

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

DERRICK CLARK et al.,  
Plaintiff,

No. C-1486 CRB (NJV)

Action filed: April 22, 1996

STATE OF CALIFORNIA et al.,  
Defendants

On the Status of Inmates with Developmental Disabilities  
In the California Department of Corrections and Rehabilitation

Peter E. Leone, Ph.D., Expert to the Court, *Clark v. California*  
February 15, 2010

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1. Introduction

Individuals with developmental disabilities (DD) represent an estimated 2% of the prison population in the United States.<sup>1</sup> Developmental disabilities include mental retardation, epilepsy, and autism spectrum disorder. The settlement of *Clark v. California* established the Clark Remedial Program or the CRP also known variously as the DD Program or the DDP. The Clark Remedial Plan developed by the CDCR, defines developmental disability as

... a disability that originates before an individual attains the age of 18, continues-or can be expected to continue-indefinitely, and constitutes a substantial handicap for that individual. It includes mental retardation, cerebral palsy, epilepsy, and autism. It also includes disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but does not include other disabling conditions that are solely physical in nature.<sup>2</sup>

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<sup>1</sup> See J. H. Noble & R.W. Conoly, Toward an epidemiology of relevant attributes. In R.W. Conoly & G.N. Boutilet (Eds.), *The Criminal Justice System and Mental Retardation: Defendants and Victims*, pp. 17-53, 1992; see J. Jones, Persons with intellectual disabilities in the criminal justice system, *International Journal of Offender Therapy and Comparative Criminology*, 51(6), 723-733, 2007; Jones in a more recent review of individuals with intellectual disabilities in the criminal justice system cited 2% as a low-end estimate of the prevalence of offenders with intellectual disabilities;

<sup>2</sup> *Clark Remedial Plan*, CDCR, Amended March 1, 2002, p. 1.

1 While many inmates with DD in the CDCR exhibit below average intellectual functioning and are  
2 considered to have intellectual disabilities<sup>3</sup>, the Clark Remedial Plan identifies inmates eligible  
3 for the DD Program as having low cognitive functioning as well as deficits in adaptive  
4 functioning in at least two of the following areas: communication, self-care, social and  
5 interpersonal skills, use of resources, functional academic skills, work, leisure, health, and  
6 safety.<sup>4</sup> While some inmates with DD exhibit characteristics and behaviors that make them  
7 readily identifiable as individuals who are DD Program eligible, others exhibit behavior that  
8 challenge popular beliefs about the nature of developmental disabilities. For example, inmates  
9 in the DDP with cerebral palsy, epilepsy, or autism spectrum disorder, may be able to read and  
10 write and socialize with others. However, they may also exhibit significant deficits in self-care,  
11 health and safety, and be highly vulnerable to victimization by other inmates. My experience  
12 has been that the typical inmate in the DDP is a non-reader who needs prompts for some  
13 activities of daily living and has an incomplete understanding of prison culture; a significant  
14 number of inmates in the DDP are vulnerable to predatory behavior of other inmates. The  
15 purpose of the DDP is to provide accommodations, protections, and support to inmates  
16 screened into the program.

17  
18 This report was developed in response to a request from the Prison Law Office (PLO) to review  
19 the status of inmates with DD in several California Department of Corrections and  
20 Rehabilitation (CDCR) facilities. With approval of the Court, I visited seven CDCR prisons during  
21 the past four months including California Medical Facility (CMF), Duel Vocational Institution  
22 (DVI), California State Prison – Los Angeles (LAC), Richard J. Donovan State Prison (RJD),  
23 Correctional Rehabilitation Center (CRC), California State Prison – Substance Abuse Treatment  
24 Facility (SATF), and Wasco State Prison (WSP).

## 25 26 **2. Executive Summary**

27  
28 My review of inmates with developmental disabilities in seven CDCR facilities over the past four  
29 months indicated that there is a pattern of indifference to the needs of these inmates with  
30 some exceptions. Clearly some inmates on particular yards or housing units in the prisons I  
31 visited were receiving accommodations and support from correctional officers or fellow  
32 inmates, were not being victimized, and felt positively about how they were being treated.  
33 However, this group was a minority among the 152<sup>5</sup> inmates classified with DD whom I  
34 interviewed. In an attempt to quantify how inmates with DD were doing at the seven prisons I  
35 visited, I classified each inmate's well being on a three point scale following my interviews and a  
36 review of my notes. Those inmates who appeared to be doing well, who had no major  
37 complaints about their treatment or their ability to receive accommodations and supports, and  
38 who did not report being victimized, I rated "1." A second group of inmates who reported

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<sup>3</sup> Previously referred to as "mental retardation" the American Association on Intellectual and Developmental Disabilities uses the term "intellectual disability" to refer to disabling conditions characterized by limitations in both intellectual functioning and adaptive behavior.

<sup>4</sup> *Clark Remedial Plan*, CDCR, Amended March 1, 2002.

<sup>5</sup> I also interviewed two inmates at CRC who were not classified as DD in an attempt to verify problems reported by inmates with DD about a renal diet.

1 specific problems were rated "2." A third group of inmates with very serious and/or  
 2 longstanding unresolved problems were rated "3." My ratings of inmate status resulted in 59  
 3 or 39% being classified as "1" (minimal problems, adequate adjustment), 43 or 28% being  
 4 classified as "2" (problems), and 49 or 32% classified as "3" (chronic or serious problems). Some  
 5 of the problems experienced by inmates in this last group I brought to the attention of  
 6 correctional staff or DDP administrative or clinical staff during the time of my visit or shortly  
 7 afterwards.<sup>6</sup> Some serious problems were resolved during my visit in part through questions I  
 8 asked of correctional staff about the status of particular inmates.<sup>7</sup> During my visits to the seven  
 9 facilities, I also interviewed 29 CDCR staff including correctional officers (CO), classification  
 10 counselors, associate wardens, psychologists, and several others.

11  
 12 My interviews with inmates and staff and a review of documents revealed the following:

- 13
- 14 • A large number of inmates reported that they were pressured regularly to surrender
- 15 canteen items or portions of packages that were sent to them from family members. A
- 16 number of inmates had their property lost or taken when they were placed into
- 17 administrative segregation or when they were transferred from one CDCR institution to
- 18 another.
- 19 • A number of inmates were dirty and unkempt suggesting that COs were not prompting
- 20 them to shower and change clothes regularly. Several inmates with DD said they were
- 21 afraid to shower for fear of being assaulted by other inmates.
- 22 • A number of inmates reported that they were fearful of other inmates as well as some
- 23 correctional officers.
- 24 • Administrative segregation (also referred to as ad-seg or ASU) appeared to have a
- 25 deleterious effect on many inmates with DD placed there. Some inmates were placed in
- 26 ad-seg for rules violations, while others were placed there for their own protection or
- 27 because there were an insufficient number of beds on other units when inmates were
- 28 transferred to a particular facility. While on ad-seg. inmates reported that they rarely
- 29 received any support services from COs and that they were locked down 23 hours each
- 30 day, seven days a week.
- 31 • Some inmates with DD received a number of Rules Violation Reports (RVRs or 115s) for
- 32 behavior such as being out of bounds, failure to obey a direct order, or fighting. While
- 33 inmates with DD are capable of violating CDCR rules and threatening the order in
- 34 particular institutions, some descriptions of rules violations suggested that COs were not
- 35 familiar with the behavior or needs of the inmates with DD on their housing unit.<sup>8</sup>
- 36 • Many inmates paid regularly, other inmates with packets of soup or coffee for services
- 37 such as reading or writing letters, writing appeals, or writing health call slips. Other
- 38 inmates reported that they traded portions of their meals in order to receive services

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<sup>6</sup> 37 cried during his interview with me. He had been in a fight the previous week with another inmate on his unit and felt pressured to sign a statement saying that he and this other inmate were not enemies. 37 reported that he is regularly forced to give up his canteen and that he doesn't know how to read or write or file an appeal.

