

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

Patricia Welsch, et al, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
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 Vera J. Likins, et al, )  
 )  
 Defendants. )

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER FOR JUDGMENT

No. 4-72-Civil 451

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This action originally came on for trial in September, 1973. A twelve day hearing conducted at that time dealt both with general questions regarding habilitation of mentally retarded persons and with specific conditions at Cambridge State Hospital. This Court issued an opinion on February 15, 1974, regarding certain of the issues of law presented. *Welsch v. Likins*, 373 F. Supp. 487 (D. Minn. 1974). A short supplementary hearing was held on May 10, 1974. Thereafter, on October 1, 1974, this Court issued Memorandum Findings of Fact and Conclusions of Law regarding conditions at Cambridge, along with a detailed Order [hereinafter referred to as the "Cambridge Order"]. In the Memorandum this Court recognized that it would

" . . . take the resolve and cooperation of the executive and legislative branches of State government, in conjunction with other instrumentalities, to remedy the years of neglect and inadequate care and treatment that the plaintiffs have suffered . . . ." *Id.* at 34.

The Order retained jurisdiction so that

" . . . the Court will be in a position to dictate more demanding requirements should the responses of the non-parties fail to heed this admonition and conditions at Cambridge warrant further relief." *Id.*

Plaintiffs have now moved for modification of the Cambridge Order and for the convening of a three judge court to consider their request for further relief embodied in a Supplemental Complaint, filed June 27, 1975. Defendants have also moved for modification of the Cambridge Order and for dismissal of plaintiffs' Supplemental Complaint.

On August 22, 1975, this Court heard argument on the plaintiffs' motion requesting convening of a three judge court. Briefs have been submitted on that motion, which is presently under advisement, and a ruling will be issued shortly,

The plaintiffs also requested an opportunity to present evidence on current

conditions at Cambridge. An evidentiary hearing to that end was held for four and one-half days commencing on November 17, 1975, and the hearing was continued for another half day on December 19, 1975. Various exhibits were received, and a total of 13 witnesses testified. Based on the evidence adduced at that hearing, upon the arguments and memoranda of counsel, and upon the entire record herein, the Court now enters the following:

#### FINDINGS OF FACT

1. As was true even before entry of the Cambridge Order, the day-to-day existence of many Cambridge residents is made more bearable because of the tireless efforts of many dedicated employees and volunteers who labor under extremely difficult conditions to bring normalcy, love and habilitation to the severely and profoundly retarded. Dr. Clements testified that Cambridge has now gone about as far as it can go in providing care and treatment given its present staffing resources. The adverse findings reported herein are thus not attributable to lack of effort on the part of the present staff. To the contrary, the conscientious individuals who minister to the residents daily in the struggle to ease their suffering and bring them a better life, deserve the commendation and thanks of this Court and of the people of Minnesota.

2. Since the entry of the Cambridge Order there have been many improvements in the facilities, care and treatment accorded to the residents of Cambridge. At the recent hearing the residents were judged by virtually every observer to have improved in their overall level of functioning since 1973. They were generally described as being more attentive, better skilled, less drowsy, less self-stimulative, better dressed, and better groomed.

3. As of November 1975 the population of Cambridge State Hospital was comprised of approximately 635 residents. All of the residents, with the exception of some in Cottage 14 and others in Cottage 1, would be classified as severely or profoundly retarded. Although a precise breakdown is not available in these latter buildings, at least 560 of the present population of 635 are severely or profoundly retarded persons.

4. The following provisions of Appendix A of the Cambridge Order have been complied with:

a. Paragraphs 3 and 4, insofar as they require attainment of an overall "resident living staff" to resident ratio of 1:2 as prescribed by the Department of HEW for Intermediate Care Facilities for the Mentally Retarded [ICF-MR]

in 39 Fed. Reg. § 249.13(b)(5)(11)(A) and (B) (January 17, 1974). As pointed out in this Court's October 1, 1974, Memorandum at 18, the ICF-MR standards are ambiguous on the issue of whether Structure Program Services (SPS) staff are to be included in calculating the residential living services direct care staff. The Court at that time left the resolution of this ambiguity to be "worked out between the Commissioner of DPW and HEW." Proof of resolution of this issue and of satisfactory compliance with the ratio was to be submitted by means of a written statement of compliance by the appropriate HEW official. Although that written statement has not been filed with the Court, Mr. Restad and Dr. Offerman testified that HEW has certified the facility for continued participation in the ICF-MR program. Accordingly, it is proper to include SPS staff positions in calculating compliance with paragraphs 3 and 4 of the Cambridge Order. At the time of the hearing the residential living staff, including 49 SPS staff, numbered approximately 321.50 full time equivalent positions. The overall 1:2 ratio required by paragraphs 3 and 4 of the Order has been met. However, as set forth in more detail in paragraphs 8 and 9 herein, attainment of the overall ratio of 1:2 mandated by the Cambridge Order has failed to assure consistent achievement of the day and night on-duty shift ratios necessary to provide custodial care and safekeeping.

b. Paragraph 7(a), insofar as it requires a ratio of registered nurses to severely and profoundly retarded residents of 1:40 and a ratio of 1:100 for other residents.

c. Paragraph 9, requiring the Commissioner to make a formal written recommendation to the Governor urging appropriation of sufficient funds to accomplish certain shift ratios and to employ certain professional and support staff. The plaintiffs take issue with several small details in the Commissioner's request. However, the Commissioner's compliance was substantial and the Governor's rejection of the request in his budget message to the 1975 Legislature was so sweeping that no useful purpose would be served by a finding of noncompliance with this portion of the Order.

d. Paragraph 10, insofar as it requires that each resident be provided with an individualised habilitation plan. The evidence establishes that such plans do now exist, and that they are periodically reviewed and amended. There is serious doubt, however, that the staff and living environment are yet present at Cambridge which would allow for effective implementation of these or any other habilitation plans.

e. Paragraph 14, insofar as it requires establishment of a written policy regarding use of tunnels. The Cambridge State Hospital Tunnel Policy issued on October 31, 1974, is consistent with the terms of this Court's Order.

f. Paragraph 15, requiring cessation of the use of seclusion at Cambridge. Seclusion is now used only in very limited instances which have been agreed upon by the parties to this action, particularly with respect to certain designated individuals in Cottage 14. See paragraph 7(d), *infra*.

g. Paragraph 18, requiring defendant Offerman to request additional equipment and materials and requiring defendant Commissioner to urge the Governor to seek the necessary appropriation for such equipment'.

h. Paragraph 20, requiring periodic evaluation in writing of the eligibility and capacity of each Cambridge resident for community placement.

i. Paragraph 21, requiring submission to this Court by defendant Commissioner of the DPW's comprehensive plan for the future of State institutions.

j. Paragraph 23, requiring that the defendants continue their efforts to seek out low interest financing from the Minnesota Housing Finance Agency for the construction of community residential facilities for the mentally retarded. While the bonding authority for this purpose has now been set at ten million dollars, no actual financing had in fact become available as of November 1975.

