UNITED STATES DISTRICT COURT

DISTRICT Of MINNESOTA

FOURTH DIVISION

-oOo-

Patricia Welsch, by her father and natural guardian, Richard Welsch, et al., on behalf of herself and all other persons similarly situated,

Plaintiffs,

-vs-

Arthur Noot, et a1.,

Defendants.

CONSENT DECREE

No. 4-72 Civil 451

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PART I

1. Unless otherwise specified, the actions required by this Decree are the joint responsibility of the defendant Commissioner of Public Welfare and the defendant Chief Executive Officers of Brainerd state Hospital, Cambridge State Hospital, Faribault State Hospital, Fergus Falls State Hospital, Moose Lake State Hospital, Rochester State Hospital, St. Peter State Hospital, and Willmar State Hospital, their successors in office, agents, employees and all persons in active concert or participation with them.

PART II

DEFINITIONS

2. The term "Commissioner" refers to the Commissioner of the Department of Public Welfare of the State of Minnesota or the Commissioner of any successor department assigned responsibility for the functions governed by this Decree.

3. The terms "state institutions" or "state hospitals" refers to those institutions listed in paragraph 1 of this Decree.

4. The term "resident population" includes, for purposes of determining the staff allocations required to meet

staff ratios and for purposes of determining compliance with provisions governing reduction of resident population all mentally retarded persons residing at the state hospitals as well as persons assigned to the hospitals who are absent due to visits, camping, medical leave, provisional discharge or who have a comparable temporary absence which would not require a tonal re-admission to permit the person to return to the hospital.

5. "Full time equivalent positions" are those state complement positions which are authorized and funded by the Legislature. As of July, 1980, there are 5,677 such positions available to be allocated by the Department of Public Welfare. In determining compliance with any staff requirements of this Decree, only full time equivalent positions may be considered. Although a state hospital remains free to employ individuals subsidized through programs such as Foster Grandparents, Comprehensive Employment and Training Act, work Equity Program, etc., such staff are not to be considered in meeting staff requirements*.

6. "Over-complement positions" are those over and above the authorized full time equivalent positions assigned to a state hospital. These positions are not to be considered in determining compliance with any of the staffing requirements of this Decree. The sole exception to this general principle is to the extent that full funding for an over-complement position is actually allocated to the hospital filling the position.

7. The term "direct care staff" includes those persons employed at an institution as human services technicians, human services technicians' senior, human services specialists, or human services specialists senior who are responsible directly for providing a resident with care, treatment, training and the like. Persons in civil service classifications other than those mentioned in the preceding sentence may be included within the direct care staff, subject to the prohibition against double counting stated in Paragraph 58.

8. The term "supervisory staff" refers to persons in residential program services or daytime program services at an institution who have responsibility for supervision of the staff assigned to a building, unit, or other similar component of the residential living areas or daytime program services such as a DAP leader, an Assistant Group Supervisor, Unit Director, Group Supervisor or other person having supervisory responsibility for a living unit or portion of the daytime program services at an institution.

9. The term "professional staff" refers to persons who are Qualified Mental Retardation Professionals as that term is defined in 42 C.F.R. $442.401(1979} and any other persons with a bachelor's degree who have specialized training in providing care or training for mentally retarded persons and one year of experience in providing care or training to mentally retarded persons.

10. The term "semi-professional staff" refers to persons with education and experience greater than that required of direct care staff but lesser than that required of professional staff.

11. "Major tranquillizers" refers to medications which are phenothiazines, thioxanthines, and butyrophenones and other similar medications {such as loxapine) which would customarily be classified as antipsychotic agents. The term "major tranquillizers" specifically excludes medication administered solely for the purpose of seizure control and medications customarily classified as anti-anxiety agents such as barbiturates, benzodiazepines, diphenylmethane derivatives, and glycerol derivatives.

PART III

PROVISIONS RELATING TO REDUCTI0N IN STATE INSTITUTI0N POPULATION

Population Reduction Requirements

12. By July 1, 1987, the population of mentally retarded

persons in the state hospitals and the Minnesota Learning Center shall not exceed 1,850.

13. No identifiable group of state hospital residents, such as physically handicapped persons or persons with severe behavior problems, shall be excluded from the community placement efforts required to meet the population reduction requirements. The defendants shall not be obligated to meet any quota of placements among such identifiable groups.

14. Overall institutional population of mentally retarded persons shall be reduced to:

a. No more than 2600 by July 1, 1981.

b. No more than 2525 by July 1, 1982.

c. No more than 2375 by July 1, 1983.

d. No more than 2225 by July 1, 1984.

e. No more than 2100 by July 1, 1985.

f. No more than 1950 by July 1, 1986.

g. No more than 1850 by July 1, 1987.

15. The population levels indicated for July 1, 1981, 1983, 1985, and 1987 are binding and obligatory upon the Department: the levels indicated for 1982, 1984, and 1986 are advisory and non-binding.

Admissions

16. Mentally retarded persons shall be admitted to state institutions only when no appropriate community placement is available. The county has responsibility for locating an appropriate community placement, or, in the event that none exists, insuring that such placement is developed. In accordance with whatever authority is granted by statute and rule the Commissioner shall assure that counties perform their duties with respect to community placements.

Special Procedures Regarding Admission of Children

17. For any child admitted to a state institution after the entry of this Decree, an appropriate community placement must be located or developed so that the child's residency at the state hospital does not exceed one year from the date of admission, except that the County shall have until January l, 1983, to locate or develop an appropriate community placement for children admitted to a state institution during the time period from the date of this decree until January 1, 1982. If an appropriate community placement becomes available to a child prior to the deadline established by this paragraph, the child shall be placed in that community program as soon as possible.

18. If the county determines that appropriate community services cannot be developed within the one year period due to the specialized care needs of the child and unavailability of support services or staff in the community, the county may request, no later than the ninth month of institutionalization, an extension of time from the monitor. For those children covered by the exception stated in paragraph 17 the county has until September 30, 1982, to request an extension of time from the monitor. The monitor shall notify the Commissioner and counsel for the plaintiffs when an extension of time is requested. The county shall provide evidence regarding 1) the child's service needs, 2) why those needs cannot currently be met in the community, 3) the program that is being provided to the child at the institution, and 4) the efforts that have been Bade to locate or develop community services, including efforts to work with several counties to establish a specialized regional community service.

19. The monitor, or a hearing officer appointed by the monitor pursuant to paragraph 95 (9) of this Decree, shall consider all the evidence presented by the county, parents, and other interested persons. The monitor may appoint an advocate to represent the interests of the resident.

