

Willowbrook contempt trial scheduled despite discussion

By ROBERT MIRALDI

Jail sentences for state officials and the possibility that the state Department of Mental Hygiene might be asked to step aside at Willowbrook Developmental Center remained distinct possibilities today despite seven hours of meetings and court proceedings yesterday.

Attorneys for parents with children at Willowbrook said again in federal court yesterday that they intend to seek contempt of court citations against the state's top mental hygiene officials for not implementing change at the Staten Island center for the retarded.

U.S. District Court Judge John R. Bartels, chastising the state's attorneys, set Dec. 21 and 22 as trial dates for the attorneys' contempt motions. One attorney suggested that a trial might take two or three weeks.

Judge Bartels reponded that the possibility a three-week trial gave him "the shivers," and he added: "I think it would be a great mistake to rehash this thing (the Willowbrook case) over again. I don't think the governor (Carey) would like that."

In a related development yesterday, it emerged in court that Carey's top health adviser, Dr. Kevin Cahill, has set up a meeting Dec. 5 with the Willowbrook Review Panel, apparently to discuss the panel's recommendation that Mental Hygiene Commissioner Lawrence C. Kolb no longer be responsible for Willowbrook.

Both the contempt motion and the panel's attempt to usurp Kolb's power over Willowbrook were scheduled to be the top items at yesterday's hearing in Bartels' Brooklyn courtroom.

But Bartels had, instead, ordered the

Review Panel and the Department of Mental Hygiene to huddle yesterday morning and settle their differences. The result was mixed. "Some of the key issues remain unsolved," panel member Murray Schneps told Bartels after the four-hour meeting in the World Trade Center.

The major bone of contention would seem to be over Kolb's authority. The panel told Bartels in a letter last week that Gov. Carey should appoint an official, not currently employed by the state, to expedite change at Willowbrook.

State officials would not agree yesterday to the panel's request and, unless the meeting with Dr. Cahill produces a solution, it will be up to Bartels on Dec. 14 to resolve that impasse.

At the Dec. 14 hearing Bartels will have to decide a number of procedural and substantive questions related to the consent judgment which the state agreed in April 1975 to implement. Last May the state contended in court that it had implemented 70 per cent of the consent judgment.

Yesterday, however, state officials withdrew that estimate, which led attorneys for parents to press further their charges that the state is in contempt of court. Parents, consumers and residents of Willowbrook, attorney Christopher Hansen said, "are tired of plan after plan."

Hansen got no argument from Bartels, who said: "I'm going to find the truth. You should be interested in the truth," he added, pointing to the state's mental hygiene officials.

"We're not fighting each other. We cannot let too much time take place. In the meantime, those people at Willowbrook are suffering." Bartels then admonished Assistant Attorney General A.

Seth Greenwald for not filing a counter-motion to Hansen's contempt motion.

"You better work a little faster," Bartels said.

The Willowbrook case first entered federal court in 1972 when the parents' group filed a civil suit claiming that the constitutional rights of Willowbrook's 6,000 residents were being denied. After a three-year court battle, the state and parents agreed to make radical changes, including reducing the center's population to 250 residents by 1981.

Many of the changes called for have not been implemented, and two weeks ago attorneys for the parents charged in court papers that Kolb, Deputy Commissioner Thomas A. Coughlin and Regional Alvin M. Mesnikoff were in contempt of court.

The attorneys recommended fines, imprisonment or possibly making the officials live in wards at Willowbrook.