



Michael Marros

# “Willie M.” Treatment for Disturbed Youngsters

## Ambitious Community-Based Service System Lurches Forward

by Kendall Guthrie and Bill Finger

**B**y age ten, Willie had so many problems getting along with his family that a social worker had to be called in — enter the Division of Social Services within the state Department of Human Resources (DHR) and a county department of social services. Two years later, the troubled youngster started stealing from his elementary school and landed in juvenile court — enter the judicial system and the Administrative Office of the Courts.

The local judge tried to find a placement for

This Willie M. group home will house five teenage girls.

Willie, but various treatment programs wouldn't accept a child of his young age and with his mix of emotional and mental handicaps. Having no other option, the local judge sent Willie to a state training school, hoping that the contained

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environment might set him straight—enter the Division of Youth Services, also within DHR. This training school, even after putting Willie in its special treatment ward, made no progress. Willie would either assault the staff or whimper in a corner, sucking his thumb.

Perhaps special education and psychiatric help within a state mental institution could help Willie, the training school officials decided — enter the Division of Mental Health, Mental Retardation, and Substance Abuse Services, within DHR, and the Department of Public Instruction, which distributes state money for special education. But Willie couldn't cope with the specialized learning programs either.

In frustration, the mental hospital discharged him to court officials back home. The court tried to find a suitable foster care placement, but Willie couldn't function in the school system. Too violent for adolescent wards, too young for adult treatment, too smart for mental retardation centers, but too volatile for special education classes in public schools — Willie didn't fit anywhere.

Six different state agencies and various judicial offices had tried to deal with Willie. But in the vast state services delivery system, there seemed to be no niche that could help him. Apparently, no means existed among these agency officials to forge a new system to draw on available services and find a way to help Willie prepare for adulthood.

While Willie's problems seemed difficult enough for officials to address, scores of other children demonstrated similar mental or emotional handicaps and violent, assaultive behavior. "Your average kids may be angry, may even hit somebody. But these kids might go to the extreme of damaging property or cutting someone with a knife or a piece of glass," says social worker Clyde McDonald.

They have a tangled web of mental and emotional handicaps caused by a "chronic chaotic life," says Dr. Douglas Conrad, head of the adolescent unit at Dorothea Dix Hospital, one of four state mental hospitals in North Carolina. Deborah Greenblatt, director of Carolina Legal Assistance for the Mentally Handicapped, a non-profit legal aid program, calls youngsters like Willie "time bombs," waiting to explode.

Since the middle 1970s, mental health officials, social workers, and juvenile court officials had recognized the lack of treatment facilities for violent and emotionally disturbed youth. The state made some efforts to treat these youngsters by laying plans for a new treatment center, Whitaker School in Butner. But Whitaker could serve only 24 youngsters. Judges across the state became increasingly frustrated as

various agencies refused to take responsibility for these children, apparently because of the very condition that needed attention — their emotional problems. Too often, judges found themselves sending the children to training schools, not because they had a record of serious criminal activity but because no one else would take them.

Finally, on March 23, 1979, Wake County Chief District Judge George F. Bason called a press conference to alert the public to the state's negligence. "The state of North Carolina is entering into a multimillion dollar building program for a veterinary school — to treat your cat for mange—but your severely mentally ill children must go untreated," he told the press. Bason went on to invite the three lawyers sitting with him at the press conference to sue him for not providing the treatment and education required under both state and federal law.

Concerned juvenile judges, lawyers, and juvenile justice workers conferred. In September 1979, seven attorneys from five private firms and two public interest agencies filed a class-action lawsuit in Federal District Court in Charlotte (Willie's home) on behalf of four named plaintiffs, the first of whom was Willie. The suit defined the class as all minors who "now or in the future will suffer from serious emotional, mental, or neurological handicaps" accompanied by violent or assaultive behavior and for whom the state provides no treatment.<sup>1</sup> As defendants, the suit named Gov. James B. Hunt Jr.; Human Resources Secretary Sarah Morrow; State Superintendent of Public Instruction Craig Phillips; then chairman of the State Board of Education David Bruton; and numerous other state officials directly involved with the named plaintiffs. The suit named no local officials as defendants.

The attorneys based their suit on three amendments to the U.S. Constitution and several state and federal statutes. The suit claimed the plaintiffs had a right to due process under the 5th and 14th amendments to the U.S. Constitution and a right against cruel and unusual punishment under the 8th and 14th amendments. Federal statutes cited as a basis for the suit were the Education for All Handicapped Children Act (PL 94-142) and Section 504 of the Rehabilitation Act of 1973. The suit also based its claims on state statutes which give handicapped children the right to an appropriate education and to appropriate care in a treatment facility and in an institution for committed delinquents.<sup>2</sup>

Essentially, the suit was designed to accomplish two purposes, explains Sandra Johnson, one of the seven plaintiffs' attorneys: 1) to make the state accountable for its legal

responsibilities to these children; and 2) to force the state to create a service delivery system that could offer a long-term commitment to the widely varying needs of this troubled group of youngsters. U.S. District Court Judge James B. McMillan reviewed the case and set the court date for September 1980.

On the eve of the trial, the two sides reached a settlement, avoiding a prolonged court fight.<sup>3</sup> The Attorney General's Office, representing the state executive branch, agreed that the state would provide what the plaintiffs' attorneys wanted: an individual education and medical treatment plan in the least restrictive setting, not only for the four named plaintiffs but for all N.C. citizens in the class. The state agreed to provide each child under 18 "placements and services as *are actually needed* as determined by an individualized habilitation plan rather than such placements and services *as are currently available*. If placements and services actually needed are not available, *the person shall be entitled to have them developed and implemented within a reasonable period*" (emphasis added).<sup>4</sup> Known as the "entitlement" section of the settlement, it required the state in essence to create a whole new service delivery system, ranging from highly restrictive residential programs to daytime therapy in a child's home. The range of services would allow a child to change settings as his or her needs changed but

always to remain under the supervision of one system.