20. An extension of time for development of community services shall be granted only if no appropriate community alternatives exist or can be developed within the required time limit. The monitor *or* bearing officer shall recommend whatever additional steps are necessary to expedite the development of appropriate community services for the child. In addition, the monitor may recommend changes in the program being provided at the institution if such are found necessary to insure an appropriate program of habilitation. Recommendations of the monitor are appealable to the Court pursuant to paragraph 95 (h) of this Decree.

Assessments

21. For each resident of an institution a detailed assessment must be made yearly at the time of the annual interdisciplinary team meeting to identify the type of community placement needed by that resident and the scope of services the resident will need when discharged to a community placement. This assessment shall be made in terms of actual needs of the resident rather than in terms of services presently available. The county and the Commissioner shall use these assessments in planning for and implementing the reduction in institution population required by this Decree and in developing plans for new residential and non-residential community based services.

Discharge Plans

22. The parties acknowledge that Minnesota law places the responsibility for establishing a continuing plan of after-care services upon the counties. Accordingly, prior to a resident's discharge from an institution, the county social worker, in cooperation with the resident, the parents or guardian, community service providers, and the interdisciplinary team shall formulate a discharge plan which includes, but is not limited to, the following provisions:

a. The type of residential setting in which the residents shall be placed;

b. The type of developmental or work programs (work activity, sheltered workshop, or competitive employment) which will be provided to the resident;

c. An individual habilitation plan consistent with Department of Public Welfare Rule 105 to be implemented when the resident is placed in the community placement;

d. The scope of supportive services which shall be provided to meet the resident's needs as defined in the assessment made pursuant to paragraph 21;

e. Within 60 days after placement the county social worker shall visit the resident in the community placement (after notice to the community program) to assess whether she or he is being provided the program and services required by the discharge plan. The defendant Chief Executive Officers shall make available, upon request of the county social worker, the appropriate member or members of the resident's interdisciplinary team for the purpose of assisting with or conducting the assessment required herein. The county social worker shall provide to the hospital and the community programs a written assessment of the appropriateness of the program and services being provided. The hospital shall in turn forward this assessment to the monitor with additional comments, if any, by a member or members of the interdisciplinary team on the appropriateness of the placement.

23. If, within 75 days after placement, the county has not provided the hospital with the written assessment required by paragraph 22 (e), the hospital shall report this fact to the Monitor and to the Commissioner. The Commissioner shall assure that such an assessment is conducted and submitted to the monitor within 90 days after placement.

Placement in Community Programs

24. Persons discharged from state institutions shall be placed in community programs which appropriately meet their individual needs. Placement shall be made in either a family home or a state licensed home, state licensed program, or state licensed facility except when, because of the resident's independent living skills the most appropriate placement would be an independent community residence, such as an apartment. In addition, until July 1, 1981, placement may also be made in a certified foster homes for four or less.

25. For those persons not returning to their family home, preference shall be given to placement in small residential settings in which the population of mentally retarded persons does not exceed 16, and to facilities which, although exceeding 16 in total size have living units of no more than 6 persons. However, defendants are not obligated to assure placement of any quota of residents in settings or living units of a particular size.

26. All persons discharged from state institutions shall be provided with appropriate educational, developmental or work programs, such as public school, developmental achievement programs, work activity, sheltered work, or competitive employment.

Appeal From Community Placement Decision

27. A state hospital resident or the resident's parent or guardian may object to a proposed community placement by appealing the placement decision pursuant to Department of Public Welfare Rule 185, which provides appeal procedures under Minn. Stat. $256.045, social service appeal.

Technical Assistance

28. The Commissioner shall allocate three staff positions to be filled by persons whose functions will be to assist in all phases of the development of community-based services for mentally retarded persons in order to implement this Decree, including the provision of technical assistance to persons

developing community-based services for mentally retarded persons.

29. The persons selected by the Commissioner to fill these positions shall be capable by reason of education or work experience to fulfill the functions described in this section of this Decree. One of the positions shall be filled no later than November 1, 1980 by a person who will coordinate the technical assistance functions. The other two positions will be filled no later than January 1, 1981.

30. The Commissioner shall make every possible effort to obtain non-classified civil service positions for the three technical assistance staff. The positions shall be funded at the level necessary to obtain qualified personnel. These three positions shall be in addition to the current six positions in the mental retardation division, which shall not be reduced during the pendency of this Decree.

31. The Commissioner shall submit candidates for these positions to a screening committee of five persons, three of whom shall be chosen by counsel for the plaintiffs and two of whom shall be chosen by the Commissioner. The screening committee shall interview the candidates and submit a report to the Commissioner ranking them and stating their qualifications for the positions.

32. The Commissioner shall provide the clerical services, travel funding, and other support necessary to assure that these persons may effectively carry out the technical assistance functions described in this section.

33. Without limiting the scope of their functions described in paragraph 28, the persons selected to fill the positions referred to in that paragraph shall:

a. Inform developers and prospective developers of the applicable statutory and regulatory provisions and of the community resources available to assist in development of community-based services;

b. Investigate the availability of funding for development of community-based services for mentally retarded persons from state sources in addition to the Department of Public welfare, from federal agencies, from counties and local government units, and from private sources

c. Assist developers and prospective developers in obtaining necessary information from and providing necessary information to governmental agencies at the local, regional, state, and federal levels;

d. Assist providers in planning for the development of individual habilitation plans, with special emphasis on assisting in the development of programs for persons who arc physically handicapped or who present severe behavior problems;

e. Assist in the management of the development of new community-based services and utilization of existing programs;

f. Assist in the resolution of problem between community-based services and other components of the comprehensive program for mentally retarded persons;

g. Assist county boards and community mental health boards, as applicable, in (1) Identifying the needs of their mentally retarded persons, (2) developing service plans based on the needs of the mentally retarded persons, (3) developing appropriate programs and services, (4) monitoring and evaluating service adequacy and effectiveness;

h. Assist state hospitals in developing plans for the de-institutionalization process;

i. Assist in coordinating the management and development of community-based programs and services with other components of the mental retardation service system.

Licensors

34. On-going training Khali be provided by experts in programming for mentally retarded persons to all Department of

Public Welfare licensors of residential and non-residential programs for mentally retarded persons in the following areas: program planning for mentally retarded persons, behavior management, communication programs, and the needs of physically handicapped persons. When conducting a licensing review to assess whether appropriate programs of habilitation are actually being provided, licensors shall directly observe program implementation, conduct interviews, review records and documents, and use appropriate checklists in their assessments.

