</p> <p>___ p) sanitation/living conditions</p> <p>___ q) recreation</p> <p>___ r) visiting, mail, phone</p> <p>___ s) fire safety</p> <p>___ t) access to lawyers</p> <p>___ u) law library services</p> <p>___ v) other library services</p> <p>___ w) religious programs or policies</p> <p>___ x) gender equity</p> <p>___ y) sexual assault/coercive sex by officer</p> <p>___ z) race discrimination</p> <p>___ aa) "totality of conditions"</p> <p>___ bb) other: _____</p> <p>___ DON'T KNOW</p>
<p>24. Approximately what portion of the inmate class action lawsuits are filed in state court and in federal court?</p>	<p>___ % are filed in state court</p> <p>___ % are filed in federal court</p> <p>___ DON'T KNOW</p>

<p>25. Over the past three years, have the inmate plaintiffs in any of these class action lawsuits been represented by counsel? (Again, check each that applies, or, if you know, estimate number:)</p>	<p>Estimated percentage of class action lawsuits in which inmates are represented by counsel: _____%</p> <p>Check each that applies, or, if you know, number or %:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>26. Over the past three years, has your department settled any inmate class action lawsuits for injunctive relief (that is, resolved the case by agreement to take specified action to modify jail conditions or practices)?</p> <p>Check any that apply:</p>	<p><input type="checkbox"/> NO</p> <p>If any, check each that applies, or approx. number:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>

<p>27. Over the past three years, has your department settled any inmate class action lawsuit for more than token money damages?</p> <p>Check any that apply:</p>	<p><input type="checkbox"/> NO</p> <p>check each that applies or approx. number:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>28. Over the past three years, has your department lost any trials in any inmate class action lawsuits?</p>	<p><input type="checkbox"/> NO</p> <p>check each that applies or approx. number:</p> <p><input type="checkbox"/> a) crowding</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>

<p>32. Currently, how important is your department's interest in avoiding/managing inmate class action litigation for policy development or other planning?</p>	<p>___ (a) extremely important ___ (b) quite important ___ (c) somewhat important ___ (d) not very important ___ (e) not important at all ___ DON'T KNOW</p>
<p>33. What has been the impact of the federal Prison Litigation Reform Act and/or its state court counterparts on the inmate class action lawsuits filed against your department?</p>	<p>Check all that apply:</p> <p>___ (a) No impact (skip to question 34)</p> <hr/> <p>___ (b) Increase in total number of lawsuits ___ (c) Decrease in total number of lawsuits ___ (d) No change in total number of lawsuits</p> <hr/> <p>___ (e) Increase in number/proportion of frivolous lawsuits ___ (f) Decrease in number/proportion of frivolous lawsuits ___ (g) No change in number/proportion of frivolous lawsuits</p> <hr/> <p>___ (h) Increase in burden created by lawsuits ___ (i) Decrease in burden created by lawsuits ___ (j) No change in burden created by lawsuits</p> <hr/> <p>___ (k) Change in type/subject matter of lawsuits Please describe: _____ _____</p> <hr/> <p>(l) Other effect: _____</p> <hr/> <p>___ DON'T KNOW</p>

