

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

-000-

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

ORDER

Reporting Requirements

Plaintiffs,

4-72 Civil 451

-vs-

Arthur Noot, et al.,

Defendants.

-000-

Pursuant to Paragraph 102 of the Consent Decree approved by this Court on September 15, 1980, the defendants, their successors in office, and persons in active concert or participation with them, shall submit the following reports to the persons indicated at the intervals specified below. The responsibility for submission of these reports shall be as designated in each paragraph.

REPORTS TO BE SUBMITTED
UPON RECEIPT OF INFORMATION
OR HAPPENING OF EVENT

1. Each defendant Chief Executive Officer shall within ten working days of receipt of the written placement evaluation required by paragraph 22(e) of the Consent Decree of the appropriateness of the program and placement provided a discharged resident mail a copy of this placement evaluation together with any additional comments made by any members of the interdisciplinary team to the Monitor, to DPW, and counsel for the plaintiffs.

a. All such placement evaluations received prior to the date of this Order together with any additional comments made by members of the interdisciplinary team shall be mailed to the

Monitor, to DPW, and counsel for the plaintiffs no later than ten working days from the date of this Order.

2. The defendant Chief Executive Officers shall report to the Monitor, to DPW, and counsel for the plaintiffs by letter mailed within five working days after the 75th day after placement of any resident if the responsible county social worker has not provided the placement evaluation required by paragraph 22(e) of the Consent Decree.

a. Within ten working days after the date of this Order the defendant Chief Executive Officers shall notify by mail the the Monitor, DPW, and counsel for the planitiffs if the responsible county social worker has not provided the placement evaluation required by paragraph 22(e) in a timely manner for any resident discharged on or after September 15, 1980.

b. In the event that any such placement evaluation is not provided in a timely manner by the responsible county social worker, the defendant Commissioner shall mail, or cause to be mailed, such assessment to the Monitor and counsel for the plaintiffs within 90 days after the placement is made.

3. The defendant Commissioner shall within ten working days after receipt at the central office of the Department of Public Welfare of any document which would be treated as a notice of appeal under paragraph 27 of the Consent Decree notify the Monitor and counsel for the plaintiffs by mail of the pendency of such appeal and state the resident and state hospital involved.

4. The defendant Chief Executive Officers and the defendant Commissioner shall mail 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 on employment of staff or expenditure of funds at, or changes in the organization of residents or staff at any of the institutions involved in this action to the Monitor, to DPW, (if the report is from a Chief Executive Officer), and

counsel for the plaintiffs within five working days of the receipt of such documents if the action proposed or required by the document or report could reasonably be expected to have an immediate and substantial adverse effect on the implementation of the Consent Decree.

REPORTS TO BE SUBMITTED MONTHLY

5. The defendant Chief Executive Officers shall prepare and mail to DPW no later than January 12, 1981 and the twelfth day of each following month the following reports which the Commissioner shall mail in the form received to the Monitor and to counsel for the plaintiffs no later than the fifteenth day of each month:

a. A resident census by living unit showing the population (reported in accordance with the definition in Paragraph 4 of the Consent Decree) on the first day of that month or any other day in the week in which the first day of the month falls. The first such report shall include a resident census for each month after September 15, 1980, up to the date of that report.

b. A report providing the names of all residents admitted for any purpose (including respite care) during the previous month (the first such report shall include all admissions after September 15, 1980), the date admitted, and a document or written report which includes a statement of the reasons why no community placement was made.

c. A report providing the names of all residents discharged or transferred during the previous month (the first such report shall include all discharges or transfers after September 15, 1980) together with identification of the institution, agency, or other placement to which a discharge or transfer was made, the county in which the placement was located, and a copy of the discharge plan prepared pursuant to paragraph 22 of the Consent Decree. This report shall include specific reference to the types

of behavior problems, if any, presented by the resident and the nature of any physical handicaps.

d. A report showing the names of all residents placed in restraint, seclusion or separation together with the number of times so placed and the length of time in restraint, seclusion or separation during the previous month. The first such report shall provide this information from September 15, 1980, through the month for which the report is submitted.

e. A report including the name of each resident seriously injured as a result of the use of mechanical restraint, seclusion, or separation procedures together with brief statements as to the nature of the injury and the circumstances under which the injury occurred.

f. Copies of all death reports of residents and incident reports regarding serious injuries to residents. A "serious injury" includes fractures, dislocations, anything for which hospitalization is required, and other injuries which, considering the extent of the harm done to the individual resident, would be of particular concern to a reasonable unit or building director.

g. 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 the institution, limitations on employment of staff or funds at the institution (which shall include any document showing any change in the allocation of funds to any AID at the institution), or changes in the organization of staff or residents at the institution.