<sup>7</sup> For example, inmate 110 (RJD) had his name misspelled on his official CDCR identification card.

<sup>8</sup> The Clark Remedial Plan requires that a 128C-2 Chrono describing the adaptive supports needed each inmate with DDP in a particular housing unit be available to COs on that unit.

1 from literate inmates. Some inmates said they asked inmates to do this because they  
 2 trusted them and did not trust the correctional officers. Others indicated that the  
 3 correctional officers refused to help them or said they would help them and then never  
 4 had time to do so.

- 5 • Inmates at two of the facilities I visited that had reception centers (DVI and RJD) spent a  
 6 great deal of time locked down. In both facilities, inmates with DD in reception reported  
 7 that they had access to the yard only one time each week.
- 8 • A large number of inmates at CRC and LAC reported that they had to pay for haircuts  
 9 with food and other canteen items. Inmate barbers in both facilities are paid by the  
 10 CDCR to give haircuts to inmates.
- 11 • A few correctional officers, both designated DD officers and others whom I interviewed,  
 12 appeared to have a good understanding of their responsibility toward inmates with DD.  
 13 A number of other officers according to inmates, regularly made fun of their inability to  
 14 read or write, refused to assist them and failed to notify designated DD officers, or  
 15 threatened them. A large number of inmates said they feared retaliation from  
 16 correctional officers and tried to avoid specific officers.
- 17 • For the most part, inmates enrolled in the education programs spoke positively about  
 18 the experience.
- 19 • Every institution I visited had several inmates with very serious problems that were not  
 20 being addressed. These problems ranged from having property go missing for months  
 21 at a time only to reappear when I pressed correctional staff to find it, to instances where  
 22 inmates were chronically threatened and beaten up often when they attempted to  
 23 prevent their property from being taken. Several inmates reported that they had been  
 24 raped or that another inmate had attempted to rape them.
- 25 • A review of training logs at two facilities showed that correctional officers were  
 26 receiving required training about developmental disabilities. In spite of training, the  
 27 problems discussed in this report suggest that it is either inadequate or that there is  
 28 insufficient attention paid by administrative staff to the safety and protection of  
 29 inmates with DD.

30  
 31 The breadth and severity of problems described in this report suggest that with some  
 32 exceptions, inmates with DD do not receive the protections and supports as described in the  
 33 Clark Remedial Plan. Further, the estimated 1200 to 1300 inmates (less than 1% of the total  
 34 prison population) with DD identified by the CDCR appears to be considerably lower than the  
 35 most conservative estimate of the prevalence of developmental disabilities in adult corrections.  
 36 Among other things, the CDCR needs to carefully review the operation of the DDP including  
 37 housing, training and supervision of staff, and program evaluation.

### 38 39 **3. Qualification of Expert to the Court**

40  
 41 For more than 25 years I have visited juvenile and adult correctional facilities in the United  
 42 States in a number of different roles. I have served the Courts as an expert, monitor, master,  
 43 and receiver. I have worked with plaintiffs' and defendant's attorneys in class actions, with the

1 U.S. Department of Justice's Civil Rights Division, and have researched education programs and  
2 the prevalence and treatment of individuals with developmental and other disabilities. While  
3 most of my work has been in juvenile corrections, I have worked in adult corrections in  
4 Maryland, New York, Pennsylvania, Illinois, North Carolina, New Hampshire, Florida,  
5 Connecticut, and Texas in addition to California. A copy of my CV is appended to this report.  
6  
7

#### 8 **4. Methods**

9

10 In order to assess the status of inmates with developmental disabilities in the CDCR, I  
11 interviewed inmates and staff and reviewed inmates' files and documents related to the DDP. A  
12 small number of the inmates I interviewed were suggested to me by the PLO or the Office of  
13 the Attorney General, although the majority of the approximately 25 inmates whose names  
14 were suggested to me came from the PLO. Of that number, one inmate refused to talk to me  
15 and four or five were not at the prison at the time of my visit. At each prison, I interviewed  
16 between 14 and 28 inmates. In assessing the status of inmates with DD, I was primarily  
17 interested in determining for individual inmates whether they were safe and were receiving the  
18 supports envisioned in the Clark Remedial Plan and the specific accommodations identified in  
19 their 128C-2 Chronos.<sup>9</sup>  
20

21 I rated the status or well being of each inmate I interviewed on a three point scale. Those  
22 inmates who appeared to be doing well, who had no major complaints about their  
23 treatment or their ability to receive accommodations and supports, and who did not report  
24 being victimized, I rated "1." A second group of inmates who reported specific problems were  
25 rated "2." A third group of inmates with very serious and/or longstanding unresolved problems  
26 were rated "3." In rating inmate status of well being, I focused on problems associated with  
27 inmates' safety, accommodations and support rather than general complaints about being  
28 locked up.<sup>10</sup> In general, I found older inmates and those who had been in the system longer  
29 fared better than younger inmates. Also, inmates who were more articulate appeared to  
30 experience more difficulties with staff than inmates who were more docile and interacted less  
31 frequently with staff.  
32

33 The number of inmates I interviewed, the consistency of problems within institutions and  
34 across the seven prisons I visited confirmed some of the problems I identified. In several  
35 instances, CDCR staff verified problems described by inmates. My review of file data primarily  
36 served to document the DD status of inmates and in some cases, provided documentation of  
37 specific problems.  
38

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<sup>9</sup> Each inmate found eligible for the DDP has a 128C-2 describing each inmates DD classification and the accommodations needed. According to the Clark Remedial Plan, a copy of the 128C-2 Chrono is to be kept on each inmate's housing unit to assist the COs in providing appropriate support.

<sup>10</sup> I have interviewed hundreds of inmates in adult corrections in a number of states in addition to California during the past 20 years; most inmates, with few exceptions, are not happy about being incarcerated.

1 **5. Findings**

2  
3 This section begins with a brief discussion of inmates' eligibility for the DDP by correctional staff  
4 and continues with a substantive issues and problems that inmates described during their  
5 interviews. Not all issues or problems described by the 152 inmates I interviewed are described  
6 or discussed below.