5. There is no evidence of noncompliance with the following provisions of Appendix A of the Cambridge Order:

a. Paragraphs 1 and 2 pertaining to admission of residents to Cambridge.

b. Paragraph 7(a), insofar as it requires assignment to Cambridge of a proportionate share of new nursing positions created on a statewide basis.

c. Paragraph 13, requiring removal of certain heavy wire mesh and bars from all basement and first story windows in residential living and program areas at the institution.

d. Paragraph 16, prohibiting use of physical or chemical restraints in violation of the limitations specified in DPW Rule 34. There is, however, evidence referred to in more detail in paragraph 12 below, that the use of tranquilizing medication is not adequately supervised and monitored.

e. Paragraph 17, insofar as it requires provision of a wheelchair to each resident who needs one.

f. Paragraph 19, insofar as it prohibits the placement of Cambridge residents in community facilities except in accordance with certain conditions.

A policy for carrying out this portion of the Cambridge Order has been adopted by the defendants.

8. Paragraph 22, requiring development of a written plan to provide "upon an orderly basis, community residential placements for all residents at Cambridge State Hospital who are capable of such placement." A memorandum of November 3, 1975, from Marcia Stevens sets forth the defendants' efforts in this regard. The plaintiffs dispute that memorandum's conclusion that only 68 residents are currently capable of community placement. The expert testimony indicates that this estimate is, indeed, low, but the Court is unable to say on the present record that the defendants have failed to comply with paragraph 22.

h. Paragraphs 24, 25, 26, and 27; pertaining to restrictions on patient transfers, submission of licensure reports, and free access to buildings, grounds, and records for plaintiffs' counsel.

6. The following provisions of Appendix A of the Cambridge Order have not been complied with:

a. Paragraph 5, requiring provision of sufficient support staff "to assure that all supportive services are adequately provided without requiring the routine assistance of residential living staff personnel for supportive duties." Testimony established that residential living staff members are still engaging in routine supportive duties in excess of the amount contemplated by paragraph 5 of the Cambridge Order. Dr. Offerman conceded that the Order is not being complied with on weekends. At a minimum, according to Dr. Offerman, 35 additional support positions are needed to meet demand during vacations, sick leave, and days off. Only 12 such positions have been temporarily filled.

b. Paragraph 7(b), requiring employment of one Minnesota licensed physician for every 175 residents, or 3.63 full time equivalent positions under current population conditions. Only three physicians licensed to practice in the State of Minnesota have been employed at any time since October 1, 1974.

c. Paragraph 7(c), requiring one Minnesota licensed physical therapist for every 100 residents, or 6.3 full time equivalent positions under current population conditions. As of November 1975 there were three physical therapists employed by Cambridge State Hospital, and one physical therapist available through the CADRE program.

d. Paragraph 7(d), requiring one speech and hearing therapist for every 100 residents, or 6.3 full time equivalent positions under current population conditions. As of November 1975 there were three such therapists

employed by the hospital, with a fourth to be hired. Two such persons were employed by CADRE while the public school program was in session.

e. Paragraph 7(e), requiring a ratio of one social worker to every 60 residents, or 10.5 full time equivalent positions under current population conditions. As of November 1975 five social workers were employed by the hospital, two of them in CETA positions for which funding may expire in July of 1976. There were also two vacant positions.

f. Paragraph 7(f), requiring one psychologist for every 100 residents, or 6.3 full time equivalent positions under current population conditions. Cambridge has filled only 1.4 such full time equivalent positions, and has one more staff member with a masters degree classified as a behavior analyst. See paragraph 7(b), infra.

g. Paragraph 7(g), requiring one dentist for every 350 residents, or 1.8 full time equivalent positions under current population conditions. As of November 1975, 1.4 full time equivalent dentist positions were filled.

h. Paragraph 8, insofar as it requires employment of semi-professional physical therapy aides in accordance with a listing to be submitted by defendant Offerman to the Court. Defendant Offerman determined, in accordance with the Court Order, that first 15 and later 11.5 such full time equivalent positions were needed. Seven such positions were in fact filled in November 1975, five of them with CETA personnel for which funding may expire in July of 1976.

i. Paragraph 11, requiring full compliance with the physical plant, equipment and related standards of DPW Rule 34 by January 1, 1977. There is, of course, no violation of the Cambridge Order in this regard, since the deadline for compliance has not yet arrived. Many of the physical plant requirements of Rule 34 will not be met on January 1, 1977, unless substantial changes are made in the present year,

J. Paragraph 12, requiring installation of air conditioning in McBroom Hall, Boswell Hall, and the Infirmary, and requiring the installation of carpeting in most of the residential living and program areas of the institution. There has been no compliance with the carpeting provisions of the Cambridge Order. Various window air conditioning units have been installed in the buildings named in the Order, all but one at private expense. As of November 1975 a total of \$198,000 had been authorized for air conditioning of the Infirmary. Any surplus in that amount was to be used in either Boswell or McBroom Halls. Additional funding in the amount of \$125,000 to complete air conditioning in McBroom and Boswell will

sought from the 1976 Minnesota State Legislature.

k. Paragraph 17, insofar as it requires that the wheelchair provided to each needy resident shall be adapted to his size and personal needs. As previously found by this Court, wheelchairs specifically adapted to a resident's size and positioning needs are helpful "in preventing muscular contractures and in assuring proper posture and positioning in order to enable the resident to relate to and receive stimulation from his immediate surroundings." Memorandum of October 1, 1974, at 26. Dr. Clements testified that it is not sufficient to simply provide small, medium, or large sized wheelchairs, since a standard chair will rarely fit a severely deformed person; the result is that residents end up sitting in a slumped position or leaning over. At least in Cottage 11, in Boswell, and in McBroom, nonambulatory residents still have not been provided wheelchairs sufficiently adapted to their needs. The failure of the defendants to take proper action endangers the physical well-being of residents at Cambridge, for slumping may cause permanent positional defects.