35. For each biennium, the Commissioner shall determine the number of licensors required to fulfill his responsibility to assure that licensed programs for mentally retarded persons are meeting the standards set by law or rule and shall include in his budget request a specific request for funds sufficient to fill the needed licensing positions.

PART IV

STATE REQUIREMENTS FOR STATE HOSPITALS

Positions Covered

General

36. As of the date of this Decree, there are 5,677 full time equivalent positions allocated to serve mentally retarded (MR), mentally ill (MI), and chemically dependent (CD) persons in state hospitals.

37. For purposes of settlement, the parties agree that 2915.93 of these positions will be deemed to be serving mentally retarded individuals. There shall be no reduction in this staff allocation until such time as each state hospital has positions sufficient to meet all of the staffing requirements of paragraphs 46 through 55 of this Decree.

38. The parties also agree that 1556.52 positions will be deemed to be serving mentally ill and chemically dependent individuals. Nothing in this Decree governs the future use of these positions.

39. The remaining 1204.55 positions will be deemed to serve the needs of all three groups. If there is a reduction or re-allocation of these positions, at least 45 percent of staff removed from these positions must be allocated to serve mentally retarded persons. {For example, if 100 of these positions are eliminated, at least 45 will be re-allocated to serve mentally retarded individuals and will be added to the 2915.93 positions referred to in paragraph 37.) This process of re-allocating at least 45 percent of these positions shall continue until such time as each state hospital has positions sufficient to meet all of the staffing requirements of paragraphs 46 through 55.

40. The classifications in paragraphs 37 through 39 are based upon classifications used in the Fiscal Year 1981 Salary Roster, a copy of which is on file with the Court. Appendix A. attached to this Decree provides details of the method by which the positions have been classified. If a dispute should arise in the future because of any reorganization by the Department of Public Welfare, the classifications used in Appendix A and in the 19S1 Salary Roster shall be used as guidelines for determining the distribution of staff.

Specialized Facilities

Hospital Units

41. The staffing standards of paragraphs 46 through 55 do not apply to the four units licensed SB hospitals at the state institutions—Unit 1A at Brainerd State Hospital, Infirmary Westat Cambridge State Hospital, the acute hospital ward (Third Floor) at Faribault State Hospital, and the medical unit at Rochester Stats Hospital. The staffing allocation for each of these units shall not be reduced from the level existing as of July 1, 1980, unless the reduction is justified by a decline in the number of mentally retarded persons served by the specialized unit or by a determination by the Commissioner either that a lesser number of staff or that another comparable service (for example, a local

general hospital) would still maintain the level of medical care provided by those units. If the Commissioner decides to reduce the number of staff allocated to any of these units, notice of such reduction shall be provided to the monitor and to counsel for the plaintiffs at least eight weeks prior to implementation of such reductions. Counsel for the plaintiffs ay request the monitor to determine whether the action proposed by the Commissioner is consistent with this paragraph in accordance with the procedures established in Part VIII of this Decree.

Rochester Surgical Unit

42. The Commissioner may reduce the present allocation of staff assigned to the surgical unit at Rochester State Hospital only if mentally retarded residents are provided the same range of surgical services of the same quality as is presently provided at Rochester State Hospital.

Minnesota Learning Center

43. The staffing allocation presently made for the Minnesota Learning Center at Brainerd State Hospital shall not be reduced from the level of July 1, 1980. Unless it is justified by a decline in the number of mentally retarded persons served by that unit or the Commissioner establishes in proceedings before the monitor in accordance with Part VIII of this decree that a reduction in staff will not reduce the level of physical care or habilitation provided the residents of that unit.

44. Positions assigned to hospital units (paragraph 41) the surgical unit at Rochester State Hospital or the Minnesota Learning Center shall not be counted in establishing compliance with the ratios of paragraphs 46 through 55 of this Decree.

Support Staff

45. The allocations of janitors, foodservice workers, and housekeepers shall be sufficient to assure that their functions (including the sorting and folding of laundry) are adequately performed without requiring routine assistance from

direct care staff during times when residents are in the residential living area.

Number of Staff Required

46. Sufficient physicians licensed to practice in the State of Minnesota shall be employed to assure consistent attainment of a ratio of 1:175 of such physicians to the total number of mentally retarded residents in each hospital.

47. Sufficient registered nurses shall be employed to allow consistent attainment of a ratio of l:45 of such nurses assigned to the residential living areas to the total number of mentally retarded residents in each hospital.

48. Sufficient qualified personnel shall be employed to provide mental services specified in 42 C.P.R. $$457-462 (1979).

49. Sufficient physical therapists shall be employed to allow consistent attainment of a ratio of 1:50 of such therapists to the total number of non-ambulatory mentally retarded residents in each hospital. If it is not possible for a state hospital to hire enough physical therapists to fulfill this requirement, professionals such as occupational therapists shall be used to meet this ratio.

50. Sufficient persons qualified to assist the therapists required under paragraph 49 shall be employed to allow consistent attainment of a 1:30 ratio of such persons to non-ambulatory mentally retarded residents in each hospital.

51. Sufficient social workers and social worker case sides shall be employed to allow consistent attainment of 1:40 ratio of such persons to the total number of residents in each hospital. Ho more than 50% of the total number of such persons shall be social worker case aides.

52. Sufficient direct care staff in residential program services shall be employed to allow allocation of 10.55 full time equivalent positions to each household within a hospital. For purposes of determining compliance with this section, the number

of households in a hospital will be deemed to be equal to the total mentally retarded population of the hospital divided by 15.

53. A sufficient number of supervisory staff, professional staff, and semi-professional staff in residential living areas shall be employed to allow a consistent attainment of a ratio of 1:8 of such staff to the total number of residents at each hospital. No more than 25% of these positions may be filled by semi-professional staff persons. Persons filling these positions to meet the overall 1:8 ratio may not be considered in assessing compliance with the 10.55 full time equivalent positions required in paragraph 52 above.

54. Sufficient direct care staff in daytime program services shall be employed to allow allocation of such staff at a ratio of 1:5 of such staff to the total number of residents who do not receive such services from the public school.

a. The number of direct care staff allocated to meet this 1:5 ratio may be reduced to the extent that residential direct care staff provided by paragraph 52 are routinely assigned to follow residents and to engage in teaching and training in daytime program services.

b. The maximum number of residential direct care staff counted to meet the 1:5 ratios will be .5 positions from each household of persons served by daytime program services. The number of households will be deemed to be equal to the number derived by dividing the total number of persons in daytime program services by 15.