7  
8  
9 **5.1. Eligibility of Inmates<sup>11</sup>**

10  
11 CO Alvarado at RJD questioned the eligibility of some inmates during her interview. CC Farrar at  
12 DVI stated during an interview that clinicians at DVI believed that **54**, a 30 year-old inmate with  
13 a speech disorder and a history of learning problems who lived with his grandmother prior to  
14 his incarceration, was not developmentally disabled. Notes from clinicians suggest that he is  
15 'faking it' in part because of what **54** said to the clinician and because, according to the  
16 clinician, "I/P's C file has multiple examples of his handwriting and other documentation which  
17 indicated that I/P was of normal cognitive functioning."<sup>12</sup> Among some staff, there appears to  
18 be an erroneous belief that inmates who can read and write are not developmentally disabled.  
19 Individuals with DD include those with moderate to severe intellectual deficits as well as those  
20 with epilepsy and autism spectrum disorder who may be able to read and write.

21  
22 **5.2. Property**

23  
24 **43** (CRC) lives on Unit 202 in dormitory housing with more than 90 other inmates. He reported  
25 that he is regularly pressured to give up his canteen. He doesn't know how to operate the  
26 combination on his locker but his bunkie helps him with his combination. He indicated that his  
27 help mostly comes from other inmates. He received CD player 7/10/09 from his mother. [Per  
28 Title 15, all inmate property must have inmate's CDCR # engraved on it.] Interviewed on  
29 1/4/10, **43**, who does not read or write, indicated that he was unable to get his radio CD player  
30 engraved and was afraid it would be stolen from him the way that much of his canteen is.<sup>13</sup> He  
31 indicated that most of the time when he asks for help from the COs they are too busy to help  
32 him. **43** attends school M-F in the afternoons and reports that school is going well.

33  
34 **41** (CRC) lives on Unit 202 in dormitory housing. He has vision impairment in addition to his  
35 developmental disability. He arrived at CRC from CMC in August 2009. He reported that he  
36 pays other inmates \$2 to have them write letters home. Like other inmates who reported  
37 having to pay other inmates read or write for them, payment is typically packets of soup and

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<sup>11</sup> Each inmate mentioned in this report was assigned a unique number to provide him with anonymity. During interviews, a number of inmates expressed fear of retaliation because they were talking to me about the problems they were experiencing. Further, at one facility, inmates told me that they were prepped for my visit; that is, they were told to say positive things about the DDP and how they were being treated. See section 5.11.5 for discussion of this issue.

<sup>12</sup> See E. Naus, Psy.D., Mental Health Services Chrono, note, 1/1/09.

<sup>13</sup> I asked 43 to show me his radio CD player. My examination showed no CDCR #s on it.

1 coffee. He reported that he is regularly pressured to give up his canteen by inmates he knows  
2 as well as those he doesn't know. When asked what he does when his goods are stolen, he  
3 replied that he is afraid to make an issue out of it. When **41** moved from CMC to CRC in August  
4 of 2009, he lost nearly all of his personal possessions including a pair of tennis shoes and a large  
5 food package that he had recently received. I called **41's** mother, **Mrs. LC** on January 6, 2010  
6 and asked about packages she sends to her son. She reported that she sends a package each  
7 quarter through a CDCR approved vendor, Union Supply Direct. She was aware of and upset  
8 about the fact that new tennis shoes and a large package of food and toiletries she sent her son  
9 at CMC were missing when he moved to CRC. She also reported that his glasses had been  
10 stolen. She indicated that she talked to **CC1 Serna** at CRC about her son's missing possessions.  
11 She reported that **Serna** said that this is to be expected when you live among thieves. **41**  
12 reported that he filed a 602 with help from **CO Pearson** in August 2009. He also talked to a  
13 sergeant at CMC who told him his goods would be sent. When I interviewed **41** on 1/4/10 his  
14 goods had not been returned or recovered.  
15

16 **42 (CRC)** reported that he is forced to give up his canteen by people he doesn't know. Similarly,  
17 **109 (RJD)**, a 24 year-old in prison for the first time, reported that he has his canteen taken  
18 regularly on the yard. As he described the situation, his unit (Yard 2 bldg. 9) goes to canteen  
19 first thing on those days when they do have canteen. After receiving his goods from canteen, he  
20 is left on the yard with other inmates for more than an hour during which time has been  
21 pressured to give up his possessions. He stated that **COs** laughed at him when he asked them if  
22 he could have an escort back to his cell with his canteen items. **109** reported that he had not  
23 showered for more than a week at the time I interviewed him. He stated that every time he  
24 showers, his "stuff" gets taken from his cell. A 128C-2 chrono and the CASE evaluation  
25 completed on **109** at **RJD** in June, 2009, indicate that he has victimization issues and that his  
26 canteen and personal property should be monitored to prevent loss to other inmates. When I  
27 interviewed **109** nearly 6 months later, he was not receiving the protection and support that he  
28 should be receiving as an inmate with a DD2 classification. **54 (DVI)** reported giving canteen  
29 items to other inmates but insisted that he was not being taken advantage of. He also said that  
30 inmates to whom he gives "stuff" always leave before they pay him back. **59 (DVI)** reported  
31 that he has received packages from home but he does not get to keep most of what is sent to  
32 him. In response to my questions, he said that he is forced to surrender his canteen items to  
33 inmates he doesn't know. When I asked him about how many inmates took his canteen, he  
34 said more than 5 but less than 10 individuals.  
35

36 **57 (DVI)**, a parole violator who had spent more than 30 days at **DVI** at the time I interviewed  
37 him, did not know his release date, had not talked a corrections counselor since returning to  
38 prison, and his legal paperwork was missing. **58 (DVI)** reported he is picked on by other inmates  
39 and that other inmates take his food; "it happens all the time."  
40

41 **106 (RJD)** was concerned about reprisals after talking to me. He said that although he sees **DD**  
42 staff about every two weeks, he has canteen taken by other inmates. **104 (RJD)** reported that  
43 he washes his clothes himself in his cell because he is afraid he will not get them back. **111**  
44 **(RJD)** reported that he has had food taken from him in the mess hall. The morning I interviewed

1 him, **111** reported that he gave some of his breakfast away to an inmate in the mess hall that  
2 he did not know.

3  
4 **84** (LAC) reported that he has spent the past nine years at LAC. During an interview in a cage on  
5 A4, an administrative segregation unit where he has spent the past five months, he reported  
6 that he has been pressured to give up his canteen in the past. He has had soup and coffee taken  
7 from him and "I don't get them back." He said that it is hard to talk to the COs about this. **84**  
8 did not know what a 602 (an inmate appeal) was.

9 **73** (LAC) reported that he has had his property taken by other inmates as he returned from  
10 canteen on D2. Recently transferred to A3, **73** opined that this would not happen to him in his  
11 new housing unit because he has friends there. **76** (LAC) reported that he has had things  
12 "extorted" from him. Recently transferred from CMC, **76** had not received his property at the  
13 time I interviewed him.

