

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 TODD ASHKER, et al.,  
5 Plaintiffs,

6 v.

7 EDMUND G. BROWN, et al.,  
8 Defendants.

No. 09-cv-05796-CW

ORDER ADOPTING WALK-ALONE  
STATUS PLAN

9  
10 Pursuant to the Court's Order on July 3, 2018 finding that  
11 Defendants were in violation of the Settlement Agreement, Docket  
12 No. 1029, the Court hereby ADOPTS the following remedial plan:

13 1. The determination of whether a prisoner in the Restricted  
14 Custody General Population (RCGP) should be classified as a walk-  
15 alone, or allowed to exercise and participate in leisure time  
16 activity in a group, shall be made by the Institution  
17 Classification Committee (ICC). A group is defined as more than  
18 one person. The ICC will make every effort to allow all RCGP  
19 prisoners to exercise and participate in leisure time activity in  
20 a group, including efforts to create smaller groups including  
21 groups of two, if necessary. The ICC's decision to classify a  
22 prisoner as a walk-alone will be reassessed every two months to  
23 determine if such status is still necessary.

24 2. Consistent with legitimate safety concerns and without  
25 disclosing information that can create dangerous situations, the  
26 ICC will provide a walk-alone prisoner and Plaintiffs' counsel  
27 with the reasons for its decision. The ICC's decision should  
28 explain why a walk-alone prisoner cannot exercise or recreate in

1 any group, even a group of two, if necessary. The ICC must  
2 produce its finding to the prisoner and Plaintiffs' counsel for  
3 review within seven days of the ICC's determination. The  
4 prisoner may challenge the ICC's finding and have it reviewed by  
5 the Departmental Review Board (DRB). Prior to the DRB  
6 proceedings, a staff assistant shall be provided to help the  
7 prisoner prepare and present his case. The DRB will also provide  
8 to Plaintiffs' counsel and the prisoner a separate statement with  
9 its review of the ICC decision and its own finding, within seven  
10 days of the DRB's determination.

11 3. If a prisoner does not want to exercise or participate in  
12 leisure time activity in a group, he shall be allowed to sign a  
13 chrono to that effect and thus waive the right to group yard or  
14 activities. The individuals on voluntary walk-alone status shall  
15 be given an opportunity to re-sign the waiver, or withdraw it,  
16 every six months.

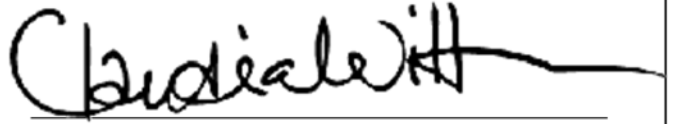
17 4. Walk-alone prisoners must be afforded ordinary General  
18 Population privileges and have adequate alternatives for social  
19 contact consistent with CDCR's legitimate security needs. CDCR  
20 shall have discretion as to how to implement this provision.

21 5. Plaintiffs' counsel shall be entitled to monitor the  
22 group programming status of each RCGP prisoner for one year.  
23 Plaintiffs' counsel's right to monitor shall include regular  
24 communication with walk-alone prisoners. Plaintiffs shall have  
25 the right to seek an extension, and subsequent extensions, each  
26 not to exceed twelve months, of this remedial order and the  
27 Court's jurisdiction over this matter by presenting evidence that  
28 demonstrates by a preponderance of the evidence that substantial

1 compliance with the Settlement Agreement's terms has not yet been  
2 achieved.

3 IT IS SO ORDERED.

4 Dated: December 7, 2018



5 CLAUDIA WILKEN  
6 United States District Judge

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United States District Court  
Northern District of California