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THE MENTALLY RETARDED OFFENDER IN MISSOURI

AUGUST, 1976

Missouri Association for Retarded Citizens, Inc.

Myrtle Cheatham
Project Director

Vickie Schwartz
Research Coordinator

39004



MISSOURI ASSOCIATION FOR RETARDED CITIZENS, INC.

Mentally Retarded Offender Project

• Robert E. King President

• Myrtle Cheatham, Project Director
• Vickie Schwartz, Coordinator

A D D E N D U M

This report points to areas and groups where intensive efforts must be concentrated if we are to assist both the Criminal Justice System agencies and their clients who are mentally retarded-developmentally disabled. Through the dedication and cooperation of the Department of Mental Health, the Divisions of Corrections, Youth Services and Probation & Parole, we were able to pinpoint the areas and groups where assistance is required. We have been assured of the continued cooperation of those agencies and the Divisions of Mental Retardation-Developmental Disabilities and Special Education in efforts to assist all agencies involved in the implementation of the recommendations of the study.

Missouri is below the national average of 10% of those incarcerated having IQ 69 or below. The group of those who scored IQ 70-78 were included in the study because they are generally accepted as eligible for special education in Missouri. The project staff recognized the problem of IQ tests and numbers as inadequate in measuring the true intelligence and potential of an individual. Seldom are tests culture free and frequently they do not take into account the innate abilities of an individual. However, for lack of a better tool to assess the problem, those scores were used.

Through a contract-agreement with Department of Mental Health, the Special Offender Council (SOC) has been given responsibility to assist the Department in implementing some of the recommendations within the study. Herman V. Wood is their Project Director, and their address is P. O. Box 28574, St. Louis, Missouri 63141.

T H E M E N T A L L Y R E T A R D E D O F F E N D E R

I N M I S S O U R I

with recommendations for

a state-wide system of services

AUGUST, 1976

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FEB 1977

ACQUIS

MISSOURI ASSOCIATION FOR RETARDED CITIZENS, INC.
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F O R E W O R D

The Missouri State Advisory Council on Mental Retardation and Developmental Disabilities was pleased to recommend approval of the Developmental Disabilities grant to the Missouri Association for Retarded Citizens which made this study of the mentally retarded offender possible. The members of the Council wish sincerely to congratulate Mrs. Myrtle Cheatham, Project Director, and Miss Vickie Schwartz, Coordinator, for their earnest concern for this often neglected area of the developmentally disabled population, and to commend them for their efforts. This study hopefully will generate additional interest in this problem and lead to continuing research.

In regard to the published material, the Council wishes to indicate its awareness of the serious difficulties involved in precisely identifying the population in question, as well as in analyzing the data for comparative purposes. The reasons for this caution are related to the influence of cultural factors and to the diversity of the psychological tests used which involved a lack of a common base line.

Furthermore, in fairness to the general mentally retarded-developmentally disabled population, we feel that in arriving at the incidence or percentage of the mentally retarded-developmentally disabled in the penal programs, it is necessary to make a distinction between the commonly accepted mentally handicapped person and those described as functionally or academically handicapped, in both rural and urban areas. Perhaps the evaluative criteria and the assessment instruments are inadequate at this time to make such precise differentiations, but the Council wishes to go on record at this time as being aware of the complexities of the matter.

Msgr. Elmer H. Behrmann, Chairman
State Advisory Council on Mental
Retardation and Developmental
Disabilities

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TABLE OF CONTENTS

	<u>PAGE</u>
CHAPTER I - INTRODUCTION	1
Purpose of Study	4
Methodology	4
CHAPTER II - FINDINGS	
Research	9
Juvenile	9
Adult Female	18
Adult Male	21
Probation and Parole	31
Juvenile - Survey of Administrators and Staff	32
Adults - Survey of Administrators and Staff	33
Comment - Juvenile Staff	34
Comment - Adult Staff	34
Survey of Judges	35
Survey of Lawyers	35
CHAPTER III - RECOMMENDATIONS	
Recommendation I - Training and Education	
A. The Criminal Justice System	39
1. Police	39
2. Judges and other court personnel	40
3. Probation and Parole Officers	42
4. Correctional Personnel	43
B. Department of Mental Health	44
Caseworkers	44

TABLE OF CONTENTS (CONTINUED)

PAGE

Recommendation II - Recognition and Diagnosis	47
Recommendation III - Crisis Intervention and Diversion	47
Recommendation IV - Department of Mental Health	48
Recommendation V - Division of Youth Services	52
Recommendation VI - Juvenile Aftercare	54
Recommendation VII - Adult	54
A. The Mentally Retarded or Low Functioning Offender Within the Prison Setting	55
B. The Mentally Retarded Offender Outside the Prison Setting	57
1. The Special Facility	57
2. The Community	58
Recommendation VIII - Probation and Parole	58
Recommendation IX - Mobile Team	60
Recommendation X - Legal Rights and Missouri Statutes	60
Bill of Rights	60
Revision of Missouri Statutes	61
Provision for Legal Counsel	62
Advocacy	63
Summary	63
CHAPTER IV - SUMMARY	64
CHAPTER V - RECOMMENDATIONS FOR FUTURE STUDY	67
FOOTNOTES	68

TABLE OF CONTENTS (CONTINUED)

PAGE

APPENDICES	70
Appendix A - Questionnaire for Supervisors--Adult Corrections & Youth Services	70
Appendix B - Questionnaire for Staff--Adult Corrections & Youth Services	72
Appendix C - Questionnaire for Lawyers	74
Appendix D - Questionnaire for Missouri Judges	78
REFERENCES	82

TABLE OF GRAPHS

	<u>PAGE</u>
GRAPH I - JUVENILE DISTRIBUTION IQ 78 AND BELOW	10
GRAPH II- JUVENILE AGE.	11
GRAPH III- JUVENILE DISTRIBUTION BY RACE	12
GRAPH IV- GEOGRAPHICAL SOURCE OF COMMITMENTS.	13
GRAPH V- EDUCATIONAL STATUS AT TIME OF APPREHENSION.	15
GRAPH VI- COMMITTING OFFENSE OF MR POPULATION	17
GRAPH VII- HEAD OF JUVENILE'S HOUSEHOLD.	19
GRAPH VIII- SOURCE OF FAMILY INCOME	19
GRAPH IX- ADULT MALE--DISTRIBUTION OF REVISED BETA.	22
GRAPH X- INMATE AGE.	23
GRAPH XI- INMATE AGE--PERCENTAGE.	24
GRAPH XII- INMATE RESIDENCE VS. TOTAL MISSOURI POPULATION.	26
GRAPH XIII- INMATE RESIDENCE BY COUNTY VS. TOTAL MISSOURI POPULATION.	26
GRAPH XIV - RACE DISTRIBUTION	27
GRAPH XV- ADULT MALES COMMITTING OFFENSE.	29

CHAPTER I

INTRODUCTION

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INTRODUCTION

Historically, mental retardation has been linked and directly related to criminal behavior. During the 19th and 20th centuries, it was written and agreed upon by most professionals dealing with offenders that "the association of crime, feeble-mindedness and degeneracy is nearly a perfect one."¹ In 1909 it was suggested that the feeble-minded persons needed "only the proper environment and opportunity" to overtly manifest his criminality.² In the late 1920's and 1930's, due to the realization that man's characteristics were both genetic and acquired, researchers and sociologists began to investigate more fully the role intelligence played in criminal behavior. "These studies showed that intelligence levels of offenders were not significantly different from those of non-offenders holding environmental factors constant."³

A more realistic look at the problem began in 1961. The American Bar Foundation published "Mentally Disabled and the Law." Although the major portion of this publication dealt with the mentally ill, attention was also given to the mentally retarded. Also that year, President Kennedy appointed a distinguished panel of professionals and civic leaders to focus attention on mental retardation. At that time, attention was focused on the many crucial problems of mentally retarded persons who come in contact with criminal law. Although progress has been made since that time, the mentally retarded offender is still not completely understood by the majority of those in the criminal justice system. It is only recently that professional organizations such as American Association of Mental Deficiencies and the American Corrections Association began active attempts to learn something

about the mentally retarded offender. His existence, limited capabilities, and rights are either ignored or unrecognized by law enforcement, court, and correctional personnel.

This is due in part to society's reluctance to face the fact that we relegate mentally retarded individuals to prisons and juvenile detention. Even in our interviews with corrections personnel in Missouri, we found disbelief that mental retardation exists in their system's population. We found some who actually insisted that there were none.

Nationally there are only a few isolated programs and studies dealing with the mentally retarded offender. Some states such as Georgia, Illinois, and Kentucky, have made studies similar to this one. Others we reviewed, but were not limited to, included Texas, Florida, South Carolina, North Carolina, Massachusetts, Arizona and Nebraska. In our research we found special programs for police training, probation and parole officers and some states have residences specifically for working with the mentally retarded according to their capabilities and potentials. These are covered individually in other studies and a summary is given in "An Overview of the Research, Conferences, Surveys and Programs" written by Miles Santamour, special consultant to the President's Committee on Mental Retardation. Until 6 or 7 years ago, the mentally retarded offender was not recognized in the criminal justice system in Missouri, or at least his mental retardation received no consideration. If he were extremely low functioning or if he happened to have the added handicap of emotional disturbance, he was committed to the Department of Mental Health for an indeterminate time.

About that time, the St. Louis Association for Retarded Children became interested in the problem. They called a group of leaders in the state together - from the fields of law enforcement, university, professionals in

the field of retardation and parents of retarded children. The group brought about an awareness of the problem in many areas of the state.

A 3-day, 9-state conference was held in St. Louis on the mentally retarded citizen and the law enforcement process. A great deal of new and intensified interest was developed. By 1975, the following additional positive steps had been taken:

The Kansas City Regional Center for Developmentally Disabled developed a rapport with the Juvenile Court in Kansas City, and many retarded youths were diverted from the criminal justice system.

An ABE (Adult Basic Education) program was started at the Higginsville State School and Hospital. Because it was on the grounds of the School, and most of the Residents were in the severe range, a careful screening process was necessary for the selection of those who participated.

The Service to the Mentally Retarded Juvenile Offender program has been established in Kansas City.

The Police Academies in St. Louis and Kansas City have enlarged their training on the mentally retarded offender.

The Missouri Association for Retarded Citizens became interested in the problem, and like the St. Louis Association for Retarded Children, appointed a Law Enforcement Committee.

The Regional Centers became aware that some of their clients were mentally retarded offenders.

A police training program was designed by Southwest Missouri State University in cooperation with the Springfield Regional Center. This is in addition to the manual for instructors prepared by Eugene Schwartz at University of Missouri-St. Louis.

The circuit attorney's office as well as the public defender's office in St. Louis began using the St. Louis Association for Retarded Children for help in diversion of some of those they knew to be retarded.

The public defender's office in St. Louis County also became aware of retarded clients.

Probation and Parole had workshops conducted by St. Louis Association for Retarded Children and the Extension Department of University of Missouri-St. Louis. The colleges and universities are including the mentally retarded offender in their curriculum for the degrees in Administration of Justice.

Still, juvenile detention centers are trying to give G.E.D.'s to children definitely on the retarded level.

Leaders in the law enforcement field are asking why mentally retarded offenders don't fit into the prison, not understanding the characteristics of the mentally retarded offender to be easily led, taken advantage of, and unable to cope with academic or vocational programs offered.

PURPOSE OF THE STUDY

The purpose of this study was to identify the scope of the population referred to as the "mentally retarded offender" in Missouri and their problems within the criminal justice system.

METHODOLOGY

The term "mentally retarded offender" presents some problems. It is very difficult, if not impossible, to identify someone as mentally retarded from IQ test scores alone. Recently there has been much controversy over the validity of a diagnosis based solely on intelligence testing and whether or not mental subnormality can be evidenced by the score an individual receives on the standardized tests of intelligence. This is especially true for the group we were researching because these tests were administered during the

2. age
3. county of residence (or commitment)
4. educational background
5. results of tests
6. sex
7. race
8. socio-economic background
9. type of offense
10. case disposition in terms of trial or plea of guilty
11. previous arrest in juvenile cases
12. recidivism in adult cases.

It was necessary that some of this information be determined and compared with the general inmate population, the Missouri mentally retarded population, and the general population of Missouri as shown by the U. S. Census Bureau.

The above data was used along with interviews and questionnaires of administrative personnel and direct care workers at the various institutions, careful examination of individual files for conduct violations, casework recommendations, supervisory program grade, special merit time and confinement to Special Treatment Unit. Careful scrutiny of all this information enabled us to determine the level of adjustment within the correctional facility as it relates to the individual in his educational and vocational training programs, work assignments as well as peer and family relationships.

Information provided through questionnaires and interviews with police, attorneys, judges and others in this field served to provide a picture of the problems the mentally retarded person encounters in the criminal justice system.

9. Do attorneys have adequate understanding of mental retardation to properly assist the special offender in his defense?

10. Is community treatment, awareness and support available?

11. Would the use of mental retardation as a defense against criminal charges be detrimental to the defendant?

12. Is the criminal code in Missouri effective in dealing with the specific problem of mental deficiency?

CHAPTER II

FINDINGS

CHAPTER II

FINDINGS

RESEARCH

The files of those committed to the Division of Corrections and the Division of Youth Services were reviewed for the fiscal years ending June, 1974 and June, 1975. To assure confidentiality, names are not used in the report and no record was kept of those individuals by name.

Information on juvenile boys was obtained at the Boonville Training School for boys. For girls, the information was reviewed at the Training School for Girls at Chillicothe. The staff visited Sears Youth Center at Poplar Bluff and Hogan Street Youth Center in St. Louis.

For adults, preliminary information for men was available at the Missouri State Penitentiary. For women, information was obtained at the Correctional Center for Women at Tipton, Missouri. Additional data was gathered at the following institutions: Moberly Training Center for Men, Algoa Intermediate Reformatory, Fordland Honor Camp, Church Farm, and Renz Farm.

At each of these facilities project personnel interviewed staff and questionnaires were completed by them.

JUVENILE

The boys are given either the Wechsler Intelligence Scale for Children (WISC) or the Wechsler Adult Intelligence Scale (WAIS).

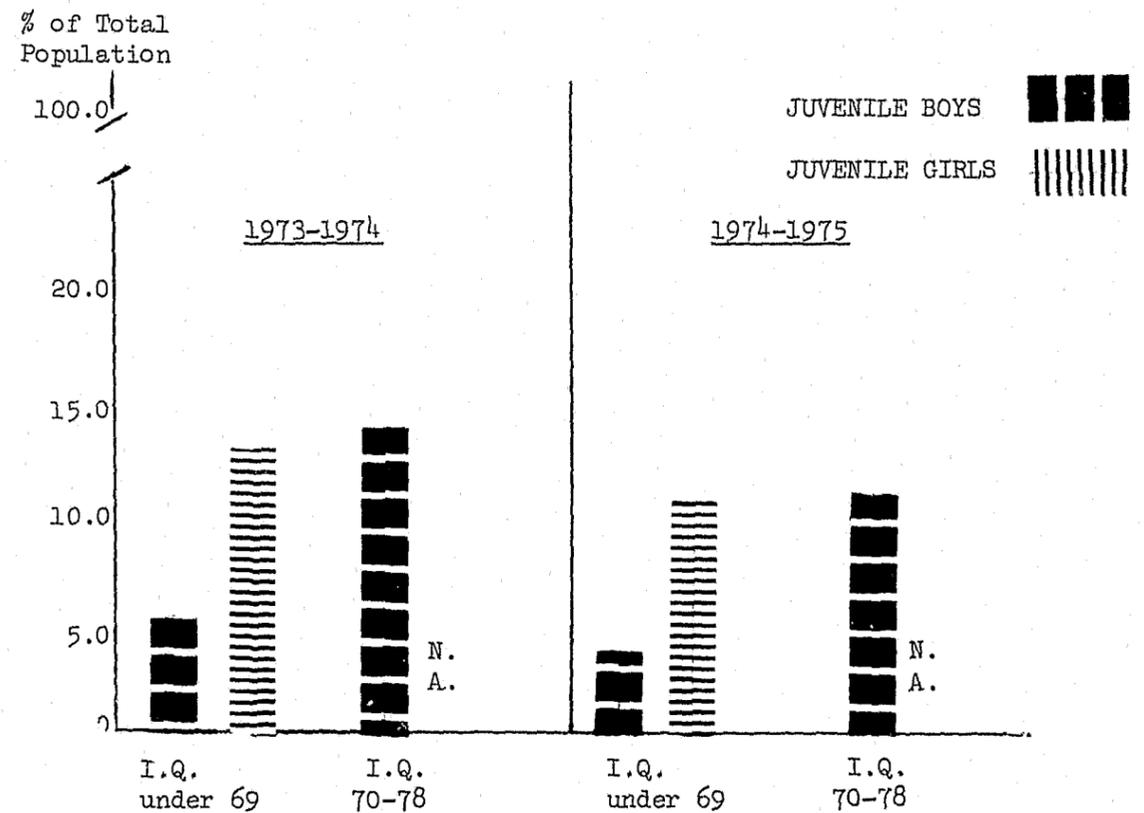
During fiscal year 1974, there were 638 boys admitted: 35 (5.5%) received a score of 69 and under (the scores ranging from a low of 55 to 69), 90 (14.1%) scored in the 70-78 range. Boonville admittance during fiscal year 1975 totaled 772 of which 32 (4.1%) received a score of 69 and under and 95

boys scored in the 70-78 range.