14 **85** (LAC) indicated that the DDP officers and other inmates help him. He indicated that he had  
15 his commissary taken two months ago. **88** has been at LAC for about five years on A and D  
16 Yards. He has had his commissary taken but not in the past year. **121** (SATF) reported being  
17 treated well at SATF. He was not fearful of other inmates and stated that DDP COs assisted him  
18 in completing his paperwork. However, during an interview the following day, CO Costello, the  
19 DD officer assigned to 121's living unit, described a recent event in which **121** had lost more  
20 than \$156 of his canteen draw to other inmates within a week's time. **134** (SATF) reported that  
21 he is pressured to give up his canteen to those he doesn't know as well as to his friends. **136**  
22 (SATF) said that he is pressured to give up his canteen. "I didn't tell police." **137** (SATF) said that  
23 he has lost personal items including a TV.

24 **151** (WSP) left WSP on 11/9 for Court and was away from WSP until 11/23. When I interviewed  
25 him on 1/11/10, he reported that after returning from Court he was not able to get his  
26 possessions back. His bowls, snacks, letters, and family contact information were missing. **151**,  
27 who needs help with reading and writing, did not have the addresses and phone numbers of his  
28 family members memorized and he had no way of getting in touch with his family after he  
29 returned from Court on 11/23/09. I talked with COs in R&R (Receiving and Release) about the  
30 missing items on the first day of my visit; they had no record of **151's** property. On the second  
31 day of my visit when I returned to R&R, a bag with **151's** missing items had been found.<sup>14</sup>

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<sup>14</sup> Litigation Coordinator at WSP, Barrios was with me when 151's possessions were located in R&R on 1/12/10.

1 During my interview 151 told me that CO Vapper<sup>15</sup> told him that he made a mistake in filing a  
2 602 (an inmate appeal) and that R&R would lose his property.<sup>16</sup>

3 21 (CMF) reported that in April 2009 after being placed in the ASU (ad-seg) the locker in his  
4 dorm room was broken into and that he lost most of his possessions including his copies of  
5 CDCR paperwork, legal work, clothes, and other personal possessions. 21 filed a claim with the  
6 California Victims Compensation and Government Claims Board (VCGCB) on 8/5/09 for his  
7 losses. The VCGCB in correspondence dated 8/18/09, authorized the CDCR to "settle and pay  
8 or reject" his claim. In correspondence dated 8/26/09 the CDCR classified 21's claim as  
9 "Invalid" because of "No/Insufficient Supporting Documentation." The VCGCB correspondence  
10 of 8/18/09 indicated that 21 could file suit if he is not satisfied with CDCR's response to his  
11 claim, he could file suit within six months in an "appropriate court of law." 21 tried to get  
12 assistance from Ms. McIntee, the DDP LTA (library assistant) but was told by her that she  
13 cannot help inmates file lawsuits against the State.

14 Several correctional officers I interviewed acknowledged that inmates had their possessions  
15 taken by other inmates. CO Alvarado (RJD) said that sometimes she catches inmates in the act  
16 of taking others possessions and that when this happens she tells the sergeant. She said that  
17 when she asks inmates if they have had things taken by others they often do not want to  
18 acknowledge that this has occurred. CO Costello (SATF) described how 121 (SATF) had more  
19 than \$150 worth of canteen items stolen by other inmates within a week's time.<sup>17</sup>

### 20 5.3. Activities of Daily Living

21 Several inmates I interviewed had not bathed in some time; others were disheveled and dirty  
22 and clearly needed assistance in meeting their daily needs. 55 (DVI) smelled and had not  
23 showered recently when I interviewed him. He complained about having glasses that he  
24 received from another inmate that were the wrong prescription; "things are a little blurry."  
25 With the help of his cell mate, he had filled out a request to see "the eye doctor." 86 (LAC)  
26 reported that he cannot go to the yard every day if he wants to shower. 154 at WSP was filthy  
27 and smelled when I interviewed him.

### 28 5.4. Safety

<sup>15</sup> This is a phonetic spelling of this COs name.

<sup>16</sup> Staff in R&R said that all an inmate had to do was request to have his material sent to his unit after returning from Court. Clearly 151 was not able to get the COs on his unit to find or return his items until the time of my visit, more than six weeks after he had returned to WSP from Court.

<sup>17</sup> During his interview with me on 1/6/10, 121 reported that everything was going well and did not mention that his personal possessions had been stolen by other inmates.

1 A number of inmates described situations in which fights ensued following other inmates taking  
2 their possessions or being raped by other inmates. Some of these incidents resulted in the  
3 filing of RVRs (Rules Violation Reports or 115s); in other instances inmates reported that they  
4 were afraid to file a 602 because of retaliation or because they were unable to do so and were  
5 not able to get assistance from a CO to help them file the necessary paperwork. **136** (SATF) said  
6 that he was recently choked by another inmate at SATF who wanted to have sex. He also  
7 stated that he was raped by gang members at another CDCR prison three years ago.

8 **108** (RJD) reported being raped in 2006 and 2008 while at LAC. **62** (DVI) had been at DVI  
9 approximately 9 months at the time I interviewed him. He reported that he has had staff  
10 assistance after receiving a 115. However, he also reported that although he told staff that he  
11 was afraid of being assaulted, no one took his concerns seriously. He said that he was assaulted  
12 on the yard at DVI after voicing his concerns.

13 **150** (WSP) an inmate classified as DD2, expressed his fear of being assaulted by other inmates  
14 in the shower. During our interview he said that he "doesn't want to make trouble." After  
15 talking with me for a few minutes, he asked, "Can I leave now?" **148** (WSP) described a fight  
16 that ensued when another inmate on Unit 1 took some of his "stuff." He received a Rules  
17 Violation Report or 115 for fighting. The write up of the incident describes the two inmates as  
18 running to their bunks when the alarm sounded notifying staff that inmates were fighting. **148**  
19 (WSP) has scoliosis and rides in a wheelchair.

#### 20 **5.5. Administrative Segregation**

21 A number of inmates were interviewed while in administrative segregation or ad-seg for  
22 disciplinary infractions, others are there for their own safety or because no beds were available  
23 when they were transferred to a facility. **67** (LAC) reported spending about a month on ad-seg  
24 but was not able to tell me why he was in segregation when I interviewed him on A4 at LAC.  
25 Similarly, **81** also in ad-seg on A4 at LAC, didn't know why he was on ad-seg or how long he had  
26 been there. **76** (LAC) was placed in ad-seg when he was transferred from CMC to LAC because  
27 there were no available beds. **78** (LAC) also reported spending three and a half months in  
28 segregation because of a lack on beds on other units. **129** (SATF) asked to be placed in the  
29 administrative segregation unit (ASU) for his own protection but claimed in an appeal that he  
30 did not have access to DDP designated staff and did not receive assistance or support from  
31 other correctional staff in the ASU. <sup>18</sup>

#### 32 **5.6. Rules Violation Reports (115s)**

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<sup>18</sup> See discussion of **129** under "Requests for Assistance" in a section below.

