MONTANA CRIMINAL JUSTICE PERSONNEL ATTITUDES TOWARD THE MENTALLY RETARDED OFFENDER

by

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ABSTRACT

This study addresses the following three-dimensional problem: to determine the knowledge Montana criminal justice personnel have of mental retardation, to determine their attitudes toward mentally retarded offenders, and to determine factors which affect their knowledge and attitudes. The procedure used to explore personnel knowledge and attitudes was a survey questionnaire sent to 259 subjects. The subjects were subdivided into seven occupational groups: urban police officers, sheriffs, urban public defenders, county attorneys, justices of the peace, district court judges, and probation and parole officers. The overall response rate for the entire sample was 78.8 percent. Data from the survey were used to profile the attitudes of respondents as a whole and by the attributes of occupation, training in the field of mental retardation, educational level, and years of experience.

Data show that respondents as a whole understand the basic facts of mental retardation and appear relatively tolerant in their attitudes toward retarded offenders. Of the specific variables applied to test knowledge and attitudes, occupation produced the clearest patterns. Police officers, county attorneys, and sheriffs appear somewhat less tolerant than other occupational groups in their answers to some questionnaire items. Conclusive attitude patterns related to education and experience are not apparent in the data. The data indicate two additional findings: that respondents believe the justice system deals inadequately with retarded offenders and that respondents generally have little formal training in the field of mental retardation.

As a result of study findings, four recommendations are offered. First, it is recommended that personnel attitudes toward offenders with developmental disabilities other than retardation also be investigated. Second, an attempt should be made to both identify and determine the numbers of retarded offenders incarcerated in state correctional facilities. Third, the knowledge and attitudes of criminal justice professionals in occupations other than those included in this study should be investigated. And last, criminal justice personnel from the occupational groups studied here should be trained in the field of mental retardation.

Chapter 1

INTRODUCTION

In Montana, the issue of treatment for developmentally disabled offenders has grown in importance over recent years. There is concern on the part of state professionals in the field of developmental disabilities that developmentally disabled offenders may not receive treatment appropriate to their disabilities by the criminal justice system. Accordingly, developmental disabilities professionals have expressed an interest in investigating the status of such offenders in the state justice system, and particularly the attitudes of criminal justice personnel towards them. The study presented here is an outgrowth of that concern.

Statement of the Problem

A number of state agencies in the field of developmental disabilities have expressed concern over the handling of developmentally disabled offenders by the criminal justice system. The primary agencies concerned with this problem are the Developmental Disabilities Planning and Advisory Council (DDPAC) and the Office of the Attorney General. Several other agencies have added their concern to that of DDPAC and the Attorney General's Office.

This concern led in February of 1984 to the formation of an Interagency Steering Committee to study the status of developmentally disabled offenders in Montana. The following agencies are represented on the Steering Committee: DDPAC, the Office of the Attorney General, the Developmental Disabilities Montana Advocacy Program, Inc. (DDMAP), the Mental Disabilities Board of Visitors, The Mental Health and Residential Services Division and the Corrections Division of the Department of Institutions, the Developmental Disabilities Division and the Community Services Division of the Department of Social and Rehabilitation Service, the Crime Control Division of the Department of Justice, and the Special Services Division of the Office of Public Instruction.

Members of the Interagency Steering Committee note that persons who are developmentally disabled are frequently "naive," unable to understand both the nature of their criminal behavior and its consequences. The Committee defines these "naive offenders" as:

> ...individuals with developmental disabilities or other impairments which inhibit their ability to adjust successfully to and benefit from the corrections setting. Naive offenders have frequent contact with law enforcement and justice system personnel at one or more levels in the criminal justice process, e.g., arrest, pretrial investigation, trial, incarceration, parole.[1]

These offenders are often arrested, tried and sentenced on the same basis as other offenders, without regard to their mental disabilities. Accordingly, one of the basic

assumptions made by the Interagency Steering Committee concerning developmentally disabled offenders "is that they are inadequately or inappropriately served by the various criminal justice and other human services systems of the state."[2]

A major reason for the inadequate response of the criminal justice system to the needs of developmentally disabled offenders, the Interagency Steering Committee finds, is the frequent failure of its personnel both to understand the nature of developmental disabilities and to identify persons who have them.