IV. Longstanding Court Orders and the Prison Litigation Reform Act	
<p>34. Does your department (or any facility in it) currently have any court orders (including consent decrees or other settlement agreements) governing any aspect of operations?</p> <p>IF NO, SKIP TO QUESTION 45 (page 15)</p> <p>Check any that apply:</p>	<p><input type="checkbox"/> No current court orders (SKIP TO QUESTION 45, page 15)</p> <p><input type="checkbox"/> Court order(s) relating to (check each that applies):</p> <p><input type="checkbox"/> a) crowding</p> <p style="padding-left: 40px;">Specify:</p> <p style="padding-left: 80px;"><input type="checkbox"/> Population cap or other release order</p> <p style="padding-left: 80px;"><input type="checkbox"/> No population cap or release order</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures</p> <p><input type="checkbox"/> c) suicide prevention</p> <p><input type="checkbox"/> d) use of force</p> <p><input type="checkbox"/> e) administrative segregation</p> <p><input type="checkbox"/> f) protective custody</p> <p><input type="checkbox"/> g) disciplinary segregation</p> <p><input type="checkbox"/> h) disciplinary procedures</p> <p><input type="checkbox"/> i) inmate-on-inmate violence</p> <p><input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury)</p> <p><input type="checkbox"/> k) loss or damage to property</p> <p><input type="checkbox"/> l) search policies</p> <p><input type="checkbox"/> m) security staffing</p> <p><input type="checkbox"/> n) counseling programs or staffing</p> <p><input type="checkbox"/> o) food services/nutrition/diet</p> <p><input type="checkbox"/> p) sanitation/living conditions</p> <p><input type="checkbox"/> q) recreation</p> <p><input type="checkbox"/> r) visiting, mail, phone</p> <p><input type="checkbox"/> s) fire safety</p> <p><input type="checkbox"/> t) access to lawyers</p> <p><input type="checkbox"/> u) law library services</p> <p><input type="checkbox"/> v) other library services</p> <p><input type="checkbox"/> w) religious programs or policies</p> <p><input type="checkbox"/> x) gender equity</p> <p><input type="checkbox"/> y) sexual assault/coercive sex by officer</p> <p><input type="checkbox"/> z) race discrimination</p> <p><input type="checkbox"/> aa) "totality of conditions"</p> <p><input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>35. How many court orders?</p>	<p><input type="text"/> court orders</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>36. Who asked the court to enter the orders?</p>	<p>Check all that apply:</p> <p><input type="checkbox"/> a) inmate law suit</p> <p><input type="checkbox"/> b) jail/county officials,</p> <p><input type="checkbox"/> c) other state or local officials (e.g. health or fire safety officials)</p> <p><input type="checkbox"/> d) federal government (Justice Department, or other)</p> <p><input type="checkbox"/> e) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>37. Are the orders in federal or state/local court?</p>	<p>Check all that apply:</p> <p><input type="checkbox"/> a) federal</p> <p><input type="checkbox"/> b) state or local</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>38. Were the orders entered pursuant to state law, local law, or federal law (including the federal Constitution)?</p>	<p>Check all that apply:</p> <p><input type="checkbox"/> a) local</p> <p><input type="checkbox"/> b) state</p> <p><input type="checkbox"/> c) federal</p> <p><input type="checkbox"/> DON'T KNOW</p>