The monthly report required by this paragraph shall include a cover memorandum listing the documents submitted.

6. The defendant Commissioner shall mail to the Monitor and counsel for the plaintiffs no later than January 15, 1981 and the fifteenth day of each following month a report consisting of copies of all manual changes, instructional bulletins, policy statements, or other documents disseminated to state hospitals or

county welfare departments which contain information relevant to any section of the Consent Decree.

REPORTS TO BE SUBMITTED QUARTERLY

7. The defendant Chief Executive Officers shall prepare and mail to DPW no later than the twelfth day of each January, April, July, and October the following reports which the Commissioner shall mail in the form received to the Monitor and to counsel for the plaintiffs no later than the fifteenth day of that month:

a. Staffing reports in the form set forth in Appendix A to this Order. The first such report shall include a Staffing Report Form B which shows positions allocated to Acute Wards and the MLC as of July 1, 1980.

b. An up-to-date organization chart (or charts) for the entire institution. The chart or charts should be sufficiently detailed to show the basic organization of all residential and program services, health services, and all other supportive services of the institution and subcomponents within those services. It is the intention of this reporting requirement that existing organization charts, so long as they provide the information required, should be used. For each service and each subcomponent of a service the number of full-time equivalent (state complement) positions allocated to the service or subcomponent shall be shown, either on the organization chart or in a separate document. This enumeration must include all state complement positions allocated to the institution.

c. A narrative report stating actions taken during the past quarter and actions planned for the next quarter in order to comply with the in-service training requirements of paragraph 60 of the Consent Decree.

d. A report in accordance with paragraph 62 of the Consent Decree describing any recruiting difficulties.

8. The defendant Commissioner shall prepare and mail to the Monitor and counsel for the plaintiffs no later than the fifteenth day of each January, April, July and October a narrative report stating actions taken during the past quarter and actions planned for the next quarter in order to comply with the second sentence of Paragraph 34 of the Consent Decree.

REPORTS TO BE PROVIDED SEMI-ANNUALLY

9. The defendant Commissioner shall prepare and mail to the Monitor no later than the fifteenth day of each January and July the following reports:

a. A list of new residential and non-residential community-based facilities and services developed or under development.

b. A narrative statement outlining the activities of the technical assistance personnel employed pursuant to paragraphs 28 through 33 of the Consent Decree and identifying significant and potentially pervasive problem areas incurred in the development of community-based programs and services.

c. A narrative report stating actions taken during the past six months and actions planned for the next six months in order to provide the training for licensors as required by the first sentence of paragraph 34 of the Consent Decree.

REPORTS TO BE PROVIDED ANNUALLY

10. The defendant Commissioner shall prepare and mail to the Monitor and counsel for the plaintiffs no later than December 15th of each year a copy of all legislative proposals to be submitted pursuant to Paragraph 88 of the Consent Decree.

OTHER REPORTS

11. The defendant Chief Executive Officers shall prepare and mail to DPW no later than April 12, 1981, a report:

a) listing all residents of the institution who require a wheelchair; and

b) for each individual listed stating (1) whether adaptations to wheelchairs are needed because of the size and personal positioning needs of the resident, (2) whether those adaptations have been made, and (3) if adaptations have not been made, the plan for making or obtaining the required modifications. This report may, if the defendant Chief Executive Officer so chooses, be met by sending copies of appropriate documents from the resident file indicating the type of assessment made and action taken pursuant to that assessment. This report shall be updated as part of each October and April quarterly report to show action taken to assure continuing compliance with Paragraph 64 of the Consent Decree for residents who remain in the institution or are admitted to the institution. The Commissioner shall mail these reports in the form received to the Monitor and to counsel for the plaintiffs no later than the fifteenth day of these months.

12. The defendant Commissioner shall promptly notify the Monitor and counsel for the plaintiffs when the Adult Achievement Center at Fergus Falls State Hospital completes its transfer to a renovated area.

13. The defendant Commissioner shall prepare and mail to the Monitor and to counsel for the plaintiffs no later than April 15, 1981, a report from each defendant Chief Executive Officer identifying the toileting and bathing areas used by mentally retarded persons which require (or required) modification to insure privacy and stating the actions planned (or taken) to such end. A follow-up report shall be included in the July, 1981 quarterly report stating the actions taken up to that time.