> The problems of naive offenders are apparently compounded by the lack of awareness on the part of lawyers, police, court workers, and judges of the specific abilities, needs and limitations of persons in this discrete group.[3]

To date, no investigation has been done to determine how well Montana criminal justice personnel understand developmental disabilities or what their attitudes toward developmentally disabled offenders may be. A significant key to better handling of developmentally disabled offenders is the stance taken toward those offenders by criminal justice personnel. It is important to determine what those attitudes are.

Statement of Purpose

Before a statement of purpose is made, it should be noted that this study focuses on offenders with only one disability, mental retardation. Since developmental

disabilities are numerous and complex (see "Definition of Terms" at the end of this chapter), in order to give the study a manageable scope, it seemed prudent to deal only with retardation, since it is the most frequently-occurring developmental disability and the one most likely to characterize the naive offenders of concern here.

Where retarded offenders are concerned, the primary purpose of this study is twofold: a) to determine the attitudes of criminal justice personnel toward mentally retarded offenders, and b) to determine factors which affect those attitudes. In addition to investigating the attitudes of criminal justice personnel toward mentally retarded offenders, this study has two secondary purposes. The first of these is to investigate how effective criminal justice personnel perceive the justice system to be in dealing with mentally retarded offenders, and the second is to elicit their suggestions for better ways of handling mentally retarded offenders. The assumption here is that perceptions and suggestions from criminal justice personnel would be vital in any attempt to determine the status of mentally retarded offenders in the justice system.

General Procedures

To collect data related to the attitudes of criminal justice personnel toward developmentally disabled offenders, a mail survey questionnaire was designed and administered to randomly selected personnel from the following subgroups:

urban police officers, sheriffs, urban public defenders, county attorneys, justices of the peace, district court judges, and probation and parole officers. Survey questions were designed to elicit data from the sample population in each of the following categories: a) their awareness (levels of information) regarding mental retardation, b) their attitudes toward mentally retarded offenders, c) their past training in the field of mental retardation, d) the extent to which they perceive a need for training, e) their recommendations for more appropriate handling of retarded offenders by the criminal justice system, and f) their attributes, including professional occupation, education level, and years of professional experience.

Definition of Terms

To facilitate the reader's understanding of the concepts presented in this study, the following definitions are offered:

Developmental Disabilities - This is a complex term, as is demonstrated by the state definition of it: "Developmental disabilities means disabilities attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurological handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals if the disability originated before the person attained age 18, has continued or can be

expected to continue indefinitely, and constitutes a substantial handicap of the person." (53-20-202, MCA)

Mental Retardation - According to the American Association on Mental Deficiency, mental retardation is a developmental disability characterized by both "subaverage general intellectual functioning which originated during the developmental period" and "impairment in adaptive behavior."[4]

Criminal Justice System Personnel - As used in this study, the term refers to law enforcement officers (urban police and sheriffs), lawyers (urban public defenders and county attorneys), judges (justices of the peace and district court judges), and probation officers.

Summary

In recent years Montana professionals in the field of developmental disabilities have become concerned that developmentally disabled offenders may not be handled by the State criminal justice system in a manner appropriate for their disabilities. These professionals perceive a need to evaluate the status of developmentally disabled offenders in the justice system. This study is a partial response to that need and seeks to investigate the attitudes of criminal justice system personnel toward the largest group of developmentally disabled offenders, those who are mentally retarded. In subsequent chapters, an assessment of criminal justice personnel attitudes toward mentally retarded offenders, based on data gathered through a questionnaire, will be presented.

Chapter 2

REVIEW OF RELATED LITERATURE

The purpose of this chapter is to present a review of the literature related to the issue of mentally retarded offenders. The literature review is presented in three sections. The first examines the current status of the mentally retarded offender in the criminal justice system. The second discusses causal factors associated with the treatment of mentally retarded offenders by the criminal justice system. And the last section overviews suggestions by the literature for improved handling of mentally retarded offenders in the legal process. Following the literature review, and in response to it, is a set of questions posed by the study.