7. Certain circumstances at Cambridge have created a need for the following minor modifications of Appendix A to the Cambridge Order, which are agreeable to both parties and acceptable to the Court:

a. The definition of "Direct Care Staff," set forth in paragraph (d) under Definitions should be amended by striking therefrom the phrase "psychiatric technician or senior psychiatric technician, special schools counselor or senior special schools counselor" and inserting in lieu thereof the phrase "human services technician, human services technician senior, human services specialist, human services specialist senior." This conforms to changes which have in fact taken place in the job titles used for the nonprofessional staff with direct care patient contact.

b. Paragraph 7(f) should be modified to provide that behavior analysts with at least a masters degree may be included to satisfy the ratio therein stated. This reflects the fact that persons trained and categorized as "behavior analysts" have special training in behavior modification, see paragraph 11(a), infra, and are thus, in some instances, more useful in treating residents at Cambridge than are psychologists.

c. Paragraph 12 should be amended to change the date by which air conditioning shall be installed in McBroom Hall, Boswell Hall and the Infirmary to July 1, 1976. This conforms to the fact, noted supra in paragraph 6(j), that while air conditioning has not yet been completed in accordance with the Cambridge

Order, it appears likely that it may be installed during the summer of 1976.

d. Paragraph 15 should be amended to provide for very limited use of seclusion under the conditions which have been worked out by the parties. As noted in paragraph 4(f), supra, the practice of placing residents in seclusion has all but disappeared at Cambridge. Rare cases have arisen, however, in which seclusion has been the only remedy available to avert serious injury to a resident or those around him. In dealing with residents with the propensity to engage in such conduct, the Cambridge staff has been forced to choose between using seclusion under very rigid guidelines, or recommending that the resident be transferred to a more secure institution. The parties have been able to agree on an individual basis that the availability of carefully limited seclusion is the preferable solution for residents of this nature. The provisions in the attached Order conform to the agreement of the parties, according to plaintiffs' representations to this Court.

8. Contrary to this Court's hope in entering the Cambridge Order, achievement of the overall 1:2 "resident living staff" to resident ratio provided for in HEW's ICF-MR standards has failed to consistently assure actual shift ratios sufficient to provide custodial care and safekeeping. A fortiori, achievement of the overall ratio has failed to consistently assure actual shift ratios sufficient to provide the constitutionally required opportunity for habilitation.

a. In the Memorandum of October 1, 1974, this Court specifically found that shift ratios of 1:9 during the waking hours and 1:16 at night were needed for purposes of providing custodial care and safekeeping. Id. at 15. Despite testimony by plaintiffs' experts prior to that Memorandum that shift ratios of 1:4 during waking hours and 1:8 at night are necessary for habilitation of severely or profoundly mentally retarded individuals, this Court struggled with the practical realities of State government and concluded that the ICF-MR overall ratio should be employed because it would result in shift ratios of 1:8 during waking hours and 1:16 at night--"an improvement, albeit slight, over the 1:9 ratios that the Court has found necessary for custodial care or safekeeping." Id. at 19. Central to this Court's adoption of the ICF-MR standards was its belief that attainment of the overall 1:2 ratio would assure actual shift ratios very close to 1:8 during waking hours and 1:16 during the night.

b. Evidence adduced at the most recent hearing has irrefutably established that this crucial assumption underlying the Cambridge Order was



overly optimistic. This evidence consists of data collected during three one-week periods, in early March 1975, in early May 1975, and in early November 1975. Dr. Offerman acknowledged that the data represents a fair cross section of the ratios occurring at time periods which are important to the habilitation process and during which the "highest or best staff resident ratios in the cottages are likely to occur."

c. The data described above establishes that during the entire week of the May study the on-duty ratio of direct care staff to residents exceeded the 1:8 ratio in 49% of the time periods sampled throughout the entire institution, with the exclusion of Building 1 and the acute ward of the Infirmary. During the November study the on-duty ratio of direct care staff to residents exceeded the 1:8 ratio in 51.9% of the time periods sampled throughout the institution excluding, in this latter study, only the acute ward of the Infirmary. During the November study in Boswell Hall ( Unit IV) the 1:8 ratio was exceeded in 73.8% of the time periods sampled. In Unit VI (Buildings 1, 3 and 4) the 1:8 ratio was exceeded in 87.3% of the time periods sampled.

d. Direct care staff members often have to attend to the needs of one individual resident for toileting, bathing, or other purposes. The number of times when only one staff person is on duty in a living unit are thus of particular importance, for if that one staff person is engaged with a single resident, there is no other staff person to assist any other residents. During the November survey there were more than 240 time periods sampled throughout the entire institution in which only one direct care staff person was on duty for a particular living unit. Those time periods constituted more than 17% of the total number of time periods sampled during the week. In Cottage 14 there was only one staff person on duty in the living units, which have from 11 to 16 residents, in more than one-half of the time periods sampled. On Sunday, November 2, 1975, there was only one staff person on duty during the second shift in Cottage 9, a building which has 33 residents.

e. The November 1975 figures as to the number of time periods sampled in which only one staff person was on duty represent an increase over the number of such time periods appearing in the May 1975 study, at which time 227 such periods were recorded.

f. The plaintiffs also submitted data of undisputed accuracy concerning the number of staff persons on duty during one week in May and one week in November 1975 for the night shift. This data demonstrates that staff ratios in

the night time which equal or better the 1:16 ratio which this Court had hoped would be obtained, were present only in those living areas or buildings with 16 or less residents and in Cottages 1 and 3 when two staff persons were on duty. Apart from those living areas the staff-resident ratios routinely ranged as high as 1:27 in McBroom Hall; as high as 1:27 on the North end of Cottage 8; as high as 1:28.5 in Boswell Hall; as high as 1:34 on the North end of Cottage 11 and 1:28 on the South end of that building; as high as 1:29 in Cottage 12; and as high as 1:34.5 in Cottage 14.

g. The nighttime ratios in the larger buildings present particular difficulties for safekeeping of residents. In both Cottages 8 and 11 only three persons are on duty in each building, one of whom is assigned to the Y-Ward of each of those buildings. The other two staff persons in each of those buildings are assigned to two wards each. Those wards are a substantial distance apart, as are the two wings in each of the Y-Wards. It is evident that one staff member assisting a resident in one of the areas for which he or she is responsible could not even know of any problems developing in another area, much less attend to the needs of a resident in the other ward or wing.