<p>39. What was the origin of the orders (were they, for example, consent decrees or settlement agreements, or written by the court itself)?</p>	<p>Check all that apply:</p> <p><input type="checkbox"/> a) consent decree or otherwise entered on consent of the parties</p> <p><input type="checkbox"/> b) litigated and entered by the court without consent of the jail/county</p> <p><input type="checkbox"/> c) based on proposal of inmates' counsel</p> <p><input type="checkbox"/> d) based on proposal of jail/county officials</p> <p><input type="checkbox"/> e) based on joint proposal</p> <p><input type="checkbox"/> f) entered without trial</p> <p><input type="checkbox"/> g) entered after partial trial</p> <p><input type="checkbox"/> h) entered after complete trial (but before verdict/judgment)</p> <p><input type="checkbox"/> i) entered after judicial verdict/judgment</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>40. Has your department recently sought termination of the orders, under the Prison Litigation Reform Act?</p>	<p><input type="checkbox"/> (a) yes: termination sought, and case is pending</p> <p><input type="checkbox"/> (b) yes: termination sought but rejected by court</p> <p><input type="checkbox"/> (c) no</p> <p>If no, why not? _____</p> <p>_____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>41. Is your department currently in full compliance with any applicable orders? (Or, if an order has recently terminated, was your facility in compliance prior to termination?)</p>	<p><input type="checkbox"/> a) yes – and the court has said so</p> <p><input type="checkbox"/> b) yes – though the court has not acknowledged this</p> <p><input type="checkbox"/> c) yes – though the court found non-compliance</p> <p><input type="checkbox"/> d) no</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>42. As a result of the orders, has your department:</p>	
<p>(a) hired additional personnel? (if so, what kind)</p>	<p><input type="checkbox"/> a) no</p> <p><input type="checkbox"/> b) yes:</p> <p style="padding-left: 20px;"><input type="checkbox"/> (i) correctional,</p> <p style="padding-left: 20px;"><input type="checkbox"/> (ii) medical,</p> <p style="padding-left: 20px;"><input type="checkbox"/> (iii) counseling,</p> <p style="padding-left: 20px;"><input type="checkbox"/> (iv) other _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>(b) built new housing areas?</p>	<p><input type="checkbox"/> a) no</p> <p><input type="checkbox"/> b) yes:</p> <p style="padding-left: 20px;"><input type="checkbox"/> # of additional beds,</p> <p style="padding-left: 20px;"><input type="checkbox"/> # of replacement beds</p>
<p>(c) reduced population? How?</p>	<p><input type="checkbox"/> a) no</p> <p><input type="checkbox"/> b) yes (check all that apply):</p> <p style="padding-left: 20px;"><input type="checkbox"/> (i) refusing some new entries</p> <p style="padding-left: 20px;"><input type="checkbox"/> (ii) releasing inmates from confinement</p> <p style="padding-left: 20px;"><input type="checkbox"/> (iii) releasing inmates to other facility</p> <p style="padding-left: 20px;"><input type="checkbox"/> (iv) changed bail criteria/ procedures</p> <p style="padding-left: 20px;"><input type="checkbox"/> (v) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>

Margo Schlanger Inmate Litigation Survey

<p>(d) altered programming?</p>	<p>___ a) no ___ b) yes: how? _____ ___ DON'T KNOW</p>
<p>(e) changed some other aspect of operations/policy</p>	<p>___ a) no ___ b) yes: how? (describe below): ___ DON'T KNOW</p>
<p>43. In each of the specified areas, rate the impact of any court order governing conditions from 1 (most negative) to 5 (most positive)</p>	<p>a) inmate behavior (--) 1 2 3 4 5 (++) No impact</p> <p>b) inmate health (--) 1 2 3 4 5 (++) No impact</p> <p>c) physical plant (--) 1 2 3 4 5 (++) No impact</p> <p>d) staff morale (--) 1 2 3 4 5 (++) No impact</p> <p>e) overall functioning of facility (--) 1 2 3 4 5 (++) No impact</p> <p>f) other: (identify) _____ (--) 1 2 3 4 5 (++) No impact</p> <p>g) other: (identify) _____ (--) 1 2 3 4 5 (++) No impact</p> <p>___ DON'T KNOW</p>
<p>44. How expensive has compliance been?</p>	<p>___ a) not very expensive ___ b) somewhat expensive ___ c) very expensive</p> <p>Please estimate amount of money spent on compliance if possible: _____</p> <p>___ DON'T KNOW</p>