1 **87** (LAC) is classified as DD2. During his interview, he reported receiving lots of 115s for  
2 "forgetting stuff and not locking up." **87** received his most recent 115 for inmate manufactured  
3 alcohol (pruno) on 7/25/09. The rules violation report (RVR) indicated that he waived a staff  
4 witness at his hearing and stated that the alcohol was only his and that his cellmate **X** had no  
5 knowledge of it. While this may be the case, my impression of **87** formed during a 10-15 minute  
6 interview was that of a very fearful and very cognitively limited inmate. During his interview, **87**  
7 passed his CDCR identification card to me no fewer than five times even though I only looked at  
8 the card when we began the interview. **87** reported that his cellie who had no knowledge of the  
9 pruno in their cell, files his 602s for him and only charges him a dessert or a sandwich. A 128C-  
10 2 DDP chrono dated 6/07, confirms **87's** DD2 status and indicates that he does not know how to  
11 tell time and that he needs regular prompting.

12 **21** (CMF) was charged on 4/20/09 with making a weapon by placing can of food in a sock for  
13 use as a potential weapon. CO Salazar allegedly found a sock with a can of food in it tied off at  
14 one end underneath **21's** pillow on his bunk bed in one of dorm units on I-2 at CMF.<sup>19</sup>  
15 However, the Crime/Incident report, Part A1 Supplement completed by Lt. Mullen (p.2) and the  
16 Crime/Incident Report completed by CO Salazar, the officer who discovered the alleged weapon  
17 both described the evidence as a "grey sock." The Investigative Services Unit Evidence  
18 Information Sheet completed at the time Salazar placed the sock into an evidence locker does  
19 not describe the color of the sock confiscated from under **21's** pillow. However, CO Mendoza  
20 of the Investigative Services Unit (ISU) reported that he retrieved a "white sock" from the ISU  
21 evidence locker that had been placed there by CO Salazar. Correspondence from Lt. Pulsipher  
22 of ISU dated 5/6/09 indicated that this incident was referred to the Solano County District  
23 Attorney's Office for prosecution on May 5, 2009. A second memorandum from Lt. Pulsipher  
24 also dated 5/6/09 indicated that the incident involving **21** had been accepted for criminal  
25 prosecution on May 5, 2009. A third document from the ISU dated 7/23/09 and signed by Lt.  
26 Lee indicated that the D.A.'s Office had rejected criminal prosecution of this incident on July 23,  
27 2009. I first learned of this incident during an interview with **21** on 10/14/09. At that time **21**  
28 reported that he did not own a pair of grey socks as described in two of the three  
29 Crime/Incident Reports. Another inmate on I-2 at CMF, **28**, reported that **21** was picked on by  
30 other inmates and correctional officers. My review of documents associated with this incident  
31 suggest that **21** was set up by other inmates and/or CO Salazar.

### 32 **5.7. Requests for Assistance**

33 When asked about support he receives from correctional staff, **41** (CRC) said "staff gets  
34 frustrated when you ask their help." **42** (CRC) reported that he has to pay 2-3 soups to have  
35 someone write letters for him. The DD CO says she'll help but she never follows up. **40** (CRC)

<sup>19</sup> See Incident #CMF-M02-09-04-0213.

1 indicated that it cost him 2-3 soups [packets] to have a letter written and 1-2 soups to have a  
2 letter read.

3 **86** (LAC) reported DD staff told him that staff cannot help inmates write personal letters, they  
4 can only provide assistance with legal matters. He indicated that he spent time in ad-seg earlier  
5 last year but didn't see the DD staff very frequently. He reported being told at a hearing "you  
6 don't need a DDP officer." **86**, currently classified as DD1, reported that he did not know why  
7 his classification was changed from DD2 to DD1. **86** (LAC) reported giving his canteen up for  
8 haircuts and to have letters written to home. I talked to **86's** sister Ms. L on January 31, 2010  
9 about her brother. She reported that she and her sisters place about \$150 dollars into their  
10 brother's account at LAC each year and send packages to him each quarter. She confirmed that  
11 he gives his package goods and canteen items to other inmates in order to have receive help  
12 from other inmates.

13 **74** (LAC) described himself as being unable to read or write. He said he has trouble getting staff  
14 to help him. They're too busy helping other inmates. He indicated that some COs "agitate you"  
15 and other officers won't help. Sometimes Officer Horn helps him write a 602. **74** said that he  
16 has trouble showering regularly; if he wants to take a shower he has to sacrifice yard time that  
17 day.

18 **83** (LAC) reported that he has to pay other inmates with soup packets or part of his lunch if he  
19 wants to file an appeal or have something read to him. **83** also reported that his cell has been  
20 searched more than 10 times in the past month in A1 and about 1 time each week when he was  
21 on A3 prior to his transfer to A1. On one occasion he was out of his cell for four hours while he  
22 cell was being searched. Another time he said that he was told his attorney was visiting just  
23 prior to his cell being searched. His attorney wasn't visiting but staff wanted him out of his cell  
24 promptly. He indicated that the LTA (the DD library aide) told him that she can't write anything  
25 for him that goes out of the institution.

26 **78** (LAC) reported that he doesn't "write that good" and that he gives other inmates chips, soup  
27 packets, and coffee for helping him with his appeals. **89** (LAC) reported that he pays other  
28 inmates to help him read stuff though sometimes he asks staff.

29 **133** (SATF) said he was told by COs that it was not the job of the DD COs to write 602s (appeals)  
30 for inmates. **139** (SATF) said that the only time he sees DD officers is when the inmates with DD  
31 go to the store (canteen). Describing himself as forgetful, **139** recounted when he forgot to  
32 bring his cup and spoon down to the chow line and was not allowed to return to his cell to get  
33 them. He ended up eating with his hands. He also said when he has forgotten his ID card in his  
34 cell he was not able to obtain his medications. **139** stated that he has difficulty reading and  
35 writing and has no one to help him. He said that if inmates question anything, the COs will tear

1 your cell up. When he has asked to see a DD CO, the regular COs do not call them. He said that  
 2 he was told he would be taken out of the DDP if he questioned the program. **139** also said that  
 3 there was conflict between Sgt. Beeler and the DDP officer assigned to his housing unit.