The combined total of juvenile boys who scored 78 and under for 1974 was 125 (19.6% of the total population). For 1975, 127 boys (16.4% of the total population) scored 78 and below. The combined average for the two years was 18% for 78 and below, 4.75% scored 69 and below.

The Training School for Girls in Chillicothe had a total population of 184 in 1974 and 189 in 1975. Based on the California Scales of Mental Maturity there were 23 girls in each year who scored 69 and below. This indicated 12.5% in the mentally retarded range for 1974 and 12.2% in 1975. The combined total of juvenile girls for both years who scored 69 and below was 46 or 12.33%. Due to the type of test administered to the girls, we included only those scoring 69 or below in our Study.

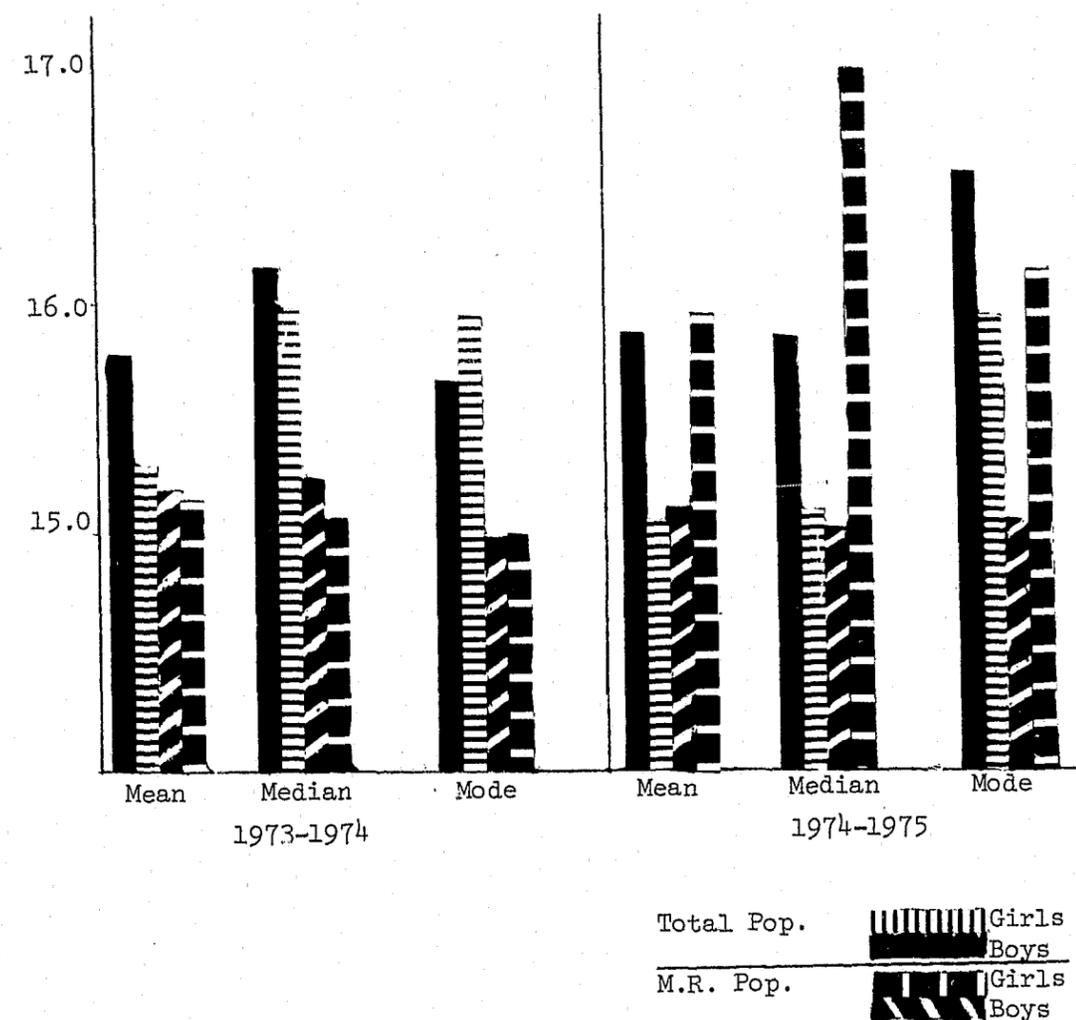
GRAPH I
JUVENILE DISTRIBUTION IQ 78 and BELOW



The average age of the boys in the functionally mentally retarded range was 15.3 years in 1974 and 15.1 for 1975. This was 5 months lower than the total population average for 1974 and 9 months lower in 1975. The average age of the mentally retarded population is consistently lower than that of the normal population for the boys. It varies for the girls.

GRAPH II

JUVENILE AGE

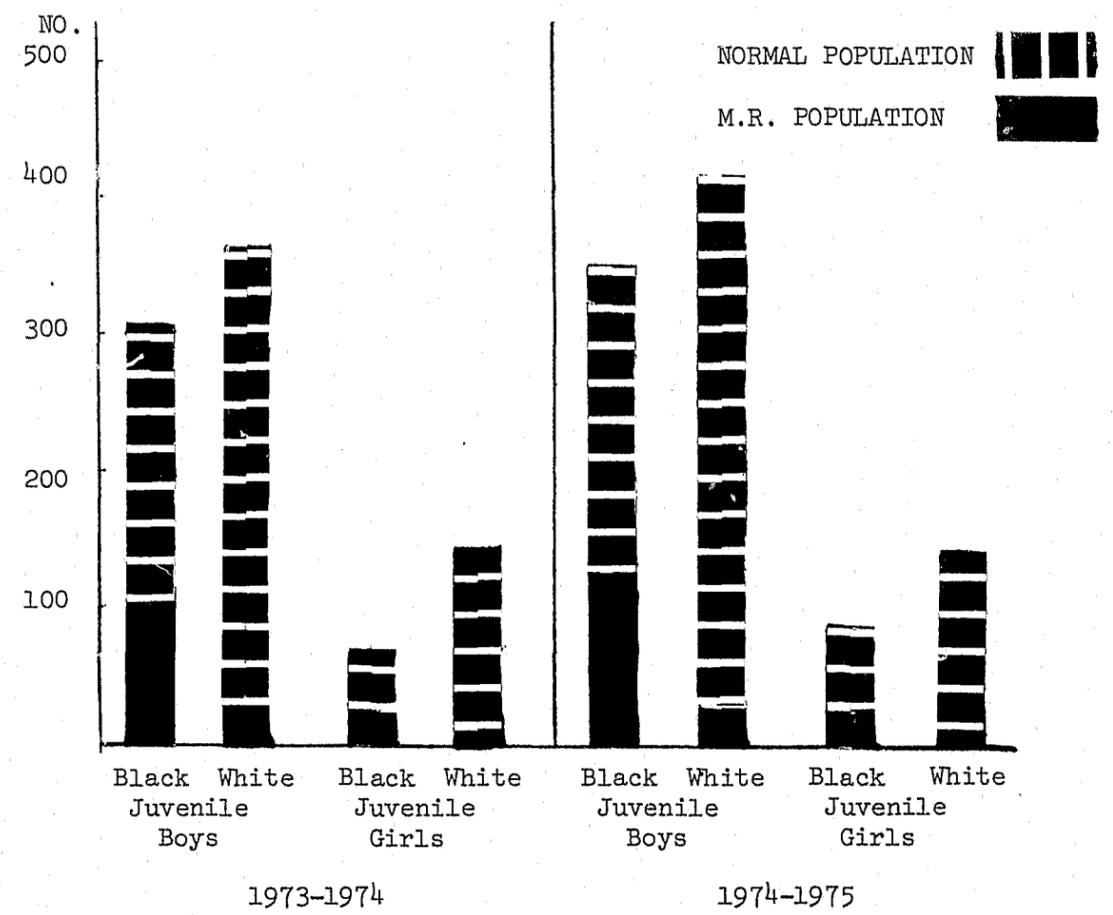


The following graph compares the representation of blacks in the general population with the representation of blacks in the mentally retarded population. The majority of the juvenile boys are white; however, in the mentally retarded population, the vast majority are black.

In 1974, 80% of the mentally retarded population was black. In 1975, 90% of the mentally retarded population was black. For those boys scoring 69 and below, 90% of the 1974 commitments were black and 100% of the 1975 commitments were black.

The same disproportionate distribution of blacks in the girls population was evident. 70% of the 1974 and 57% of 1975 commitments were black.

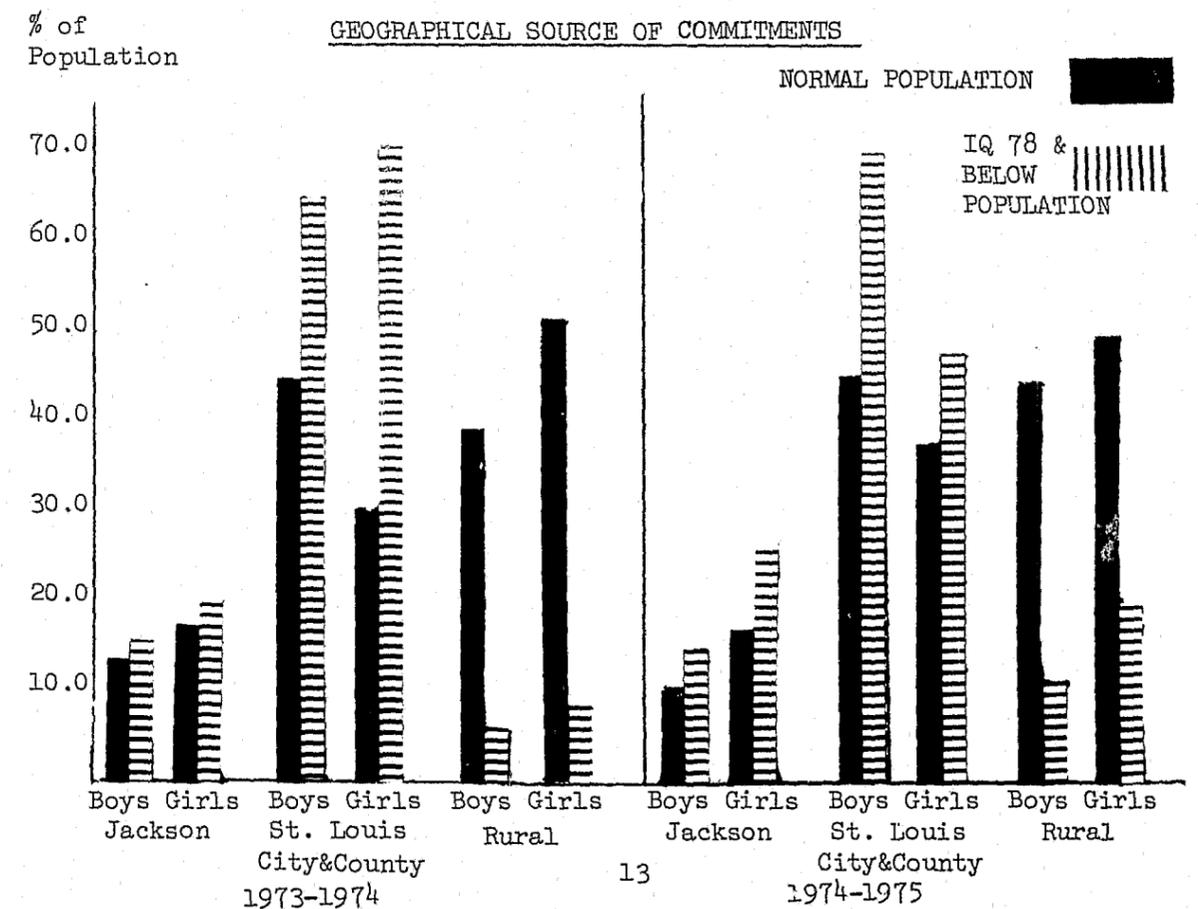
GRAPH III
JUVENILE DISTRIBUTION BY RACE



Graph IV compares the distribution of the mentally retarded juvenile and their county of residence to the county of residence for the total population.

As the graph clearly shows, the great majority of retarded juvenile offenders were from the St. Louis area, with the second largest group from Jackson County (Kansas City area). Although these are the most populated areas of Missouri a comparative analysis shows a disproportionate number of mentally retarded from the metropolitan area of St. Louis. For example, for 1975, 42% of the total juvenile boys were from the St. Louis area while in the same year, 71% of the mentally retarded juvenile boys were from the St. Louis area. For the two years, 81% of the mentally retarded boys were from the urban areas but only 57% of the normal population were from the urban areas.

GRAPH IV



The specific grade level of each student is provided by the committing court to the Division of Youth Services when a youth is admitted. There was no significant difference in grade level reported for the general population and the mentally retarded population. For both populations, the average grade reported was the 8th.

It was significant that in the 69 and below group, the grade level reported was 2-1/2 years behind the appropriate grade level according to his age. In the 70-78 group, the grade level was 1.96 or almost two years behind the expected level based on his age.

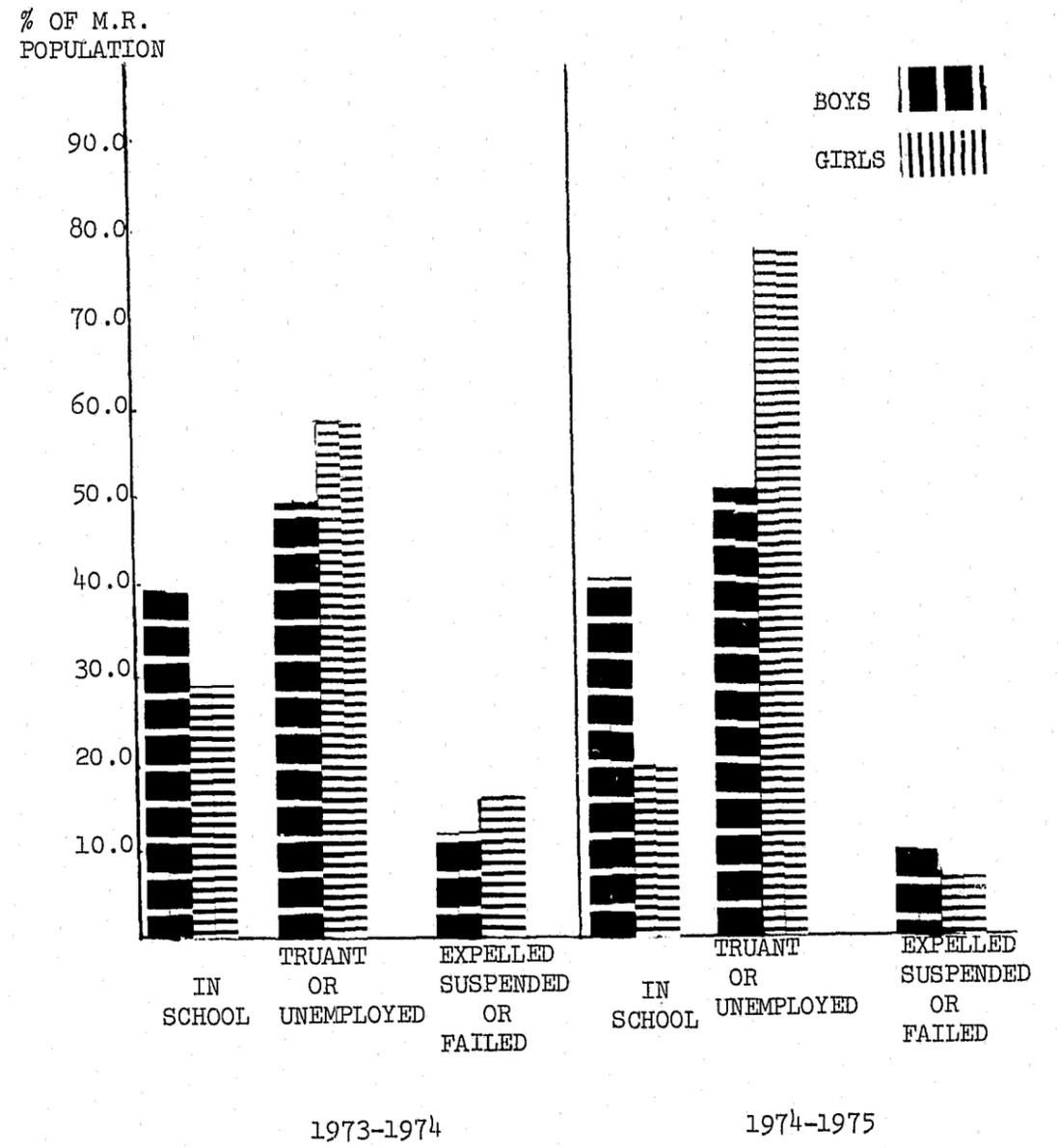
Less than 20% of the files for the mentally retarded group showed that the students had previously received any special education. Their educational status (taken at the time of apprehension) is shown in Graph V, page 15. The majority of each group showed that the students were either truant or unemployed (if over 16). There was an additional group that was not attending school due to either expulsion, suspension or classwork failure.