h. Nighttime staffing in Cottage 14 presents an acute example of the understaffing experienced even while the institution was achieving the 1:2 overall ratio required in the Cambridge Order. For all but one night of the week surveyed in November 1975 there were only two staff members on duty in a two-story building with five separate living areas.

i. As with the daytime ratios, there are instances in which staffing at night was worse in November 1975 than it was in May 1975.

j. Dr. Clements' testimony provided an example of the tragic effects of inadequate direct care staffing. He testified that for many profoundly or severely retarded persons meals and the pleasures associated with eating may be one of the few happy occasions in their otherwise drab lives. He also testified that many handicapped residents must be fed slowly, due to difficulty in swallowing. Yet, due to inadequate staffing, Dr. Clements observed many residents being rushed through the feeding process so quickly (often in a matter of five or six minutes), that the effects of indigestion were visible in gas bubbles escaping from the residents' mouths. The visible and audible choking and coughing demonstrated that what should have been a time of pleasure was just one more occasion for suffering.

k. All witnesses questioned on the subject agreed that additional staff

is required in the residential living services at Cambridge. The 1974 DFW Rule 34 license reports for Cambridge specified for each unit at Cambridge that inadequate staff was provided. Mrs. Barbara Kaufman, the head of the DFW licensing division, testified that the need for additional staff was still apparent in November 1975 when the most recent licensing survey was held. Dr. Offerman acknowledged the need for additional staff in his testimony at the November hearing, stating, for example, that the staff is simply inadequate to supervise residents outside of the buildings on their way home from SPS classes.

9. Provision of custodial care and safekeeping and provision of the constitutionally mandated opportunity for habilitation at Cambridge requires actual on-duty shift ratios of residential living staff to residents of 1:8 during the waking hours and 1:16 at night.

a. The plaintiffs' request that the Cambridge Order be modified to provide ratios of 1:4 during waking hours and 1:8 at night is as laudable today as an ultimate goal as it was in October of 1974. However, the same practical considerations which caused this Court to reject that standard as a constitutional requirement in 1974 persist with equal force today. See Memorandum of October 1, 1974, at 17-19.

b. Nevertheless, the Cambridge Order has failed to assure safe custodial care, much less an opportunity for habilitation, and the need for modification of the overall ratio of 1:2 is readily apparent.

c. Conditions necessary for safe custodial care and an opportunity for habilitation will be best served by requiring on-duty shift ratios of 1:8 during waking hours and 1:16 at night--the goal originally sought in the Cambridge Order. Although this Court believed in October 1974 that a single overall ratio would be easier to monitor, its failure to assure the hoped-for shift ratios more than outweighs its ease of monitoring. The plaintiffs have urged shift ratios from the outset, and the data submitted by them at the recent hearing conclusively shows that such standards are not only capable of being monitored, but they present far more meaningful information to the Court.

d. The solution achieved by mandating on-duty shift ratios will most closely approximate what this Court intended to accomplish in the Cambridge Order and believed to be practicable at that time. The modification is thus not startlingly novel in philosophy or purpose, and is not significantly more demanding of the defendants than the prior Order was meant to be. However, in light of the serious deficiencies which have been shown to exist in the overall ratio approach,

it is hoped that the modification will result in a significant improvement in the custodial care and habilitation of Cambridge residents along the lines envisaged in the prior Order.

10. Paragraph 9(b) of Appendix A to the Cambridge Order required the defendant Commissioner to request appropriation of funds to employ sufficient certified special teachers, recreational therapists, occupational therapists, vocational therapists, and psychiatrists to meet certain ratios. The Court at that time rejected the plaintiffs' request that employment of such professional personnel in the ratios expressed be directly ordered. See Memorandum of October 1, 1974, at 25-26. While the plaintiffs have now renewed their request for a direct order, they have presented no new evidence which calls into question the Court's prior ruling in this regard. The "vagaries" noted in 1974, particularly concerning the availability of such personnel to serve at Cambridge, still preclude a grant of relief along the lines sought by the plaintiffs.

11. Despite improvements in the Structured Program Services [SPS] training accorded to the approximately 285 Cambridge residents who do not receive training through the public school [CADRE] program, the lack of adequate professionally trained and supervised staff still prevents provision of a minimally effective habilitation program at Cambridge.

a. The basic thrust of the SPS training at Cambridge is a program of behavior modification through a system of rewards for performance of specific tasks. Such behavior modification requires total attention and patience by well trained staff members who are absolutely consistent in their provision of rewards in response to the desired conduct. When properly implemented, such a program holds promise of helping even the severely and profoundly retarded to better their lives by learning to do simple tasks for themselves, such as washing their hands, feeding themselves, brushing their teeth, and dressing themselves. Cf. Memorandum of October 1, 1974, at 4.

b. Because of the highly individualistic nature of behavior modification training, and because it must be closely tailored to the diverse capabilities of each resident, most behavior modification must be undertaken on a one-to-one basis, although occasionally it may be undertaken in very small groups. In short, to provide any hope for success, behavior modification requires a very rich teacher to student ratio.

c. In 1973 the staff-resident ratios in SPS groups at Cambridge were as low as 1:5 or 1:6 in some instances, but generally fluctuated up to 1:11.

See Memorandum of October 1, 1974, at 9-10. During the past two years overall staff-resident ratios for lower functioning residents in the SPS program remained at approximately 1:7 or 1:8. However, the actual on-shift ratios were often considerably higher, since no substitute staff was available, and groups would have to double up if an employee was sick or on vacation. To alleviate this problem five staff persons have been assigned as "floats," and are almost always in use.

d. The staff-resident ratios in the SPS groups at Cambridge are still very high. The coordinator, Ms. Taube, testified that the staff-resident ratio approximates 1:8 for three of the five class periods attended daily by each resident, with ratios of 1:4 and 1:6 in the other periods. The plaintiffs' witnesses observed higher ratios of 1:9 or 1:10 in certain of the groups.

e. Because of the comparatively large size of the SPS groups, most residents spend the overwhelming amount of their SPS time waiting, while others are being trained. Disruptions by waiting students also cut severely into the actual time spent with the one resident who is undergoing training. Dr. Clements testified that the actual training time for any given resident most probably cannot exceed fifteen to twenty minutes per day. This uncontradicted testimony effectively refutes this Court's earlier finding that "virtually all residents get at least five hours every weekday of supervised training." Memorandum of October 1, 1974, at 10. To the contrary, this Court must now accept Dr. Clements' characterization of SPS training at Cambridge as consisting primarily of "structured or scheduled inactivity."