The settlement before Judge McMillan also required that the state must:

- immediately provide appropriate treatment for the named plaintiffs;
- identify all other children in the state who may belong to the class; and
- participate in establishing a five-member review panel to examine the treatment and education of named plaintiffs and all potential class members.

Since the 1980 settlement before Judge McMillan, the state has undertaken the first statewide effort in the nation to meet the mental health, medical, and educational needs of this group of youngsters through a single service delivery system. In 1982-83, the state spent over \$20 million on a new delivery system for over 1,000 youngsters. In four short years, the same system that caused Judge Bason to ask attorneys to sue him has lurched forward toward a local community-based model of delivering a complex set of services to violent, disturbed children — a treatment model that has attracted the attention of states around the country. "Litigation can make people attend to things they would never decide to attend to through the normal political process," says Sandra Johnson.

In going from a target of scorn to an object of hope, the state's delivery system for violent

C. A. Dillon School, a secure facility at Butner.



Bryant Hawkins, N.C. Dept. of Human Resources

youth with emotional problems has dramatized both strengths and weaknesses in state government's services for this type of child. From interagency shortcomings to separation of powers issues, policymakers have had to cope with a wide range of challenges in meeting the *Willie M.* consent decree issued by Judge McMillan. In the process, North Carolina has at last begun to provide some exciting, pathbreaking treatment models for children, who may become contributors to society, rather than its criminals.

## The State Balks

Even though Gov. Hunt and the other defendants agreed to settle the suit in September 1980, when the legislature came to Raleigh in January 1981, there were no proposed funds for *Willie M.* on the legislators' desks. Finally, at the end of April, the Hunt administration did send to the legislature three *Willie M.* budget options for consideration. But unlike most budget proposals that come from a governor or powerful legislator—up through the political process—this budget item had been dumped unexpectedly in the laps of legislative branch officials. It had no traditional political backing, only the mandate of the federal judicial system. *Willie M.* youngsters had no powerful lobbyists on their side, only a consent decree from Judge McMillan, stipulating the elements of the 1980 settlement.

Lawsuits tend to polarize people, however, as Sandra Johnson puts it. They should be used only as a last resort in the public policy arena, she believes. Aggravating the anger that usually comes with a class-action suit, Gov. Hunt signed the consent decree without conferring with legislative leaders. In many legislators' eyes, Hunt had violated the spirit, if not the letter of the traditional separation of powers doctrine, guaranteed in both the state and federal constitutions (see "Separation of Powers," *N.C. Insight*, May 1982).

Historically, the three branches of government have each had separate duties to perform, with a system of checks and balances over each other. In signing a consent decree agreeing to the expenditure of public funds, without consulting the legislature, Hunt in effect allocated the taxpayers' money, a role traditionally assigned to the legislature. Hunt agreed to set up an expensive program and "send the bill to the legislature," says Jim Johnson, senior fiscal analyst for the General Assembly.

In 1981, with political support committed to other issues and being ill-disposed towards funding a settlement on which they hadn't been consulted, the legislature chose the lowest budget proposal submitted by the Department of



U. S. District Court Judge James B. McMillan

Human Resources (DHR) and voted only \$2.0 million for the program. That amount would partially fund only 3 of the proposed 15 zones through which services would be delivered. According to the future allocation schedule, the entire system would not be in place until 1987.

Meanwhile, the two sides to the consent decree had already implemented one of Judge McMillan's requirements, the establishment of a five-member review panel—two members chosen by the plaintiffs, two by the defendants, and the fifth by the other four. This panel proved critically important in getting the *Willie M.* program underway. After the legislature left Raleigh in July of 1981, the review panel identified the lack of adequate funding as a major problem, even for the three zones receiving the initial resources.

"The funded, priority zones will need additional funding in the amount of approximately \$700,000 in order to implement the planned *systems* of services needed by class members in these zones," James D. Clements, chairman of the review panel, wrote to Gov. Hunt, Sec. Morrow, and Supt. Phillips on July 27, 1981. "Of equal concern to the Panel is the apparent lack of understanding and commitment by the defendants ... to a *systems* approach for addressing the needs of class members. We cannot accept the assumption inherent in [the proposed budgets] that if programs receive half of the funding needed to implement full continua, or *systems*, of services, they will be able to implement half of the services, and serve half of the identified class members. This approach contradicts all the information provided to the Panel heretofore, which emphasizes the necessity to implement *systems* of services that have the capability to

respond flexibly and appropriately to the varying treatment and education needs of class members" (emphasis on "systems" in original letter).

The funding levels and the systems of services available to the *Willie M.* children were only two of the panel's concerns. On September 2, 1981, the review panel submitted its second formal report to Judge McMillan and gave the defendants bad marks. The panel partially blamed the low funding level passed by the legislature on the Governor and reported that Hunt never responded directly to any letters sent to him by the panel. "A recommendation from the Governor to fund all or part of the request is conspicuously absent and causes the Panel to question what specific efforts have been made by the Governor to see that services for the class members are implemented."<sup>5</sup>

Other state departments also showed up poorly. The panel questioned the "good faith" of the Department of Human Resources to see the program through. "Nearly every recommendation and many requests for information are met with either resistance or disagreement," the panel told McMillan. "Efforts that should be directed towards actual implementation are directed towards further limitation of the defendant's obligation." Finally, the panel reported that the Department of Public Instruction "conveyed the message that this lawsuit is largely the responsibility of DHR" and did not seem to acknowledge their role in the new program.<sup>6</sup>

During a special legislative session in October 1981, the first results of the panel's efforts became clear. The General Assembly, at Hunt's urging, voted an additional \$2.6 million for *Willie M.* programs during state fiscal year 1981-82 — a total of \$4.6 million for the first year of the program. Seven of eight dollars went to DHR and the rest to DPI.