The ideology of programs at the Division of Youth Services training schools is geared to those of average or above-average intelligence. As a result, the special population does not receive "equal" treatment. Division of Youth Services has indicated that there is no place for the lower functioning youths in their correctional programs, but they have no choice in accepting those committed to them by the court.

To get some idea of the functioning level of the mentally retarded offender, project personnel listed the wide range achievement tests results. These were present in only 30% of the files. This sampling did show, however, that for the group in the 70-78 range, the average grade level was 4.14 in reading, 3.90 in spelling and 3.88 in math, which meant their functioning level was about 6 years behind the expected norm. For the 69 and under range,

GRAPH V

EDUCATIONAL STATUS AT TIME OF APPREHENSION



the scores were 3.0 in reading, 2.75 in spelling and 3.35 in math. This group was slightly lower than the 70-78 group and 7 years behind the average expected norm.

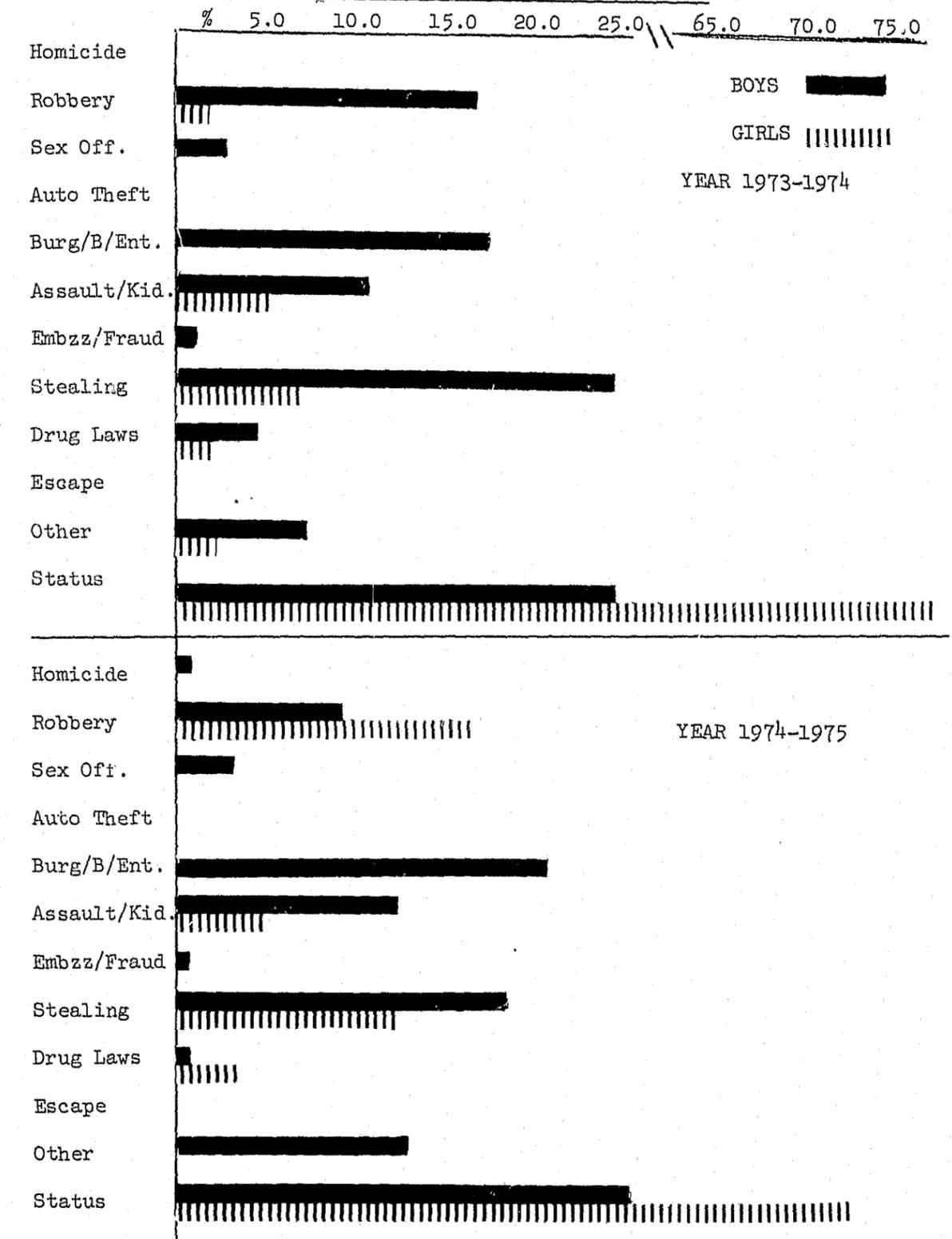
Graph VI, page 17, shows the specific distribution of offenses for those mentally retarded youths admitted to the training schools. In viewing the graph, one notices a large amount of what would appear to be status offenses which if committed by adults, would not be a criminal offense. (i.e., curfew, truancy, promiscuity, runaway, etc.). This is misleading, especially for the boy's population, as most of these juvenile boys have an extensive previous offense record. There was an average of six previous offenses for 1974 and eight previous offenses for 1975 committed by the mentally retarded male juvenile population prior to confinement. All of the juvenile boys in the special population had previously been to juvenile court and in 40% of the cases, had been placed on official court supervision. Actually, only one of the mentally retarded offenders for both years studied was a true status offender with no prior offenses.

The background of the female mentally retarded offender differed greatly from the male. All had been previously known to the juvenile court and slightly over 20% had previously been placed on official court supervision. However, in investigating their past records, over 50% of the girls could be labeled as pure status offenders, i.e. neither their previous offense nor their committing offense would have been illegal if committed by an adult.

Comparative data on the social and economic factors of all the students in the training schools was not available. However, in examining the social and economic factors of the mentally retarded juvenile offenders which were available, it is evident that a large number of them are from broken homes, and are receiving some type of government assistance. Graph VII, page 19,

GRAPH VI

COMMITTING OFFENSE OF MR POPULATION

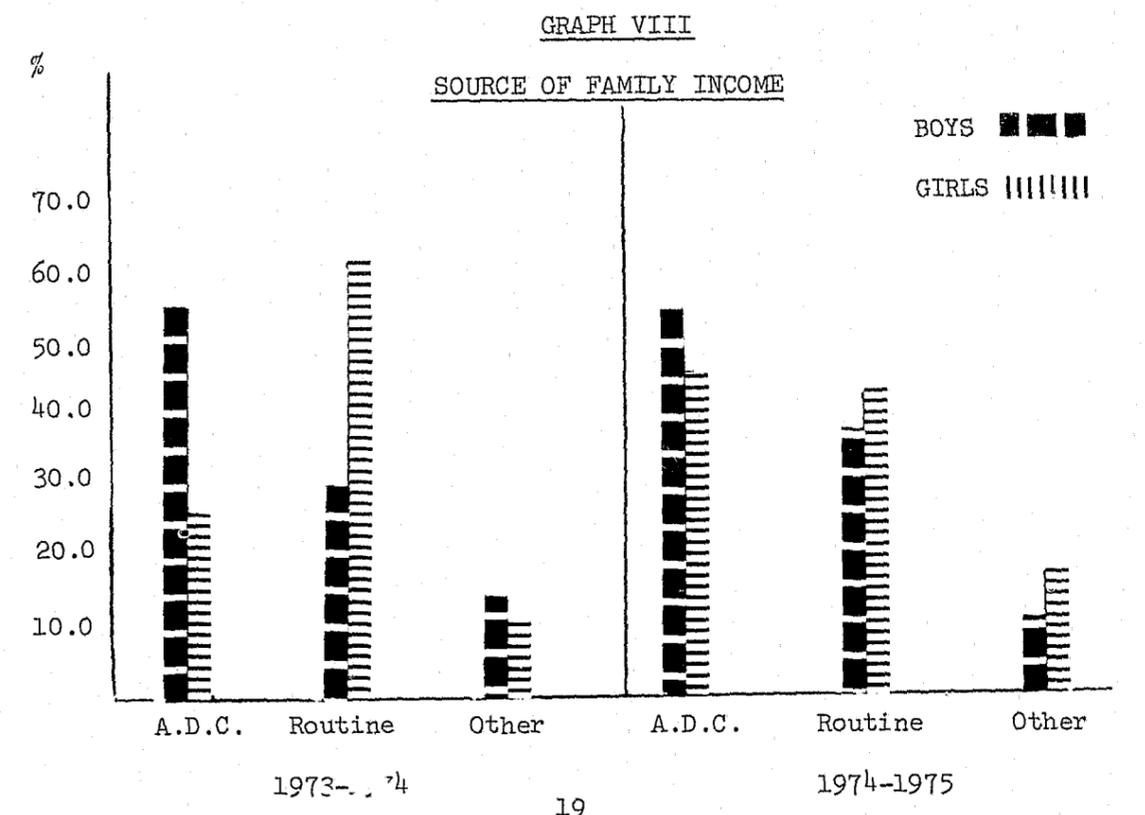
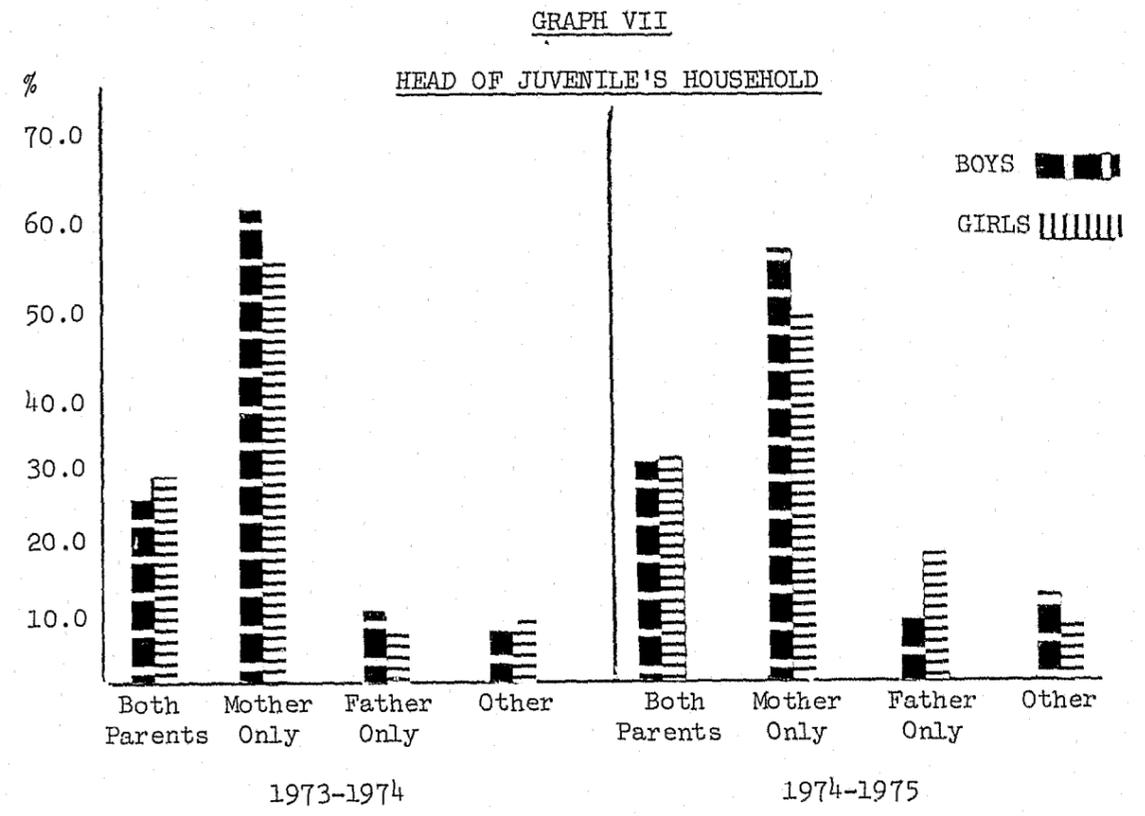


shows the exact distribution of guardianship for each of the juveniles. It is interesting to note that less than 30% of the students came from intact families, i.e., families with both parents in the home. It was also disturbing to find in reviewing the files of the so-called intact families, that very few of them were concerned about their child's welfare and were apathetic and uncooperative with the juvenile court caseworkers who were trying to develop alternate treatment or stronger family communications. Many of the files showed that the family considered the child incorrigible and out of control. Most parents seemed to prefer to be relieved of their responsibility for the child.

In examining the mentally retarded juvenile offender records, no actual dollar and cents figures on income were available. However, government assistance was noted in the file. Graph VIII, page 19, indicates the percent of the student's parent or guardians who were reported as being recipients of ADC; the percent of families who had a routine income and were therefore self-sustaining; and the percent who indicated they were receiving other types of government (welfare) assistance. These figures are not completely accurate because many of these families were not required to report whether or not they received government assistance. Nevertheless, there is a very large number shown as receiving assistance specifically where the student is receiving ADC.

ADULT FEMALE

There is no official diagnostic evaluation given to assess the actual functioning level of women inmates. The following data deals with those women who were at the Correctional Center for Women at Tipton in February, 1976. The special education teachers and administrative personnel are



familiar with mental retardation and recommended that project personnel review the files of certain women they believed to be functionally mentally retarded. Comparisons could not be made between the mentally retarded and normal population women, such as were made in male and juvenile categories, because of the lack of classification data on the women.

At the time of our research at Tipton, there were 110 female inmates. At the suggestion of the teachers and administration, we reviewed the files of 12 inmates. Ten of the 12 were believed to be in the mentally retarded range. We based this on various test results, from school records, and their functioning level within the institution.

These ten inmates accounted for 9% of the prison population at Tipton. The mean age was 31.1 years. The youngest was 18 and the oldest was 49. Eight of the ten were black.

70% were from broken homes. Some were subjected to child abuse including molesting by father.

At the time of imprisonment, 40% were unemployed. Of those who were employed, all had been employed in an unskilled capacity as a cook, maid, babysitter or waitress. One was listed as a prostitute.

Two of this group had previous juvenile confinement in the Training School for Girls at Chillicothe. One had been a resident at one of the State Schools and Hospitals under the jurisdiction of the Division of Mental Retardation - Developmental Disabilities.

Three had a prior confinement as an adult and two were parole violators. The other five were first time offenders.

The average time spend in jail prior to trial and commitment to the Division of Corrections was 111.6 days.

70% were from metropolitan areas. Five were from St. Louis City, one from St. Louis County and one from Jackson County.

It should be noted that the female statistics were gathered from a specific population which was, at that time, actually incarcerated in the system. It is considered significant that the data follows the same pattern as the males and juveniles on which we reviewed commitments for a two-year period. The majority were black, from the urban area, from broken homes and had no employment skills.

Crimes against persons accounted for 75% of the total for which these women were committed. There were 4 charges of homicide, 2 of first degree murder, 2 of assault and 1 of robbery.

ADULT MALE

The number of inmates admitted to the Missouri State Penitentiary for fiscal years 1974 and 1975 were 1,663 and 2,122 respectively, for a combined total of 3,785 inmates on which this study is based.

Upon arrival at the Missouri State Penitentiary, the Classification Unit administers a series of tests. These tests are: Revised Beta, a personnel test for industry (PTI, Verbal Test A), Test of Mechanical Comprehension form AA, and Adult Basic Learning Examinations (ABLE). The ABLE is not given to any inmate scoring 20 or less on the PTI, Verbal Test A.