14. The defendant Commissioner no later than July 15, 1983 shall mail to the Monitor and counsel for the plaintiffs a copy of the plan referred to in Paragraph 83 of the Consent Decree.

GENERAL PROVISIONS

15. Nothing in this Order shall be construed to limit the Monitor or counsel for the plaintiffs in their access to information as provided in Paragraphs 96 and 107 of the Consent Decree.

16. Reports for which no specific format is provided may be made in any reasonable manner which provides the required information. To the extent any report or form prepared for a previous reporting period may be amended or expanded to provide with reasonable clarity the information required for a subsequent reporting period, such action may be taken.

17. Until further notice, which shall be the responsibility of the Monitor, DPW, and counsel for the plaintiffs, the Reports required by this Order shall be sent to the following addresses:

- a. Dr. Lyle Wray
Court Monitor
Room 200
Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
- b. Department of Public Welfare
Director of Residential Services
Attention: MR Program Consultant
4th Floor, Centennial Office Building
St. Paul, MN 55155
- c. Luther A. Granquist
Central Minnesota Legal Services
Developmental Disabilities
Advocacy Project
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

18. A conformed copy of this Order may be served by mail on each defendant Chief Executive Officer.

BY THE COURT,

/s/ Earl R. Larson

Senior United States District Judge

Dated: January 5, 1980

WELSCH V. NDOT
CONSENT DECREE STAFFING REPORT
Institution Summary Report -- Part I

Date _____ Institution _____

Total Institution Staff Complement _____ Population: Total _____ (1) Handicapped _____ (2)
 DPS _____ (3) TMR _____ (4) External Day Program _____ (4A)

Paragraph	Type of Position	Ratio	Multiplier	FTE Positions Required By Decree	FTE Positions Allocated & Filled	FTE Positions Allocated & Vacant
52	RPS Direct Care (Source: Form 2)	1:1,4218	.703	_____ (5)	_____	_____
53	RPS Supv/Prof/SemiProf RPS SemiProf _____ (6) (Source: Form 3)	1:8	.125	_____ (5)	_____	_____
54	DPS Direct Care DPS Staff _____ (8) DPS Supv/Prof/Semi Prof Staff _____ (9) (not to exceed _____) RPS Direct Care Staff _____ (10)(not to exceed _____) Total Filled _____ (Source: Forms, 4, 5, 2)	1:5	.2	_____ (7)	_____	_____
55	DPS Supv/Prof/SemiProf DPS SemiProf _____ (11) (Source: Form 5)	1:6.5	.154	_____ (7)	_____	_____
57	Recreation Aides(12) RPS Direct Care _____ DPS Direct Care _____ Total Filled _____ (Source: Forms 2 & 4)	1:50	.02	_____ (5)	_____	_____
46	Physicians(13) (Source: Form 6-A)	1:175	.0057	_____ (5)	_____	_____
47	Registered Nurses(14) (Source: Form 6-A)	1:45	.022	_____ (5)	_____	_____
48	Dental Services (Source: Form 6-A)	N/A(15)	N/A	N/A	_____	_____
49	Physical Therapists PTs _____ Other Prof _____ (17) Total Filled _____ (Source: Form 6-B)	1:50	.02	_____ (16)	N/A	_____

<u>Paragraph</u>	<u>Type of Position</u>	<u>Ratio</u>	<u>Multiplier</u>	<u>FTE Positions Required By Decree</u>	<u>FTE Positions Allocated & Filled</u>	<u>FTE Positions Allocated & Vacant</u>
	Physical Therapy Aides (Source: Form 6-B)	1:30	.033	(16)		
51	Social Services Social Workers _____ Social Worker _____ Case Aides _____ (18) Total Filled _____	1:40	.025			
45	Support Staff(19) (Source: Form 7)	N/A	N/A	N/A		
41	Acute Wards(20) (Source: Form 8)	N/A	N/A	N/A		
43	MLC(21) (Source: Form 8)	N/A	N/A	N/A		
<u>Other Professional and Semi-Professional Positions (22)</u>						
	Physicians	N/A	N/A	N/A		
	Registered Nurses	N/A	N/A	N/A		
	Dental Services	N/A	N/A	N/A		
	Physical Therapists	N/A	N/A	N/A		
	Physical Therapy Aides	N/A	N/A	N/A		
	Social Workers	N/A	N/A	N/A		
	Social Worker Care Aides	N/A	N/A	N/A		
	Occupational Therapists	N/A	N/A	N/A		
	COTA	N/A	N/A	N/A		
	Behavior Analyst III	N/A	N/A	N/A		
	Psychologist	N/A	N/A	N/A		
	Recreation Therapist	N/A	N/A	N/A		
	Special Teach	N/A	N/A	N/A		
	Speech/Hearing Therapist	N/A	N/A	N/A		
	Vocational Therapist	N/A	N/A	N/A		
	Other Professional	N/A	N/A	N/A		

Instructions

ALL STAFFING REPORTS ARE TO BE GIVEN IN FULL-TIME-EQUIVALENT STATE COMPLEMENT POSITIONS.