Meanwhile, in 1981, the review panel had requested and received an October hearing date before Judge McMillan to review the lack of progress by the defendants. Prior to the hearing, the panel met with Gov. Hunt and got his commitment to pursue additional funding for *Willie M.* services and to speed up the process of identifying *Willie M.* children — two of the most pressing requests of the panel. When the parties to the lawsuit met with Judge McMillan in October, they agreed to another important set of court stipulations (i.e., requirements) regarding progress in serving the *Willie M.* children. Most notably, the defendants agreed to have a full system of services in place for all *Willie M.* youngsters by July 1983 and to a set of intermediate benchmarks to measure progress towards meeting that goal.

These benchmarks became a critical

measuring point for the review panel in future reports to Judge McMillan and a source of some bitterness by state officials. "We agreed to benchmarks that were unrealistic," says Dr. Eugene Douglas, who became director of the Division of Mental Health, Mental Retardation, and Substance Abuse Services within DHR in October 1982. "We did it because we thought those were goals we should work towards. But half of the zones received no money until September 1982," says Douglas. "Half the state had less than one year to meet the benchmark date for serving all the youngsters."

Fiscal analyst Jim Johnson agrees with Douglas' assessment. "This schedule was unrealistic," Johnson says. "The number of new residential facilities, such as group homes, could not be started in the time agreed upon."

Besides the lack of time, two other reasons proved pivotal in the benchmarks not being met by the defendants: 1) the absence of any models to follow; and 2) the relationship between the state agencies (the defendants) and the local agencies that had to deliver the services. No one had ever tried to serve such difficult children on such a large scale, especially in such a short period of time and starting from scratch. The new treatment program required reorienting people's thinking. Instead of setting up various programs and sending the children to them, the state had to design individual treatment plans and make a system of services available to the children in their home counties. Moreover, since the consent decree required a combination of medical, mental health, and educational services, both the Departments of Human Resources and Public Instruction had to pitch in together.

State officials had no mentors from whom to seek advice. They had only small city-wide models which they could study. "The stipulations are an excellent blueprint of what needs to be done," says Dr. Lenore Behar, director of child mental health services within DHR. "How to do it is what we had to figure out." Rather than an interagency committee, the defendants — led by the Governor — decided to designate one lead agency to shoulder the responsibility of developing the plan and coordinating the services. "[The Division of] Mental Health [Mental Retardation, and Substance Abuse Services within DHR] stepped forward and said, 'We can provide the services. We think we have an understanding of the problem, and as much expertise, if not more, than anyone else,'" says Behar.

Making a mental health office the lead agency caused some problems, however, say close observers of the program. Instinctively, educational and medical needs of the children took a back seat to mental health needs. Mental



Bryant Haskins, N.C. Dept. of Human Resources

Whitaker School

health officials turned first to the tools with which they were most familiar, even though each child needed a different mix of services, with educational or medical concerns sometimes most important.

Because the mental health division took the lead role in administering the *Willie M.* program, the 41 area mental health programs providing services throughout the state became a crucial link. Since the early 1970s, these area programs had been the central vehicle for delivering community-based mental health services. In establishing the programs, the legislature gave them an important degree of autonomy by providing that each program have a local board of directors. The Mental Health Study Commission describes the arrangement like this: The state division "develops a service plan with every community mental health program, *but the community is responsible for local governance and direct service management*" (emphasis added).<sup>7</sup>

While this description applies to community-based, mental health services in general, it also summarizes the method the defendants chose for the delivery of *Willie M.* services. The state had to develop a plan of action, train local staff, provide backup information and assistance, and coordinate programs on a state-wide basis. In the final analysis, though, the local area programs and local school systems deliver the services. "Frankly," says one former area program director, "we were skeptical that the legislature would give the state any money. So we dragged our feet at first."

Despite any difficulties that state officials might have in convincing local officials to act,

most analysts view the state mental health structure positively. "Our system is a good one," says DHR Sec. Sarah Morrow. "But it takes longer for it to work. You're not a dictator at the state level."

Morrow and her staff had their hands full. By September 1981, 1,066 youngsters had been nominated for the *Willie M.* program by social workers, juvenile courts, teachers, and parents. Many of these would eventually not be accepted into the program, but all of them had to be considered through the certification procedure. A state certification panel in Raleigh had been created to review psychological test results and an 11-page application on each child. To further complicate matters, *Willie M.* children were sometimes the legal responsibility, not only of Behar's office, but of the Administrative Office of the Courts, the Division of Youth Services (which administers training schools), and the Department of Social Services (which handles foster care). *The state, when it settled the suit, anticipated a class of some 200-800 children. Now, Behar's office faced the task of first assuming legal responsibility for some 1,000 youngsters and then ensuring that complex treatment plans were implemented for each of them.* All the while, Judge McMillan's clock was ticking towards that July 1983 date by which all children in the class were supposed to be served.

### The Legislature Foots the Bill

By the short "budget session" in 1982, the legislators had gone from resenting Hunt's "bill for services" to wondering where it would all end. No one knew how many children would qualify for services. And few fiscal analysts

realized that the individual treatments would cost some \$20,000 per child, per year. Finding enough money for the *Willie M.* youngsters was "like trying to stop beach erosion," recalls Rep. David Diamont (D-Surry). "Was there any end in sight?"