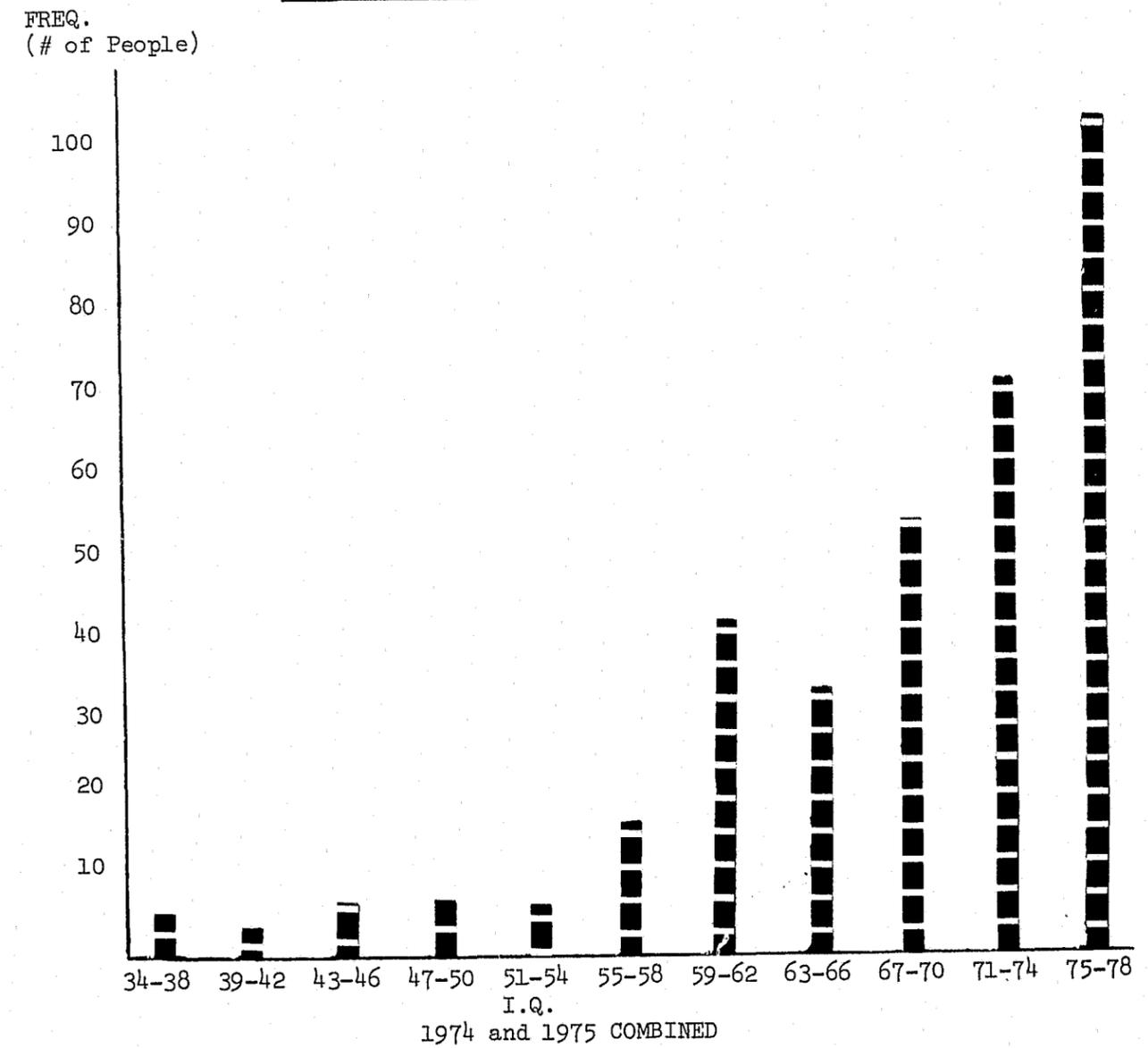
Of the total admitted, only 1,614 in 1974 and 1,969 in 1975 (a total of 3,583) were tested. Based on the Revised Beta scores, there were 95 (5.8%) inmates in 1974 and 49 (2.5%) in 1975 who scored 69 and under. The number who scored in the 70-78 category was 105 (6.5%) in 1974 and 91 (4.6%) in 1975. It should be noted that both categories decreased in numbers during 1975. This occurred concurrently with an increase in the total prison

population. The two years combined totals are: 144(4%) 69 and under, 196 (5.5%) 70-78, with a combined percentage of 9.5% of the inmates testing 78 and under.

The "Distribution of Revised Beta" graph below shows the distribution of the mentally retarded population for 1974 and 1975 combined. The lowest score obtained by an inmate was 34.

GRAPH IX

ADULT MALE - DISTRIBUTION OF REVISED BETA



1974 and 1975 COMBINED

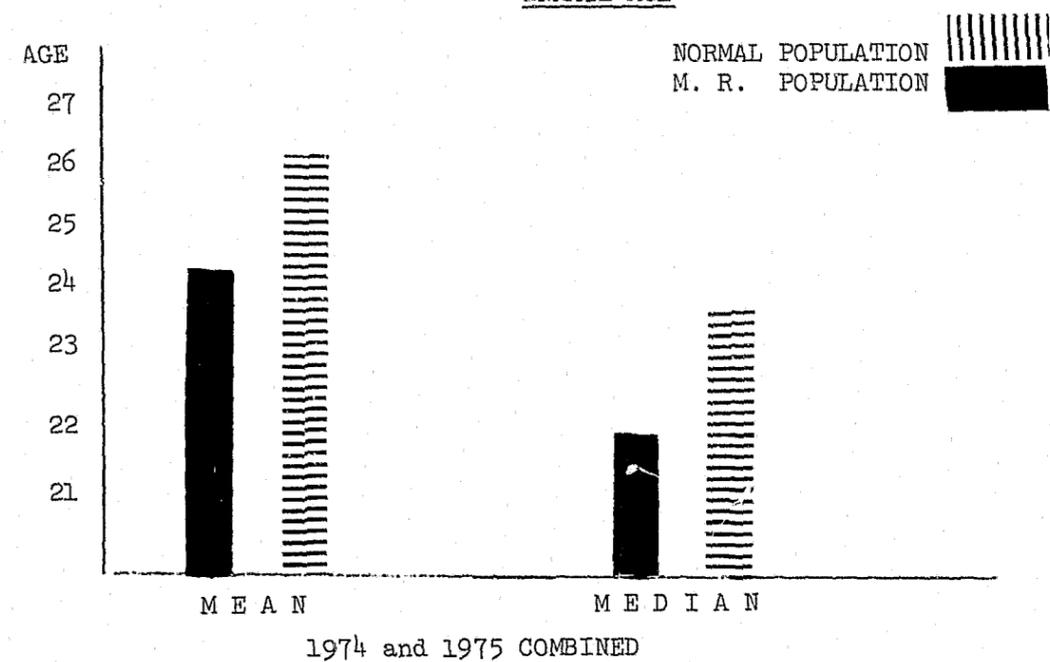
One of the most alarming discoveries in our study was the age of the adult male committed to the Division of Corrections. In most of the studies of other states which we have reviewed, the mentally retarded inmate was found to be older than the normal population. In Missouri the mentally retarded offender is younger than the normal population.

The following graph compares the mean and the median age for fiscal years 1974 and 1975 combined. The average age of the mentally retarded inmate in Missouri's prison population is more than a year younger than the average of the normal (those not included in our research) population. The median age of the mentally retarded inmate is two years younger than that of the normal prison population.

There appears to be two explanations for this: one, a large number of mentally retarded juvenile offenders have been certified as adults; and second, 17 is the age of an adult in Missouri's criminal justice system. In many other states, a 17-year old is considered a juvenile.

GRAPH X

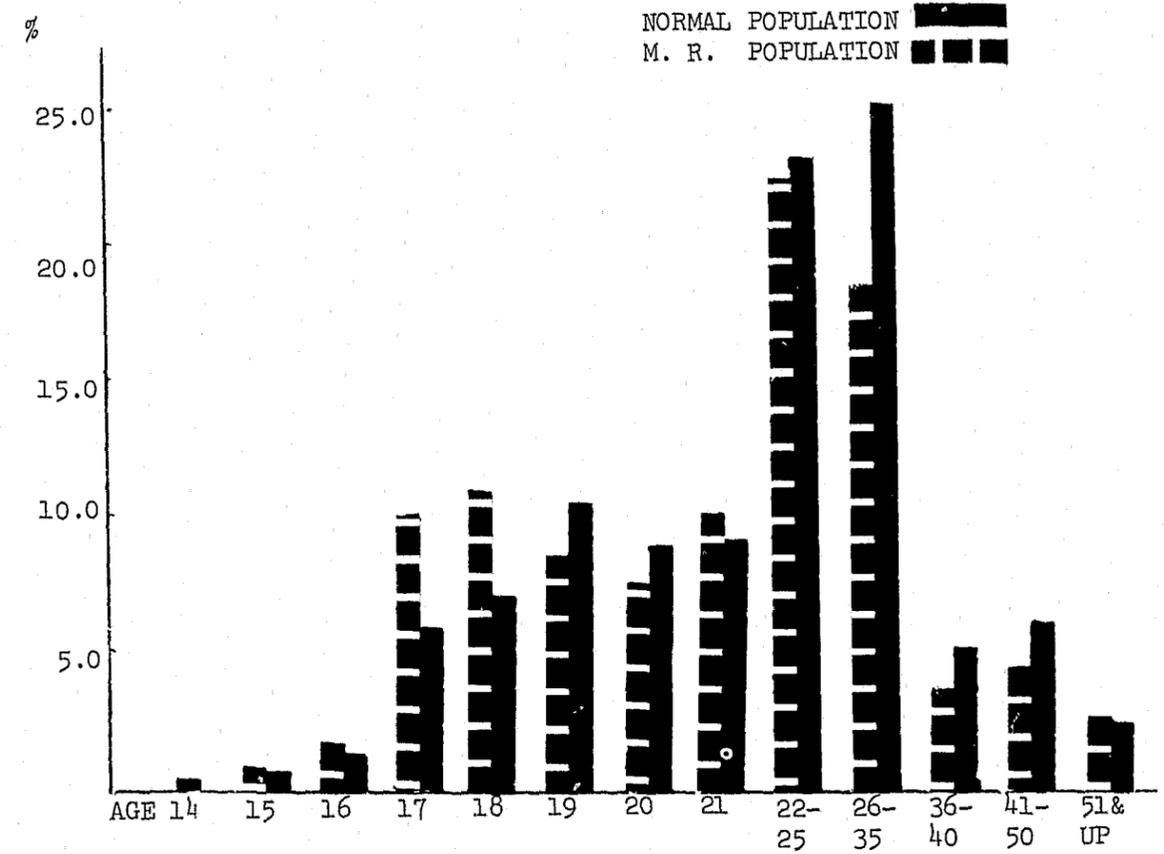
INMATE AGE



Throughout the prison population in Missouri, there is a relatively young offender. This is even more evident in the mentally retarded population. 71% of the mentally retarded population was between the ages of 15 and 25 versus 64% of the normal prison population in the same age group.

GRAPH XI

INMATE AGE



1974 and 1975 COMBINED

Graph XII, page 26, compares the county of residence of the mentally retarded and normal population with the population of Missouri according to the 1970 census. The majority of the inmates are from the urban areas which had 45% of the State's population in 1970. However, there was a disproportionate number of mentally retarded inmates from the urban areas. This fact is especially evident in Graph XIII, page 26. The majority of the mentally retarded offenders are from St. Louis City and County. Approximately 45% are from St. Louis City, roughly 8% from St. Louis County.

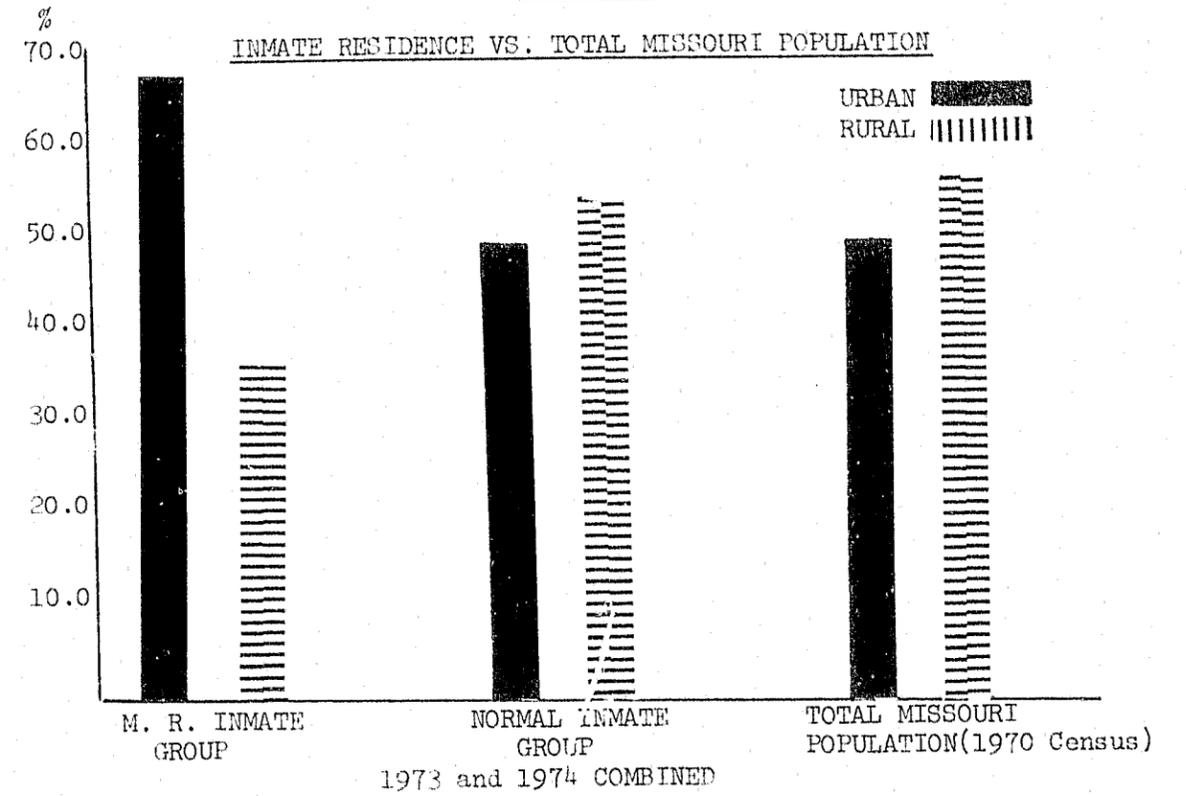
Comparison of the black representation in the total population of Missouri with the number of blacks in the prison total population shows a disproportionate number of blacks in the criminal justice system. This is even more acute when comparing the mentally retarded black population with the normal black population in the prison or with the total population of Missouri.

Graph XIV, page 27, shows the percentages of black population in Missouri in 1970 compared with blacks in the prison system and in the mentally retarded population for the two years of this study. In 1970, 10.26% (480,172) of Missouri's population was black. Commitments of blacks to the adult prison system for the years 1974 and 1975 was 44.8% (1,697). Three of four inmates in the mentally retarded population were members of the black minority group.

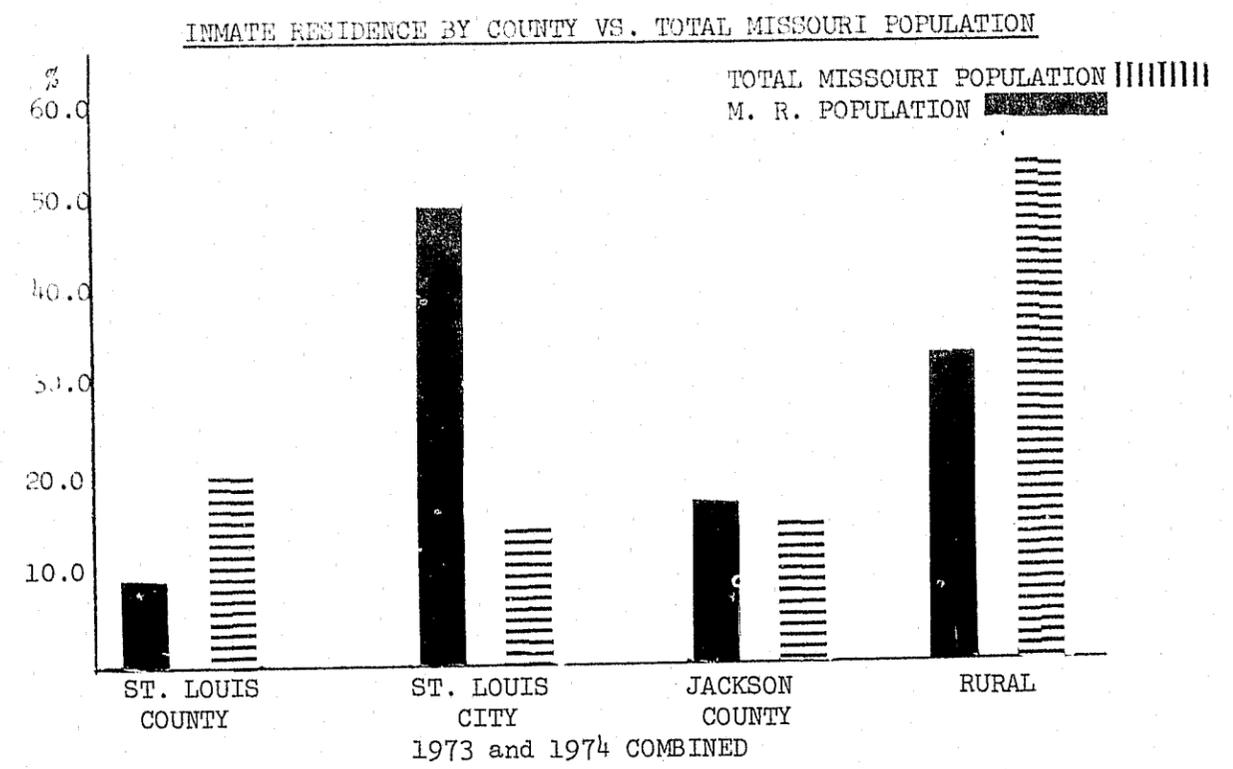
In the study, the staff was concerned with the various aspects of the inmates' academic background such as functioning level reported, any special education, results of vocational tests, when given, etc. Comparisons of the grade level reported by the individual inmate when



