

U.S. takes action on Willowbrook

By JOAN MOTYKA

The federal government yesterday filed a request to appear as a friend of the court in a Willowbrook case currently under consideration in Brooklyn Federal Court.

The Justice Department request, signed by U.S. Attorney Robert A. Morse, of the Eastern District and Assistant Attorney General J. Stanley Pottinger, came as an attempt for federal accountability over funds being allocated to Willowbrook State School.

"What we want to do is make sure federal presence and federal dollars go side by side," Morse said yesterday. We want to put into the input what we've learned about mental health over the years with our dollars."

Claiming that since the rights of Willowbrook residents have

been established, the federal government wants to put its expertise and its specialists to work "to the benefit of the patients."

"Changes must be made in Willowbrook, and federal dollars are involved. We want to participate in those changes," Morse said.

The text of the request notes that substantial sums of federal money have been spent for the improvement of mental retardation facilities and for the delivery of mental retardation habilitation, education and training.

It noted that "in fiscal year 1971 alone, \$61,076,000 in federal funds directly attributable to mental retardation was provided to New York State pursuant to Medicaid and other federal programs.

"Other millions under such programs as Aid to Families with Dependent Children have been spent under which the mentally retarded are also benefited."

If the request is approved, the federal government would assist the court in evaluating the habilitative programs at Willowbrook and would attempt to provide experts in the field of care for the mentally retarded and any other assistance the court would require.

It would also undertake to investigate the factual conditions at Willowbrook and brief the court on all legal issues raised by the current litigation.

"The United States believes that this case provides an important opportunity to develop realistic standards for treatment of persons confined to institutions for the mentally retarded.

"The United States believes that its participation in the evaluation of defendants' programs can provide the court with vital expertise, both on legal and therapeutic issues," the statement read.

Two attorneys representing the Willowbrook residents claimed they were not surprised by the intervention of the federal government into the court case.

One attorney, John Kirkland, cited the 1972 Alabama case of Wyatt vs. Stickley in which the federal government intervened in a similar manner.

The case, dealing with the right to treatment, is still unresolved, pending decision in the 5th Circuit Court of Appeals.

Also in Brooklyn Federal Court yesterday, Judge Orrin G. Judd filed a formal clarification of the court order he modified last Wednesday.

On April 10 he ordered that there be a one-to-nine ratio of attendants to residents at Willowbrook.

He modified that to include only on-the-ward direct care staff members working in the treatment room, the building office, the laundry room or other areas not normally used by residents.

The defendants were given a May 15 deadline to comply with the order. Last week the state Department of Mental Hygiene requested an extension until June 30, but Judd reserved judgment.

WEEKLY SUMMARY

He ordered that beginning tomorrow, the defendants must compile and make available upon request to the plaintiffs' attorneys a weekly summary which would reflect ward-by-ward and shift-for-shift for all residential buildings, the daily census for that shift and the number of direct care staff actually present on the ward.

On April 10 Judd ordered that 30 physical therapy personnel be hired, and he modified that to require approximately half of them be full-time, licensed physical therapists.

He also ordered the immediate hiring of sufficient recreation staff to assure that residents receive an opportunity for indoor and outdoor recreation as far as they are capable of it.

He modified that to read "all residents at Willowbrook be presumed capable of indoor and outdoor recreation unless contra-indicated by the signed order of a physician that such recreation would be detrimental to the physical health of the resident, and requires that outdoor recreation be provided to such persons at least five days of each week, weather permitting."

The court also reserved final judgement with respect to the plaintiffs' constitutional claims of equal protection on the right to treatment or habilitation, pending the receipt of further evidence, expert testimony and legal argument.

The court also reserved judgement of all other pending requests for modification or clarification made by plaintiffs or friends of the courts.