Meanwhile, the recession and federal budget cuts had hit state revenues hard. The lawmakers, however, could not reduce *Willie M.* funding; instead they had to boost it significantly. "You just don't fool with the federal government," says Rep. Margaret Hayden (D-Alleghany).

While Representatives Diamont and Hayden expressed rank-and-file legislative sentiment on *Willie M.*, the Joint Commission on Governmental Operations reflected the views of the legislative leadership. House Speaker Liston B. Ramsey (D-Madison) and Lt. Gov. James C. Green chaired the commission, which included powerful Sen. Kenneth Royall (D-Durham), among others. The commission instructed Gerry Cohen, the legislature's director of bill drafting services, to review the statutes relevant to the *Willie M.* case. Recognized as an expert on the N.C. General Statutes and on separation of powers questions, Cohen produced a series of legal memoranda for the commission. Reportedly, the legislative leadership was looking for ways to control the spiraling *Willie M.* funding: 1) by narrowing the statutes on which the suit was based, to say that a handicapped person's right to education extended only to that education that the state could afford to fund; 2) by finding a way to re-open the lawsuit in order to reduce the funding required or to get out of the settlement altogether; or 3) by preventing the executive branch from entering into a consent decree before gaining approval from the legislature.

The Commission on Governmental Operations, after a review of the Cohen memos and of the *Willie M.* program in general, made a gradual but significant shift in position towards the *Willie M.* programs. The commission did instruct the Department of Administration to establish a new Litigation Advisory Committee to oversee the litigation activities of the Governor's Advocacy Council for Persons with Disabilities, which had a small part in the *Willie M.* suit (see page 20 for more on this committee). The legislature also put some restrictions on how *Willie M.* funds could be spent<sup>8</sup> and passed a bill which in effect made future consent decrees by the executive branch more difficult.<sup>9</sup> As a result of the committee's research, however, no legislator introduced a bill to amend statutes because of *Willie M.* or to attempt to re-open the suit.

Most importantly, though, the legislature,

at Hunt's urging, again boosted funding for *Willie M.* programs significantly. In 1982, the funds jumped more than fourfold, from \$4.6 million (FY 82) to \$18.7 million (FY 83). In 1983, the legislature raised the funding again, to \$21.6 million for both FY 84 and FY 85. One of the factors that helped increase the *Willie M.* funding levels was the success with the children. During the legislative funding debates, Behar told one of her favorite stories.

A boy, who grew up in foster care, had been a problem child since the first grade. Between the ages of 9 and 15, he went through group homes, mental hospitals, and training schools across the state. "That child had been through most of what the public and some of what the private sector had available," Behar told the legislators. "And there was no sign of progress. At the time he was certified for the *Willie M.* program, he was labeled one of the most dangerous children at Dillon Training School in Butner."

Once certified, the boy moved to Wake County's new locked *Willie M.* facility. The staff worked with his problems, and, after a year, he had improved enough to move into a new group home. Several months later he began attending public school. Not a real scholar, he eventually dropped out of school and got a job at a carwash. Although still easily frustrated and explosive, today at age 19 he is supporting himself and doing something at which he considers himself successful. He reads at a 12th grade level, plays the piano, and conducts his own life with only a few calls a week from a mental health worker.

Behar's success stories may have helped get more money from the legislature, but they didn't convince the review panel. The panel became increasingly concerned about the ability of the defendants to meet the timetables agreed upon. After the executive branch agencies failed to meet the first two benchmarks—25 percent of the class members receiving appropriate services by April 1, 1982; 42 percent receiving services by August 1, 1982—the panel met with Hunt. The Governor in turn requested the panel to look at how the programs were working across the state and identify for him the issues requiring the most attention. In January and February 1983, the review panel met with mental health and education personnel from all 41 area mental health programs and most of the 143 school systems to discuss their plans and progress for developing services in their areas.

In its report on the field visits, the panel summarized what it considered "particularly creative models and services that are being developed and provided by some individual area mental health programs and local school systems."<sup>10</sup> The panel cited, for example, in-school day treatment in Rockingham

County; individual job-placement services in the Wake, Gaston-Lincoln, Orange-Person-Chat-ham, and Pitt area programs; and a system of community residential care in individual homes along a continuum from moderate to highly intensive treatment and care in the Vance-Granville-Warren-Franklin program.

The panel also identified what it considered to be serious problems with the overall implementation of services, which led to a scathing report to Judge McMillan. On July 14, 1983, the panel, in its sixth "Report to the Court," presented the most critical review yet of state administration of the *Willie M.* program.<sup>11</sup> "The defendants have failed to meet all of the benchmarks in the timetable, and the statewide implementation of services to meet the needs of the individual class members is significantly behind schedule," the report begins. "It is now almost three years after the defendants' obligations were established," the panel reports. The Panel was pleased that some 400 *Willie M.* youngsters were receiving appropriate services, but "it sees the gap between what was promised and expected and what has actually occurred as resulting primarily from problems in the organization and management of this task by the state defendants."