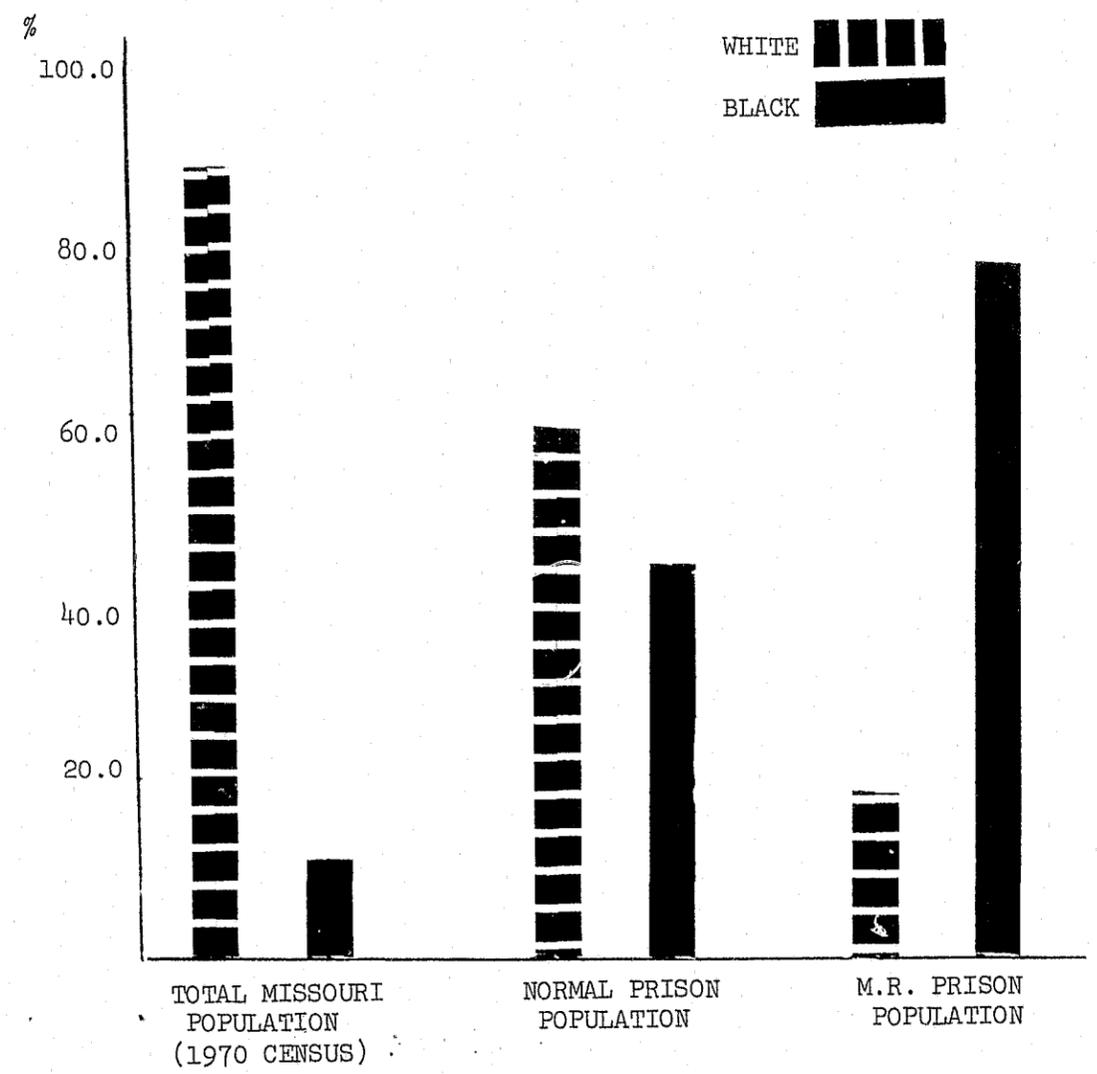
GRAPH XII



GRAPH XIII



GRAPH XIV
RACE DISTRIBUTION



1974 and 1975 COMBINED

incarcerated were made between the mentally retarded and other (normal) population.

The mentally retarded inmate had 2-3 years less formal education than their counterparts in the prison. The average grade level of the mentally retarded population was 7.5, almost 3 years lower than the normal population. Approximately 98% of the mentally retarded population had not received any special education prior to commitment to Corrections.

65.2% of the mentally retarded was ineligible to take the ABLE (Adult Basic Learning Education) test because of disqualifying scores on pre-screening tests. In cases of those who were permitted to take the test, the results were lower than the normal population (approximately 2-1/2 grades lower).

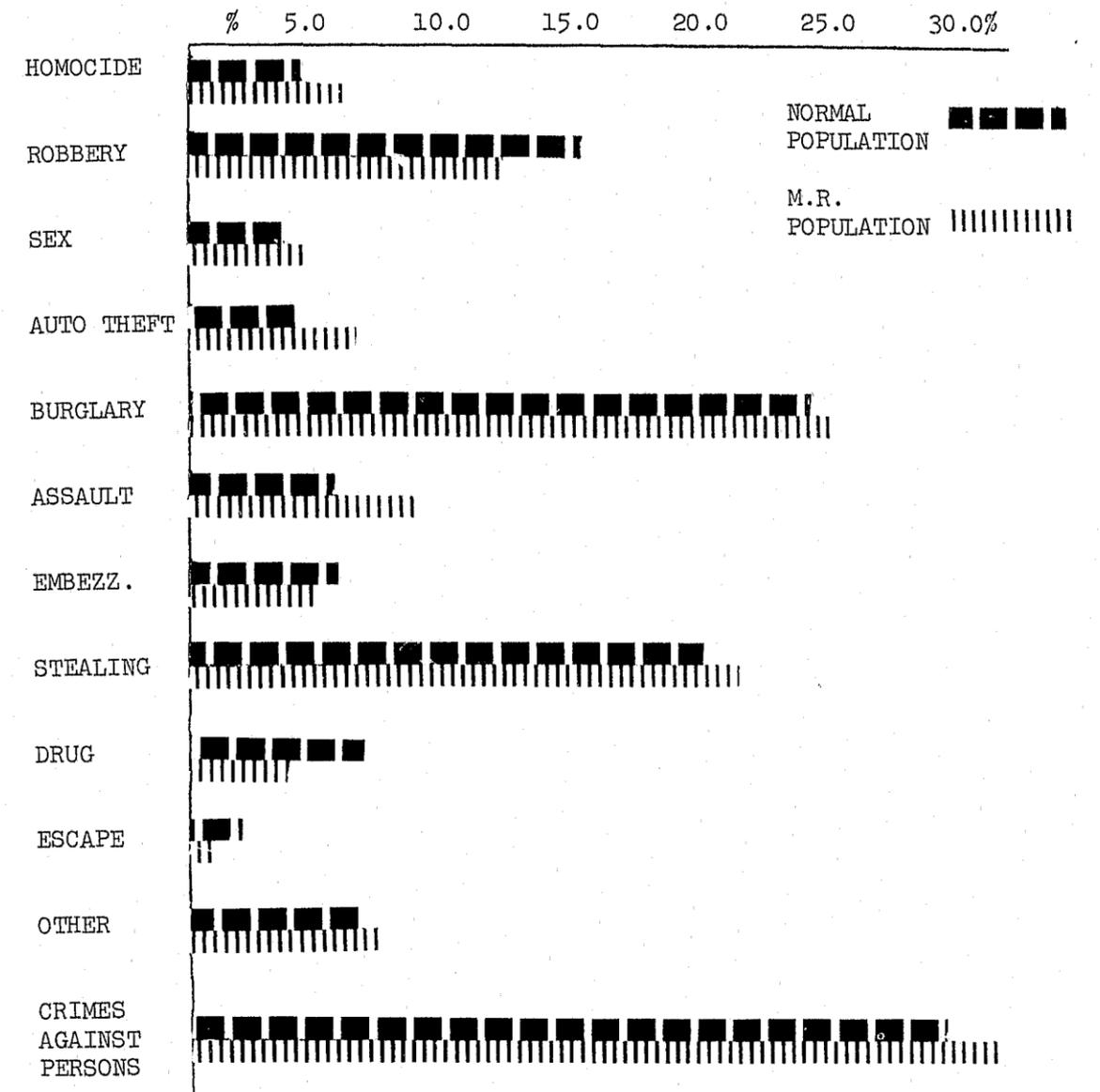
A much larger number of the mentally retarded offenders in our study was not married, 69% of the mentally retarded population and 54% of the total population were single.

A broken home environment was indicated in 57% of the mentally retarded population. In questioning the direct care workers or the case workers about the inmate's family relationship (whether or not he received family visitors or mail) the responses indicated there was little if any family support or motivation.

Types of crimes committed by the inmates were classified into eleven groups. The Graph XV, page 29, compares the distribution (in percentage) of those eleven groups for both the mentally retarded and normal population. The largest percentage of both mentally retarded and normal inmates were incarcerated for "Burglary and Stealing." The most significant difference was in the normal population.

GRAPH XV

ADULT MALES COMMITTING OFFENSE



1973-74 and 1974-75 COMBINED

Crimes against persons include homicide, robbery, sex offenses and assault. Robbery was the specific crime against persons most often committed by both groups. Of the crimes against persons, robbery was the only one that revealed a larger percentage occurring for the normal population. For the other three crimes against persons, the mentally retarded population committed a larger percentage than the normal inmate. Of all crimes against persons, there was a higher percentage for the mentally retarded than the normal population.

Unsuccessful efforts were made to determine the mentally retarded inmates adjustment in the prison by examining programmatic involvement, disciplinary reports and assignment to a Special Treatment Unit.

Although most mentally retarded inmates required academic schooling they were poorly motivated and, in fact, unsuited for the available programs which consisted primarily of G.E.D. and higher level educational classroom training. There was a lack of special education classes available. A considerable number of conduct violations were noted but could not be considered in any valid comparison with the normal population because the staff attributed many such reports to be results of the normal population inmate taking advantage of the naive mentally retarded offender.

Assignment to the Special Treatment Unit was also an inconclusive statistic since many assignments are made for protection of the inmate as well as for disciplinary problems.

Correctional staff members provide many vignettes regarding specific mentally retarded inmate problems, mistreatment by other inmates, inability to participate in normal programs, work assignments or preparation for parole.

PROBATION AND PAROLE

There is no information in the file of the individual on probation or parole that would indicate test scores such as that supplied by the Classification Unit of Division of Corrections.

To gain information on the number of mentally retarded individuals in each officer's caseload, each was requested to examine his individual caseload using criteria listed below. This criteria was borrowed in part from the Boston, Massachusetts Community Parole Program.

1. below sixth grade academic level
2. below IQ 85
3. appears to be "slow" or "dull"
4. unable to read or write
5. difficulty with verbal skills
6. limited vocabulary
7. resided in a facility for the mentally retarded at one time in his life
8. attended special schools or special education classes.

It was not assumed that anyone displaying any of the above characteristics was definitely mentally retarded. The officer was asked to report those number of clients who were exhibiting three or more of the above characteristics for further investigation.

Their findings were assembled by the State Division of Probation and Parole. Using this method of identification, it was reported that 766 clients, or 6.3% of the current caseload, could be identified as mentally retarded.

The information in the files of adult males at Missouri State Penitentiary showed that 6.4% of the mentally retarded population had an unsuccessful

probation and 5.9% of the group were parole violators.

For both Division of Youth Services and Division of Corrections, administrative personnel and superintendents completed questionnaires (See Appendix).

At the time of the visit to the institutions, project staff met with a random cross section of direct care staff who completed questionnaires. The following is a summary of the results.

JUVENILE - SURVEY OF ADMINISTRATORS AND STAFF

67% of the supervisors and 50% of the staff said they had received no training in mental retardation. However, all of the administrative personnel said they would be able to release staff for in-service training in mental retardation.

When asked how many mentally retarded students were in their population the administrators said from 1 to 15%, with an average of 8.6%. The staff gave estimates from 0 to 50% with an average of 13% of all who answered. No conclusive evidence can be justified from these figures except to see that both the administration and staff agree that there are mentally retarded individuals in their population.

80% of the administrators and over half of the staff stated that the mentally retarded could fit into their programs. However, about 50% from both groups did not believe these boys and girls benefited from their program. The staff said that 74% of this low functioning group did not require discipline any more often than the normal population.

More than half the administrative and staff personnel said there was some difficulty in assignment to some work details but more than 80% of each agreed that these individuals were not routinely assigned to certain jobs

in and around the institution.

93% of the staff rated the need for special programs from high to average priority. 67% of the administrators rated them in average priority, but some of them added that they believed the lower functioning students were a "unique mental health problem". This is in agreement with one psychologist at one of the larger juvenile courts, who believed it to be a mental health problem. The superintendents were agreeable to obtaining special education materials but not to hiring specially trained personnel to use them. However, in lieu of the fact that all said they would release staff for in-service training in mental retardation, necessary aid in using the materials could be handled by the Special Education Consultant and the Mental Retardation Specialist (See Recommendation V).

ADULTS - SURVEY OF ADMINISTRATORS AND STAFF

The answers given by the adult administrators agreed more often with their staff than in the juvenile area.

70% of the administrators and 80% of the staff had never received training in mental retardation.

90% of administrators and 80% of staff said the mentally retarded inmate is taken advantage of and 90% of each group said that he was easily led.

In reply to one question, 90% of superintendents and 85% of staff said there was difficulty in assigning these individuals to some work details. However, the reply to another question regarding routine assignments of these individuals to certain jobs, half of the administrators and only 37% of the staff said this was not the case. In our study we found that these individuals were almost always assigned to food service jobs and that there

was little or no transfer from this job during their incarceration.

All agreed on a priority of special programs. 10% of administrators and 25% of staff gave it a very high priority and the balance of each group said it should have a high or average priority.

80% to 84% of both groups believe there should be a special facility. 60% to 70% of the administrators would release staff for in-service training.

Some of the questionnaires returned to us had comments on them in addition to answering the questions. Following is one from a staff member working with juveniles and another is from one working with adults.

COMMENT - JUVENILE STAFF

"Properly trained staff are needed to give the mentally retarded the best advantages and provide better opportunities for their future development. In an institution of this type, when we are already dealing with students who have, for the most part, been deprived of an adequate education, (whether it be their own fault or the fault of others) it is extremely important for us to give them as much as possible in a very short amount of time. Therefore, when there are one or more mentally retarded students in the classroom, these students require the most teacher help - as well as 'special' work. This condition takes away from the effectiveness of the teacher in providing (more) educational opportunities for those who are not retarded. Thus, it would be to the advantage of all concerned to develop a program which could provide for the 'special' qualities and abilities of the retarded child."

COMMENT - ADULT STAFF

"These individuals present a particularly difficult problem within a correctional setting insofar as we do not have the personnel, materials, time, or space to adequately devote to them. Further, the stress and tension of such a setting nearly negates any progress that might be made with them. We should have either a different facility for such inmates or the sentencing practices (statutes) in the State of Missouri should be re-structured."

SURVEY OF JUDGES

Various opinions of Missouri judges regarding the mentally retarded defendant were requested through a questionnaire mailed to Supreme, Appellate, and Circuit judges. Magistrates in urban areas and municipal judges of larger cities also received it. There was a 19% return rate on the mailing. Following are answers to questions on which there was most agreement:

64% reported they have had experience with mentally retarded citizens. The average number of mentally retarded defendants they reported seeing in the last year were 3.7 by circuit judges, 3.2 for municipal and magistrates judges.

44% had had personal relationships with mentally retarded individuals. In most cases the experience had been with a family member or children of friends.

What little training they have received in mental retardation, was in college psychology courses.

92% would accept the report of a psychologist and 36% would accept school records as evidence of mental retardation.

61% felt that using mental retardation as a criminal defense would be detrimental because of such reasons as possible labeling or indeterminate sentence to Department of Mental Health.

70% said that the state schools and hospitals were the best alternative to prison and 50% believed community based programs were also desirable.

SURVEY OF LAWYERS

A questionnaire similar to that sent to judges was sent to members of the criminal lawyers committee of the Missouri Bar Association and public

defenders of the City and County of St. Louis. There was a 26.5% return rate. The lawyers were almost unanimous in their evaluation of mentally retarded individuals not fitting into the present programs in Corrections, and in noting the lack of distinction between mental retardation and mental illness in Missouri statutes.

