



From the left, Dr. Lawrence C. Kolb, Thomas A. Coughlin and Dr. Alvin M. Mesnikoff.



Criminal contempt charges filed against 3 Willowbrook overseers

By ROBERT MIRALDI

Attorneys for parents with children at Willowbrook Developmental Center yesterday filed criminal contempt motion papers in a federal court, charging the commissioner of the state's Department of Mental Hygiene with failing to implement federal guidelines at the Staten Island center for the retarded.

Named in the contempt papers were Dr. Lawrence C. Kolb, mental hygiene commissioner; Thomas A. Coughlin, a deputy state commissioner for retardation, and Dr. Alvin M. Mesnikoff, a mental hygiene regional commissioner.

The papers do not name Gov. Carey, who was an original defendant in the long-running Willowbrook court case; but according to the parents' attorneys, they have reserved the right to file contempt actions against Carey in the future.

In a related development yesterday, it was learned that the Willowbrook Re-

view panel has asked the federal judge overseeing the Willowbrook case to take responsibility for running Willowbrook out of the hands of the Department of Mental Hygiene.

Commissioner Kolb, the panel states in a three-page letter to Federal Judge John R. Bartels, has been unable to provide "leadership, authority, direction, control and supervision" necessary to bring about change at Willowbrook.

Contempt citations against state officials and a removal of the state's power to run one of its own facilities would both set precedents, observers said yesterday.

Parent and consumer groups first filed suit against the state in 1972, charging that the then 6,000 residents of Willowbrook were being denied their constitutional rights to a humane existence.

In April 1975, after a three-year court battle, Gov. Carey agreed to implement a 26-page document — consent judgment

— which outlined radical humanizing changes at Willowbrook, including reducing the resident census to 250 by 1981.

Deadlines for implementation were set for May and June of this year; but by the state's own admission in federal court, none of the deadlines were met and many of the guidelines are have still not been implemented at Willowbrook.

While the state lagged in making progress, parents' attorneys, growing increasingly impatient, threatened seeking contempt of court citations. Yesterday the threats became reality. The contempt motion papers apparently arrived at U.S. District Court, Brooklyn, late yesterday and were not available for inspection.

Judge Bartels has scheduled a Nov. 19 hearing in the case and, attorneys indicated yesterday that both the contempt motions and the Review Panel's request

Page 1
of 2 PAGES

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(From Page 1)

would probably be the focus of the hearing.

When the state and attorneys for the parents entered into the April 1975 agreement, it was expected that Willowbrook had finally turned the corner toward quality care. The Review Panel was appointed by the court and was expected to be the state's friendly adversary.

Instead, the relationship between the state and the seven-member Review Panel has been bitter. "They are out for blood," a high-level Department of Mental Hygiene official commented yesterday.

Neither the governor's office nor those named in the contempt papers — Coughlin, Mesnikoff and Kolb — would comment on yesterday's developments. None had seen the motion papers, but the filing of the papers did not come as a surprise, they indicated.

Legal observers said yesterday that it would now be up to Judge Bartels to decide if the state officials are in contempt of court and, if so, what penalty should be imposed on those officials. State officials could face fines or jail sentences.

Parents' attorneys have said that the only purpose of penalties would be to speed up the Willowbrook improvement process and not to punish Kolb, Coughlin or Mesnikoff. One attorney has suggested making Commissioner Kolb live on a ward at Willowbrook until Willowbrook meets federal standards.

It could not be learned yesterday if the contempt motion papers made recommendations for punishment against state officials. It was also unclear if the suggestions made by the Review Panel would have any affect on the contempt motions.

In his letter to Bartels, the Review Panel's chairman, Dr. James D. Clements, asks that Carey designate within 10 days a person not currently employed by the Department of Mental Hygiene to expedite the implementation of federal guidelines at Willowbrook.

Stating that Commissioner Kolb and his department have shown "continued failure and inability to respond appropriately" to the Review Panel's recommendations, Clements asks that Kolb be removed from having any responsibility over Willowbrook.

Clements says that the panel "recognizes the need for designation of a high-level official, accountable to and acting for the governor, to oversee the implementation efforts" at Willowbrook.

The panel's request comes after it has issued three reports sharply critical of the the state's community placement plan, of its progress at Willowbrook where 2,595 retarded residents live, and about the 12 metropolitan area facilities where former Willowbrook residents now live.

Review Panel staffers testified in federal court May 7 that the state had only made 113 community placements of residents — 87 less than required by the judgment to which the state had agreed.

In a 252-page report to the court July

13, the Review Panel stated that only "limited progress" had been made at 385-acre Willowbrook campus and that residents "are still languishing on the wards."

On Sept. 7 in a 166-page report to the court, the panel stated that more than 1,300 persons transferred from Willowbrook were living under conditions worse than that at Willowbrook.

After each report and at court hearings, state officials have cited progress but have pointed to bureaucratic red tape, illness of personnel, an inability to coordinate separate state departments and change in leadership at Willowbrook as reasons for the slow rate of progress.

Attorneys, parents and Review Panel members have become increasingly angry with what they see as lame excuses and an inept management by the state. Further delay, parents attorney Christopher Hansen said last week, is intolerable.

Thus, the attorneys' request for contempt and the panel's move to get the Department of Mental Hygiene out of the picture are both aimed at the same result — speedier progress at Willowbrook.