55. A sufficient number of supervisory, professional, and semi-professional staff in daytime program services shall be employed to allow consistent attainment of a 1:6.5 ratio of such staff to the total number of residents who do not receive such services from the public schools.

a. No more than 40% of these positions may be

filled by semi-professional staff persons.

b. A maximum of 3/8 (37.5%) of the persons required by this section may also be counted in determining compliance with the direct care ratio of paragraph 54 if these persons are routinely assigned to the teaching and training of residents.

Use of Staff

56. Although the allocation of direct care positions for residential services is to be at 10.55 per household, the actual deployment of staff for each household need not be uniform. Actual deployment of staff shall take into account the special needs of physically handicapped persons, persons with severe behavior problem, and persons with substantial communication deficiencies.

57. Of the persons required to meet the direct care staff requirements of either paragraph 52 or 54 above, there must be a sufficient number of recreation aides responsible for implementing a program of organized recreation activities under the supervision of qualified professional or semi-professional persons to allow consistent attainment of a 1:50 ratio of such recreation aides to the total number of residents at each hospital.

58. In assessing compliance with paragraph 46 to 55 above, positions allocated to meet the requirements of one paragraph may not be counted again to meet the requirements of a second paragraph. The only exceptions to this provision prohibiting double counting are 1) the provision which allows the 1:5 direct care ratio of paragraph 54 to be met by counting 37.5% of the professional and semi-professional staff of paragraph 55, 2) the provision which allows counting .5 positions per household of direct care staff from paragraph 52, and 3) the recreation aides provision of paragraph 57.

Cambridge State Hospital

59. Staffing patterns at Cambridge State Hospital for the period from July 1, 1980, through June 30, 1981, are governed by agreement of the parties entered before the Cambridge monitor on June 16, 1980. As of July 1, 1981, standards at Cambridge shall be controlled by the terms of this decree. Positions assigned to Cambridge State Hospital may not thereafter be transferred to any other state hospital unless Cambridge State Hospital retains a staff allocation sufficient to meet all of the terms of this decree.

In-Service Training For staff

60. In-service training programs at the state institutions shall include increased emphasis on the proper care of physically handicapped persons (with particular emphasis on their positioning needs), proper implementation of behavior management programs, effective training for severely and profoundly retarded persons in communication skills, and training with regard to the services provided mentally retarded persons by residential and non-residential community service providers. Persons with expertise in these areas not employed by the Department of Public Welfare or at one of the institutions involved in this action shall regularly be used to augment such in-service training.

Consultant Services

61. Funding for the staffing requirements of this Decree shall not be achieved by reduction in funding for consultants providing special services for mentally retarded persons as reflected in the Department's report on file with the Court.

Reporting of Recruiting Difficulties

62. In the event that a Chief Executive Officer is consistently unable to fill a position or positions required by this Decree, a report shall be made and submitted in accordance

with Part IX of this Decree detailing efforts made to recruit for such position or positions.

PART V

REQUIREMENTS WITH RESPECT TO INDIVIDUAL RESIDENTS

Individual Habilitation Plans

63. Each resident must be provided with an individualized habilitation plan and programs of training and remedial services as specified in Department of Public Welfare Rule 34. These plans sha11 be periodically reviewed, evaluated, and, where necessary, altered to meet the current needs of the particular resident.

Adapted Wheelchairs

64. Each resident who requires a wheelchair must be provided one adapted to his size and personal positioning needs.

Mechanical Restraint, Seclusion, Separation

65. For purposes of this section of this Decree, the following definitions apply:

a. The term "mechanical restraint" refers to all forms of restraint used to restrict the movement of an individual or the movement or normal function of a portion of the individual's body such as restraint chairs, four-point restraint to a bed, cuff and belt, camisoles, arm boards, face masks, standing boxes, posey boards, and the like, with the following exceptions:

(1) All form of manual restraint:

(2) Standing boxes when used as part of a physical therapy program;

(3) Devices used to provide support for the achievement of functional body position or proper balance;

(4) Devices customarily used on a short-tern basis for specific medical and surgical (as distinguished from behavioral) treatment:

(5) Safety devices to prevent injury from incoordination or loss of consciousness, such as ties or tying jackets, seizure helmets, »eat belts, and bed rails;

(6) Seat belts in a motor vehicle.

b. The term "seclusion" refers to the placement of an individual alone in a room or other small area from which egress is prohibited except that it does not include separation when used in accordance with this section.

c. The term "separation" refers to the placement of an individual for a brief time in a room or other small area from which egress is prohibited but only when done without use of mechanical restraint and in accordance with the procedures specified in this section of this Decree.

66. Except as provided in paragraph 69, no resident shall be placed in mechanical restraint, seclusion, or separation except in accordance with a behavior management program which meets the requirements of this section of this Decree and which is authorized by a committee consisting of, at a minimum, the following persons:

a. The Chief Executive Officer or that person's representative designated from among senior administrative personnel at the institution:

b. The Medical Director or a physician licensed to practice in the State of Minnesota selected by the Medical Director;

c. A staff member with substantial experience in behavior management programs:

d. A supervisory staff member from a living unit (This member of the committee may also fill the committee position required by sub-paragraph (c), above, if the person has substantial experience in behavior management programs.):

e. The resident or patient advocate at the institution;

f. One person experienced in behavior management programs who are not employed by the Department of Public Welfare or by one of the institutions under the supervision of the Commissioner.

67. A behavior management program which includes the use of mechanical restraint or seclusion shall be authorized by the committee only if that program is to be used to consequate specified behavior or behaviors which cause physical injury to the resident restrained or secluded or to others and only if the program:

a. States the behavioral objectives of the, program.

b. Identifies and, if necessary, defines all behaviors relevant to the program.

c. Contains procedures designed to reduce or eliminate the mal-adaptive behaviors which occasion the use of mechanical restraint or seclusion.

d. Contains procedures designed to replace the mal-adaptive behaviors which occasion the use of mechanical restraint or seclusion with behaviors which are adaptive and appropriate. A procedure of routinely reinforcing the resident on a periodic basis (such as every 30 or 60 minutes or other time period not related to the actual incidence of the targeted mal-adaptive behavior) for the non-occurrence of the targeted mal-adaptive behaviors, based upon a momentary observation or time-sampling, shall net satisfy the requirements of this sub-paragraph.

e. Specifies that the procedures required by sub-paragraphs (c) and (d) shall be implemented on all shifts and in all appropriate areas of the institution, unless the program specifies that for assessment of the efficacy of the procedures

used it will initially (within the first week) be implemented only in a designated area or areas, only on certain shifts, *or* only for short periods of time.