Most of them had had clients they recognized to be mentally retarded although less than half said they had experience with other mentally retarded persons. Over 2/3 who replied said they had received no training in mental retardation.

There was a great deal of support for a separate facility for these offenders, ranging from 60% support in the St. Louis area, 80% in the Kansas City area to 90% in the rural areas.

In contrast to opinions of the judges, many felt that plea bargaining was a favorable consideration for the mentally retarded.

Although many believed that an alternative to prison for the mentally retarded offender was the State Schools and Hospitals, many more believed that community based programs was a more appropriate answer.

Some of the remarks which lawyers added to the questionnaire included: Need for greater education of all criminal justice system personnel and community involvement with the mentally retarded.

If mental retardation were used as defense, defendants may get the impression that they can commit crimes and avoid prosecution by claiming to be more retarded - it could discourage efforts to improve their situation.

Further comments on using mental retardation as a defense included: Mental retardation as defense would be detrimental - a marginal case might be decided in favor of guilt because it might be believed the defendant needed institutionalization.

A judicial determination may injure vocational, etc. possibilities. Indefinite commitment to Department of Mental Health would be more detrimental to client than short period of incarceration in jail.

Commitment may be worse than a conviction in terms of length of confinement. Mental retardation as a defense might not help a defendant because of lack of jury understanding and because some treatment facilities may be worse than the penitentiary.

In those areas which have indeterminate sentencing, retardation might be misused to prolong confinement. Rehabilitation attempts should recognize retardation as a problem and deal with it.

Given the present state of the law in Missouri, there is no defense other than mental disease or defect which leads to an indeterminate commitment - mental retardation as a defense would have a definite negative result.

The law in Missouri needs to be changed to recognize the problem of mental retardation and to deal with mentally retarded defendants in the Criminal Justice System. At present there is no provision in the criminal code for dealing with them.

Frequently, families want the mentally retarded to be sent away. The type of institution is immaterial.

On the subject of examinations to determine a person's mental competency to stand trial for a felony, one lawyer said "... is farcical at best and a mere rubber stamp operation...Qualifications of individuals making these mental determinations should be more accountable to the public and an opinion of at least one private practitioner should be required."

CONTINUED

1 OF 2

With regard to training, some of the remarks included:

One public defender indicated that he and other lawyers had a lack of knowledge and understanding and required (and would appreciate) education on the subject of mental retardation.

Another said that probation officers are very important in assisting a probationer who has some degree of mental retardation and they should be sufficiently trained in this area.

The most frequent comments had to do with community involvement and alternatives. Some of them included:

The problem will not be solved by the Criminal Justice System. It must be addressed at an early age by the community.

Probation should be used in addition to community based programs and diversion.

Program alternatives such as clinical help with incarceration are needed.

A separate facility should not just be separate. Rather it should be special, i.e., with special rehabilitation efforts and training.

Any alternative but incarceration should be used...but there are no adequate constructive alternatives.

There is a general lack of sympathy in dealing with mentally retarded individuals by the prosecution and a severe lack of facilities for placement or treatment of retarded defendants.



CHAPTER III

RECOMMENDATIONS

CHAPTER III

RECOMMENDATIONS

It is the belief of the project staff that any study that collects data and fails to make recommendations that can and should be implemented, is worthless. For that reason, we are making the following recommendations, most of which can be put into action soon. These call for cooperation between various departments of the state government as well as volunteers in advocacy. Because of the complexities of the problem of those citizens who are developmentally disabled, both local and federal agencies are also part of the picture.

RECOMMENDATION I - TRAINING AND EDUCATION

A. The Criminal Justice System

1. Police

It is recommended that state-wide police training be mandatory.

The first contact an alleged offender has with the criminal justice system is with the police officer. Recognition by the officer is most important. The police officer often has the discretion, on the street, to decide if a person should be arrested. If he understands what characteristics identify a retarded citizen and if he is aware of the alternatives available to him, the alleged retarded offender may never be sent through the criminal justice system.

There are five police academies in Missouri. Four are at St. Louis, Kansas City, Springfield and Cape Girardeau. Each of these have 640 hours training with varying amounts of time for

community and human relations which include up to six hours on mental retardation. The syllabus for St. Louis is being revised. It is expected that in addition to a specified number of hours, it will be included at other times in the training program. A concentrated effort is being made to expose the officers to the difference between mental illness and mental retardation. In-service training is also part of academy training.

In addition to the above programs, there is also a 240 hour training at the Missouri Highway Patrol Academy.

Training in rural areas is very limited except for the Highway Patrol and a new program in the three counties surrounding St. Louis County (St. Charles, Franklin, and Jefferson) which has started on-site training of approximately 300 hours under the supervision of the St. Louis Academy. This program is expected to be increased to 600 hours in the near future.

Many of Missouri's police officers are attending colleges and universities for further study in the administration of justice. Some of these courses are including the mentally retarded citizen as part of the curriculum.

2. Judges and other court personnel

It is recommended that training and/or education be made available to judges and court personnel as well as prosecutors, public defenders and jail personnel, on recognition of abilities and characteristics of the mentally retarded individual and that available alternatives to incarceration be made known to them.

In February 1976 a report of the Missouri Action Plan for Public Safety (MAPPS) prepared under the direction of the Missouri Department of Public Safety, was presented to Governor Bond. In that report several references were made regarding the mentally retarded offender.

On page 2 of that report under "Corrections", the following statements are made:

"At the public hearings, concern was expressed over the lack of special treatment resources for the mentally retarded offender...Community support for diversionary programs was cited as a possible solution in meeting the needs of the mentally retarded offender." ⁴

In the report of the Courts Task Force it is stated: "Steps should be taken to increase public awareness that appropriate alternatives short of incarceration are preferable to incarceration in dealing with certain offenders." ⁵

In this same report, it is stated that:

"Training for court personnel, prosecutors and defenders is far from comprehensive. The Task Force recognizes the need for overall training for criminal justice personnel in their respective areas of endeavor, and for specialized training of prosecutors, defenders and judges in the peculiar problem of, and treatment alternatives for, various disadvantaged groups with which the system deals -- specifically, the mentally ill, mentally retarded, and functionally illiterate." ⁶

The need for such training was verified by many of the questionnaires returned to us from judges and lawyers. One public defender noted that : "I have little knowledge of the problems of persons who are mentally retarded. A number of lawyers have the same lack of knowledge or understanding. More education would be appreciated."

During the past seven years in Missouri, many contacts have been made with court personnel. In some cases, the staff have met with prosecutors and public defenders in staff meetings. All of this has resulted in a better understanding of the problem and has worked to the benefit of some mentally retarded accused persons. The project staff believe the person-to-person contact must be made. Very few lawyers and judges have either the time or opportunity to attend workshops; therefore, the "workshop" must be brought to them on an individual or small group basis. In addition to the person-to-person contact, it is recommended that a brochure be written on mental retardation as it specifically affects the criminal justice system and that such brochure be distributed to all criminal justice system personnel.

3. Probation and Parole Officers

It is recommended that training for probation and parole officers be established both by conducting workshops and in pamphlets or brochures made available on mental retardation.

Probation officers throughout the state seem to be more familiar with the specific problems and characteristics of the mentally retarded person than most other persons in the criminal justice system. Workshops have been held and many have participated. They need more education on this particular problem and volunteers to help.

In the report of the Courts Task Force, more is said about community resources:

"certain offenders, namely....the mentally retarded and the emotionally disturbed are more often related most effectively in environments designed to provide specialized treatment for

their respective physical, mental and/or behavioral problems. The use of probation instead of incarceration in many instances is more effective in bringing about a reduction in crime through counseling and supervision of convicted offenders." 7

It is further stated in the Corrections Task Force, that:

"The average daily cost to house an offender within the Missouri Division of Corrections is currently \$8.87....The average daily cost per client served by the Missouri Board of Probation and Parole is \$.95." 8

The case load of probation and parole officers should be cut in half if they are to effectively serve their clients. At the present time, it is not unusual to find that less than one-half hour per month is all the time available for the officer to spend with each client. If the case load were cut in half, the average cost would increase to \$1.90 which is still much less than incarceration, and could be much more productive for the mentally retarded offender, especially when combined with help made available from the Department of Mental Health.

4. Correctional Personnel

It is recommended that minimum training standards for all state and local correctional employees be required.

Should the mentally retarded offender be imprisoned or in jail, all levels of the state and local prison and jail personnel should be aware of the retarded offender in the population, and special treatment and habilitation needs. The Task Force speaks to this problem: "Correctional personnel training is available for about 20% of the total full time employees working in Missouri jails.... there is a need for minimum training standards legislation and

funding to provide training for all correctional employees within the Division of Corrections."⁹ This must include training in mental retardation. In addition to those included in our study, there are a great number of "borderline" group (up to IQ 80-85). Goal 2 of the Corrections Task Force states 'Upgrade correctional facilities, programs and services to successfully reintegrate offenders back into their communities, and to assure fair and equitable treatment of the accused, the offender and the ex-offender.'" ¹⁰

If the mentally retarded individual is to be successfully reintegrated into the community and if he is to receive fair and equitable treatment, he must be recognized in the prison or jail population so as to receive academic or vocational training geared to his capability and understanding.

One of the "areas selected for attention in the juvenile area were improvement of the skills of juvenile correctional personnel in rehabilitating juvenile offenders." ¹¹

B. Department of Mental Health - MR Specialist and Regional Center

Caseworkers

It is recommended that training in the law enforcement process be given to the MR Specialist (see recommendation IX) and Regional Center Special Caseworkers (see recommendation IV).

The responsibility for the mentally retarded offender is one that must be shared with the law enforcement field, corrections, mental health, and education.

Just as most persons in the Criminal Justice System are unfamiliar with mental retardation, most of those in mental health are unfamiliar

with the law enforcement process. In Recommendation IV, the responsibilities of the Mental Health Regional Center case worker is outlined. In order for him to function in this capacity, he must understand the procedures, options, etc. in the "system". This can be best accomplished through workshops (conducted by law enforcement personnel who are familiar with mental retardation), by personal contacts and in following through with the mentally retarded alleged offender from time of arrest to acquittal, community placement or incarceration.

The MR Specialist who will be part of the "Mobile Team" (see Recommendation IX), must also be familiar with the law enforcement process and must be also trained if he is to function effectively.

C. Department of Education

It is recommended that the Special Education Consultant (see Recommendation IX) be trained in the law enforcement process the same as the mental health personnel.

In 1974, the Missouri Legislature passed into law a new statute (RSMo 1975 162.670-162.995) for mandatory special education for all Missouri residents 21 years of age and under. The cooperation of the Department of Education in providing services for the special offender is imperative if they are to receive proper habilitation and treatment under this statute. As noted throughout the findings of this study and studies of other states, the mentally retarded offender has known a life of academic failure and little special education assistance.

A Special Education Consultant must be available to juvenile detention and adult correctional facilities in

developing individual academic programs and prescriptive packages for low functioning students and inmates.

If the Special Educational Consultant is to be effective, he must also be familiar with the law enforcement process, particularly the juvenile detention and adult correctional facilities.

Again referring to the Courts Task Force, it is stated that "school teachers at both the elementary and secondary levels should receive instruction in the fundamentals of the judicial system." ¹² This is particularly true of the teacher in special education who has the mentally retarded or other developmentally disabled student in the classroom. For example, in the City of St. Louis, over 4% of all school children are enrolled in classes for the mentally retarded. This large percentage is far above the national estimated average of 3% who are mentally retarded (per estimate by St. Louis Department of Special Education).

In the urban areas, the number of those who are retarded and end up in the juvenile or adult correctional facilities, were almost all either truant, expelled, or in some cases, dropped because they no longer came to school. Along with training in the law enforcement system, some means must be developed by the Department of Education to follow through on those not attending school. If they cannot be encouraged to return to school, and they are over 16, attempts should be made to refer them to other agencies such as vocational rehabilitation, the regional clinics, etc. for placement in either sheltered workshops or in competitive employment.

RECOMMENDATION II - RECOGNITION AND DIAGNOSIS

It is recommended that diagnosis of suspected mental retardation be made by mental retardation specialists rather than mental health personnel (those who treat mental illness).

Mentally retarded individuals are not necessarily mentally ill. To require a psychiatrist's report on his ability to stand trial tends to further confuse mental illness with mental retardation. Recommendations regarding his treatment for mental retardation must be made by personnel trained in mental retardation rather than mental health. Should mental illness be suspected, a psychiatric examination would be in order.

Recommendations to the court by the prosecution, defense and/or pre-sentence investigation would be in order after consideration of the diagnosis made by mental retardation personnel.

RECOMMENDATION III - CRISIS INTERVENTION AND DIVERSION

It is recommended that a crisis intervention-diversion-prevention program be established at the lower court level.

Ninety percent of the nation's criminal cases are handled by the lower courts.¹³ It has been estimated that in Missouri, up to ninety-five percent go through magistrate and municipal courts in the urban areas of Missouri.

Frequently, that is the first contact any citizen has with the courts. Shoplifting, loitering, petty theft, etc. brings the mentally retarded alleged offender to these local courts. Crisis intervention at that point can prevent many individuals from becoming part of the larger criminal justice system. For the mentally retarded offender, a fine at that point means very little because either family or friends must pay it, or he must spend some time in the county or city jail.

Intervention at this point could be synonymous with prevention. Counseling with the alleged offender and his family has proven to prevent further such actions.

For more serious crimes where it is impractical or impossible to have the charges dropped at that point, a diversion program into specified period of time, should be established. At the end of the specified period, the charges could be dropped provided the defendant has made an adequate adjustment. This is similar to a diversion program under the Circuit Attorney's office, City of St. Louis, which is funded by LEA. This need not be different from many other diversion programs operating around the country, except for the required training of personnel to handle the mentally retarded citizen's problems.

"At the public hearings, concern was expressed over the lack of special treatment resources for the mentally retarded offender" ¹⁴ was written in the MAPPS report on page 2. The report went on to say that "Task Force members agreed that additional resources are needed in this area, but also felt that there should be improved coordination of existing services. Community support for diversionary programs was cited as a possible solution in meeting the needs of the mentally retarded offender." The project staff recommends a coordinated approach between government and private agencies. They also strongly recommend a diversion program for the mentally retarded offender.

RECOMMENDATION IV - DEPARTMENT OF MENTAL HEALTH

It is recommended that Department of Mental Health caseworkers at each of the Regional Centers be specifically assigned to work with the mentally retarded alleged offender for both juvenile and adult individuals.

One of the most needed areas to help in the reduction of mentally retarded individuals in the prisons and juvenile detention centers is the input and guidance of the Department of Mental Health.

A Special caseworker from this department would have the expertise necessary to deal effectively with mentally retarded children and adults.

Approximately three percent of Missouri's population is considered within the mentally retarded range of functioning. However, the percent of those individuals incarcerated and/or placed on probation or parole in Missouri is two to three times greater than the percentage of mentally retarded individuals in the general population.

A. The responsibilities of the Regional Clinic and the Special caseworker would include:

1. Become familiar with the law enforcement process and the criminal justice system. The training of these Department of Mental Health personnel is described in Recommendation I.
2. Be available to police for referral and temporary placement when a mentally retarded individual is arrested. They should then follow through with this individual from the time of that arrest, trial, probation (if granted) and parole after release from the correctional facility.
3. Establish rapport and be in active contact with the courts, be known by them and be available to them, the prosecutors, public defenders (or court appointed attorneys or private lawyers). Similar work is being done by a volunteer citizen advocate in the St. Louis area, and more recently on a small scale by the St. Louis Regional Center. In the Kansas City

area, the Regional Center is doing similar work with juveniles.

4. Make arrangements for a diagnostic evaluation and any other service not provided directly by the Regional Center or for which the caseworker is not directly responsible. (All offenders suspected of mental retardation should be immediately referred to the Regional Centers and assigned to a special caseworker).
5. Be responsible for finding housing for these individuals if their home is not suitable. Such housing might be a foster home, a group home, an apartment, and, in some cases, a mental retardation facility.
6. Develop or utilize existing programs (school, employment, workshops, activity centers, recreation) for these individuals and encourage their participation in them. In some cases, it might be necessary to work with the family in counseling sessions to see that the suggested programs are carried out.
7. Assist probation and parole officers. The Regional Center Special caseworker will assist in the training of the probation and parole officer to understand the mentally retarded probationer's needs and characteristics. (See Recommendation I). The case load of the probation and parole officer is so large that it is impossible for them to give the necessary motivation and supervision required by these individuals. For example, one of these officers

who is responsible for "special" individuals which includes the mentally retarded and emotionally disturbed, has a case load of more than fifty. With that number over a large area, plus the paper work he is required to take care of, there is not enough time to work with each individual.