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<p>45. Has your department had any court orders governing any aspect of operations lifted over the past five years (i.e., since 1996)?</p> <p>If no, skip to question 57 (page 18)</p> <p>Check any that apply:</p>	<p><input type="checkbox"/> No recently ended court order(s): (SKIP TO QUESTION 57, page 18)</p> <p><input type="checkbox"/> Court order(s) were lifted that related to (check each that applies):</p> <p><input type="checkbox"/> a) crowding Specify: <input type="checkbox"/> Population cap <input type="checkbox"/> No population cap</p> <p><input type="checkbox"/> b) medical facilities, staff, practices, or procedures <input type="checkbox"/> c) suicide prevention <input type="checkbox"/> d) use of force <input type="checkbox"/> e) administrative segregation <input type="checkbox"/> f) protective custody <input type="checkbox"/> g) disciplinary segregation <input type="checkbox"/> h) disciplinary procedures <input type="checkbox"/> i) inmate-on-inmate violence <input type="checkbox"/> j) other personal injury (e.g., slip & fall, work injury) <input type="checkbox"/> k) loss or damage to property <input type="checkbox"/> l) search policies <input type="checkbox"/> m) security staffing <input type="checkbox"/> n) counseling programs or staffing <input type="checkbox"/> o) food services/nutrition/diet <input type="checkbox"/> p) sanitation/living conditions <input type="checkbox"/> q) recreation <input type="checkbox"/> r) visiting, mail, phone <input type="checkbox"/> s) fire safety <input type="checkbox"/> t) access to lawyers <input type="checkbox"/> u) law library services <input type="checkbox"/> v) other library services <input type="checkbox"/> w) religious programs or policies <input type="checkbox"/> x) gender equity <input type="checkbox"/> y) sexual assault/coercive sex by officer <input type="checkbox"/> z) race discrimination <input type="checkbox"/> aa) "totality of conditions" <input type="checkbox"/> bb) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>46. How many court orders lifted in the past five years?</p>	<p>_____ court orders lifted since 1996</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>47. Who asked the court to lift the order(s)?</p>	<p>Check all that apply:</p> <p><input type="checkbox"/> a) prison officials <input type="checkbox"/> b) other state or local officials: _____ <input type="checkbox"/> c) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>48. Were the orders in federal or state/local court?</p>	<p>Check all that apply:</p> <p><input type="checkbox"/> a) federal <input type="checkbox"/> b) state or local</p> <p><input type="checkbox"/> DON'T KNOW</p>

Margo Schlanger Inmate Litigation Survey

<p>49. Were the orders entered pursuant to state law, local law, or federal law (including the federal Constitution)?</p>	<p>Check all that apply: <input type="checkbox"/> a) local <input type="checkbox"/> b) state <input type="checkbox"/> c) federal <input type="checkbox"/> DON'T KNOW</p>
<p>50. What was the origin of the orders (were they, for example, a consent decree or settlement agreement, or written by the court itself).</p>	<p>Check all that apply: <input type="checkbox"/> a) consent decree or otherwise entered on consent of the parties <input type="checkbox"/> b) litigated and entered by the court without consent of the parties <input type="checkbox"/> c) based on proposal of inmates' counsel <input type="checkbox"/> d) based on proposal of prison/jail officials <input type="checkbox"/> e) based on joint proposal <input type="checkbox"/> f) entered without trial <input type="checkbox"/> g) entered after partial trial <input type="checkbox"/> h) entered after complete trial (but before verdict/judgment <input type="checkbox"/> i) entered after judicial verdict/judgment <input type="checkbox"/> DON'T KNOW</p>
<p>51. Why did the court orders get lifted?</p>	<p><input type="checkbox"/> a) Termination sought and granted under the Prison Litigation Reform Act <input type="checkbox"/> b) Order expired <input type="checkbox"/> c) Facility closed <input type="checkbox"/> d) Other: _____ <input type="checkbox"/> DON'T KNOW</p>
<p>52. Was your facility in full compliance with the orders prior to termination)</p>	<p><input type="checkbox"/> a) yes – and the court has said so <input type="checkbox"/> b) yes – though the court has not acknowledged this <input type="checkbox"/> c) yes – though the court found non-compliance <input type="checkbox"/> d) no <input type="checkbox"/> DON'T KNOW</p>
<p>53. As a result of the orders, did your department:</p>	
<p>(a) hire additional personnel? (if so, what kind)</p>	<p><input type="checkbox"/> a) no <input type="checkbox"/> b) yes: <input type="checkbox"/> (i) correctional, <input type="checkbox"/> (ii) medical, <input type="checkbox"/> (iii) counseling, <input type="checkbox"/> (iv) other _____ <input type="checkbox"/> DON'T KNOW</p>
<p>(b) build new housing areas?</p>	<p><input type="checkbox"/> a) no <input type="checkbox"/> b) yes: _____ # of additional beds, _____ # of replacement beds <input type="checkbox"/> DON'T KNOW</p>