The panel identified scores of problems in the services being provided in the various zones, including system design gaps (absence of specialized foster care, for example) and the lack of attention to vocational issues. Regarding vocational issues, for example, the report found that "in more than half of the area programs, the current plans for the local system of services lacked systematic attention to the vocational needs of class members." The report did point out that eight area programs were using the

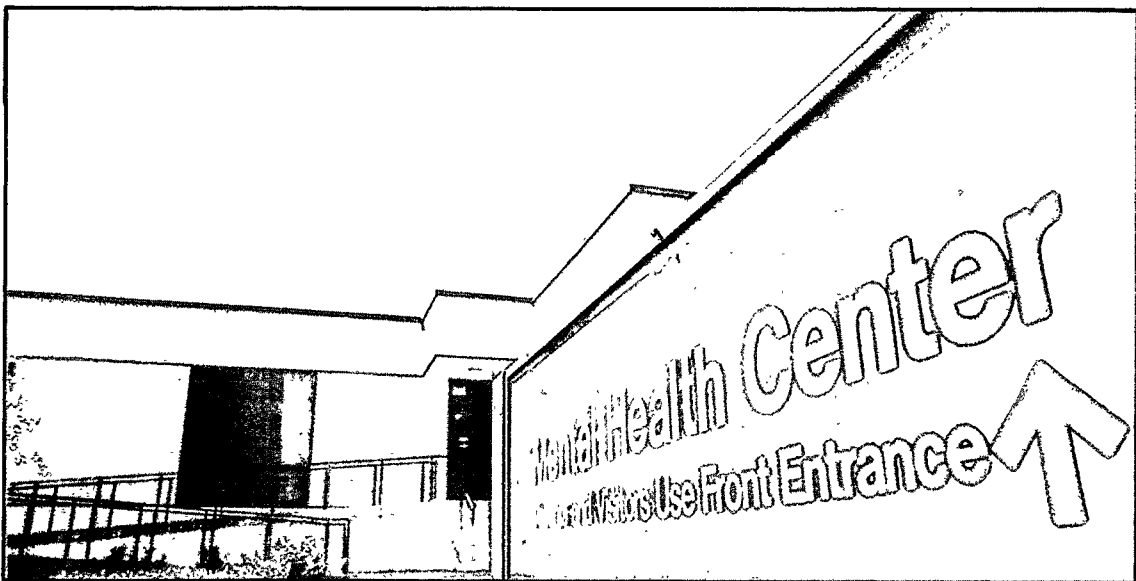
Division of Vocational Rehabilitation Services on a regular basis.

Again and again, the panel reported failures at the state level as the cause for the problems at the local level. The panel cited a series of management and planning shortcomings at the state level as the central cause for shortcomings in the program:

- failure to meet numerous timetables and deadlines they set for themselves;
- failure to acknowledge problems and correct them promptly;
- failure to plan and evaluate programs on a *systems* basis;
- failure to clarify relationships among service agencies, the courts, and other involved parties at local and state levels;
- failure to provide information and assistance to local programs.

The panel, perhaps most significantly, cited a lack of good faith on the part of the state administrators: "They continue their pattern of responding and reacting to problems and to questions or pressure from the Panel or the plaintiffs rather than initiating, anticipating needs and problems, and developing clear, specific strategies to avoid or minimize implementation problems and delays."<sup>12</sup>

From a panel equally representing the defendants and plaintiffs, these criticisms seemed strongly worded indeed. Despite the "neutral" representation on the panel, the defendants strongly disagreed with the panel's findings. On August 4, 1983, DHR Sec. Morrow wrote a formal response to the panel's report on its field visits. Morrow took strong issue with the panel's criticisms, particularly concerning the lack of guidance and direction to local programs. "It is important that the Panel and the



Court recognize that even if the defendants 'had all the answers' about what is needed to be done, telling people what to do is not a productive approach to working cooperatively over the long-range for the good of the class members."<sup>13</sup>

Morrow went a step further than questioning the judgment of the panel about how the state should approach its task. She repeatedly questioned the accuracy of the panel's findings and report. "There was no corroboration for the Panel's report," Morrow wrote, "of frustration by local programs over lack of background work by the state on systems design and implementation policies. Specifically, no evidence could be found that any programs reported that state and regional staff did not do all possible to help avoid, diminish, or deal with the problems of

community resistance."<sup>14</sup>

In September, the defendants submitted to Judge McMillan a formal response to the panel's July court report, again taking issue not only with the panel's judgment but also with the accuracy of its statements. The level of tolerance among state officials for the panel's criticisms seemed to be at an end. "We've identified our own outside consultants to evaluate the program," says Eugene Douglas, referring to a five-person team selected by DHR and DPI from outside the state that will evaluate the *Willie M.* services in September and October. "We want a second opinion."

At issue in much of this debate is the level of planning and coordination of services at the state level. Behar defends efforts at the state level with

## **The Willie M. Treatment Program**

Case management is the heart of the new *Willie M.* program. A case manager, usually trained in special education, social work, or psychology, oversees the development and execution of individual treatment programs for 12 to 15 children. They also advocate for services the child might need but is not receiving.

A *system of services* tries to pool together community resources to help the varied needs of *Willie M.* youngsters. A typical child might need a group home living situation, a court counselor, a special education teacher, a psychiatrist, and a foster parent. The case manager coordinates these people's efforts and visits the child at least once a month. "That's a pretty hefty job," says Lenore Behar, the state director for the program.

The system has five basic levels of treatment facilities ranging from highly restrictive, locked homes for the most difficult children to day treatment for youngsters with milder problems. Children can be "stepped down" if their behavior improves or moved to tighter facilities if it gets worse. But they don't leave the system.

"We can now say to a kid, 'I love you, I care about you, but I'm not going to put up with your crap,'" says Steve Williams, Wake County's chief juvenile court counselor. 'If you bomb out of my place, you're going there or there or there but we've got you. And we're going to keep you for

however long it takes us 'til you get to be happier and learn how to obey the law.'"

The children often live on a behavioral modification point system where they receive points for good behavior and lose them for poor behavior. Accumulating points wins them "treats" such as ice cream, outings with the staff, visits home, and eventually removing themselves from the point system.

In an atmosphere which constantly rewards good behavior, the youngsters quickly learn it is easier to go by the rules. Sometimes the children may simply be playing the game, but most staff members hope they will eventually internalize the rules.