- (1) Total population is "resident population" as defined in paragraph 4.
- (2) "Handicapped population" includes residents who meet codes 11 through 14 of the levels of ambulation of POIS:
 - Code 10: Fully Mobile, Fully Ambulant: Walks any normal distance within or between buildings or points; includes climbing and descending stairs.
 - Code 11: Fully Mobile, Partially Ambulant: Walks any normal distance with aids such as canes or crutches; includes climbing and descending stairs.
 - Code 12: Partially Mobile, Partially Ambulant: Walks with aids such as canes, crutches, walker or personal assistance/support within a restricted area and/or climbing and descending stairs.
 - Code 13: Partially Mobile, Non-ambulant; Able to propel self in wheelchair and/or crawls or scoots at least from room to room.
 - Code 14: Non-mobile, Non-ambulant: Totally dependent upon personal assistance for movement from room to room.
- (3) Daytime program services population includes all residents not in TMR and provided programming, training, or activities in the institution's DAC, DAP, DEC, Adult School (or the like), and other daytime activities provided by the institution but not public school staff or an "external day program."
- (4) TMR population includes all residents in public school programs.
- (4A) EDP (external day program) population is the number of residents attending a day program operated by other than state hospital personnel such as a sheltered work activity in the local community.
- (5) Multiply "total population" times specified multiplier.
- (6) Paragraph 53 provides that no more than 25% of the positions required to meet the RPS Supv/Prof/SemiProf requirements may be filled by semi-professional staff persons.
- (7) Multiply "daytime program services population" times specified multiplier.
- (8) Direct care staff assigned to institution's daytime services program.
- (9) Number of daytime program services Supv/Prof/SemiProf staff positions routinely assigned to teaching and training of residents. This number may not exceed 37.5% of the DPS Supv/Prof/SemiProf staff positions.
- (10) Number of RPS direct care staff positions routinely assigned to follow residents to DPS programs and to engage in training and teaching of residents. The number of positions may not exceed .5 times the quotient obtained when the "daytime program services population" is divided by 15.
- (11) Paragraph 55(a) provides that no more than 40% of the positions required to meet the DPS Supv/Prof/SemiProf requirements may be filled by semi-professional staff persons.
- (12) Recreation Aides are included within either the RPS or DPS direct care staff.
- (13) All physicians must be licensed to practice in the State of Minnesota.
- (14) Registered nurses and nurse practitioners counted in staffing requirements for RPS Supv/Prof/SemiProf, DPS Supv/Prof/SemiProf, and acute ward or anywhere else in staffing report may not be included here.
- (15) No ratios are specified for dentists, dental hygienists, or dental assistants.
- (16) "Handicapped population" times specified multiplier.
- (17) If sufficient physical therapists are not employed, other professionals must be included here and may not be counted in other portions of the staffing report.
- (18) Paragraph 51 provides that no more than 50% of the positions required to meet the Social Services requirement may be filled by social worker care aides.
- (19) No ratios are specified in paragraph 45. The type of positions to be reported are those specified in Form 7. A reasonable judgment should be made in allocation of time.
- (20) Paragraph 41 provides that the staffing allocations for the acute wards at four institutions (Brainerd, Cambridge, Faribault, and Rochester) may not be reduced from the level existing as of July 1, 1980 except in accordance with that paragraph. Total staff positions allocated to these units are to be reported here. No ratios are specified.
- (21) Paragraph 43 makes a similar provision for MLC as that made for the acute wards. No ratios are specified.
- (22) In addition to the names, positions, and proportion of FTE positions filled or vacant reported on Staffing Report Forms 3, 5, 6, or 8, each institution must provide a list on Form 9 of all persons employed in the capacities listed who are not reported on those forms. If an individual reported as working in less than a full-time capacity on those forms also provides service on a part-time basis elsewhere, that individual should also be listed in the appropriate part of Form 9. Persons employed solely in an administrative or supervisory capacity are not to be included. The totals from Form 9 are to be reported on the Institutions summary form. A reasonable judgment should be made in allocation of time.