

# Plan contempt charges in Willowbrook case

By ROBERT MIRALDI

An attorney in the Willowbrook Developmental Center consent decree case told a federal judge yesterday it is a "virtual certainty" that contempt of court citations against top officials of the state Department of Mental Hygiene would be sought.

Chris Hansen, an attorney for the parent groups that instituted the case in U.S. District Court in Brooklyn over three years ago, asked Judge Orrin G. Judd to set aside time on his calendar for contempt hearings.

Hansen said that it is a "virtual certainty" that Willowbrook will not be in compliance with the consent decree—a 26-page document outlining radical change at the center for the retarded—by the June 1 deadline the decree sets.

Therefore, Hansen said, "we will file a motion for con-

tempt, and will be prepared to present several options to see how progress (at Willowbrook) might be faster."

Judge Judd did not comment on Hansen's request, but set July 23 at noon for hearings to begin on the plaintiffs' request for contempt action. According to plaintiff attorney Bruce Ennis, if the state does not meet the deadlines prescribed in the decree and the plaintiffs prove non-compliance, then the state will be in contempt of court.

Gov. Carey, Mental Hygiene Commissioner Lawrence Kolb and Deputy Commissioner Thomas Coughlin are all named in the suit and would presumably be targets of contempt proceedings.

Coughlin, who is presently acting director of Willowbrook, said after the two-and-one-half-hour court hearing that Hansen's announcement "comes as no surprise." What

is more important, Coughlin said, is that the decree is now being implemented.

"It's working. Yes, it is slow, but it is working," Coughlin said, pointing to a progress report the department submitted to Judge Judd yesterday, indicating that as of April 30 Willowbrook was in compliance with 71 per cent of the items specified in the decree.

Hansen said the 71 per cent figure was "nonsense." According to estimates of the Willowbrook Review Panel, he said, compliance at the center is "almost nil."

The Review Panel also submitted a progress report to the judge, but neither report was available for inspection yesterday.

In an interview, however, Coughlin said that the items which were furthest from compliance at Willowbrook were the environment (26 per cent), staff (45 per cent) and programs (62 per cent). On the other hand, Coughlin said, there is 100 per cent compliance with management items and 93 per cent compliance with community placement.

The 93 per cent compliance figure, however, was disputed in court by the Review Panel and attorneys for the plaintiffs. Hansen indicated that much of the other data offered in the state's progress report would also be disputed by the plaintiffs.

Judge Judd scheduled the informal hearing yesterday to see what progress the state had made toward meeting the May 1 deadline of 200 residents placed in community facilities.

Barbara Blum, director of the state's Metropolitan Placement Unit, told the crowded courtroom that 168

residents had been placed in community facilities, all with the necessary programs.

The Review Panel's director, Dr. Jennifer Howse, told Judge Judd that the panel's most recent audit found only 113 placements, with another 25 placements that were not verified.

Furthermore, Dr. Howse said, about 82 of the placements were made without the required conference of parents and resident; and another 25 were living in the community with no day programs available.

Mrs. Blum said she would need a few days to check the Review Panel's figures and that "several weeks" would be needed to develop day programs for the 25 ex-residents who now live in the community without programs.

Using either the state's or the Review Panel's figures, however, the Department of Mental Hygiene failed to meet the first of the decree's deadlines—200 residents in the community by May 1.

In related matters yesterday, Mrs. Blum said that she expected an additional 600 community placements to be made in the next year and about 1,300 to 1,600 placements in two years.

Coughlin said the Willowbrook population should be about 2,000 by March 1977 and 1,000 by March 1978. Presently there are 2,650 residents at Willowbrook; the decree orders the center down to 250 by 1981.

The other major item discussed in court yesterday concerned Willowbrook's surgical-medical Building 2, the huge facility which has been phased out except for five residents. The manner in which

the building was closed down, however, was called "precipitous, poorly planned (and) essentially disastrous" by Dr. James Clements, chairman of the Review Panel.

Dr. Clements told Judge Judd that when the Willowbrook administration closed Building 2's behavior modification, psychiatric and convalescent care units, the staff at buildings which were to receive the behavior-problem residents were completely unprepared and "just not aware."

Coughlin, Dr. Clements said, told the panel last weekend that Willowbrook "has been and still is administratively out of control."

Coughlin defended his decision to close Building 2, saying "it was disruptive, no doubt," but just "had to be done."

"Don't you think it could have been done slower?" Judd asked.

Observers said after the hearing that the Building 2 situation was a further example of continued administrative bungling at Willowbrook. It is the reason, observers agreed, why Hansen and the plaintiffs will move for contempt and eventually move to take Willowbrook out of the hands of the Department of Mental Hygiene.

Yesterday, the observers said, set the stage for future confrontations between the Department of Mental Hygiene and the Willowbrook Review Panel.