f. Is submitted to the committee with documentation that other less restrictive measures of modifying or of replacing the targeted mal-adaptive behavior nave been systematically tried and have been demonstrated to be ineffective or that the present incidence of the behavior is such that the likelihood of severe physical harm to the resident or others is so great that other less restrictive measures cannot reasonably be employed. (This documentation shall include reference to the date, time, and place of the action or actions of the resident which render the use of mechanical restraint or seclusion necessary.)

g. Specifies less restrictive measures which must be used prior to placing the individual in mechanical restraint or seclusion, unless documentation is presented to the committee which demonstrates that immediate implementation of mechanical restraint or seclusion is necessary if the program can reasonably be expected to be effective.

h. Specifies the schedule for use of the program.

i. Specifies the person or persons responsible for implementation of the program.

j. Specifies the data to be collected to assess progress toward the objectives of the program.

k. Specifies the procedures to be followed in modifying the program based on the data collected.

1. Specifies the criteria to be used in determining whether to continue with the program including;

(1) A description of the changes in behavior which must occur;

(2) The period of time allowed during which each change in behavior must occur if the program is to be continued;

(3) A specific fixed date when the program shall terminate unless, prior to that date, the committee authorizes continuation of the program. This date shall not be later than three months from the date of authorization of the program by the committee. The committee may, at the time the program is authorized or at any subsequent time, direct that the program shall be terminated at an earlier time.

m. Specifies the procedure to be followed in placing an individual in mechanical restraint or seclusion.

n. Specifies the persons authorized to place the individual in mechanical restraint or seclusion.

o. Specifics that mechanical restraint or seclusion may not be employed for a period longer than 15 minutes unless:

(1) Use of longer periods of mechanical restraint or seclusion is essential for affective implementation of the behavior management program, in which instance the use of such longer periods of use of Mechanical restraint or seclusion shall be monitored by professional, semi-professional, or supervisory staff in the residential living area or daytime program area, or,

(2) Extended periods of use of mechanical restraint or seclusion (such as at meal times or at night) are necessary to prevent injury to the resident or to others, in which case:

(a) The program and all documentation submitted to the committee shall be submitted to the Assistant Commissioner of Mental Health of the Minnesota Department of Public Welfare, to the Monitor, and to counsel for the plaintiffs, and,

(b) Reasonable attempts are made on a regular basis to render such extensive or continuous program unnecessary through the use of intensive behavior management programs.

68. A behavior management program which includes the use of separation: shall be authorized by the committee only if that program is used to consequate specified 1) self-injurious behavior, 2) aggressive behavior (which must include physical harm or the serious threat of it to ethers). 3) behaviors demonstrated to occur on a consistent basis prior to these specified self-injurious or aggressive behaviors in situations in which other less intrusive procedures have been used in response to these antecedent behaviors and have been demonstrated to be ineffective in reducing or preventing these specified self-injurious or aggressive behaviors, or 4) serious property destruction or the imminent threat of serious property destruction on the part of the resident and only if the program:

a. Meets all the requirements of sub-paragraphs (a) through (n) of paragraph 67 of this Decree (substituting "separation" in those sub-paragraphs for "mechanical restraint or seclusion").

b. Documents that use of separation would constitute withdrawal of the individual front a situation which affords positive reinforcement.

c. Specifies that termination of the use of separation will occur upon the cessation of the targeted mal-adaptive behavior together with completion of a specified minimum time-out duration, upon demonstration of social responsiveness or cooperation with the observer, or after 25 minutes, whichever is the shortest period of time, unless the program may reasonably be expected to require a longer period of separation (not to exceed an hour) in order to be effective when

initially (within the first week) implemented and then only if the program specifies that:

(1) Supervisory personnel approve the use of that procedure in excess of 15 minutes and that approval is noted in the resident's permanent record.

(2) Documentation of the resident's behavior in the separation room it made on no less than ten minute intervals and in sufficient detail to provide a basis to determine what changes may be required in the separation procedure or the behavior management program to render use of such extended periods of confinement unnecessary.

(3) If appropriate, staff persons interact or attempt to interact with the resident in order to facilitate release from confinement.

d. Specifies that a staff person must observe the resident at all times while the resident is in separation.

e. Provides that any room used to confine a resident as part of a separation program shall:

(1) Be free of objects or fixtures that can be broken or cause or inflict injury and otherwise provide a safe environment for the resident.

(2) Have an observation window or other device which permits continuous monitoring of the resident during separation.

(3) Have a locking device which permits the door to be opened from the outside without a key.

(4) Be large enough to allow the resident to stand, to stretch his or her arms, and to lie down.

(5) Be well-lighted, well-ventilated, and clean.

69. Mechanical restraint or seclusion, not part of a behavior management program, stay be used only on an emergency

basis to prevent the resident restrained or secluded from injuring him or others; provided that:

a. Each use shall be reviewed by administrative personnel with sufficient authority to direct the development and implementation of a treatment program to address the behavior resulting in the use of mechanical restraint or seclusion, which program shall be developed and implemented, if appropriate, in accordance with this Decree.

b. Documentation of this review, including an assessment of the appropriateness of emergency use of mechanical restraint or seclusion, shall be entered in the resident's permanent record.

c. The review shall be discussed by supervisory personnel with staff persons who were on duty in the living unit or other area at the tine of the emergency use of mechanical restraint or seclusion.

70. In each instance in which mechanical restraint, seclusion, or separation is employed, regardless of whether it occurs as part of a behavior management program, the person instituting its use shall record in the resident's record:

a. A detailed description of the precipitating behavior.

b. The expected behavioral outcome.

c. The time when the resident was restrained or secluded.

d. The time when the resident was released.

e. The actual behavioral outcome.

71. Any resident placed in mechanical restraint or seclusion shall be checked at no less than ten-minute intervals. Documentation of these checks and a brief description of the resident's condition at each check must be placed in the resident's record at least every hour.

72. A copy of all programs received by the committee pursuant to paragraphs 66 through 68 of this Decree, together with all documentation submitted in support of the request for approval of the program, and a record of the committee's action on the proposal shall be:

a. Entered into the resident's permanent records, unless the program is disapproved in which instance a notation shall be made in the record and a reference made to the place where the disapproved program is filed.

b. Maintained in a central file by the committee.

73. A report shall be provided to the monitor and counsel for the plaintiffs of each injury suffered by a resident as a result of the use of mechanical restraint, seclusion, or separation procedures.