f. That the staff-resident ratio in the SPS program at Cambridge is still way too high is also attested to by the widespread practice of assigning residents to a homogeneous and therefore easily administered "prerequisite skills" program. The testimony of Dr. Balow and Dr. Clements establishes that this program is being applied to residents whose skills are already developed to the point where the program is unnecessary.

g. Under the circumstances presented at Cambridge, and given the severely or profoundly retarded nature of most of its residents, the minimum staff-resident ratio in the SPS program sufficient to make the constitutionally required opportunity for habilitation a reality is, in this Court's judgment, 1:5. The Court acknowledges this to be a compromise between the ideal 1:1 or 1:2 ratio, the 1:4 shift ratio sought by plaintiffs, and the currently prevailing ratios which exceed 1:7 or 1:8 on a regular basis. The testimony of Dr. Balow that some habilitation can be achieved even at SPS ratios exceeding the 1:3 or

1:4 ratios he recommended supports the conclusion that 1:5 is not too high. On the other hand, the 1:5 ratio appears to be the absolute minimum ratio sufficient to make habilitation a meaningful possibility, given the current behavior modification approach.

h. Behavior modification not only requires a rich teacher to student ratio, it also requires a thoroughly trained staff of teachers. The nature of the technique is such that reinforcement of negative conduct through ill-timed provision of rewards is possible and even probable if the teacher is not properly trained and supervised. The existence of ratios exceeding those at the very lowest end of the spectrum may combine with inadequate teacher training to make improper reinforcement of undesirable conduct almost inevitable. For example, one expert witness observed a class at which a teacher was attempting to deal with one student while several other students sat around a table waiting their turn; one of the waiting students was disruptive, and the teacher responded by providing all waiting students--including the disruptive one--with a reward of candy or juice.

i. The behavior modification program also provides a poignant example of the vital need for wheelchairs adapted to the patients' own needs, a result required by paragraph 17 of Appendix A to the Cambridge Order, the noncompliance with which is referred to in paragraph 6(k), supra. Dr. Clements testified that during his observation of SPS training one resident confined to a wheelchair struggled to gain a reward by complying with the command to sit up straight; the student failed to comply and lost the reward solely because the poor fit of his wheelchair to his physical problems made it impossible for him to sit straight.

j. The brevity of time actually spent in SPS training is further exacerbated by substantial problems in simply getting some of the residents to the SPS program areas. The problem is particularly acute for residents in Boswell Hall. Some of the residents in Boswell go to the Administration Building and most of the others go to the basement of Boswell for SPS training. There is only one elevator in Boswell. Since most of the nonambulatory residents in Boswell must use the elevator, a substantial amount of programming time is lost because of transportation problems. Dr. Balow testified that he observed long lines of residents in wheelchairs in the basement of Boswell. The problem was also noted by the DFW licensing staff. Other transportation related problems resulted in less programming time available for residents who attend SPS sessions in Cottage 11.

12. The Court is unable to say, given the conflicting evidence, that there has been an increase since January 1974 in the number of patients at Cambridge receiving tranquilizing medications, or that the use of such drugs is excessive. However, the use of major tranquilizers is still not adequately evaluated, monitored and supervised.

a. At the time this case was originally tried, the Court found that about 70% of the residents have their behavior controlled by use of tranquilizing drugs. The Court found that the use of behavior modifying drugs must be carefully and systematically monitored and evaluated. See Memorandum of October 1, 1974, at 24. Testimony at the recent hearing underscored the vital importance of monitoring, because residents at Cambridge are often given doses exceeding the "recommended maximum dose" in the package insert.

b. The system of distribution of medication has been changed by providing individual prescriptions for all residents. This is a significant improvement in the drug policy of the institution.

c. At least in some areas, the number of residents receiving tranquilizing drugs is still quite high. Dr. Clements' review of the records in the South, West, and Y wards of Cottage 11 established that 39 of 43 residents were receiving some form of tranquilizing medication in the latter half of 1975.

d. Since the time when this action was originally tried, Cambridge has adopted policies requiring greater documentation in the use of major tranquilizers. While these policies require "a description of the behavior to be modified" and a statement of the "actual behavioral outcome," they do not require records to be made prior to the use of major tranquilizers quantifying the actual incidence of objectionable behavior or requantification of the incidence of the objectionable behavior after institution of the drug regimen. This lack of quantification is a serious defect in the drug program, which prevents proper evaluation and monitoring of results.

e. A second defect in the drug use policy is that it fails to provide for drug "holidays"--specifically required intervals during which no tranquilizing medicine is used. Such periods permit a determination to be made whether or not the tranquilizing medication is in fact necessary for altering the behavior at issue.

f. A third problem which still exists is that the scattered nature of the records makes it difficult to trace the chronology of events both prior to the administration of the drug and during the period of time when the drug is

being administered. The relevant information is often contained in three different portions of the resident's records--the doctor's orders, the nursing notes, and the medical progress notes.

g. A further procedure observed by the witnesses and questioned by the experts involves administering medication at mealtime by placing it in the resident's food. This makes monitoring and evaluation unreliable to the extent that it cannot be ascertained whether or not the medication was actually taken.

13. Although some improvement has taken place in the physical plant since the Cambridge Order, Cambridge remains an institution in which the physical environment prohibits effective implementation of the habilitation process.

a. This Court previously found substantial deficiencies in the physical environment at Cambridge. Memorandum of October 1, 1974, at 7-8. The physical structure of the buildings remains as it was except for Buildings 3, 4, and 12. Remodeling of Cottage 9 is in process. With these exceptions, it is still true, as the Court found previously, that most residents sleep in large dormitories with from 10 to 20 other residents.

b. Some improvement has taken place in the furnishings provided residents. There are additional chairs, benches, and wardrobes. Some of the buildings have been painted, and Dr. Clements testified that they were more colorful and cheerful. Curtains and bedspreads have been provided.

c. However, Dr. Clements, who observed all the residential buildings at Cambridge both in his earlier visit and while there in December 1975, testified that furnishings were still sparse. The defendants' proposed findings of fact concede that still more furniture is desired and needed by the institution. Other witnesses testified to a continued lack of toilet paper and toilet seats at some locations.

d. In particular, Dr. Clements testified to the sparseness of furnishings in Cottage 8. That building, as in all of Units II and III (including the Dellwoods), has residents who are severely and profoundly retarded children, and this Court has previously found the facilities other than the Dellwoods to be "unsuitable for housing children." Memorandum of October 1, 1974, at 7. Dr. Clements was told by authorities at Cambridge that the furniture provided was damaged or destroyed by the residents. However, similar furniture was found to be in good condition in the Dellwoods, which are modern, more homelike dwellings containing carpeted playrooms, dining areas, and semi-private bedrooms for two persons. The testimony confirms this Court's previous finding that the physical



environment is an important factor in the learning and training process of habilitation.

e. Deficiencies also persist in the maintenance of buildings and equipment at Cambridge. Dr. Clements observed open electrical outlets, broken furniture, and broken wall tiles which could lead to injury of residents.