4 **129** (SATF), an inmate classified as DD2 who does not know how to read or write, spent  
 5 approximately four months in administrative segregation (ASU or ad-seg) at SATF at the time I  
 6 interviewed him. Formerly housed in the A Yard at SATF, he indicated that he was placed in ASU  
 7 at his own request because of safety concerns. **129** filed an inmate appeal in November or  
 8 December of 2009 claiming that since being placed in ASU, he saw no DDP officers and was not  
 9 receiving the assistance he needed. The response from the CDCR granted his appeal in part and  
 10 denied it in part reasoning that because all CDCR staff at designated DDP institutions received  
 11 formal training per the Clark Remedial Plan, any correctional officer, correctional counselor, or  
 12 ASU could assist him. He was also told he could "submit a CDC GA-22 Inmate Request for  
 13 Interview to the specific DDP staff member..." The response to **129's** appeal does not indicate  
 14 whether other inmates in the ASU were experiencing similar problems with access to support  
 15 services or whether ASU staff including correctional officers were providing the support they  
 16 were trained to provide through Clark Remedial Plan mandated training.<sup>20</sup>

17 **150** (WSP) an inmate classified as DD2 and who had been at WSP more than two months at the  
 18 time of our interview stated that no ever comes to help him. An inmate who used to help him  
 19 was moved. **153** (WSP) complained that he had to give up his lunch in order to get another  
 20 inmate to write for him. He said that when he has asked COs to write something for him they  
 21 mock him by saying "do you have a soup for me?" He also stated that some COs make one's  
 22 inability to read very public. **148** (WSP) said that his cellie helps him write letters. He described  
 23 COs as making fun of his stuttering. CO Diaz on the 3<sup>rd</sup> shift tells him "shut the f\*ck up." **149**  
 24 (WSP) is the only inmate classified as DD on his unit (B3) at Wasco State Prison. There is no DDP  
 25 officer on his unit and he has had to pay his cellie with cookies to have him write for him. His  
 26 previous cellmate, who refused to help him, told **149** "I can't do your time and my time." A  
 27 diabetic, he was concerned about the length of time between receiving his insulin and his  
 28 evening meal. He stated that he typically received his insulin at 3 pm with an apple and two  
 29 crackers; he often did not eat until 6 pm. The situation at WSP was different than what he  
 30 experienced at the LA County Jail where he reported, diabetics did not receive their insulin until  
 31 the food was on its way to the unit. **149** cannot read or write. When he has asked COs on his  
 32 unit for help he has been told to ask his "bunkie."<sup>21</sup>

<sup>20</sup> See Appeal Log # SATF-Z-09-04160 (**129** Appeal 1st level response.)

<sup>21</sup> I visited housing unit B6 to examine the log that might shed light on **149's** claim that insulin was provided hours before the evening meal was brought on to the unit. I reviewed the unit log from 12/8/09 to 1/11/10 but found no notation in the log showing when **149** received his insulin. During a discussion with CO Yanez and AW James, I

1 **151** (WSP) reported that only one of the COs on his unit helps him at all. If an inmate agrees to  
 2 file a medical request slip, it costs **151** part of his lunch or dinner. **28** (CMF) reported that can't  
 3 read and that he pays other inmates to file appeals for him.

4 **25** (CMF) stated that officers complained when he asked them for help. He reported that COs  
 5 say to him, "you're only DD1 in front of the other guys." **25** reported that he pays other inmates  
 6 with "chicken off off [my] tray, cookies from lunch" in order to pay an inmate to file an appeal  
 7 for him.

8

### 9 **5.8. Conditions in Reception**

10 In some CDCR reception centers while awaiting transfer to other prisons, inmates are locked  
 11 down in their cells 23 hours each day, 7 days a week. **113** (RJD) who arrived at Richard J.  
 12 Donovan Reception Center in December 2009 and **112** (RJD) who arrived at RJD in May of 2009,  
 13 told of being locked down 23/7 while in reception. **107** (RJD) who returned to the CDCR on a  
 14 parole violation in November 2009, described being locked down 23/7 at RJD except when he  
 15 participates in groups with other inmates designated as EOP (extended outpatient program). **60**  
 16 (DVI) had been in reception for almost three months when I interviewed him. He reported that  
 17 he only gets out onto the yard once each week.

### 18 **5.9. Paying for Haircuts**

19 Nearly every inmate I interviewed on Unit 2 at CRC reported that he pays to get his hair cut. The  
 20 typical charge is \$1-2 payable in packets of food. Those charging for haircuts include an inmate  
 21 whose CRCR assignment is barber and who is paid by the CDCR to give haircuts. Another  
 22 individual cuts hair in one of the dorms. **41** (CRC) said that the regular barber will cut hair for  
 23 free one day each month but typically you are expected to pay whatever you can for the  
 24 haircuts. **35** said that he cuts his own hair. **39** reported that he has to pay \$1 for a haircut. I  
 25 noted during my interview that 39's hair was long and unkempt. I asked him when he was going  
 26 to get his next hair cut. His response, "when I get two soups." Paying inmate barbers for  
 27 haircuts was also a regular practice at LAC. **86** (LAC) reported that he has to give soup packets  
 28 to an inmate barber in order to get a haircut. **73** (LAC) a resident on A3 reported that he only  
 29 has to pay a soup or two to get a haircut from the inmate barber on his unit. When discussing  
 30 haircuts at LAC, **86** said, "everybody pays."

31

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learned that there was no 128C-2 chrono on B6 that documented 149's developmental disability and the accommodations and supports he needed.

1           **5.10.       Problems with Specific Correctional Officers**

2       CO Jones at CRC was named by **41** and several other inmates as an officer who abuses his  
3       authority, makes fun of inmates with DD, and treats inmates with DD badly. **41** said Jones  
4       “throws people against the wall” and “told other inmates that another inmate was a snitch”  
5       after the asking another office how to get assistance when CO Jones was not helpful. **42** said  
6       that Jones “pushes folks against the wall.” **40** said he shoved inmate [**35**] up against a wall and  
7       cuffed him for showing a receipt indicating that a radio in question belonged to him. An  
8       interview with **35**, a first timer in the CDCR confirmed that he was shoved up against the wall  
9       for showing Jones his receipt for the radio. **40** reported that Jones doesn’t like the DDP and  
10      reportedly said to inmates “stupidity will get you nowhere.” **39** reported that he was afraid of  
11      Jones. He reported that he ordered all inmates in the dorm to strip to their boxers and stay on  
12      their bunks. **39** said when inmates asked Jones why, he told them he did it “because he  
13      could.”<sup>22</sup>

14  
15      A number of inmates at CMF on Unit I-2, a unit designated for inmates with DD, named COs  
16      Conchas, Salazar, Garcia and Ricardo as staff who threatened, belittled, and mistreated them  
17      and complained when inmates on their unit asked for assistance.<sup>23</sup> For example, five inmates  
18      independently of one another, mentioned specific instances in which CO Conchas threatened to  
19      send inmates to “the hole.” Other inmates on I-2 stated that these staff locked the unit down  
20      right after evening meal and on other occasions, did not release inmates for daily activities until  
21      nearly 1 pm for no apparent reason. **9, 16, 25, 24, 8, 21, 20,** and **27** all residents on I-2 at CMF,  
22      identified specific officers that they said made fun of them and other inmates with disabilities,  
23      threatened them, refused to issue ducats to inmates who needed to leave the unit for  
24      activities, filed false Rules Violation Reports against inmates that they did not like, and failed to  
25      provide support and/or assistance to them.<sup>24</sup>

26           **5.11.       Other Problems**

27           **5.11.1. Renal diet at CRC**

28      Inmates and staff reported that there are approximately five inmates at CRC with diabetes or  
29      other medical conditions that require special diets. According to three inmates I interviewed,

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<sup>22</sup> A day or two following my visit to CRC (1/7/10), I called Captain Banholtz on his cell phone and discussed my concerns 1) about the treatment of inmates on Unit 202 and CO Jones and 2) about the problems with the renal diet CRC and the public posting of inmate pictures in the Unit 2 dining hall. Banholtz asked me for my proof that these events were actually happening and whether or not the inmates had filed a 602 (an appeal) against Jones or staff responsible for public posting of inmate pictures. I indicated that I did not believe they had. Further I noted that many of these inmates were unable to read or write and that they were intimidated by Jones and several other COs at CRC.