Margo Schlanger Inmate Litigation Survey

<p>(c) reduce population? How?</p>	<p><input type="checkbox"/> a) no</p> <p><input type="checkbox"/> b) yes (check all that apply):</p> <p><input type="checkbox"/> (i) refusing some new entries</p> <p><input type="checkbox"/> (ii) releasing inmates from confinement</p> <p><input type="checkbox"/> (iii) releasing inmates to other facility</p> <p><input type="checkbox"/> (iv) changed bail criteria/ procedures</p> <p><input type="checkbox"/> (v) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>(d) alter programming?</p>	<p><input type="checkbox"/> a) no</p> <p><input type="checkbox"/> b) yes: how? _____</p> <p>_____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>(e) changed some other aspect of operations/policy</p>	<p><input type="checkbox"/> a) no</p> <p><input type="checkbox"/> b) yes: how? (describe):</p> <p>_____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>54. In each of the specified areas, rate the impact of the order(s) from 1 (most negative) to 5 (most positive)</p>	<p>a) inmate behavior (--) 1 2 3 4 5 (++) No impact</p> <p>b) inmate health (--) 1 2 3 4 5 (++) No impact</p> <p>c) physical plant (--) 1 2 3 4 5 (++) No impact</p> <p>d) staff morale (--) 1 2 3 4 5 (++) No impact</p> <p>e) overall functioning of facility (--) 1 2 3 4 5 (++) No impact</p> <p>f) other: (identify) _____ (--) 1 2 3 4 5 (++) No impact</p> <p>g) other: (identify) _____ (--) 1 2 3 4 5 (++) No impact</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>55. How expensive was compliance?</p>	<p><input type="checkbox"/> a) not very expensive</p> <p><input type="checkbox"/> b) somewhat expensive</p> <p><input type="checkbox"/> c) very expensive</p> <p>Please estimate amount of money spent on compliance if possible: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>

Margo Schlanger Inmate Litigation Survey

<p>56. Overall, in your opinion, how true are each of the following statements?</p> <p>(a) "For us, court orders have been a very good thing, overall. Although not every piece of the orders has been what we would choose, the orders have given us some of the tools we've needed to run our facility."</p> <p>(b) "Court orders are sometimes justified – where some major part of prison operations is out of control, it makes sense that a court would intervene. But such cases are few and far between. Most of the orders are totally unjustified and just waste time and money."</p> <p>(c) "Overall, courts shouldn't enforce inmates' 'rights' by injunctive orders. Court orders are just about substituting what a judge or an inmates' attorney wants for the more expert – and more accountable – judgment of the duly elected officials in my jurisdiction."</p>	<p>Please answer each one:</p> <p>1= entirely true 5 = entirely false</p> <p>(a) 1 2 3 4 5</p> <p>(b) 1 2 3 4 5</p> <p>(c) 1 2 3 4 5</p>
<p>V. OVERALL ASSESSMENT</p>	
<p>57. Who is most concerned about litigation in your department?</p>	<p><input type="checkbox"/> a) Line officers</p> <p><input type="checkbox"/> b) Supervisors</p> <p><input type="checkbox"/> c) Administrators/policymakers</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>58. The kind of litigation that we are the most concerned about is:</p>	<p><input type="checkbox"/> a) actions seeking damages</p> <p><input type="checkbox"/> b) actions seeking court orders/changes in policy</p> <p><input type="checkbox"/> c) both equally</p> <p><input type="checkbox"/> d) other: _____</p> <p><input type="checkbox"/> DON'T KNOW</p>
<p>COMMENTS: (feel free to continue on an attached sheet)</p>	

