

Carey ordered to find funds to pay Willowbrook monitors

By HARRY C. LEICHTER and ANEMONA HARTOCOLLIS

A federal judge yesterday ordered Gov. Carey and state Comptroller Edward V. Regan to secure funding to pay monitors of the Staten Island Developmental Center within five business days or face contempt proceedings.

Judge John R. Bartels of Brooklyn Federal Court gave the governor until Thursday to ask the Legislature for \$342,300 to include the monitors, who make up the Willowbrook Review Panel, in the state's supplemental budget.

In the meantime, he ordered the governor and the comptroller to pay the monitors on a voucher system, beginning no later than April 15.

As an ultimate sanction if the monitoring panel's bills are not met on time, the judge threatened in a 15-page memorandum to shut down the developmental center, an act that could leave more than 1,600 mentally retarded residents homeless.

From his New York office, Gov. Carey responded: "I'm not going to be held in contempt. I'm going to ask the Legislature to restore that money."

But state officials declined comment on whether they would comply with the judge's order for interim funding, saying they needed time to review it.

In a hearing Wednesday before Judge Bartels, however, Assistant Attorney General Robert Hammer, representing the governor, anticipated the order for immediate funding and said he intended to seek a stay of such an order pending appeal to a higher court. **SECTIONS**
The governor had appropriated

\$342,300 plus ancillary expenses for the monitors in his proposed budget for the current fiscal year, but the Senate and Assembly deleted the funds.

The monitors were mandated by a 1975 Brooklyn Federal Court judgment to which the governor is a party. The judgment was formulated to correct conditions documented as inhumane at the developmental center, then known as Willowbrook State School.

Judge Bartels, to whom the seven monitors report, has described the review panel as his "eyes and ears," an essential check on the operations of the state Office of Mental Retardation and Developmental Disabilities.

Without the panel, he has asserted, the constitutional rights of the developmental center's population are not served, and he could not in good conscience allow the Willowbrook institution to exist.

It was not clear yesterday what action would be taken if the Legislature again refuses to fund the panel.

During two days of hearings before Judge Bartels this week, state lawyers contended that state finance laws bar the comptroller from endorsing checks to an entity which the Legislature has explicitly deleted from the state's spending plan.

In his order, the judge suggested a variety of spending categories approved by the Legislature from which the governor might transfer funds to the review panel. But until yesterday, budget officials were asserting that funds could legally be transferred only from one approved program to another — not to a

program, like the review panel, with no "standing" in the budget.

Responding to this line of reasoning from Hammer on Wednesday, Judge Bartels said: "Mr. Hammer, I disagree with your approach. I feel where there's a will there's a way. I don't feel your client's (Gov. Carey's) will is strong enough."

Sen. Frank Padavan, chairman of the Senate Mental Hygiene Committee, last week said he considers the panel an unnecessary expense in light of significantly improved conditions at the developmental center.