

Hearing ordered on cut in funding for Willowbrook panel

Willowbrook panel

By HARRY C. LEICHTER and ANEMONA HARTOCOLLIS

A federal judge yesterday threatened to hold Gov. Carey and state mental retardation officials in contempt of court because financing for court-appointed monitors of the Staten Island Developmental Center has been deleted by Albany lawmakers from the state's 1980 budget.

Judge John R. Bartels of Brooklyn Federal Court ordered Carey and mental retardation Commissioner James E. Introne to demonstrate in a hearing Monday why the state should not continue to finance the seven monitors, authorized in 1975.

Failure to comply would render the governor and the commissioner liable to a contempt citation and attendant penalties, including a possible jail sentence.

Introne, who had not yet been informed of the court action when reached yesterday, said he was not certain what course the Office of Mental Retardation and Developmental Disability (OMRDD) would take.

The Legislature "put us in an odd position again," he said, adding that his office had "not anticipated" the \$348,000 budget cut.

Assemblywoman Elizabeth A. Connelly, who chairs the Assembly Mental Health Committee, called the deletion of panel's allocation from the budget voted four days ago "a sleeper."

While the commissioner did not overtly question the need for the monitors, known as the Willowbrook Review

Panel, he noted: "I don't know what lawful authority we would rely on to support the review panel at this point."

State legislators were less circumspect, suggesting that they had intended to force an issue from which their views have been so far excluded.

"The panel is interested in profit and self-perpetuation," State Sen. Frank Padavan, who chairs the Senate's Mental Hygiene Committee, said yesterday. "They are accomplishing things that are not at all constructive."

Essentially an arm of the court, the review panel was created in an April 1975 settlement presided over by Judge Bartels. The settlement, or consent decree, grew out of a lawsuit brought against the state by parents of mentally retarded residents of the Staten Island Developmental Center, then called the Willowbrook State School for the Retarded.

The review panel was devised as a check of state programs to develop humane care for more than 5,000 residents of the institution, described by the late Sen. Robert F. Kennedy contemporaneously with the decree as a "snakepit."

The legislature's reason for attempting to do away with the panel, Padavan said, was that "we're tired of the review panel and a federal judge dictating fiscal policy and, more importantly, clinical judgments. It's an abuse of the taxpayers."

Padavan noted that the Governor's Quality of Care Commission, established in 1977, overlaps the panel in function.

The Quality of Care Commission does not, however, share the panel's responsibility to oversee the state's policy of transferring the retarded from institutions into the community — a policy in which OMRDD has fallen consistently short of its quotas.

But the Queens senator said, "We're counting on the governor and the Office of Mental Retardation to assure the right placements for the mentally retarded population."

Padavan acknowledged that the appropriate route for dissolving the review panel was through the court, but he asserted: "We have called upon the (Office of Mental Retardation) to go through the legal system time and time again. They're afraid of these people (the panel), and they're afraid of this judge."

"I probably did Introne a favor," he said, "whether he cares to admit it or not."

Padavan, a Republican, suggested that the governor's attitude toward elimination of the panel was one of ambivalence. "Governor Carey knew what we were doing; his budget people knew what we were doing," the senator said. "I didn't hear him say 'boo.' And they certainly know how to communicate with me on other issues."

Mrs. Connelly, who represents part of the Island's North Shore, said that by cutting the panel's purse strings the le-

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legislature "has not in any way diminished its commitment to the retarded."
"I think this is going to bring all the issues to a head," she said.

The West Brighton Democrat said she is concerned by the review panel's practice of barring the news media and the public from its monthly meetings.
"Somebody has to undertake accountability and responsibility to the public," Mrs. Connelly said.

Of the seven panel members, five reside outside New York state, and they are entitled to submit vouchers for travel expenses — in one case, from Georgia. "We have qualified people in New York," Mrs. Connelly protested. "Why should they be chosen from all over the country?"

Murray B. Schneps, a panel member and a lawyer, said that while panel de-

liberations are closed, "all documents and papers afterwards are available."

The Office of Mental Retardation, Schneps contended, "does not have the capacity to do many of the things required under the consent decree. It has had to draw on the talent, the knowledge and the resources of the review panel." One of the panel's duties is to conduct an annual audit, in conjunction with the state, of the Staten Island Developmental Center.

Panel members have consultant status and are paid a \$200 fee for every day, or seven hours, of work accomplished. The state budget allocation for the panel has also covered a backup of five professional staff, one administrative assistant and three secretaries, all on full-time salaries. The salaries are set along civil service guidelines.

Schneps noted that three panel members are attorneys whose fees break down to about \$29 an hour, adding: "The state hires lawyers who routinely charge \$100 an hour."

Panel funding was excised from the budget "without prejudice," meaning that the amount can be reviewed for the supplemental budget enacted before the Legislature adjourns in June or July.

"This gives time for the panel and mental retardation to provide a stronger rationale for the amount of money paid to people and for the amount of work actually done," Jerry McLaughlin, an aide to State Sen. John J. Marchi, chairman of the Senate Finance Committee, explained yesterday. "The Legislature wants to make sure it gets its money's worth."

The funding issue was taken to federal

court yesterday by Christopher Hansen, an American Civil Liberties Union lawyer involved in the consent decree.

Hansen obtained Judge Bartels' signature on two so-called "show cause" orders. In addition to the potential contempt order against the governor, Ingrone and other mental retardation officials, Hansen filed an order seeking to include state Comptroller Edward V. Regan as a party to the consent decree. Regan's department processes vouchers and payroll for the panel and its supporting staff.

In Hansen's opinion, "the Legislature isn't, can't be and won't be made a defendant."

"It is clear the governor has to spend the money to meet the constitutional rights of the people," Hansen said. "But the Legislature is not relevant."

Special Olympics set by group

Plans for citywide Special Olympics were made at a meeting last night of the Staten Island Special Olympics committee at the Staten Island Developmental Center, Willowbrook.

The event will be May 2, 3 and 4 at the developmental center. It was announced that volunteers are needed for a variety of functions at the games. The committee will meet every Wednesday night until the game.

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