74. Paragraphs 65 through 73 of this Decree do not apply to the Minnesota Learning Center at Brainerd State Hospital. Nothing in this Decree shall bar any action by any resident with regard to the use of mechanical restraint, seclusion, or separation at the Minnesota Learning Center.

Limitations on the Use of Major Tranquillizers

75. Major tranquillizers must not be administered to residents for punishments, for the convenience of the staff, or as a substitute for program.

76. Major tranquillizers be used for control or modification of behavior of residents only when necessary to prevent injury to the resident or others or when the behavior involved has been found to be a substantial impediment to implementation of the plan for habilitation of the resident.

77. Major tranquillizers must not be used for the purpose of controlling or modifying behavior of residents unless a physician licensed to practice medicine in the State of Minnesota has prescribed medication for that purpose. The physician who prescribes such medication must insure that the target or

objectionable behaviors to be modified are specified in the resident's record.

76. Major tranquillizers must not be used for the purpose of controlling or modifying behavior of residents unless records based upon direct staff observation are consistently maintained. Random surveys, which shall include daily samples, may be used in preparing such records. Such records must show the number of times the target or objectionable behavior specified in accordance with paragraph 77, above, has occurred. Major tranquillizers must not be used unless the determination to prescribe or to continue the prescription of such medication and the determination of the dosage of such medication to be administered is based upon •valuation of the efficacy of the medication in controlling or modifying the specified behavior as demonstrated by the incidence of target or objectionable behaviors recorded in accordance with this paragraph.

79. Nothing in this section of this Decree shall be construed to prevent the Medical Director of the appropriate institution from prescribing the administration of major tranquillizers to a resident in a Banner inconsistent with the provisions of this section so long as the basis for the clinical judgment to do so is recorded in the resident's record and copies of all portions of the resident's file which are pertinent to that decision are submitted to the monitor in accordance with Part IX of this Decree.

80. Paragraphs 75 to 79 of this Decree apply only at Moose Lake State Hospital.

81. Counsel for the plaintiffs no earlier than March 1, 1981, and no later than December 31, 1981, may request the monitor to determine in a manner consistent with part VIII of this Decree whether this section of the Decree should be applied at Cambridge State Hospital, St. Peter State Hospital. Rochester State Hospital, or Willmar State Hospital. This section of the Decree shall not apply to these institutions except upon further Order of the Court.

PART VI

PHYSICAL PLANT

82. In each institution, toileting and bathing areas used by mentally retarded residents sha11 be modified as necessary to insure privacy no later than July 1, 1981.

83. The Department of Public Welfare shall seek an appropriation to provide carpeting or an alternative floor covering for all areas which will be in use for mentally retarded persons in state hospitals in 1986, in accordance with a plan to be developed by the Department no later than July 1, 1983. Carpeting or an alternative floor covering shall be installed no later than 1986, contingent upon legislative appropriation of funds.

84. If legislative approval has not been obtained for the carpet or alternative floor covering by May 1, 1984, plaintiffs will be allowed to seek further relief from the Court for these items.

85. At Fergus Falls State Hospital, after the Adult Achievement Center has completed its transfer to a renovated area, the residential areas for the Achievement Center for the Physically Handicapped will be altered to provide at least three households, unless the resident population of the Achievement Center for the Physically Handicapped at the time of the transfer is 45 or less.

86. At Fergus Falls State Hospital, the Department shall seek an appropriation to provide air conditioning (or an alternative form of ventilation if one is found to be more appropriate for the health and well-being of the residents) for the residential areas occupied by the Achievement Center for the Physically Handicapped. The air conditioning or alternative ventilation shall be provided by Hay 1, 1983, contingent upon legislative appropriation of funds.

87. If legislative approval has not been obtained for this air conditioning or ventilation by May 1, 1983, plaintiffs will be allowed to seek further relief from the Court for this.

PART VII

LEGISLATIVE PROPOSALS

88. Prior to each session of the Legislature for the duration of this Decree, the Commissioner shall propose to the Governor for submission to the Legislature all measures necessary for implementation of the provisions of this Decree.

89. As part of the Governor's 1981 budget recommendation and legislative program the Commissioner will submit to the Legislature proposals addressing the following:

a. Semi-independent Living Services (SILS). The proposal will provide for no less than $1,700,000 for SILS. The funding can be provided from any combination of county, state and federal sources. (It is the intent of the parties that the $1.7 million dollars shall fund additional SILS placements in addition to those currently in existence.)

b. Need for additional capacity in community-based residential facilities and developmental achievement centers (DACs). The proposal will provide for the development of additional bed capacity and DAC capacity necessary to accommodate former residents of state Institutions. The legislation shall address the funding mechanism for DAC programs, transportation, and building renovation necessary to serve former residents of state institutions.

c. Sheltered Workshops. These services are funded by the Minnesota Department of Economic Security. The Department of Public Welfare will testify on behalf of an anticipated proposal to increase the number of such workshops and will, by January 1, 1981, enter into an inter-agency agreement with the Department of Economic Security to clarify responsibilities with

respect to sheltered workshops, developmental achievement centers, work activity centers, and independent living programs.

d. Family Subsidy Program. It will be proposed that the statutory reference to "experimental" shall be stricken and that the funding be increased to no leas than $924,000 for the

e. Start Up and Construction Grants-in-Aid. The Department will propose no less than $600,000 for the biennium for the funding of grants-in-aid and start up costs pursuant to Minn. Stat. $252.30. In addition, the Commissioner will study the feasibility of a start-up and construction revolving low-interest loan fund for profit and non-profit service providers and a long-term payment guarantee policy for use by providers in obtaining private financing. This report shall be provided to the monitor and plaintiffs' counsel within one year of the date of this Decree.

f. Financial incentives to place mentally retarded persona in state hospitals. The proposal will eliminate the financial incentives currently encouraging counties to place mentally retarded persons in state hospitals.

90. Legislation to be proposed by the Department as required by this Decree shall be developed in consultation with interested community groups such as Minnesota Association for Retarded Citizens, Minnesota Developmental Achievement Center Association, and Association of Residences for Retarded in Minnesota, Society for Autistic Children, United Cerebral Palsy. Advocating Change Together, Minnesota Association of Counties, and plaintiffs' counsel. Preparation of legislation, including meetings with interested parties, shall begin forthwith.

PART VIII

APPOINTMENT AND RESPONSIBILITIES OF A MONITOR

91. Within thirty days of the date of this Decree, counsel for the parties shall, if they are able to agree, submit

to the Counsel for approval their joint nominee for a person qualified to serve as a monitor of the implementation of this Decree.