<sup>23</sup> I shared this information with AW Mandeville during a brief 1:1 interview with her on 1/13/10.

<sup>24</sup> I visited CMF on 10/14 and 10/15, 2009 and on 1/13, 2010. I interviewed several of these inmates twice.

1 (44, 48, and 47<sup>25</sup>) for a period of two or three weeks in December there were no breakfast renal  
 2 meals. Inmates reported that after eating veal meatballs for every meal, they attempted to eat  
 3 in the unit 2 chow hall. According to the inmates, their CDCR pictures were enlarged and  
 4 publically posted in the chow hall – visible to other inmates as well as correctional officers in an  
 5 attempt to bar them from eating in the chow hall. Several officers I asked about this said they  
 6 had no knowledge that this happened. Nurse Assistant Terrell confirmed that only dinner meals  
 7 were available for a period of “two, maybe three weeks.” She showed me the frozen renal  
 8 entrees and indicated that in December, we only served what the warehouse sent us – dinners.  
 9 Nurse Assistant Terrell also confirmed that inmates’ pictures were publically posted in the chow  
 10 hall.

#### 11 12 **5.11.2. Death of a family member**

13 **111** (RJD) reported that he did not hear about his sister’s death until two weeks after she was  
 14 buried. During our interview, he indicated that his wife called the prison to let him know but no  
 15 one passed the message on to him. **61** (DVI) reported that his sister and father had died within  
 16 the past several months and that he has not been able to talk to anyone about it.

#### 17 **5.11.3. Name Spelled Wrong on Inmate ID**

18 During the summer of 2008, at the request of the parties, I toured RJD to assess the status of  
 19 inmates who were dually classified as having DD as well as mental health concerns (EOP,  
 20 CCMS). During that tour, I interviewed **110** (RJD) who told me that his name was spelled wrong  
 21 on his official CDCR ID card that each inmate is required to have in his or her possession at all  
 22 times and produce for correctional officers and other staff when asked to do so.<sup>26</sup> At the time  
 23 of my visit in July, 2008, I brought this issue to the attention of correctional administrators.  
 24 During my visit to RJD in December 2009, I interviewed **110** a second time and discovered that  
 25 the name on is identification card was still spelled incorrectly. **110** described to me the  
 26 continuous trouble he has at the canteen, in receiving packages his mother sends to him and a  
 27 magazine sent to him. When I brought this issue to the attention of correctional administrators  
 28 during my visit in December 2009, they assured me that the problem with the spelling of **110**’s  
 29 name had been corrected in the system. When I indicated that his name was still misspelled on  
 30 his ID card, they replied that this was not such a big deal as the spelling of his name in the  
 31 system was what really mattered. At my direction and while I was visiting RJD, **110** received a  
 32 new state-issued ID card with his name spelled correctly.

#### 33 **5.11.4. Seriously Disturbed Inmate in Disciplinary Segregation**

<sup>25</sup> 47, is not a DD Program participant. He indicated that he heard that his picture was publically posted in the Unit 2 chow hall but that he never eats there, even when only dinner renal meals were available.

<sup>26</sup> See CCR, Title 15 Sec. 3019.

1 I briefly interviewed **154** in the ASU at WSP. However most of the information I obtained about  
 2 him I learned through interviews with another inmate in ASU, two psych technicians, and Dr.  
 3 Keenan the Chief Psychologist at WSP. I also reviewed his C-files and UHR files. **154** is identified  
 4 as both an EOP (extended outpatient) client in the CDCR mental health system as well as an  
 5 inmate classified as DD2.<sup>27</sup> He was certified as a "Keyhea" patient at WSP in July 2009; this  
 6 designation enabled medical staff to forcibly medicate **154** for his own well being. Physician's  
 7 notes and Interdisciplinary Progress Notes describe **154** as psychotic and schizophrenic. Notes  
 8 describe his behavior as "grossly disorganized."

9  
 10 At the time I interviewed **154**, he had spent about three and half months in administrative  
 11 segregation for "battery on a peace officer" on 9/22/09. The Crime/Incident Report on the  
 12 incident indicates that CO Martinez was head butted while escorting **154** away from another  
 13 inmate whom he (**154**) had attempted to punch. Part 1A – Supplement of the Crime/Incident  
 14 Report (p. 2 of 5) concludes "There were no injuries to staff or uninvolved inmates" from this  
 15 incident.<sup>28</sup>

16  
 17 According to Dr. Keenan and supporting documents, MH staff at WSP completed a DMH  
 18 referral on 09/02/09. He was approved for intermediate care facility (ICF) placement on  
 19 10/14/09. At the time of my visit, he was number 207 on the list to be accepted at an  
 20 appropriate DMH treatment facility. **154** also had a pending SHU transfer. He was only  
 21 endorsed for SAC-PHU. The transfer has been delayed because there were no vacant beds at  
 22 the SAC-PHU unit. On August 28, 2009, the ICC recommended that **154** be placed in a Sensitive  
 23 Needs Program (SNY).

24  
 25 **154** was placed in the ASU on 9/22/09 and with a few exceptions has refused to come out of his  
 26 cell to meet with treatment staff or to participate in all EOP Ad-Seg. Anger Management/Stress  
 27 Management Groups in November and December 2009. Interdisciplinary Progress Notes and  
 28 psych tech notes show that progressively from October 2009 to January 2010 at the time of my  
 29 visit, **154** did poorly in the ASU. File documents show that in October 2009 **154** responded to  
 30 psych techs by saying he was OK and had no mental health issues. By the end of November  
 31 2009, notes indicate that **154** had dirty clothes and poor "ADLs" or activities of daily living.<sup>29</sup>  
 32 Dr. Allen in an Interdisciplinary Progress note dated 12/2/09 described **154** as exhibiting  
 33 "grossly disorganized behaviors (i.e., extremely poor personal hygiene) and was witnessed by  
 34 staff smearing feces on the door of his cell." This behavior was noted on several other  
 35 documents in December 2009 and January 2010.<sup>30</sup>

#### 36 37 **5.11.5. DDP Status Report at CRC** 38

<sup>27</sup> An earlier assessment resulted in a DD1 classification. **154** was subsequently screened on 10/15/09 and classified as DD2.

<sup>28</sup> The CDCR referred this incident to the district attorney who declined to prosecute. See Memo to A.J. Silva, Facility "B" Captain, re: Loss of time constraints for RVR Log # FB-09-09-0045.

<sup>29</sup> ADLs include basic tasks such as feeding, bathing, dressing, and grooming.