Working with *Willie M.* children requires a different set of standards. "It's not what we normally call success," said Mary Ann Olsen, community services coordinator for the Wake County juvenile treatment system. "If a child is hitting once and pulling back rather than beating up on somebody, we have to call that success. Or if a child is tearing up Ivy House (a Wake County group home) instead of people when he's angry, we have to call that success. If we can offer this child two years outside a training school and a chance to learn about this world and a chance to gain some skills in living in the community, to see themselves a little bit better, we call that success."

Most of the *Willie M.* children come from poor and/or broken families. A study\* of the characteristics of the children receiving treatment found that almost half of the children had three or more family problems (child neglect, alcohol abuse, child abuse, family violence, etc.) and one of every three had four or more such problems. About half of the children had been found guilty of a criminal act (21 percent, larceny; 18 percent, assault; 18 percent, breaking and entering). Using intelligence test scores reported for 996 of the 1,028 children included in

an inch-thick stack of memos and departmental planning documents, culminating with a 34-page "Implementation Plan for Services to Class Members" in December 1982. While a long time in coming — more than two years *after* the September 1980 settlement before Judge McMillan — the plan includes an impressive breakdown of how the state agency is trying to implement the *Willie M.* program. The plan explains how the state mental health agency provides technical assistance, distributes funds, trains new staff, monitors and evaluates individual treatment plans, reviews the "continuum of services" provided within each of the 15 zones, and generally oversees how the *Willie M.* programs are actually being implemented at the local level — primarily through area mental

health centers and local school systems.

To what extent this plan has been effective in fulfilling the defendants' obligations, however, remains a serious question. By April 1, 1983, according to Behar's office, 1,207 *Willie M.* children were certified for the program and 1,069 were eligible for services (138 became ineligible after certification because of age, moving to another state, enlisting in the military, or death). Of those eligible, 43 percent or 408 were receiving fully appropriate services. The other 600 were receiving only some portion, if any, of the necessary services. According to the benchmarks agreed upon by both sides, 75 percent of the youngsters were supposed to be receiving full services by that date.

About half of the 1,069 youngsters attend public schools and hence fall under the supervision of the Division of Exceptional Children within DPI. These children also have a case manager, who is part of the area mental health program and coordinates the whole spectrum of services for all *Willie M.* children. "We have a very minor role for the *Willie M.* children," says Ted Drain, director of the Division of Exceptional Children. "The lead agency is DHR." Even so, Drain emphasizes that DPI spends a great deal of time on this program. "We have a team of eight people," says Drain. "They visit local school systems on a monthly basis to monitor the programming. We do more to monitor *Willie M.* programs than other special need programs."

Within DHR, Behar's office coordinates the *Willie M.* program. In listing the accomplishments of the various programs, Behar points to the more than 600 new staff members that had been hired and trained by April of 1983, from case managers to group home staff. Court officials, social workers, psychologists, doctors, and other mental health professionals around the state had received special training on the service model and on interagency issues. Twenty new *Willie M.* group homes had been built, purchased, or rented, and about 40 other existing group homes were being utilized by *Willie M.* youngsters, says Behar.

The review panel has been skeptical, however, of the services cited as operational by the defendants. In September 1982, the panel requested and began receiving monthly reports on the services being *planned* for each area, with the projected dates of implementation of each service. "It should be pointed out," the panel told Judge McMillan in its July report, "that on several occasions when the Panel asked further questions about the actual implementation dates included in the monthly reports, it learned that while some services were reported as 'implemented,' preliminary steps such as hiring



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Group Home.

the study, the researchers found 65 percent of the children with an IQ range below 85 and another 25 percent in the 85-99 range.

About half of the *Willie M.* children (some 540) attend public schools and hence are under the supervision of the Department of Public Instruction. These children may also receive medical and mental health treatments under the supervision of a case manager, who works within the mental health system. For the other 600 *Willie M.* youngsters, the Division of Mental Health, Mental Retardation, and Substance Abuse Services supervises all case managers and the entire range of services (medical, mental health, and educational). As of May 15, a total of 1,069 children were eligible to receive *Willie M.* services; about 400 were receiving the full range of appropriate services needed by the child. The children lived in a variety of settings, including group homes, hospitals, Whitaker School, mental retardation centers, and wilderness camps.

—Kendall Guthrie

\*"Characteristics of the Population of 1,028 *Willie M.* Class Members (*Willie M. et. al. vs. James B. Hunt et. al.*) in North Carolina as of November 1, 1982" by George Griffin, Robert Lewis, and Maureen McNelis, School of Education, University of North Carolina at Chapel Hill, January 1, 1983.

staff or locating a facility had occurred but no class members were yet receiving the service.”<sup>15</sup>

The implementation of *Willie M.* services has also attracted the attention of State Auditor Edward Renfrow. “In doing an audit of special education programs, we branched out into *Willie M.*,” says Renfrow. “It has some interesting issues, so we separated the *Willie M.* program out as a separate audit.” Renfrow says his department will release the audit of the *Willie M.* operations sometime later this year.

## **Achievements and Shortcomings with *Willie M.***

**T**he operational audit by the State Auditor’s Office will provide a new guidepost for measuring the quality of the *Willie M.* services now underway. In addition, the review panel has recently made formal recommendations to address the problems enumerated in its July report. Finally, the review panel plans to monitor and review the defendants’ efforts more closely in the future. In the meantime, some conclusions can be made about the successes and failures of the *Willie M.* program from a public policy perspective.

Three types of accomplishments have been achieved, relating to children served, interagency cooperation, and providing a national model.