92. In the event that the parties cannot agree upon a joint nominee for the monitor position, counsel for the parties shall, within forty-five days of the date of this Decree, submit to the Court their nominee or nominees (no more than three nominations can be made by the plaintiffs or by the defendants) for the monitor position.

93. The monitor shall have the education and experience necessary to perform the duties specified in this Decree. The monitor shall be a person with experience in the field of mental retardation and with familiarity with community-based programs and institutional programs for persons who are mentally retarded.

94. The monitor's rights and responsibilities shall be limited to those specified in this Decree.

95. When approved by the Court, the monitor shall be appointed to perform the following functions in his or her professional capacity as a neutral officer of the Court:

a. The monitor shall review the extent to which the defendants have complied with this Decree.

b. The monitor may retain qualified consultants and support personnel necessary for adequate review of compliance by the defendants with this Decree.

c. The monitor shall report semi-annually to the Court and to counsel for the parties summarizing actions taken to fulfill the functions of a monitor and stating the extent to which the defendants have complied with actions required by this Decree.

d. The monitor shall receive and investigate reports of alleged non-compliance with the provisions of this Decree from counsel for the plaintiffs and from other interested persons. If the monitor his reason to believe that the defendants

have not complied with this Decree, the procedures established in sub-paragraphs (e) through (h) below shall be followed.

e. If the monitor believes that a provision of this Decree is not being complied with, the monitor shall forthwith provide notice to counsel for the parties, to the Commissioner, and to the appropriate Chief Executive Officer of the factual basis for the monitor's belief.

f. Subsequent to such notice, if the monitor determines that the Commissioner or the Chief Executive Officer has not taken appropriate steps to remedy with reasonable promptness the deficiency reported by the monitor in the notice, the monitor shall notify counsel for the parties of that determination and shall allow them two weeks within which to resolve the matter informally. If no resolution is reached the monitor shall direct counsel for the parties and appropriate Department of Public Welfare and institutional personnel to confer formally with him or her to establish the steps which should be taken to remedy the deficiency.

g. If either the monitor or either party is dissatisfied with the result of the formal conference held in accordance with sub-paragraph (f), above, the monitor shall conduct, or retain a qualified hearing officer to conduct, an evidentiary hearing regarding the question of compliance raised by the notice provided defendants pursuant to sub-paragraph (e) above. Evidence shall be received in accordance with the standard established by Minn. Stat. $15.0419 (1978). The monitor shall submit to counsel for the parties and to the Court findings of fact based upon the record presented at this hearing together with whatever recommendation regarding corrective action the monitor may deem appropriate.

h. Recommendations made by the monitor shall not be implemented except on motion by either of the parties or by the Court, after notice and an opportunity for all parties to be heard

by the Court. Reports, recommendations, and findings of fact made by the monitor may be received in evidence in any further proceedings in this action.

i. Notwithstanding any other provision of this Decree, all allegations of non-compliance and all disputes under this Decree must be taken to the monitor prior to submission to the Court, except that a failure to make the physical plant improvements required under Part VI and requests to replace the monitor may be brought directly to the Court.

J. The monitor shall provide reasonable advance notice to the appropriate Chief Executive Officer or other agency administrator of any visit to or inspection of an institution or community facility unless the monitor has reasonable and particular basis to conclude that effective monitoring of implementation of this Decree could not be accomplished if advance notice were given. If the monitor determines that no advance notice should be given, the monitor shall, nevertheless, upon arrival inform the Chief Executive Officer or administrator (or in the absence of such persons, other senior administrative staff persons) of his or her presence at the institution or agency.

k. The monitor shall establish and confer with, on a regular basis, a group composed of representatives of state hospital parent groups, organizations such as the Minnesota Association for Retarded Citizens, local Association for Retarded Citizens chapters, the Minnesota Developmental Achievement Center Association, the Association of Residences for the Retarded in Minnesota, Society for Autistic Children, United Cerebral Palsy, Advocating Change Together, and other interested persons. The Commissioner shall be notified in advance of the group's meeting and may send a representative.

1. The monitor may initiate proposals to the Court only as specified in paragraphs 96 (d) and 102 of this Decree.

96. The defendants shall cooperate with the monitor and any consultants retained by the monitor to assure that the functions of the monitor may properly and effectively be carried out. In this respect, the defendants shall take the following actions, which are intended to exemplify, but not to limit, the scope of their cooperation with the monitor:

a. Provide access to the grounds, buildings, and all pertinent records of the several institutions involved in this action.

b. Provide access to pertinent record« and information at the Department of Public Welfare, including information which Department of Public Welfare employees must retrieve from data processing systems.

c. Assure that discharge and placement plans for state hospital residents include a provision that the monitor has access to records of individuals from state hospitals placid in community facilities and to the community facilities providing •services to these individuals for the purpose of determining compliance with this Decree.

d. If there is a dispute as to the monitor's right of access to any information or documents, he or she shall confer with counsel for the parties. If no agreement is reached, the question may be submitted by the monitor to the Court for resolution after notice to counsel for the parties.

97. The Commissioner of Public Welfare shall provide funding for the monitor in an amount of $55,000 for the first year of service and an annual amount increased in subsequent years on the same basis as cost-of-living increases provided state employees. The method of providing this funding shall be approved by the Court after notice to counsel for all the parties. That method of funding shall be designed to provide, if at all possible, that the monitor shall be included in a group fringe benefit program. The method of funding shall also provide the

many funds not spent in one year shall be available for expenditure in subsequent years. The monitor shall not spend more money for his or her personal services, for consultant and support personnel, and for other expenses than is provided pursuant to this paragraph. The Commissioner shall provide office space and equipment, telephone service, and clerical support for the monitor and persons paid out of the monitor's budget. The monitor shall not be housed with Department of Public Welfare personnel subject to the obligations imposed by this Decree. The defendants and counsel for the plaintiffs shall cooperate with the monitor should the monitor seek to employ persons under any program which requires a state agency or a non-profit corporation to be the sponsoring agency for such employment.

98. The monitor shall serve at the pleasure of the Court. The monitor shall be appointed no later than November 1, 1980, and shall serve regular terms of no less than one year until July 1. 1987. Any party may move the Court for replacement of the monitor for failure to fulfill the functions specified in this Decree. Any replacement for the monitor shall be appointed by the Court in accordance with procedures similar to those provided in paragraphs 91 through 93, above.

