

Delaney does admit, however, that in many instances a patient may become friendly with one of the usually young MHIS lawyers and trust that this same lawyer will also handle his or her case in court.

"They are distressed to learn that the lawyer they thought would represent them is actually acting on behalf of the court," says Delaney. "When given another lawyer, a stranger, the patient often becomes confused, and, in some cases, very upset.

But, as Delaney states, "We can't stretch ourselves to handle every case individually," given the inherent conflict of interest built into the second judiciary's operation.

The policy of each district is set by the presiding justice, and, according to Delaney, the second district's judge mandates that no MHIS lawyer can act as advocate for the patient. They can only serve to inform him of his rights, write detailed reports concerning the patient's background, psychiatric and family history, and suggest alternatives to present treatment.

"When a case comes before the judge," says Delaney, "our lawyers are there to inform the court of the issues before it, much in the way a probation officer functions. Because of this policy, we cannot represent the patient, too."

As mentioned earlier, the second district has about fourteen times the workload of the first, yet the number of lawyers assigned last year in both districts was virtually the same.

"In the first district, the presiding judge thought that because there are only two institutions in that area, it would be feasible to have one lawyer representing the patient, and the other functioning in the interest of the court," Delaney notes.

In the second district, this is an impossibility, in view of the fact that the 26 lawyers currently on the payroll have to make scheduled visits to various institutions within their area. This means that many of the fifty-one institutions for the disturbed covered by the second district have no lawyer stationed there on a full-time basis.

This visiting practice could very well remain in effect even after the three new lawyers are formally assigned -- two to Willowbrook, and one to the South Beach Psychiatric Center when it begins admitting in-patients.

Under laws revised in January, every clinic, hospital or school which provides in-patient care, both private and public, must make legal services available to its patients. In addition to Willowbrook and South Beach, North Richmond Mental Health, which has 30 in-patient beds temporarily housed at the Clove Lakes Nursing Home, will also be affected by this law.

Complete plans for the MHIS force on the Island have yet to be worked out, since funds for the additional lawyers were only appropriated three weeks ago from the state's "deficiency" budget. Undoubtedly the three-man team will have to spread itself thin to cover almost 5,000 patients here who could be in need of legal advice and potential litigation.

As dismal as things may seem in the second district, the situation is relatively worse in the two upstate districts.

"In the third and fourth districts," said Delaney, "they don't even have lawyers. Social workers do the counseling involving patient's legal rights. In these areas, if a person becomes a lawyer, he's not going to stay there. He'll probably gravitate toward the big cities where there are greater opportunities and better salaries."

Both Delaney and Besunder agree that there is indeed a problem in recruiting lawyers to work with the mentally disturbed and retarded. Even though an additional 19 slots have been appropriated for this year's budget, the qualifications needed by potential candidates will greatly hamper recruiting efforts.

"We'd like to have young men and women who have been admitted to the New York Bar for at least two years and who have some background in social work, medicine, or psychology," Besunder notes. "It takes a special kind of lawyer to be willing to settle for a less competitive salary, and to

deal with the special problems that come up in an institution. It's not an easy job."

It will be doubly difficult when the lawyers begin handling cases involving retarded children and adults. There's always the question of the client's "competency" -- whether the individual in question is mentally ill or retarded.

Due to the great number of severely and profoundly retarded individuals at Willowbrook, lawyers will have to rely upon concerned staff members, parents, administrators, and their own observations so that those with legitimate complaints and grievances can be taken care of.

"They really haven't had any experience in dealing with the retarded," says Kane of MPLP. "The lawyers in the second district are into maintaining the status quo. What Willowbrook and the other institutions need are more radical lawyers. MHIS lawyers tend to fraternize with the administration, and that's bad, because there really is no one to take the part of the resident."

Albert Robedoux, Chief of the Community Services Division at Willowbrook relates that the institution's administrators are "overjoyed" that lawyers will finally be assigned to Willowbrook. Some of the probable cases to be handled might concern people who have been judged not competent enough to take care of their personal property, or the legal ramifications of a resident who has inherited money.

"The staff here is great and I know that if they knew of a resident with a problem that could be taken care of by a lawyer, they would bring it to the lawyers' attention," said Robedoux.

The first order of business for the two new Willowbrook lawyers will be to review each of the more than 4,000 patient files in order to compile background information and to investigate the accuracy of the clinical data they contain.

The local directors of MHIS should not be blamed for the fact that some 26 lawyers in the second district must tend to the needs of a 45,000 per month patient population. Nor can they be criticized for

the narrow limits of their powers.

It is basically the system itself which fosters the iniquities of MHIS: the uneven distribution of patient load; a low priority budget which forces the agency to beg for the leftovers from emergency deficit money; and the total lack of a centralized board in which a non-uniformity of policy creates roadblocks to equal justice from county to county within the state.