

Court raps state's Willowbrook policy; orders more reforms

By ANEMONA HARTOCOLLIS

New York State has failed to meet virtually every obligation to clean up the Staten Island Developmental Center in Willowbrook and to give humane care to 3,156 mentally retarded patients, a federal judge ruled yesterday.

In a sweeping and bitterly critical 70-page decision, U.S. District Judge John R. Bartels ordered the state to reform Willowbrook, and other institutions housing former Willowbrook patients, "with all deliberate speed."

Bartels, in the ruling issued in Brooklyn, said he would appoint a special master to monitor progress and to act "as an arm and as the eyes and ears of the court."

He also set a deadline of April

1, 1985, for the state to transfer all but 250 of Willowbrook's 1,369 retarded residents into group homes in the community.

He described life for patients in the 50-year-old Willowbrook complex, and in state-run institutions throughout the city's other four boroughs, as "sterile, dreary and one of enforced idleness."

His graphic and meticulously documented ruling was based in part on a personal, unannounced visit to Willowbrook last December. Bartels said inspections, some by the state's own auditing teams, showed kitchens "infested by cockroaches and rodents," patients who sat on floors covered with human excrement and who slept in rooms "reeking of urine."

The lawsuit was filed by the
(See COURT, Page A 12)

Page 1 of 3 Pages

Court

(From Page A 1)

private, nonprofit New York State Association for Retarded Children, the New York Civil Liberties Union, the Legal Aid Society and other advocates and parents of the mentally retarded.

It accused Gov. Carey and state officials of violating a 1975 federal court consent decree that defined the proper environment, clothing, education, staff, nutrition and housing for retarded patients. The decree set a deadline of April 1981 for the reduction to 250 of Willowbrook's population.

"Good faith and efforts," Bartels said in his ruling, "are no excuse for failure to comply with provisions so necessary for the protection of the handicapped clients."

He ordered both sides in the dispute to file briefs proposing the duties of the special master, or overseer, and to nominate people for the position by May 14.

The state had not decided yesterday whether to appeal the ruling, according to its chief attorney, Taylor R. Briggs of LeBoeuf, Lamb, Leiby & McRae. "It's a defeat," Briggs said, "to the extent" the judge favored the plaintiffs.

Bartels granted every condition sought by the plaintiffs — including the overseer, the new deadline for emptying Willowbrook and upper limits on the size of group homes. He also ordered that taxpayer money be used to pay the court costs and attorneys' fees of the plaintiffs. The amount of those costs and fees has not yet been determined.

Robert M. Levy, one of the Civil Liberties Union lawyers who sued the state, urged both sides yesterday to "set aside their adversarial feelings." He added: "The governor has indicated a strong commitment to the mentally retarded. We want to make sure what we've started gets done properly."

In his ruling, Bartels upheld a

requirement of the consent decree that all group homes for the retarded should be no bigger than 15 beds. He also affirmed his own order of October 1979 that 115 physically disabled and mentally retarded patients living at Flower Hospital in Manhattan should be transferred to group homes no bigger than six beds.

The state had asked Bartels to let it establish group homes of 11 to 50 beds. State officials complained that the city's tight real estate market and the intensive medical staff and equipment needed by the Flower patients made small group homes impractical.

In denying the state's request, Bartels said: "The upward limit of 10 is based on experience" and is essential to providing a "nurturing, homelike environment."

While giving the state four more years to move residents of the Willowbrook institution into group homes, he suggested the state's efforts to crack the real estate market had been less than

vigorous. State officials testified that at the rate they were going, it would take 20 years to move all the patients Bartels wanted into group homes or apartments.

Bartels protested: "In their shortlived search for 3-bed and 6-bed units, the defendants looked only in the Bronx and Manhattan, the two boroughs with the fewest number of available sites. And they confined their search to a radius of one-quarter mile from six hospitals which, as established by expert testimony, was unnecessarily restrictive."

Willowbrook had 5,343 retarded patients in 1972, when the original civil rights suit was filed. That suit was settled by the 1975 consent decree. Since then, 1,108 patients have gone to group homes, 580 have gone to family care, 557 have died and 730 have been discharged from state supervision.

Of the original population, 1,369 remain at Willowbrook, in buildings administered directly by the state and under a state

contract with a private agency, United Cerebral Palsy Associations of New York State. Another 99 original Willowbrook patients have been transferred to other state institutions or private agencies, like Flower Hospital.

Bartels' ruling yesterday was the culmination of 25 days of courtroom testimony from 39 witnesses and hundreds of exhibits, including photographs.

Kitchens at Willowbrook, the judge said, "are filthy and infested with rodents and cockroaches. Cups, bowls, silverware, and pots and pans are improperly cleaned and often caked with food from past meals.

"Food is served to residents at inappropriate temperatures that encourage food spoilage and the growth of microorganisms, and food storage areas are dirty and foul-smelling."

Sanitation in the bathrooms, he said, is "grossly inadequate." "Human feces and urine commonly soil bathroom floors,

walls, toilets and shower stalls. Non-operational and unflushed toilets filled with human excrement are frequent occurrences, as are cracked and missing toilet seats and bathrooms without toilet tissue, towels and soap. Mold and mildew, indicative of long-term neglect, grow on many shower surfaces and none of the shower areas are being properly sanitized."

He added: "These types of unsanitary conditions permeate the residents' entire living space. Their clean clothes and dirty laundry are intermingled, and trash, food and clothing litter the floors."

Bartels praised the institution's director, Dr. Ella Curry, for making "some efforts to improve sanitation" during her 14-month tenure at Willowbrook. But he said that "clearly," the state had not done enough, allowing conditions to "steadily deteriorate" over the past two years.

In a section of his ruling about maintenance, he commented: "In almost every building there are numerous examples of torn and broken furniture, ripped and broken screens, missing bathroom tiles, nonworking toilets and walls with gaping holes.

"In many residential areas, furniture is sparse and the noise level piercing."

Bartels said Willowbrook's physical environment met only 43.6 percent of the state's own standards, as judged by auditors sent to the facility in March 1981 by the state Office of Mental Retardation and Developmental Disabilities. Deficiencies, he said, included "lack of privacy in bedroom and bathroom areas, poor lighting, a dearth of decorations, curtains and furniture."

Clothing supplied to the patients, the judge said, was neither clean, adequate nor seasonally appropriate.

Page 3 of 3 Pages