Margo Schlanger Inmate Litigation Survey

Margo Schlanger
Assistant Professor of Law
617-495-4626
mschlang@law.harvard.edu

Griswold 301
1525 Massachusetts Avenue

May 15, 2001

Dear Director []:

As you know, prison litigation is an important topic for any effort to understand the environment in which correctional policy is developed and implemented. But much of the scholarly work on prison litigation has been based primarily on anecdotal evidence of unusual cases. And much of the work has failed to engage what seems to me the crucial issue – the impact of litigation on prison operations. I am a professor at Harvard Law School, and my research is aimed at filling these gaps. My goal with the attached survey is to learn from the public servants who run prisons. I ask your help. By responding to the survey, or giving it to the person in your organization best equipped to fill it out, you will add importantly to the systematic understanding of prison litigation and its real effects and impacts.

It's difficult to say in general precisely who should fill out the survey for a given system. The best person is someone who is basically familiar with the different cases brought by that state's inmates. If anyone keeps litigation records or statistics, that person is ideal – but if there is no such person, a correctional policymaker who is well informed about inmate litigation would be appropriate. I would greatly appreciate the time of whatever staff member you feel is appropriate in filling it out.

Thank you for your assistance.

Sincerely,

Margo Schlanger

Margo Schlanger
Assistant Professor of Law
617-495-4626
mschlang@law.harvard.edu

Griswold 301
1525 Massachusetts Avenue

May 15, 2001

Dear Survey-taker:

As you know, inmate litigation is an important topic for any effort to understand the environment in which correctional policy is developed and implemented. But much of the scholarly work on prison litigation has been based primarily on anecdotal evidence of unusual cases. And much of the work has failed to engage what seems to me the crucial issue – the impact of litigation on prison operations. I am a professor at Harvard Law School, and my research is aimed at filling these gaps. My goal with the attached survey is to learn from the public servants who run prisons. I ask your help. By responding to the survey, you will add importantly to the systematic understanding of prison litigation and its real effects and impacts.

If you are willing to talk with me further about experiences with and impressions about prison inmate litigation, I would like to follow up a few of the surveys with a (very) brief interview. I ask for contact information at the end of the survey. But even if you are not interested in talking with me further, I greatly value the survey input. All answers will be held in confidence – I will report the results without identifying information, or else in an aggregate form.

The survey is a number of pages long, but it is actually less long than it looks. For many systems, many of the survey questions are inapplicable. Just leave those blank. In addition, many of the questions include the following list of case topics:

- a) crowding
- b) medical facilities, staff, practices, or procedures
- c) suicide prevention
- d) use of force
- e) administrative segregation
- f) protective custody
- g) disciplinary segregation
- h) disciplinary procedures
- i) inmate-on-inmate violence
- j) other personal injury (e.g., slip & fall, work injury)
- k) loss or damage to property
- l) search policies
- m) security staffing
- n) counseling programs or staffing
- o) food services/nutrition/diet
- p) sanitation/living conditions
- q) recreation
- r) visiting, mail, phone

Margo Schlanger Inmate Litigation Survey

- s) fire safety
- t) access to lawyers
- u) law library services
- v) other library services
- w) religious programs or policies
- x) gender equity
- y) sexual assault/coercive sex by officer
- z) race discrimination
- aa) "totality of conditions"
- bb) other: _____

DON'T KNOW

I know that the list is a little daunting, but it is designed to help the survey taker by cataloging the possible subject matters of cases. Please don't be put off by the list's length – it's the same each time it appears. And please don't worry about assessing which subject matter is *most* applicable – just check off all that apply in a given question. That is, if a case involved both medical care and crowding, check both descriptions.

I've included a self-addressed stamped envelope for you to return the survey to me. If the envelope gets lost, you can send the survey to:

Prof. Margo Schlanger
Harvard Law School
Griswold 301
1525 Massachusetts Ave.
Cambridge, MA 02138

If you have questions or comments, please write, email, or call me.

Thank you for your assistance.

Sincerely,



Margo Schlanger