On this subject, the Corrections Task Force, recommended that case loads of probation and parole officers be reduced to an average of no more than fifty. If probation or parole is to be successful and effective for the mentally retarded offender, the case load must be less than fifty.

In some cases, there must be at least a weekly personal contact by the caseworker in addition to that of the probation and parole officer. These contacts should be made "on the site" rather than in the office of the special caseworker. For other cases, a monthly personal visit at his home, school, or recreational facility may be sufficient.

- B. The Regional Center must have a regular caseworker (or the Special caseworker) available to work on a cooperative approach with other departments and not-for-profit agencies and individuals who become involved with the mentally retarded offender.

The caseworker must be available to work with those who are referred by family, school or police, before they become part of the criminal justice system. An effort should be made to have these individuals involved in an activity appropriate to their needs if we are to have them in the community rather than either Department of Mental Health institutions for the mentally ill or mentally retarded, or incarcerated in the institutions for the

juvenile delinquent or adult inmate.

If these individuals are effectively worked with by both advocates from Department of Mental Health and citizen volunteers, an effective change would be accomplished.

RECOMMENDATION V - DIVISION OF YOUTH SERVICES

It is recommended that specialists in mental retardation, a Special Education Consultant and special education materials be made available to Division of Youth Services and that each juvenile be treated on an individual basis for placement in or out of Division of Youth Services.

- A. An MR Specialist and Special Education Consultant must be available to Division of Youth Services to assist in programs and understanding of their low functioning students.

We found a lack of personnel trained in the field of mental retardation, yet these untrained personnel are required to handle large numbers of the mentally retarded.

In the two years, 67 boys (4.75%) tested IQ 69 and below and 252 boys (17.9%) of the total population tested IQ 78 and below. The girls had 12.3% of the total population which tested IQ 69 and below. Many of these were either drop-outs, truant, or just lost from the school system.

The Division of Special Education should be responsible for the materials and training of teachers for this group of boys and girls.

The Juvenile Task Force list the following standards:

"All youth who are alleged to have committed a violent offense, when there is a legal basis to proceed with a petition, should receive a diagnostic evaluation to assist in determining the most effective rehabilitation

program, and improved techniques should be developed for the purpose of providing proper care and treatment in order to reduce the likelihood of repeated violent behavior." 15

- B. The placement of each of the students must be made on an individual basis and we believe they fall into three general categories: the sophisticated, the unsophisticated, and the very immature.

In observing the programs, staff, and facilities of the Division of Youth Services, the first group will fit into the present programs which are improving regularly.

We believe the second group would be better served in group homes under the joint supervision of Department of Mental Health and Division of Youth Services and are recommending at least two group homes be set aside to serve this group. An individualized program must be set up for these juveniles on a cooperative basis with Division of Youth Services and the Mobile Team (Recommendation IX). The Regional Center caseworker will be kept informed of his progress during this time because he will be responsible for assisting the aftercare worker (juvenile probation officer) after his return to the community.

The third group should not be committed to Division of Youth Services. Department of Mental Health should have the responsibility of the immature mentally retarded juvenile offender. Placement would be decided on an individual basis and they would be assigned to either a special facility, a group home or, in some cases, his own or a foster home under the direct supervision of the Regional Center caseworker. The Mentally Retarded Juvenile Offender Service System in Kansas City, Missouri offers job skills, education and vocational

training as well as residential facilities for the mentally retarded juvenile offender.

There is no State-wide system of services for the juvenile or adult mentally retarded offender at either the lower or circuit court level.

RECOMMENDATION VI - JUVENILE AFTERCARE

It is recommended that the aftercare for the mentally retarded juvenile be more structured and intense and that mentally retarded juvenile offenders be assigned to an aftercare worker specially trained in mental retardation.

The mentally retarded child and youth requires more supervision, guidance and motivation than the non-retarded functioning child and youth. Most of those released on aftercare do not continue in school. Few find employment. For the mentally retarded individual, motivational assistance must be given to have him become involved in school, employment and recreational activities. To help accomplish this, the Regional Center Special caseworker must work with the Division of Youth Services aftercare worker in establishing appropriate programs.

RECOMMENDATION VII - ADULT

It is recommended that specialists in mental retardation and special education be made available to Corrections, that special education materials be furnished to the teachers, that vocational programs which will benefit the lower functioning inmate be established, and that each person be treated on an individual basis for placement in or out of the Division of Corrections.

While the mentally retarded offender should not escape the consequences of deviant behavior, merely maintaining him in custody will not modify his dangerous behavior. Furthermore, if an individual is not helped while he is in custody, we are missing an opportunity to cut down on the recidivism

rate. This is especially true of those who are younger than the total population; i.e., the mentally retarded or the low functioning inmate.

Almost all who are incarcerated are eventually released back to the community. How they adjust back in the community is primarily determined by how we prepare them.

A. The Mentally Retarded or Low Functioning Offender Within the Prison Setting

Approximately 100-200 youths are certified as adults each year.¹⁶ In the two year study of commitments, it was found that a large number of those were mentally retarded. The population of the adult commitments of the two years ranged from 15 to 76. 22% of the mentally retarded functioning population were under 17, 47.6% were 21 and under. All of these are in the age to be served under the new Missouri statute RSMo 162.670-162.995.

It is imperative that special education and vocational habilitation and rehabilitation programs be available for these individuals. Without appropriate treatment, the mentally retarded offender will have gained nothing to help him function in the community. Programs must be geared for the capability of the individual to give him an opportunity for success. Continuing personal failure experiences can only add to a recidivism rate or prolonged institutionalization.

Education programs are provided in correctional institution for those who desire them. G.E.D. and college courses are offered. Many complete the G.E.D. and some are able to get a degree. For the retarded inmate to have equal opportunity, education which he is able to master must be available.

"Most corrections education programs are not meeting the real needs of inmates and most of an inmate's problems are reflected in his lack of education. GED materials are not adequate for remedial education of adults." 17

Many of the low functioning inmates have dropped from school because they gave up hope of ever profiting from it. The poor wage compensation for attending academic classes is little motivation, especially when it very rarely helped to satisfy even their minimal institutional needs.

More caseworkers are needed. At present, there is an average of about 300-325 inmates for each caseworker at the penitentiary.

A caseworker specially trained in mental retardation, one who understands the specific frustrations and needs of this type of inmate is needed. He would serve as counselor-liaison-advocate. Through meaningful rapport with the retarded inmate, it will be his responsibility to help the inmate clearly understand the rules and regulations of the institution, how disciplinary matters are handled and what acts are prohibited and why. (With even a higher occurrence of illiteracy than retardation, it is imperative that the "Inmate Rulebook" be read to these inmates).

This caseworker would be responsible for improving the inmate's habilitation prospects, set motivational goals and develop self-improvement skills within the institution. It would be necessary to coordinate the programs with other employees who come in contact with the inmate (teachers, both academic and vocational, work supervisor and correctional officers). He would assist the inmate with the pre-release preparation to half-way houses, possible work-release programs and serve as an advocate for the inmate at parole hearings. Upon examination of the criteria for work-release programs and parole, which include work

performance record and conduct, it is evident that a low functioning inmate would be overlooked if he does not have an advocate-caseworker-counselor.

The Mentally Retarded Specialist and the Educational Consultant (See Recommendation IX) must be available to the prison staff to assist in planning programs and finding suitable housing and programs upon his release. The above would apply to those mentally retarded inmates who would be best served in the prison setting only after testing and evaluation by those familiar with mental retardation.

B. The Mentally Retarded Offender Outside the Prison Setting

To place all retarded offenders who are repeatedly characterized as being misled and showing poor judgment into an institution where he will only observe, acquire, and practice new forms of deviant behavior, it not effective habilitation.

Normalization of a mentally retarded individual is not possible within the abnormal situation of the penitentiary. For this reason we strongly recommend these diversion alternatives.

1. The Special Facility

The first alternative includes those who would benefit from a special facility, geared specifically to the special needs of the mentally retarded offender. This would have to be a cooperative approach in administration between Corrections, Mental Health and Education. Commitment to this special facility should be equal in time to commitment to the Division of Corrections. The emphasis at this facility would be to provide opportunity for habilitation and treatment which takes into consideration the conditions of

mental retardation. The objectives of this program would be identical to that of the Division of Corrections which is "to improve public safety by returning prior offenders to society as successful and productive citizens." 18

Upon release to a half-way house, group home, or community living, he is to be assigned to a Regional Center caseworker who has been informed of his progress and who will work with him in attaining successful placement in the community.

2. The Community

The second alternative would include: those entering the diversion program described in Recommendation III, those placed on special probation described in Recommendation VIII, and those placed under the supervision of Department of Mental Health.

The Division of Vocational Rehabilitation must be involved in not only vocational training of the handicapped, but also actively engaged in finding employment for these individuals that have been trained by them.

RECOMMENDATION VIII - PROBATION AND PAROLE

It is recommended that a specially trained probation and parole officer be assigned to the mentally retarded offender and that he be assisted by the Regional Center caseworker along with volunteers.

The work of the probation and parole officer is one of the most significant aspects of the criminal justice system. If the mentally retarded offenders is to be served successfully, the officer should be familiar with mental retardation, have the assistance of and work with the Regional Center special caseworker. Volunteers have played an important role in this facet of the criminal justice system. If more were known of the success of their work.

it is very possible more citizens would become involved.

The goal is to give assistance to the client by being aware of his individual needs and to develop and utilize all community resources. For the mentally retarded probationer, the Regional Center should be of assistance in referring to community resources. Not only can probation be more economical for society, it can be more successful.

Many innovative programs of this type have been initiated in other states. One such special probation research project was in Saginaw, Michigan. It measured the extent to which institutionalization of adult offenders could be reduced in a community by providing high quality presentence investigation and probation supervision services. This project reduced the number of offenders originally given prison sentences from 36.6% to 19.3%--a drop of one-half. 19

The low functioning criminal is frequently not chosen for or is unsuccessful on, probation because he is considered a poor risk. When the criteria for probation and parole is examined - family situation, job security, past conviction record, character references and conduct violations (for parole) - it is easy to see that the naive offender would be rejected. Therefore, there is a need for specially selected probation and parole officers especially in the urban areas, to assist the retarded offender in his perplexing situation.

The Court Task Force acknowledged:

"that certain offenders, namely, ...the mentally retarded... are often related most effectively in environments designed to provide specialized treatment for their respective physical, mental and/or behavioral problems. The use of probation instead of incarceration in many instances is more effective in bringing about a reduction in crime through counseling and supervision of convicted offenders." 20

RECOMMENDATION IX - MOBILE TEAM

It is recommended that a Mobile Team consisting of an MR Specialist and a Special Education Consultant be formed to aid the mentally retarded offender and the correctional staff.

Most of the personnel in correction and detention facilities are not trained in the field of mental retardation or the special education needs of this group. Many of the adult correctional system personnel consider the mentally retarded inmates to be uncooperative or to display aggressive behavior without realizing that the problem is the inmate's frustration in coping with his lack of capacity in the prison situation.

The Mobile Team would be available to both Corrections and Youth Services to assist staff, work with the special caseworker at the institutions, help in preparation of prescriptive teaching packages and serve as liaison for Corrections, Youth Services, Education and Mental Health.

RECOMMENDATION X - LEGAL RIGHTS AND MISSOURI STATUTES

It is recommended that a Bill of Rights for the developmentally disabled be established, that Chapter 552. (RSMo 1969) be revised to specifically take into consideration the mentally retarded alleged offender, that adequate legal counsel be available for the mentally retarded alleged offender, and that an advocacy program be in existence for the mentally retarded and the developmentally disabled.

Bill of Rights

In examination of the previous recommendations, it is evident that there exists numerous legal complications that cannot be worked out until a rational "Bill of Rights" exists for the mentally retarded and developmentally disabled in Missouri. To accept or reject decisions about a person's life without proper legislation and due process of law simply

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because this person is labeled within a certain functioning level of intelligence is a serious violation of the individual's rights.

There has been much federal legislation recently concerning the rights of the retarded offender. One of these is the famous right to treatment case of Wyatt vs. Stickney (whereby the Department of Justice acted as amicus curiae). This proceeding set forth 49 detailed minimum constitutional standards for proper treatment of the mentally retarded under the 14th amendment.

In Newman vs. Alabama, treatment of mental conditions in adult state prisons found a denial of minimum adequate medical care to prison inmates constitutes cruel and unusual treatment under the 8th amendment.

The American Law Institute penal code (1961) does recognize the concept of diminished responsibility.

Revision of Missouri Statutes

The penal code in Missouri is lacking in clear cut guidelines for individuals accused of crimes who may be either mentally ill or mentally retarded.

Chapter 55. (RSMo 1969) deals with criminal proceedings involving the Department of Mental Health. That statute states that:

"whenever any judge or magistrate has reasonable cause to believe that the accused has a mental disease or defect excluding fitness to proceed, he shall,appoint one or more private physicians to make a psychiatric examination of the accused...."

This statute continues to say that the "psychiatric examination" shall include certain findings. It then continues:

"a person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease

or defect he does not know or appreciate the nature, quality or wrongfulness of his conduct or was incapable of conforming his conduct to the requirements of the law."

However, the acquittal based on this examination reads:

"When a defendant is acquitted on the grounds of mental disease or defect excluding responsibility, the court shall order such person to be committed to the director of the division of mental disease for custody, care and treatment in a state mental hospital."

The statute goes on to say that he is to be held by the Department of Mental Health until, it is implied, he is cured of the mental defect or disease. Under this statute it is also assumed or implied that only an examination by a psychiatrist would be acceptable to the Court. In our survey of the judges in Missouri, a psychological examination would be accepted by many in the case of the mentally retarded person. As the law now reads, only a plea of insanity can be given. There is no provision for the low functioning intelligence.

If the mentally retarded alleged offender were to be committed by the court to Department of Mental Health under this statute, it could mean a life-long sentence to a mental hospital without guilt ever being established.

Provision for Legal Counsel

In order that the mentally retarded citizen be given full protection of the law, it is necessary that prompt, competent, legal counsel be available in all instances.

This requirement should include the municipal and magistrate court levels so that deviant behavior might be curbed before it becomes a part of the mentally retarded offender's life style and reaches felonious proportions. Special attention should be rendered to the insurance of pre-trial rights against self-incrimination.

Advocacy

The State of Missouri must follow through with all federal legislation and possible federal funding for the mentally retarded and developmentally disabled programs which have been established.

Public Law 94-103, Section 113 mandates that each state effect a system to advocate and protect the rights of persons with developmental disabilities. Advocacy of the mentally retarded offender must be included in this advocacy program.

Summary

It is not the intention of this recommendation to become too paternalistic toward one of sub-normal intelligence or to absolve him from all consequences of deviant behavior. Rather, it is to insure that "due process" be available to him and that his rights include "equal" treatment in programs of habilitation, i.e. treatment which can be adapted to him, understood by him, and enable him to function in society.

CHAPTER IV

SUMMARY

CHAPTER IV

SUMMARY

The mentally retarded offender in Missouri is most often black, from an urban area, from a broken home environment and frequently on some type of government assistance. He is younger than the general prison population-- it is not unusual for him to be a juvenile who has been certified as an adult. It is also interesting to note that the majority of those who deal with the inmate population (the staff) are caucasians from conservative rural areas where the institutions are located.

The percentage of mentally retarded individuals in both juvenile and adult institutions is much higher than the national average of 3%.

Most of the juveniles were either truant, unemployed or they were expelled, suspended or failed in school. In the adult system only approximately 2% had the benefit of any special education.

Offenses by both juveniles and adults were very similar to those of the normal population. Of the juveniles who had been committed because of a "status offense", most had prior offenses, were known to the juvenile court and some were under supervision of the court for criminally oriented conduct.

There is a definite need for more training in mental retardation of all criminal justice system personnel. Training is necessary for judges, lawyers, police officers, court personnel in the criminal justice field, probation and parole officers, and prison and jail personnel. Training is also very necessary for mental health personnel.

Nineteen percent of judges and 26.5% criminal lawyers responded to questionnaires. Most of them had come in contact with the mentally retarded citizen through the court and defense experiences, but had little knowledge of mental retardation. Most felt it would be detrimental for mental retardation to be used as a defense because of the possibility of indeterminate commitment to Department of Mental Health whether or not the client is guilty.

Recommendations for legislation include a Bill of Rights for the mentally retarded and developmentally disabled, a revision of the Criminal Code to take into consideration the unique position of the mentally retarded alleged offender and a review of other statutes affecting the mentally retarded offender.

The goal for the mentally retarded offender is the same as it should be for any other offender; habilitation as fast as possible into a life as productive and self-fulfilling as possible; or, as the Missouri Division of Corrections states as their goal in their mission statement "to improve public safety by returning prior offenders to society as successful and productive citizens." In order to successfully accomplish this for the special offender group, and in order that their human, legal and civil rights are adhered to, certain special provisions must exist. This is not to say that the retarded offender is to receive additional rights or special treatment. However, in order for him to receive "equal" treatment or habilitation, he must be treated individually. If our treatment goals are based on the specific offender's needs, then we must recognize the fact that the retarded offender may not be able to take advantage of the protection afforded every other citizen without special help.