PART IX

REPORTING REQUIREMENTS

99. Copies of all reports required to be made pursuant to this Decree shall be:

a. Submitted to counsel for the plaintiffs, and

b. Submitted to the monitor appointed pursuant to Part VIII of this Decree.

100. The parties shall confer with the monitor no later than thirty days after the monitor assumes that position to establish more detailed reporting requirements which the defendants must follow. To the extent feasible, internal management reports already developed or which may be developed at

the several institutions and at the central office of the Department of Public Welfare shall be used. Documents or other reports providing the information necessary to assess compliance shall be freely used in lieu of reports which would be prepared solely for the purpose of the reporting requirements of this Decree and any orders issued pursuant to it. Appropriate deference in establishing reporting requirements shall be given to the varied administrative and management structures of the several institutions.

101. The reporting requirements shall include information necessary to assess compliance with all provisions of this Decree. That information shall include, but is not limited to, regular reports on the following:

a. Reports showing the positions at the institution assigned to meet the staffing requirements of this Decree together with the total allocation of all positions at the institution;

b. Resident census by household:

c. Names of all residents admitted after the date of this Decree together with a copy of the admission summary;

d. Names of all residents discharged or transferred after the date of this Decree, the institution, agency, or other placement to which a discharge or transfer was made, and the county in which that placement is located;

a. Names of all persons placed in restraint, seclusion, or separation together with the number of times so placed and the length of time in restraint, seclusion, or separation;

f. Copies of all death reports and all incident reports regarding serious injuries to residents

g. On at least a semi-annual basis a list of new residential and non-residential community based facilities developed or under development;

h. By December 15, 1980, and each December 15th thereafter, a copy of legislative proposals to be submitted to the Legislature pursuant to PART VII of this Decree:

i. Notification to the monitor and plaintiff's counsel in advance of each legislative hearing or committee meeting regarding all legislative procedures proposed to implement this decree when the time or place of the hearing or meeting would not appear in information regularly available to the general public:

j. Copies of any document or report, other than a document or report which would be covered by the attorney-client privilege, regarding allocation of staff or funds to, limitations en employment of staff or on expenditure of funds at, or changes in the organization of residents or staff at any of the several institutions, (Such documents shall be submitted forthwith in the event that the action proposed or required by the document could reasonably be expected to have an immediate and substantial adverse effect on the implementation of this Decree.)

102. Any agreement on the specific reporting requirements reached by the monitor and the parties shall be incorporated in a proposed order submitted to the Court for approval within 60 days of the appointment of the Monitor. In the event that agreement cannot be reached by the monitor and the parties on the substance format, or schedule for reporting, the monitor may, upon notice to all parties, submits proposed reporting orders to the Court for approval. Modifications in the reporting orders approved by the Court may be submitted by the monitor to the Court after providing the parties an opportunity to review and to comment on proposed changes.

PART X.

GENERAL PROVISIONS

103. The defendant Commissioner and the defendant Chief Executive Officers must not comply with any executive or

administrative order or directive which in any way interferes with or impedes compliance by them with all provisions of this Decree.

104. A copy of this Decree shall be posted in a prominent place in each building used by residents at the institutions involved in this action.

105. The obligations imposed upon the defendants under this Decree are not intended to relieve the defendants of any other obligations imposed upon than under any state or federal statute or regulation.

106. Counsel for the parties and the monitor shall not disclose information obtained pursuant to the reporting requirements of this Decree regarding individual residents of or employees at any state institution or community facility except to persons directly associated with them in seeking implementation of this Decree (who shall be subject to similar limitations on disclosure) or except when necessary in proceedings before this Court.

107. Counsel for the plaintiffs and others with their authorization must be allowed reasonable access to the grounds, buildings, and pertinent records at the state institutions and community facilities for purposes of observation and examination until further Order of this Court.

108. Within fifteen (15) days of the date of this Decree the defendants will cause payment to be made to Central Minnesota Legal Services the sum of $100,000 to cover costs and attorneys' fees for the prosecution of this action.

109. Effective as of July 1, 1981, the Consent Decree entered into with regard to Cambridge State Hospital on December 28, 1977, and all orders issued pursuant to that Decree are dissolved.

110. The provisions of this Decree shall not constitute an admission by the defendants as to the truthfulness of any of

the allegations in the Complaint or as to their liability in this action.

111. This Court shall continue to maintain jurisdiction over this action until July 1, 1987. On that date jurisdiction over this action shall end if the defendants have substantially complied with the terms of this Decree. If the defendants have fully complied with all provisions of this Decree prior to July 1, 1987, they may move the Court, upon notice to counsel for the plaintiffs, for an earlier termination of jurisdiction.

_____
UNITED STATES SENIOR DISTRICT JUDGE

DATED: September_____, 1980.

APPENDIX A

Staff Allocations

		MR	OTHER	MI-CD
1.	Anoka	0		364.41
2.	Brainerd	378.25	206.12	72.55
	NLC	55	---	0
3.	Cambridge	698.8	44.63	0
4.	Faribault	926.2	65.64	0
5.	Fergus Falls	242.25	157.25	184.4
6.	Moose Lake	147.73	1381.9	200.27
7.	Rochester	125	187.3	154.9
	Surgical Unit		56.7	
8.	St. Peter	185.7	157.6	296.6
9.	Willmar	157	190.5	283.4
		2,915.93	1,204.55	1,556.52
		Protected	45% to MR 5 if reduced	Not Protected

1. Since Anoka serves only mentally ill and chemically dependent persons, any reduction in staff is not governed by this agreement.

2. The 1981 Salary Roster lists 175.5 positions as General Service (GS) and 30.6 positions for laundry. These two numbers are combined to give the 206.1. The same procedure is used with Willmar and St. Peter.

3. Cambridge is listed as having 743.4 positions. The 40 over-complement positions are not included here. There are 216.67 positions listed as General Service*. Plaintiffs have agreed that 10 percent of these general service staff (21.6 positions) may be classified as "Other" so that 45 percent of the reductions from this portion of the staff will be reallocated to MR. The remaining 23 positions in the 'Other' category are laundry workers.

4. Faribault follows the same procedure as Cambridge. Of the 206 general service workers, 10 percent (20.6) are classified as 'Other" and 45 laundry workers are added to give a 65.6 total.

5. According to data from June, 1980, the hospitals serving more than one disability group (i.e., all except Anoka, Cambridge, and Faribault) had a population of approximately 30SO of which approximately 1350 were mentally retarded. Based upon these population figures, 45 percent is used as a basis for pro-rating general service staff.