14. Carpeting, installation of which was ordered in paragraph 12 of Appendix A of the Cambridge Order, is not a luxury, but is an essential part of establishing an environment in which the process of habilitation can take place. Until such carpeting is provided, Cambridge will remain a dangerous and unsafe environment for many of its residents, and the process of habilitation will be severely hampered.

a. This Court previously found that uncarpeted floors and stairwells posed health and safety hazards for the residents by exacerbating "problems associated with accidental falls, falls by seizure victims, and resident-to-resident aggression." Memorandum of October 1, 1974, at 7. That danger persists today, as does the heightened danger of self-abusive behavior. Dr. Offerman testified at the recent hearing that the terrazzo floors are harmful in that they tend to precipitate seizures.

b. The lack of carpeting also contributes significantly to the high noise level in the buildings, which distracts residents, rendering effective training and instruction difficult if not impossible.

c. There is no merit to the defendants' contention that carpeting is a needless luxury or that it presents unavoidable sanitation problems. When the Georgia Retardation Center, which Dr. Clements administers, was built in 1969 over 60,000 square yards of carpeting were installed in more than 99% of the floor space. Since that time, carpeting has been removed in only 200 to 300 square yards of space, in small dining areas where residents are taught to feed themselves, and the administration has been overwhelmingly pleased with the results.

d. Under the circumstances, especially given the safety factors involved, this Court is deeply concerned with the defendants' characterization of carpeting as "a lower level concern" in the list of priorities for Cambridge State Hospital. The Court cannot agree to deletion of the carpeting requirement from the Cambridge Order.

15. Both parties agree that it is unwise to peg the ratios provided for physical therapists in paragraph 7(c) of Appendix A to the overall population of

the institution. The Court concludes that the Order should be modified to provide for a ratio of 1:50 based on the population of those buildings or living areas at Cambridge in which physically handicapped residents reside. At present these include McBroom Hall, Boswell Hall, and the North and East Wards of Cottage 11.

a. The parties have agreed that physical therapy is generally needed only for nonambulatory or handicapped residents, and that a ratio based on the total population of Cambridge is unnecessarily crude and difficult to explain to State officials responsible for appropriating sufficient funds to implement the Court Order.

b. Dr. Offerman testified that all nonambulatory residents are presently receiving approximately one hour of physical therapy daily. The defendants rely on this statistic in support of their argument that a ratio of one physical therapist to every 100 nonambulatory residents is adequate.

c. However, Dr. Offerman further testified that the one hour per day statistic involves a system in which each physical therapist treats approximately 33 patients daily. He stated that he would like to provide nonambulatory residents with more than one hour per day, suggesting a ratio of 1:50 for nonambulatory residents. The Court accepts this testimony.

d. The plaintiffs have suggested that the Order be modified to provide for a ratio of 1:50 physical therapists in relation to the actual residents of those dwelling units which house the physically handicapped. On the assumption that such a ratio will be easier to monitor than a ratio pegged to "nonambulatory" residents, the Court will modify the Order along the lines suggested by the plaintiffs.

e. Defendant Offerman testified that Cambridge has tentatively set the standard for physical therapy aides, in accordance with paragraph 8 of Appendix A, at a ratio of two aides per therapist. The Court accepts this standard, and will modify the decree to incorporate that ratio.

16. The immediate future of community placement as an effective alternative to a substantial upgrading of the staff and facilities at Cambridge is not promising. The development of community facilities is not likely to result in substantial reduction of the population at Cambridge in the foreseeable future. Accordingly, a policy of deinstitutionalization cannot play any substantial role in alleviating the staffing deficiencies at Cambridge.

a. In its Memorandum of October 1, 1974, this Court noted that "the

problems associated with the right to the least restrictive alternatives are more difficult than perhaps any other issue involved in this case," and that "establishment of community-based residential facilities for the retarded are wrapped in a complex web of relationships, some of which are beyond the control of this Court." Id. at 30. These conclusions remain unchanged by the passage of time.

b. The most graphic example of the failure in development of community facilities is the fact that the closing of the smallest institutional unit for mentally retarded persons in the State hospital system--the unit at Hastings State Hospital, with approximately 50 residents--could not be accomplished without transfer of residents to Cambridge and Faribault State Hospitals.

c. Another indication that substantial reduction in population at Cambridge is unlikely is seen in the discharge statistics at that institution over the 16-month period from July of 1974 to October of 1975. During that period of time 140 residents were discharged, of whom 49, or 35%, went to other State institutions. Only five residents were discharged to a community facility (excluding boarding homes and nursing homes). None of the residents of Units I, II, III, IV, or V were discharged to such a facility. The largest number of residents discharged from any unit was the 43 residents discharged from Unit VI, a unit with higher functioning residents. The next largest number of residents discharged from a unit was the 24 residents discharged from the Mental Health Treatment Service, in which higher functioning residents also reside. From July 1975 through October 1975 only three of the more than 450 residents of Units I, II, III, IV and V were discharged to a community setting of any sort. If this pattern continues, it is evident that the population at Cambridge, now comprised almost totally of severely and profoundly retarded persons, is not likely to be substantially reduced by movement of residents to the community.

d. A program of deinstitutionalization is the policy of the DPW as set forth in its Comprehensive Plan, and the policy of the Governor of the State of Minnesota, as set forth in his budget message. Such a policy is consistent with the conclusion of this Court that mentally retarded persons are entitled to live in the least restrictive setting possible. See Memorandum of October 1, 1974, at 30. But a policy of deinstitutionalization does not make deinstitutionalization a reality. Substantial bureaucratic and financial barriers impede the development of alternative community settings for retarded persons who now live in the State hospitals.

e. The process of obtaining licenses and approvals for community facilities is time-consuming and often duplicative, with one agency or department examining the same matters previously reviewed by another agency. This Court is aware that close governmental regulation of development in this area may be necessary to prevent abuses by developers which would adversely affect the persons intended to be helped by creation of community facilities. The Court would hope that efforts would be made by the agencies involved to simplify the procedures. For purposes of this action, it suffices for this Court to find that the system of multiple levels and types of review is a significant barrier to the development of residential facilities.