<sup>30</sup> Dr. Keenan notified me via email on 2/5/10 that **154** was transferred to the SAC-PSU on 2/4/10.

1 I rated 11 of the 18 inmates that I interviewed at the California Rehabilitation Center (CRC) "3,"  
 2 inmates with chronic and/or serious problems. Among these 11 inmates, several had recently  
 3 been in fights with other inmates, had been pressured to give up their personal possessions,  
 4 had to pay other inmates to write letters for them or to receive haircuts, and had been verbally  
 5 or physically abused by staff. During my visit to CRC, DDP staff provided me with a copy of the  
 6 report that they compiled each month on the inmates at the facility. The CRC, DD report for  
 7 November 2009<sup>31</sup> included these comments for the inmates I rated "3." "Is doing well....He has  
 8 not requested any services this month." "Inmate is doing well...No concerns at this time." "He  
 9 has not requested any services from DDP staff...No concerns noted." "Inmate has not requested  
 10 any services from the DDP staff." "....has not requested any DDP services." For one inmate, the  
 11 report notes, "He has been assisted on several occasions in filling out 602s (appeals) and sick  
 12 call slips. DDP staff along with dorm staff will continue to give him the assistance he needs."  
 13 The report noted that one of the inmates had been in a fight over his canteen but that "Per the  
 14 Sgt. Inmate said he had not concerns about going back to the dorm." Concerning another  
 15 inmate the report noted, "Inmate is a new arrival and appears to be adjusting well in the  
 16 dorm....when he was seen by the CC1 she was a little concerned because he was very  
 17 emotional. She had inmate \_\_\_\_\_ seen by the Psych, since that day the DDP staff along with the  
 18 dorm staff has been monitoring daily." Although the status of the inmates with DD at CRC could  
 19 have changed dramatically in the month between the time this report was written and the time  
 20 I interviewed the inmates, my interpretation is that with a couple of exceptions, the DDP staff  
 21 at CRC was unaware of the abusive behavior of one of the COs and the victimization of a  
 22 number of the inmates at CRC for whom they had been assigned to provide accommodations,  
 23 protection, and support.<sup>32</sup>

#### 24 25 **5.11.6. Talking to the Court's Expert**

26 At the California State Prison, Substance Abuse and Treatment Facility (SATF), several inmates  
 27 on different housing units disclosed to me during interviews that they were told I was going to  
 28 visit the prison and that they were directed to say positive things about the DD Program. **127,**  
 29 **116, 119, 132,** and **138** reported that they were told to be positive about the DDP. **114** stated  
 30 that he was recently called out for a meeting with other inmates in the DDP but that he had no  
 31 idea what the meeting was about. **138** said that the inmates were told "if you want no  
 32 harassment, ease up on us when the visitors come."

#### 33 **6. Conclusions**

34 My review of the status of inmates with DD at seven CDCR facilities indicates that the majority  
 35 of these individuals are not receiving the accommodations, protections, and support envisioned  
 36 by the Clark Remedial Plan. My ratings of inmate well being showed that approximately 60% of

<sup>31</sup> I interviewed the inmates about a month after this most recent report was issued.

<sup>32</sup> At CRC some of the DDP officers were not identified by inmates as a source of support. I believe, inmates perceived that some of the DD officers were no different than correctional officers who treated them badly.

1 those inmates I interviewed experienced problems, some chronic or serious ones. Inmate  
2 problems were numerous, present in each of the facilities, and in most cases, undetected by  
3 staff. In a few instances, staff informed me about problems about which I was unaware. In  
4 other instances, I brought problems to the attention of staff with mixed results. Some  
5 questioned the source of much of my information, the inmates, while others indicated that  
6 they would look into the problems I reported to them. At several facilities, serious problems  
7 that inmates were not able to successfully rectify were resolved through my pressing  
8 correctional staff to address specific issues. I found it inconceivable that some of the problems I  
9 noted in this report were not detected and systematically addressed by DD staff or trained COs.

10 In general, I found older inmates who had developed relationships with others in the prison and  
11 those who had been in the system longer fared better than younger inmates who were new to  
12 the CDCR. I also found that inmates who were more articulate appeared to experience more  
13 difficulties with staff than inmates who were more docile and interacted less frequently with  
14 staff. Those inmates who were enrolled in school, for the most part spoke positively about the  
15 experience. Inmates in dormitory housing appeared to be victimized more frequently than  
16 inmates in single or double celled units. Some of the inmates I interviewed were among the  
17 most distressed I have interviewed in any state prison system or local jail during my  
18 professional career. While some dedicated CDCR staff were providing appropriate services and  
19 support to inmates with DD, the system as a whole appeared indifferent to the needs of these  
20 inmates.

21 It was beyond the scope of this report to investigate the adequacy of the screening of inmates  
22 for the DDP. However, as noted in the Executive Summary above, the estimated number of  
23 inmates identified and served in the CDCR as developmentally disabled is far below  
24 conservative estimates of the prevalence of inmates with DD in the criminal justice system.

25 Many of the problems noted here are serious and require immediate attention.<sup>33</sup> Beyond  
26 responding to specific problems, the findings suggest the need for a fundamental review of the  
27 ways in which the CDCR implements its program for inmates with DD and ensures that inmates  
28 receive accommodations, protection, and support. Presumably, all of the correctional officers  
29 at the prisons I visited received the mandated CRP training; in spite of this, serious and chronic  
30 problems existed at every facility.

31 The CDCR needs to carefully review the operation of the DDP. Finally, the CDCR need to  
32 develop and implement a system to internally monitor program implementation and well being  
33 of inmates with developmental disabilities.

---

<sup>33</sup> At the request of the Court, I will provide a key linking inmate names to the numbering system used in this report.

1 **7. Recommendations**

2 7.1. The CDCR needs to respond to the systematic problems identified in this report and  
3 inform the Court how these problems will be addressed.

4 7.2. The CDCR needs to provide assurances that when inmates' names are identified, there  
5 will be no retaliation.<sup>34</sup> CDCR staff at the level of warden and associate warden needs  
6 to describe how they will ensure that there will be no retaliation against inmates who  
7 talked to the Court's Expert.

8 7.3. The CDCR needs to thoroughly review the operation of the DDP program. Elements of  
9 the review should include screening of inmates, housing, training and assignment of  
10 staff, and supervision of staff assigned to units with DDP inmates.<sup>35</sup>

11 7.4. The DDP needs to be evaluated on a regular basis to identify potential problem and  
12 ensure that inmates with DD receive the accommodations, protections, and support as  
13 envisioned by the Clark Remedial Plan.

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<sup>34</sup> On 2/15/10, I received the letter attached to this report. The name of the inmate has been redacted in order to protect him from further retaliation.

<sup>35</sup> One of the AW's with whom I spoke discussed his inability to appoint the best staff for positions as DD officers in the DDP. Because some of the DD positions are bid positions, some correctional officers without appropriate temperament have priority for these positions that are desirable because they offer better hours, not because officers are interested in inmates with developmental disabilities.