

## **Inmate civil rights lawsuit numbers start to drop in Idaho**

REBECCA BOONE, Associated Press

BOISE, Idaho (AP) — The number of federal civil rights lawsuits brought by Idaho inmates is dropping, and could stay in the double digits this year for the first time since 2006, the AP reports.

Some of the biggest reforms to Idaho's prison system, including court-ordered improvements to medical care, reduced overcrowding and increased staffing levels have come in response to inmate lawsuits. Inmate civil rights lawsuits give the public a rare window into the nation's penal system, University of Michigan law professor and prison litigation expert Margo Schlanger said.

"Prison litigation is one of the very few ways that prisons are held to account," Schlanger said. "It really is important for the public to understand what goes on in prison for there to be some accountability."

According to the U.S. District Court of Idaho's filing system, 104 of the lawsuits were filed last year, and only 81 have been filed so far this year. That compares with a 10-year high of 139 cases filed in 2009.

Idaho Department of Correction spokesman Jeff Ray said the department doesn't track the number of lawsuits filed each year, and while officials have noticed the decline they don't know what's behind it.

In a state as sparsely populated as Idaho, it's tough to draw any conclusion from the numbers without reading each lawsuit. Filings can decrease for lots of reasons, including if a prolific inmate gets paroled, if inmates lose access to law libraries or mail service because of lockdowns, or if conditions change, said Ritchie Eppink, an attorney with the American Civil Liberties Union of Idaho.

Still, spikes in inmate filings can tip judges off to the possibility of systemic problems, such as in the long-running lawsuit over conditions at the Idaho State Correctional Institution. That case began in the 1980s when so many inmates from the Idaho State Correctional Institution began filing lawsuits that the cases threatened to clog the courts. The judge presiding over the cases at the time

noticed similarities and combined them into one class-action lawsuit, which became known as the "Balla case" after lead plaintiff Walter Balla.

The Balla case led to several reforms that included strict limits on overcrowding, set dietary guidelines and widespread improvements to prison medical care. A series of lawsuits against private prison company Corrections Corporation of America prompted a judge to order increased staffing levels and tighter prison oversight. A lawsuit from Canyon County jail inmates led to a settlement spelling out improvements to the aging jail facility, including daily basics like well-laundered towels and uniforms for inmates.

It's not easy for inmates to bring civil rights cases, Schlanger said. In 1996 the federal Prison Litigation Reform Act created new hurdles for imprisoned litigators, restricting the amount of money their attorneys can win in fees, making it tougher for them to get court-appointed attorneys and requiring them to pay filing fees that often are hundreds of dollars — a substantial financial burden for most inmates.

The law was pushed as a way to reduce frivolous inmate lawsuits. Schlanger said the act means that inmates tend to lose cases faster and more frequently overall than other types of civil rights plaintiffs.

Most prisoner civil rights lawsuits can be divided into three broad types, Schlanger said.

"Most of them are small cases about small incidents — important to the people involved, of course," she said. "Then there are the dramatic cases involving grievous injury or death, but involving just one or two people. Then there are the big cases that are forward-looking, that say 'you need to change how these things are done.' "

The last type tend to be class-action cases, like the Balla case, Schlanger said. In such cases, a "win" often comes when a judge tells prison officials to change the way they operate. Often a judge will keep an eye on the prison for a period of time to make sure the changes stick.

"It's gotten harder to win those cases and harder to keep them, so the court supervision goes away faster," Schlanger said. "If you look at prisoner litigation like inventory at a store, the volume of stock is lower and it's moving out faster."

Here's a look at the number of prisoner civil rights cases filed each year in U.S. District Court for the District of Idaho:

2004 - 70 cases

2005 - 60 cases

2006 - 80 cases

2007 - 124 cases

2008 - 123 cases

2009 - 139 cases

2010 - 112 cases

2011 - 115 cases

2012 - 103 cases

2013 - 120 cases

2014 - 104 cases

2015, as of Oct. 31 - 81 cases

#### INMATE LAWSUIT PAYOUTS

Inmates who sue over prisoner civil rights issues typically don't earn big financial awards in settlements or even when they win their cases. University of Michigan law professor Margo Schlanger researched prisoner litigation awards and found that in 2012, the average award was under \$22,000 for trials and under \$19,000 for non-trials. Nationwide, the total liquidated damages were \$1 million.

There's no way to know just how much money inmates are awarded in litigation in Idaho, because settlements against private individuals and companies are often sealed. But here's a look at how much money the state of Idaho has paid to current or former inmates for litigation in federal and state court and in out-of-court settlements on a yearly basis:

Fiscal year 2004 - \$0

FY 2005 - \$0

FY 2006 - \$250

FY 2007 - \$101,000

FY 2008 - \$29,500

FY 2009 - \$55,000

FY 2010 - \$0

FY 2011 - \$121,250

FY 2012 - \$30,948.50

FY 2013 - \$1,000

FY 2014 - \$0

FY 2015 - \$0

FY 2016, to date - \$50,000

