

Civil Liberties Union, state in court over policy at Willowbrook

By ANEMONA HARTOCOLLIS

New York state and the New York Civil Liberties Union filed competing motions in Brooklyn Federal Court yesterday concerning court-ordered improvements in state care for the mentally retarded.

In its motion, the New York Civil Liberties Union (NYCLU) asks the court to appoint a special master with the power to dictate state policy toward more than 4,000 former and current residents of the Staten Island Developmental Center in Willowbrook.

Chris Hansen, an attorney for the NYCLU, said the master was intended to remedy "gross negligence by state officials."

He said the NYCLU gave the court stacks of documentation of allegations including the death through negligence and mismanagement of patients, insufficient staffing and unsafe conditions at state-run institutions.

The motion accuses the state of "massive non-compliance" with the Willowbrook Consent Decree. Han-

sen said. The decree is a 1975 federal court judgment that set guidelines to reform the Staten Island Developmental Center, then called the Willowbrook State School.

Meanwhile, New York state filed a motion to relax key provisions of the Willowbrook Consent Decree that require the transfer of patients from institutions into small community-based facilities.

While the consent decree restricts community-based facilities to a maximum of 10 beds, the state is asking permission to expand the size of such facilities to 50 beds, according to Paul R. Kietzman, counsel to the state's Office for Mental Retardation and Developmental Disabilities.

Kietzman said state mental retardation officials believe larger facilities are "clinically and practically" more appropriate for patients who need complicated and expensive medical support services.

The two motions were filed after weeks of fruitless attempts by the

NYCLU and Gov. Carey to persuade the state Legislature to appropriate \$363,000 to fund the Willowbrook Review Panel. Under the consent decree, the court-appointed panel was responsible for monitoring state care of Willowbrook patients.

It is the second year that the Legislature has refused to fund the panel, accusing its members of forcing the state to waste money on clinically unwise decisions.

Legislators complained in particular about the panel's insistence on moving mentally retarded patients from the Flower & Fifth Ave. Hospital in Manhattan into three- and six-bed apartments. In the motion filed yesterday, the state specifically asks for relief from a court order sanctioning the three- to six-bed housing.

Judge John R. Bartels, who is scheduled to consider both the state and the NYCLU motions, also presided over disputes between the review panel and the state when the panel was active. He consistently decided in favor of review panel recommendations.

Bartels, however, was overruled in the Manhattan Federal Appeals Court last year when he attempted to force the governor to fund the review panel despite the Legislature's refusal to appropriate the money.

Hansen said the motion filed by the NYCLU yesterday alleged violations by the state in four general areas covered by the Willowbrook Consent Decree: community placement, staffing, programming and clothing.