f. Developers also face severe difficulties in obtaining financing. An expert in the field, Mr. Peter Sajevic, testified that bank financing is increasingly difficult to obtain for community residential facilities, and that he is skeptical that realistic possibilities will exist for financing through the Minnesota Housing Finance Agency. Severe cash flow problems in obtaining reimbursement from medical assistance programs exacerbate the financial difficulties.

g. Even when a residential facility is established, the openings created will not necessarily be filled by present State hospital residents. Mr. Sajevic estimated that 80% of new openings for adults but only 40% of new openings for children could, in his experience, reasonably be expected to be filled by State hospital residents. Dr. Offerman testified that Cambridge as an institution will be needed for many years, because such a large group of residents cannot be efficiently served in scattered community facilities.

h. There is no realistic possibility that the staffing ratios necessary to provide for custodial care and safekeeping and to provide for habilitation can be achieved in the foreseeable future by a reduction in the resident population at Cambridge. Specifically, long-range plans for deinstitutionalization of residents cannot justify the continued deprivation of the constitutional rights of the plaintiff class.

17. The journey towards humane and adequate care of judicially committed mentally retarded residents of Cambridge State Hospital "still has a long way to go." Memorandum of October 1, 1974, at 33. As was true of the Cambridge Order, "the Court believes that the provisions to be ordered herein are feasible and practicable means of achieving minimally adequate conditions and practices at Cambridge and will bring about a new and substantially better day for the mentally retarded." Id. at 34.

18. But the officials who have the power to assure compliance with this Order, including nonparties who more directly control the public purse, must understand that it is the considered judgment of this Court that the provisions of this Order, coupled with the Cambridge Order, require only the absolute minimum which must be implemented to secure the constitutional rights of the helpless fellow human beings who comprise the plaintiff class. This judgment is the product of considerable expert testimony as well as the experience of more than one year under the Cambridge Order. Nothing less than full compliance with all provisions of this Order is demanded if the constitutional rights of the mentally retarded are to be respected. More importantly, only full compliance can remove the public shame of years of neglect and inadequate care suffered by those of our children who have been involuntarily ordered to spend their days at Cambridge State Hospital.

#### CONCLUSIONS OF LAW

1. Defendants have complied with Paragraphs 3, 4, 7(a), 9, 10, 14, 15, 18, 20, 21, and 23 of Appendix A of the Order of this Court dated October 1, 1974.
2. Defendants have not complied with Paragraphs 5, 7(b), 7(c), 7(d), 7(e), 7(f), 7(g), 8, 12, and 17 of Appendix A of the Order of this Court dated October 1, 1974.
3. Conditions at Cambridge and developments since this Court's prior Order warrant modification of the Order of this Court dated October 1, 1974, which modification is embodied in the Order attached hereto.

O R D E R

On the basis of the record and proceedings herein and the Findings of Fact and Conclusions of Law entered by this Court in this and previous rulings pursuant to Rule 52 of the Federal Rules of Civil Procedure,

IT IS ORDERED:

1. That the Order of this Court dated October 1, 1974, remains in effect unless otherwise specified herein.

2. That the definition of "Direct Care Staff" set forth in paragraph (d) under Definitions in Appendix A to the Order of this Court dated October 1, 1974, is amended by striking therefrom the phrase "psychiatric technician or senior psychiatric technician, special schools counselor or senior special schools counselor," and inserting in lieu thereof the phrase "human services technician, human services technician senior, human services specialist, human services specialist senior."

3. That paragraph 7(f) of Appendix A to the Order of this Court dated October 1, 1974, is modified to provide that Behavior Analysts with at least a masters degree may be included to satisfy the ratio therein stated, and that paragraph 7(f) so modified reads as follows:

(f) Psychologists or Behavior Analysts (with at least a masters degree from an accredited program)	1:100
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4. That paragraph 7(c) of Appendix A to this Court's Order of October 1, 1974, is modified to provide that the required ratio of physical therapists shall be 1:50 based upon the population of those buildings or living areas at Cambridge State Hospital in which physically handicapped residents reside. So modified, paragraph 7(c) shall read as follows:

(c) Physical therapists (licensed to practice in the State of Minnesota)	1:50 residents of McBroom, Boswell, North and East Wards of Cottage 11 and residents of such other buildings or wards which may from time to time house physically handi- capped residents
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5. That at least two physical therapy assistants shall be hired at Cambridge State Hospital for each physical therapist hired pursuant to paragraph 4 above.

6. That paragraph 15 of Appendix A to this Court's Order of October 1, 1974, is deleted.

7. That seclusion, as defined in Appendix A to the Order of this Court

dated October 1, 1974, shall not be employed at Cambridge State Hospital except in Cottage 14, the Mental Health Treatment Service, and then only in accordance with the provisions of this Order specified below:

a. Seclusion may be employed only in circumstances in which the threat of physical harm by the resident to be secluded to himself, to other residents, or to staff is so severe that the only alternative to placing the resident in seclusion would be transfer of the resident to a more secure institution such as the Minnesota Security Hospital.

b. The use of seclusion shall be limited to those residents authorized to be placed in seclusion when necessary by the Unit Director of the Mental Health Treatment Service, the Unit Registered Nurse of the Mental Health Treatment Service, and the Medical Director of Cambridge State Hospital. This authorization shall be limited to a three-month period.

c. The basis for the authorization of the use of seclusion made by the persons specified in subparagraph (b), above, shall be stated in detail in the resident's record and shall include specific reference to the resident's action or actions (including the date, time and location of the action or actions) which, in the judgment of the persons authorizing seclusion, rendered the use of seclusion necessary in accordance with the standard set forth in subparagraph (a) above.

d. None of the residents for whom the use of seclusion is authorized, pursuant to subparagraph (b) above, shall actually be placed in seclusion at any particular time except with the written approval of the Mental Health Treatment Service Unit Director, the Mental Health Treatment Service Unit Registered Nurse, or the area supervisor when either of the aforementioned individuals are not on duty.

e. A written order of a physician licensed to practice in the State of Minnesota must be obtained if one of the residents for whom seclusion is authorized pursuant to subparagraph (b), above, and for whom seclusion is ordered pursuant to subparagraph (d) above is to remain in seclusion for more than 15 minutes. Prior to requesting such an order, the person approving seclusion in accordance with subparagraph (d), above, and one other staff person must evaluate the resident's condition and need for continued seclusion. Both these individuals must chart, in the nursing notes of the resident's medical record, the reasons for their decision that continued seclusion is necessary.