The previous recommendations for training, legislation and System of Services for the developmentally disabled citizen who becomes involved with the criminal justice system were made in order that this "equal" treatment goal can be accomplished.

Many of the recommendations contained in the recent report of the Missouri Action Plan for Public Safety have a direct bearing on the plight of the mentally retarded offender in Missouri and are recommendations whose validity are borne out by the results of this study.

CHAPTER V

RECOMMENDATIONS FOR FUTURE STUDY

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RECOMMENDATIONS FOR FUTURE STUDY

The study shows that there is a disproportionate number of black citizens, both juvenile and adult, incarcerated in Missouri. This finding certainly bears further investigation with possible concentration on education, family counseling and health services in the community. The findings of the study bear out quotations from some urban penal experts that most of those in their local jails as well as those serving sentences for both misdemeanors and felonies are poor, black, and either mentally retarded or have difficulty in adjusting to demands of society because of economic and/or social standards.

Efforts should be made to develop methods of finding and of moving young mothers into prenatal care programs as a means of reducing mental retardation problems.

It is very possible that some of the over 4% of St. Louis City school children, for example, who are enrolled in mental retardation classes, might not be retarded at all.

FOOTNOTES

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2. Fernald, W.E., "The Imbecile with Criminal Instincts", American Journal of Insanity, 65 (April 1909).
3. Brown, Bertram S., and Courtless, Thomas F., "The Mentally Retarded Offender", Report to the President's Commission on Law Enforcement and the Administration of Justice, Washington, D.C., 1967.
4. Missouri Action Plan for Public Safety, Criminal Justice Goals, Standards & Action Plans for the State of Missouri, Missouri Department of Public Safety, (February 1976), p. 2.
5. Ibid., p. 26.
6. Ibid., p. 31.
7. Ibid., p. 27.
8. Ibid., p. 8.
9. Ibid., pp. 4-5.
10. Ibid., p. 4.
11. Ibid., p. 9.
12. Ibid., p. 12.
13. Improved Lower Court Case Handling An Interagency Approach to Criminal Justice Management, The Institute for Law and Social Research, Washington, D.C., (April 1976).
14. Missouri Action Plan for Public Safety, Criminal Justice Goals, Standards & Action Plans for the State of Missouri, Missouri Department of Public Safety, (February 1976), p. 2.
15. Ibid., p. 15.
16. Ibid., p. 13.
17. McNamara, Charles E., "Insight Into Corrections Education", American Journal of Correction, Vol. 38, No. 3, (May-June 1976), p. 10.
18. Inmate Rulebook, Missouri Division of Corrections, (April 1975).

19. Denton, G. F., and Pettibone, J. M., "How to Reduce Needless Incarceration", International Journal of Offender Therapy and Comparative Criminology, (1973), p. 17:138-147.
20. Missouri Action Plan for Public Safety, Criminal Justice Goals, Standards & Action Plans for the State of Missouri, Missouri Department of Public Safety, (February 1976), p. 27.

QUESTIONNAIRE A -- QUESTIONNAIRE FOR SUPERVISORS--ADULT CORRECTIONS
& YOUTH SERVICES

1. Have you ever had any training in mental retardation?
Yes _____ No _____
2. What percent of the inmates here would you consider mentally retarded? _____
3. Do you think these inmates can fit into the present rehabilitation Programs? Yes _____ No _____
4. Under the present situation, could you make any of the following special arrangements?
 - A. Designate one cell block to house only mentally retarded inmates? Yes _____ No _____
 - B. Obtain special education materials for the mentally retarded inmates? Yes _____ No _____
Yes, but at future date _____
 - C. Hire specially trained personnel to use special education materials? Yes _____ No _____
 - D. Be able to schedule vocational training classes for the mentally retarded inmates? Yes _____ No _____
Yes, if given additional teachers _____ additional space _____
 - E. Be able to assign one of the presently employed counselors to a caseload composed of mentally retarded or "slow" inmates? Yes _____ No _____
 - F. Be able to release staff members for in-service training in mental retardation if training could be provided?
Yes _____ No _____ for correctional officers
Yes _____ No _____ for counselors
Yes _____ No _____ for teachers
Yes _____ No _____ for vocational instructors
5. Does the mentally retarded inmate present any of the following problems for your institution?
 - A. Is taken advantage of by other inmates?
Yes _____ No _____ Uncertain _____
 - B. Does not benefit from present rehabilitation programs.
Yes _____ No _____ Uncertain _____
 - C. Is easily led by other inmates?
Yes _____ No _____ Uncertain _____

QUESTIONNAIRE A - PAGE 2

- D. Presents a security problem.
Yes _____ No _____ Uncertain _____
- E. Must be disciplined more often.
Yes _____ No _____ Uncertain _____
- F. Involved in "institution violations" more often.
Yes _____ No _____ If yes, what type _____
- G. Difficulty in assignment to some work details.
Yes _____ No _____ Uncertain _____
6. In your opinion, do these inmates have adequate contact with his family? Yes _____ No _____ Uncertain _____
7. Are mentally retarded or "slow" inmates routinely assigned to certain jobs in and around the institution?
Yes _____ No _____ If Yes, which jobs _____
8. What priority would you give to the development of special programs for the retarded inmates?
Very high _____ High _____ Average _____ Low _____ Very low _____
9. Do you consider these inmates to be high risks for parole?
Yes _____ No _____ Uncertain _____
10. Do you feel these inmates would be better served in a separate facility? Yes _____ No _____
In a separate section of the present facility _____

QUESTIONNAIRE B -- QUESTIONNAIRE FOR STAFF--ADULT CORRECTIONS & YOUTH SERVICES

1. Have you ever had any training in mental retardation?
Yes _____ No _____
2. What percentage of the inmates here would you consider mentally retarded? _____
3. Do you think these inmates can fit into the present rehabilitation programs? Yes _____ No _____ If yes, which one _____
4. Does the mentally retarded inmate present any of the following problems for your institution?
 - A. Is taken advantage of by other inmates.
Yes _____ No _____ Uncertain _____
 - B. Does not benefit from present rehabilitation programs.
Yes _____ No _____ Uncertain _____
 - C. Is easily led by other inmates.
Yes _____ No _____ Uncertain _____
 - D. Presents a security problem.
Yes _____ No _____ Uncertain _____
 - E. Must be disciplined more often.
Yes _____ No _____ Uncertain _____
 - F. Involved in "institution violations" more often.
Yes _____ No _____ Uncertain _____
If Yes, what type _____
 - G. Difficulty in assignment to some work details.
Yes _____ No _____
5. In your experience, does the mentally retarded inmate have adequate contact with his family?
Yes _____ No _____ Uncertain _____
6. Are mentally retarded or "slow" inmates routinely assigned to certain jobs in and around the institution?
Yes _____ No _____ If Yes, which jobs _____
7. What priority would you give to the development of special programs for the retarded inmates?
Very high _____ High _____ Average _____ Low _____ Very Low _____

QUESTIONNAIRE B - PAGE 2

8. Do you consider these inmates to be poor risks for parole?
Yes _____ No _____ Uncertain _____

9. Do you feel these inmates would be better served in
separate facility:
Yes _____ No _____

In separate area within this institution _____

QUESTIONNAIRE C -- QUESTIONNAIRE FOR LAWYERS

1. Have you had any experience with clients whom you believe to be mentally retarded? Yes _____ No _____ Unable to tell _____
If Yes, approximately how many within the last year? _____
2. Have you ever had any significant experience or personal relationships with a mentally retarded person? Yes _____ No _____
If Yes, what was this experience or relationship?

3. Please indicate the measured IQ below which you would consider a person to be mentally retarded. _____
4. Is the family of the mentally retarded offender helpful in his defense? Yes _____ No _____ Sometimes _____
5. As a defense counsel, what evidence would you present to the Court to claim that your client was mentally retarded.
A. _____ Personal interview with defendant.
B. _____ Psychological evaluation.
C. _____ School records.
D. _____ Interviews with family, friends, employers, etc.
E. _____ Other _____
6. In your opinion, if your client is believed to be mentally retarded when should the court have him or her evaluated?
A. _____ Prior to trial.
B. _____ After conviction and prior to sentencing.
C. _____ After sentencing for purposes of reviewing sentence for possible modification.
D. _____ Other _____
7. Given the present legal situation, do you feel there are any circumstances where the use of mental retardation as a criminal defense would be detrimental to a client? Yes _____ No _____
If Yes, how? _____
8. Which of the following options would you recommend as alternatives to prison for mentally retarded persons?
A. _____ None.
B. _____ Community based programs.
C. _____ Diversion.
D. _____ State Schools & Hospitals for Mentally Retarded.
E. _____ Mental Hospitals.
F. _____ Other _____

QUESTIONNAIRE C - PAGE 2

9. Do you believe mentally retarded inmates can fit into present rehabilitation programs in our corrections system, juvenile or adult? Yes _____ No _____ Uncertain _____
10. Do you believe the mentally retarded offender would be better served in a separate facility?
Yes _____ No _____ Uncertain _____
- In a separate area in present correctional facilities?
Yes _____ No _____ Uncertain _____
11. In your opinion, does Missouri law provide an adequate distinction between mental retardation and mental illness?
Yes _____ No _____
12. Would you favor state legislation providing diminished criminal responsibility for mentally retarded persons?
Yes _____ Yes, but only for the severely retarded _____ No _____
13. Do you feel that mental retardation should be a favorable consideration in plea bargaining?
Yes _____ No _____ Mentally retarded persons should not engage in plea bargaining. _____
14. From your experience, are mentally retarded persons likely to be recognized and placed on probation?
Yes _____ No _____
15. From your experience are mentally retarded persons granted parole in the same percentage as other inmates?
Yes _____ No _____ Uncertain _____

In your experience with mentally retarded persons, what percent do you believe are able to:

	0-10%	11-25%	26-35%	36-50%	51-70%	71-100%
16. Benefit from normal employment opportunities.	_____	_____	_____	_____	_____	_____
17. Benefit from the normal education process.	_____	_____	_____	_____	_____	_____
18. Understand their constitutional rights.	_____	_____	_____	_____	_____	_____
19. Waive their right to counsel.	_____	_____	_____	_____	_____	_____
20. Understand the nature of charges against him.	_____	_____	_____	_____	_____	_____
21. Assist their attorney in a defense.	_____	_____	_____	_____	_____	_____

QUESTIONNAIRE C - PAGE 3

In your opinion what percentage of mentally retarded persons have the following characteristics:

	0-10%	11-25%	26-35%	36-50%	51-70%	71-100%
22. Physical defects.	_____	_____	_____	_____	_____	_____
23. Emotional disturbances.	_____	_____	_____	_____	_____	_____
24. Bizarre behavior.	_____	_____	_____	_____	_____	_____
25. Socially deviant behavior.	_____	_____	_____	_____	_____	_____
26. Criminally dangerous behavior.	_____	_____	_____	_____	_____	_____
27. Appear normal.	_____	_____	_____	_____	_____	_____

What percentage of the time do you feel the following conditions are present in the criminal justice system's relationship with mentally retarded persons:

	0-25%	26-50%	51-75%	76-100%
28. Sufficient skills to identify mental retardation.	_____	_____	_____	_____
29. A favorable attitude toward diminished criminal responsibility.	_____	_____	_____	_____
30. Awareness of alternatives to prison.	_____	_____	_____	_____

31. The largest percentage of your Missouri practice is in which area:

- A. _____ St. Louis City or County
- B. _____ Jackson County
- C. _____ Other Urban area
- D. _____ Rural area

32. Have you received any training which you would consider relevant to dealing with mentally retarded individuals?

No _____ Yes _____ If Yes, what kind? _____

QUESTIONNAIRE C.- PAGE 4.

33. In your opinion what percentage of judges are familiar with mental retardation.

34. In your opinion what percentage of police officers are familiar with mental retardation?

We would appreciate any additional information or comments you may have which will help us in this project.

QUESTIONNAIRE D -- QUESTIONNAIRE FOR MISSOURI JUDGES

1. Have you had any experience with defendants whom you believe to be mentally retarded? Yes _____ No _____ Unable to tell _____
If Yes, approximately how many within the last year? _____
2. Have you ever had any significant experience or personal relationships with a mentally retarded person: Yes _____ No _____
If Yes, what was this experience or relationship?

3. Please indicate the measured IQ below which you would consider a person to be mentally retarded. _____
4. If a defense counsel were to claim that his client was mentally retarded, what evidence would you be willing to accept as verification? (Check as many as applicable).
 1. _____ Defense counsel's word.
 2. _____ Prosecution's word.
 3. _____ Personal interview with defendant.
 4. _____ Psychological evaluation.
 5. _____ School records.
 6. _____ Interviews with family, friends, employers, etc.
 7. _____ Other _____
5. In your opinion if a defendant is believed to be mentally retarded when should the court have him or her evaluated?
 1. _____ Prior to trial.
 2. _____ After conviction and prior to sentencing.
 3. _____ After sentencing for purposes of reviewing sentence for possible modification.
 4. _____ Other _____
6. Given the present legal situation, do you feel there are any circumstances where the use of mental retardation as a criminal defense would be detrimental to a defendant?
Yes _____ No _____ If Yes, how? _____

7. Which of the following options would you recommend as alternatives to prison for mentally retarded persons?
 1. _____ None.
 2. _____ Community based programs.
 3. _____ Diversion.
 4. _____ State Schools & Hospitals for Mentally Retarded.
 5. _____ Mental Hospitals.
 6. _____ Other _____

QUESTIONNAIRE D - PAGE 2

8. In your opinion, does Missouri law provide an adequate distinction between mental retardation and mental illness?
 Yes _____ No _____
9. Would you favor state legislation providing diminished criminal responsibility for mentally retarded persons?
 Yes _____ Yes, but only for severely retarded _____ No _____
10. Do you feel that mental retardation should be a favorable consideration in plea bargaining? Yes _____ No _____ Mentally retarded persons should not engage in plea bargaining _____
11. What are the principal factors you consider when placing a person on probation? (Check as many as applicable).
1. _____ First offense.
 2. _____ Previous offense record other than first.
 3. _____ Seriousness of offense.
 4. _____ Previous probation record.
 5. _____ Family and social support.
 6. _____ Work history.
 7. _____ Psychological
- If mental retardation is a consideration, are these persons treated the same as normal persons for purposes of probation? Yes _____ No _____
8. _____ Other _____
12. From your experience, are mentally retarded persons likely to meet any of the qualifications listed in question 11?
 Yes _____ No _____ If Yes, please list, using numbers from question 11. _____

In your experience with mentally retarded persons, what percent do you believe are able to:

	0-10%	11-25%	26-35%	36-50%	51-70%	71-100%
13. Benefit from normal employment opportunities.	_____	_____	_____	_____	_____	_____
14. Benefit from the normal educational process.	_____	_____	_____	_____	_____	_____
15. Understand their constitutional rights.	_____	_____	_____	_____	_____	_____
16. Waive their right to counsel.	_____	_____	_____	_____	_____	_____
17. Understand the nature of charges against him.	_____	_____	_____	_____	_____	_____
18. Assist their attorney in a defense.	_____	_____	_____	_____	_____	_____

CONTINUED

2 OF 3

QUESTIONNAIRE D - PAGE 3

In your opinion what percentage of mentally retarded persons have the following characteristics:

	0-10%	11-25%	26-35%	36-50%	51-70%	71-100%
19. Physical defects.	_____	_____	_____	_____	_____	_____
20. Emotional disturbances.	_____	_____	_____	_____	_____	_____
21. Bizarre behavior.	_____	_____	_____	_____	_____	_____
22. Socially deviant behavior.	_____	_____	_____	_____	_____	_____
23. Criminally dangerous behavior.	_____	_____	_____	_____	_____	_____
24. Appear normal.	_____	_____	_____	_____	_____	_____

What percentage of the time do you feel the following conditions are present in the criminal justice system's relationship with mentally retarded persons:

	0-25%	26-50%	51-75%	76-100%
25. Sufficient skills to identify mental retardation.	_____	_____	_____	_____
26. A favorable attitude toward diminished criminal responsibility.	_____	_____	_____	_____
27. Awareness of alternatives to prison.	_____	_____	_____	_____
28. Assistance from defense counsel in developing alternatives to prison.	_____	_____	_____	_____
29. Assistance from prosecution in developing alternatives to prison.	_____	_____	_____	_____

QUESTIONNAIRE D - PAGE 4

30. Where do you preside?

1. Metro area: St. Louis or Kansas City
2. Other Urban area
3. Rural area

31. What is your present judicial position:

1. Supreme or Appellate
2. Circuit
3. Magistrate or Municipal

32. Have you received any training which you would consider relevant to dealing with the mentally retarded?

Yes No If Yes, what kind? _____

We would appreciate any additional information or comments you may have which will help us in this project.

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