**1. Children Served.** Many children once thought to be beyond hope are going through dramatic transformations, from violent and volatile troublemakers with severe emotional problems to stable, contributing members of society. As more children can be “stepped down” in the system — i.e., moved from the most restrictive level of service to the least restrictive (see sidebar for more explanation) — the costs of the program decrease. Keeping a child in a highly restrictive group home, with all the accompanying services, costs about \$36,000 per child per year. Independent living, with a parent or alone, costs only the amount of staff time spent monitoring the youth’s progress. (The average cost for all children is about \$20,000.) More dramatically, moving these troubled children into *Willie M.* programs at an earlier age should eventually save state funds in prison costs, welfare payments, and other expenses.

**2. Interagency Cooperation.** Under the gun of a court order, the state bureaucracy is working together in new ways. For many reasons, a host of agencies had some degree of responsibility for the educational, medical, and mental health treatments of the children who came into the *Willie M.* program (see article on page 8 for more on the evolution of the various agencies’ involvement). Before *Willie M.*, these agencies

rarely undertook joint programs. After Judge McMillan signed the court order, the Division of Exceptional Children within DPI and the mental health offices within DHR had no choice but to work together. In the process, deadlines have been missed and feet have been dragged. Even so, in only three short years, these agencies have spawned a new service delivery system — new in the continuum of service, community-based model and new in the level of interagency cooperation that is required for success — across a state with 100 counties and six million people.

**3. Providing a National Model.** Despite the court pressure, North Carolina didn’t have to come through. After grumbling and making efforts to curtail its responsibilities, the North Carolina legislature gave the executive branch as much money (after the first year) as it was able to spend.

Meanwhile, word of the North Carolina program has spread nationwide. Chicago is modeling a new program after the community-based, continuum of service approach. Legislation proposed in California drew directly from paragraph nine of the *Willie M.* settlement stipulations. South Carolina officials have put forward the North Carolina approach as a model to consider. Inquiries continue to come from West Virginia and other states, and a national study recently mentioned North Carolina’s *Willie M.* program as a forerunner for the nation.<sup>16</sup>

The *Willie M.* suit has resulted in some achievements, but it has also revealed important weaknesses in how state government functions and how the *Willie M.* program has been implemented. Five problem areas exist: lack of leadership and initiative, lack of planning, state-local funding issues, public resistance, and “aging-out” of *Willie M.* clients.

**1. Lack of Leadership and Initiative.** Not until a federal court mandated action did state officials finally begin to forge a new treatment system for *Willie M.* youngsters. Even then, the review panel reported lack of leadership from state officials. In the executive branch, agencies tried to shift the burden to someone else, and the legislature initially resisted funding the program at sufficient levels. Without constant pushing from *outside* the executive and legislative branches, the *Willie M.* program would never have gotten off the ground. The lesson to be learned from this push is an important one. Agencies will indeed work together if forced to do so.

**2. Lack of Planning.** Rep. Diamont cites “a lack of clear goals” on the part of both DHR and DPI as one of the real problems in the early stages of implementing *Willie M.* programs.

Indeed, state officials appear to have written the blueprint as they went along instead of before they started. The early requests for funds included the zone structure and budgets but no conceptual framework for the treatment plans. In 1981 and 1982, DHR produced various planning documents for portions of the *Willie M.* service delivery system, but not until December 1982 did a comprehensive implementation plan exist. "Their approach was a Band-Aid here and a Band-Aid there as opposed to taking a really systemic view," says a person who has worked with the program since the lawsuit began.

The lack of planning for a *systems* approach to treatment exacerbated existing problems. For example, the state asked local mental health programs to commit time and effort into evaluating potential class members *before* it sent the local programs any funds. Small counties simply didn't have the money; some large counties, Mecklenburg in particular, at first refused to cooperate. The state did finally provide the funds, but all the technical assistance wasn't ready when the funds were.

The *Willie M.* treatment design requires a holistic approach. Counseling from a psychologist cannot be put on hold while a child is attending public schools. Gaps in service in local programs occurred until the state-level back-up got into place. Meanwhile, the children began to get certified too fast, before programs were ready. Some counties still have certified youngsters not receiving services. In other areas, children ready to "step down" to a less restrictive environment have no place to go, and often they regress. The July 1983 review panel report catalogues how poor planning has resulted in the missing of benchmark goals and thus the lack of services for over 600 children who have been certified.

**3. State-Local Funding Issues.** The *Willie M.* case has spawned a complex service delivery system that requires close cooperation between state

and local agencies. Local school systems and area mental health programs actually provide the *Willie M.* services, but the state pays the entire *Willie M.* bill out of legislative appropriations. Local officials are not defendants in the suit nor does any local government contribute any funds to the program.<sup>17</sup> Consequently, local officials are constantly beholden to the method and timing of fund distribution from DHR and DPI. Most of the *Willie M.* funds (about 9 of every 10 dollars of the \$21.6 million appropriated for 1984) go through local mental health programs, administered through DHR grants. DPI distributes about \$2.0 million to local school systems on a per-child basis; the actual amount is linked to the formula used for special education funds. That formula has recently received great scrutiny by the legislature (see article on page 80).

School systems and area mental health programs have a high degree of autonomy and have responded to the needs of *Willie M.* youngsters with mixed results. The varying quality of the programs stems from three sources: the legislature's funding of some zones before others; the state agencies' shortcomings in coordinating local efforts; and the local programs' varying degrees of initiative and enthusiasm for *Willie M.* services.

In the end, the degree of local autonomy may be a strength. As Gene Douglas puts it, "The only way the program will continue after the furor is over is through our existing structure. We want to integrate *Willie M.* into our system."