f. In each instance in which seclusion is employed, the person approving the use of seclusion pursuant to subparagraph (d) above, shall record in the resident's medical record:

- (i) A detailed description of the precipitating behavior;
- (ii) The expected behavioral outcome;
- (iii) The time when the resident was secluded;
- (iv) The time when the resident was released;
- (v) The actual behavioral outcome.

g. Any resident placed in seclusion in accordance with the procedure set forth above shall be checked at ten minute intervals. These checks shall be documented in the resident's record at least every hour, but the record made must reflect the resident's condition at each of the ten minute checks.

h. The defendant Dr. Offerman shall submit a report to counsel for the parties by the tenth day of every month incorporating the following information:

(i) A list of the names of residents for whom the use of seclusion is currently authorized pursuant to subparagraph (b), above, together with copies of the statements recorded in the resident's record pursuant to subparagraph (c), above. Copies of those statements may be deleted from the monthly report if a statement is made in that report that such copies have previously been submitted.

(ii) A list of all residents secluded during the previous month together with copies of all portions of the resident's record necessary to demonstrate compliance with subparagraphs (d) through (g) above.

8. That paragraph 12 of Appendix A of the Order of this Court dated October 1, 1974, is amended by changing the date by which air conditioning shall be installed in McBroom Hall, Boswell Hall, and the Infirmary to July 1, 1976. So amended, the first sentence of said paragraph shall read as follows:

"Air conditioning shall be installed in McBroom and Boswell Halls and the Infirmary at Cambridge State Hospital by July 1, 1976."

9. That defendants' request for further modification of paragraph 12 of Appendix A to the Order of this Court dated October 1, 1974, is denied.

10. That, as of the date of this Order, neither the defendant Offerman nor the defendant Likins, nor their agents and employees, shall:

a. Take any action which results in the allocation of a smaller number of regular hospital complement positions to the residential living services staff



(including unit services employees or structured program services staff) at Cambridge State Hospital than exists as of the date of this Order; or

b. Take any action which results in the allocation to Cambridge State Hospital of a smaller number of positions available to the State hospitals under the Comprehensive Employment and Training Act (CETA), as amended, than exists as of the date of this Order.

11. That, within twenty days of this Order, the defendant Offerman shall submit to this Court and counsel for the plaintiffs a report specifying the total number of regular complement positions allocated to Cambridge State Hospital as of the date of this Order, the number of those positions assigned to residential living services as of that date, the number of those positions assigned to structured program services as of that date, and the number of CETA positions allocated to Cambridge State Hospital as of that date.

12. That, within ninety days of the date of this Order, there shall be employed at Cambridge State Hospital:

a. Sufficient personnel to permit consistent attainment of on-duty direct care staff-resident shift ratios of not less than 1:8 during waking hours and 1:16 at night.

b. Sufficient trained Structured Program Services (SPS) staff to permit consistent attainment of on-duty SPS staff-resident shift ratios of not less than 1:5, provided that the number of hours of SPS training accorded to the residents shall be in no way diminished from the amount currently programmed for such training in an effort to comply with this Order.

13. That, within sixty days of the date of this Order, the defendant Offerman shall submit to the Court and counsel for the plaintiffs a list of the number and qualifications of professional staff and semi-professional support staff which are, in his judgment, required:

a. To provide supervision of direct care staff currently employed at Cambridge State Hospital or required to be employed by paragraph 12(a) of this Order; and

b. To provide assistance to the professional staff currently employed at Cambridge State Hospital or required to be employed pursuant to the Order of this Court dated October 1, 1974.

Unless otherwise ordered by this Court, the personnel so designated shall be hired no later than ninety days from the date of this Order.

14. In addition to the limitation on the use of tranquilizing medications required by paragraph 16 of Appendix A to this Court's Order of October 1, 1974, the defendant Offerman shall, within thirty days of the date of this Order, adopt and implement at Cambridge State Hospital policies governing the use of major tranquilizers which provide that, in any circumstances in which such medication is used for the purpose of controlling or modifying behavior, the resident's record shall contain the following information:

- a. A description of the objectionable behavior;
- b. Records showing the number of times the objectionable behavior occurred during a period of at least one month, unless the need for prompt treatment requires a shorter period to be used, in which instance the basis for using a shorter period shall be recorded in the resident's file (a random survey, which shall include daily samples, may be used in preparing this record);
- c. The actual medication prescribed;
- d. Records showing the number of times the objectionable behavior occurred after administration of the medication (a random survey, which shall include daily samples, may be used in preparing this record);
- e. A written statement indicating what increase or decrease in dosage of the medication or other change in the resident's prescription was made as a result of comparison of the records maintained pursuant to subparagraphs (b) and (d), above;
- f. Records showing the number of times the objectionable behavior occurred after a change was made in the dosage or type of medication prescribed (a random survey, which shall include daily samples, may be used in preparing this record); and
- g. A written plan for periodic "drug holidays" during which the resident receives no major tranquilizers, together with a requirement for record keeping during these periods in accordance with the procedures required pursuant to subparagraph (f) above.

15. Within sixty days of the date of this Order, the defendant Offerman shall submit to the Court and counsel a report detailing efforts which have been taken to effect compliance with paragraph 17 of Appendix A to this Court's Order of October 1, 1974, pertaining to wheelchairs.

16. All actions required to be taken by this Order shall be the joint responsibility of both the defendant Likins and the defendant Offerman or their successors in office, unless specified to the contrary.

17. All definitions contained in Appendix A to the Order of this Court dated October 1, 1974, are applicable herein, unless expressly modified by this Order.

18. A copy of this Order shall be posted forthwith in every staff office, nursing station, and visitor's lounge at Cambridge State Hospital.

19. Defendants shall allow counsel for the plaintiffs, and others with their authorization, reasonable access to the grounds, buildings, and pertinent records at Cambridge State Hospital for the purposes of observation and examination until further Order of this Court.

20. Copies of this Order may be served on the defendants Likins and Offerman personally by counsel for the plaintiffs or by such other person as they designate, or by certified mail, return receipt requested.

21. Except to the extent granted herein, the motions of plaintiffs and defendants for modification of the Order of October 1, 1974, are denied.

22. The Court shall continue to maintain jurisdiction over this action.

LET JUDGMENT BE ENTERED ACCORDINGLY.

April 15, 1976.

/s/ Earl R. Larson

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United States District Judge