**4. Public Resistance.** In some towns, neighborhood groups have tried to keep group homes out of their areas. Such public skepticism toward integrating persons with emotional problems into society rather than separating them from everyday life is not a new problem (see "Rights of the Mentally Handicapped," *N.C. Insight*, spring 1980). But the quick increase in group homes resulting from the *Willie M.* funds has stirred a long simmering pot. In 1981, the legis-



Many *Willie M.* kids attend regular schools and hold down regular jobs.



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lature clearly forbade zoning restrictions against such group homes.<sup>18</sup> But in 1983, Rep. Joe Hudson (D-Union), responding to pressure from constituents upset by a *Willie M.* home, introduced a bill to repeal the 1981 statute.<sup>19</sup> The bill failed, but it showed nonetheless that public relations remains an important part of all deinstitutionalization efforts, including the *Willie M.* program.

5. "Aging Out" of *Willie M.* Children. The consent decree does not address the needs of *Willie M.* children after they turn 18. Although many of these young adults aren't ready to function alone in the real world, the adult treatment system has no counterpart to the *Willie M.* system. In many ways, the adult systems are similar to the children's systems *before* the *Willie M.* suit. That is, agencies exist serving adults with various needs, but they are often segmented and allow people to fall between the cracks. Two specific remedies to this problem could be provided.

First, the Division of Vocational Rehabilitation Services needs to become more involved with the *Willie M.* youngsters before they turn 18 so that the VR counselor who assumes responsibility for a *Willie M.* child will have a firsthand understanding of the child's needs. Thus far, the legislature has not appropriated any *Willie M.* funds to this division, nor has VR stepped forward in a significant way to participate in the *Willie M.* treatment program. Secondly, a formal follow-up system needs to be designed for the *Willie M.* youngsters. Already, 8.5 percent of the children being served are 18 or over, and 55 percent are 15 to 17 years old. Without some follow-up procedure, the time and money invested in these children's lives might well slip away, wasted.

## Conclusion

According to the agreed-upon timetable, the state should have been serving all class members by June 30, 1983. On March 9, Behar reported that the state would only be serving 60 percent of the class by October 1983. Those children not properly served ranged from children missing only one or two components of their treatment plan to youngsters still going unserved. Both the plaintiffs and defendants now agree that a new timetable must be developed. "They promised too much too fast," says Mary Ann Olsen, community services coordinator for the Wake County Juvenile treatment system. "You have to remember we are putting up a pretty large system in a pretty short order." The two sides are now in the process of renegotiating the schedule. "We're interested in seeing them do it right," plaintiff attorney Greenblatt says. "We're not interested in holding them in

contempt of court."

Although the day when the lawsuit can be closed because every *Willie M.* child is being appropriately served seems far away, the new program is already giving hope to some 1,100 children who, before *Willie M.*, had almost no hope for productive lives. Willie himself, now a big, good-looking boy of 15, should be heading for treatment in his own community by the time this article is published. The successes of the program testify to what state government can accomplish — if pushed. "If the state can do it with these kids," says Marci White, staff member for the review panel, "it can do it with anybody." □

## FOOTNOTES

<sup>1</sup> *Willie M. et. al. v. James B. Hunt, Jr., et. al.*, "Complaint for Declaratory and Injunctive Relief," filed in the U.S. District Court for the Western District of North Carolina, Charlotte Division, October 1979, p. 1, Civil Action No. CC 79-0294.

<sup>2</sup> The three state statutes cited as "claims for relief," are: NCGS 115C-106 *et. seq.* (appropriate education); NCGS 122-55.14(d) (appropriate care in a treatment facility); and NCGS 134A-20 (appropriate care in an institution for committed delinquents).

<sup>3</sup> *Willie M. et. al.*, Second Set of Stipulations, September 2, 1980.

<sup>4</sup> *Ibid.*, Paragraph 9, Section D, p. 23.

<sup>5</sup> Report to the Court for the Period of April 11, 1981 through August 31, 1981, from Review Panel in the Matter of *Willie M., et. al. v. James B. Hunt, Jr., et. al.*, Section 6, p. 1.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Mental Health Services in North Carolina: An Overview of State Programs and Community Programs*, compiled under the direction of The Mental Health Study Commission for the N. C. General Assembly, 1977 Session, 1977, Part I., p. 1.

<sup>8</sup> SB 23, Section 77 (Chapter 761 of the 1983 Session Laws). See particularly parts (d) on prospective unit cost reimbursement and (h) on funding limits.

<sup>9</sup> NCGS 114-2.1, Section 51 of Chapter 1282, 1982 Session Laws.

<sup>10</sup> "Status Report on the Statewide Development of Systems of Services for Members of the Class," from Review Panel in the Matter of *Willie M. et. al. v. James B. Hunt, Jr., et. al.*, April 18, 1983, p. 4.

<sup>11</sup> "Report to the Court for the Period of December 1, 1982 through June 30, 1983," from Review Panel in the Matter of *Willie M. et. al. v. James B. Hunt, Jr., et. al.*, pp. 1 and 44 for the quotes that follow in this paragraph and the next.

<sup>12</sup> *Ibid.*, p. 44-45.

<sup>13</sup> Response to the Willie M. Panel's Status Report, letter from Sarah T. Morrow, Secretary of N.C. Department of Human Resources, to *Willie M.* Review Panel, August 4, 1983, p. 8.

<sup>14</sup> *Ibid.*, pp. 8-9.

<sup>15</sup> "Report to the Court ... 1983," p. 13.

<sup>16</sup> *Unclaimed Children: The Failure of Public Responsibility to Children and Adolescents In Need of Mental Health Services* by Jane Knitzer, The Children's Defense Fund, Washington, D.C., 1982.

<sup>17</sup> Local school systems also use some of their special education money and regular school budget on *Willie M.* children. Some of these funds come from local budgets.

<sup>18</sup> NCGS 168-22.

<sup>19</sup> HB 1320.