The Current Status of Retarded Offenders

Mental retardation is the most predominant of the several developmental disabilities, and the disability most likely to characterize "naive offenders." Sources surveyed here focus on mentally retarded offenders. The primary purpose of this background search is to draw from the literature a profile of the mentally retarded offender and to describe those factors that shape his/her status within the U.S. criminal justice system. For the sake of clarity, any

discussion of the retarded offender must be prefaced with a definition of the phrase "mental retardation" itself. Mental retardation is, according to the American Association on Mental Deficiency, a dual-faceted condition, characterized on the one hand by "subaverage general intellectual functioning which originates during the developmental period, "and on the other by "impairment in adaptive behavior."[5] Put another way, the retarded are those who have measured IQ scores of 70 or below and who also demonstrate an incapacity to function socially.[6] By these standards, three percent of the general population is retarded.[7]

That there is much concern about retarded persons in general throughout the country has been evidenced by the implementation of such programs in their behalf as special education in the schools and community based sheltered workshops. Where such services for the retarded offender are concerned, however, the literature indicates neglect. Various authors cite a number of facts and statistics to profile the retarded offender in the criminal justice system. A 1971 survey of the retarded in correctional institutions by Brown and Courtless put the numbers of retarded offenders at 9.5 percent of the total prison population in the United States.[8] Given the fact that only three percent of the population at-large is retarded, the number of incarcerated retarded persons seems disproportionate. Marsh, et al., point out that when the IQ range for retardation is raised

from 70 to 85, "the upper limit for qualifications for special education in many states," the percentage jumps to 40.[9] However the statistics are approached, the consensus of the literature is that mentally retarded persons are over-represented in prison populations. Moreover, in addition to being incarcerated in larger proportion than nonretarded persons, the typical outcomes of many retarded offenders' cases at various points in the criminal process serves as further evidence of their disadvantaged position. At the pretrial stage, they confess more readily to crimes and plea bargain less than other defendants. At the trial stage, they are nearly always convicted, and when incarcerated, they serve longer sentences than nonretarded offenders for similar crimes, usually without parole.[10]

Causal Factors

Assuming the accuracy of the picture presented by the literature, compared to that of other offenders, the status of the retarded in the criminal justice system is one of inequity. Analysts cite a number of reasons for the predicament of such offenders, ranging from inadequate prison programs to lack of adequate skills on the part of criminal justice professionals to identify mental retardation. Examination of those causal factors most frequently listed in the literature helps to give the amorphous issue of the mentally retarded offender a clearer shape.

One reason for the lack of appropriate services for mentally retarded offenders can be found in the way the two bureaucracies most pertinent to the retarded offender's situation, mental retardation and criminal justice, perceive their roles in relation to the problem. In most cases, neither wants to assume responsibility for the retarded offender. Assessing the response of the two systems to the retarded offender, Unkovic and Klingman write:

> Once identification is made, responsibility for assisting this offender presents a severe problem. The justice system considers mental retardation the deciding factor as to whether or not an individual should enter the system; the system assumes the mentally retarded person is not responsible for his actions and thus should not be a part of the criminal justice system. On the other hand, the mental retardation system sees crime as the determining factor and thus shuffles responsibility to the criminal justice system.[11]

The result of this evasion by both mental retardation and criminal justice bureaucracies is that many retarded offenders are not helped by either. They simply fall between the cracks of the two systems.

A second area where services for the retarded offender fall short is in prison programming. The literature indicates "problems within correctional facilities in meeting the needs of the retarded."[12] Because of their severe limitations, i.e., inability to dress themselves, to tell time, to remember their own addresses and phone numbers, retarded offenders are often unable to succeed at prison rehabilitation programs.[13] In analyzing the retarded person's

situation in prison, Santamour and West note that most correctional programs are based on vocational and educational training and are inappropriate to the "special educational and training needs of the retarded offender."[14] The fact is that retarded offenders require habilitation rather than rehabilitation, and this is beyond the scope of most prison plans. And, with a Brown and Courtless survey of prisons in 1968 showing over half the prisons in the United states with no special programs for the retarded, the chances of such habilitation seem slim.[15] "The conclusion that can be easily drawn from the majority of the studies," McGovern points out, "is that most correctional facilities are not meeting the treatment needs of the retarded offenders."[16]

Further complicating the problem in prison is the abuse retarded offenders are often subjected to there. Santamour and West write that: "The retarded offender very often experiences abuse in prison from nonretarded prisoners who take advantage of less intelligent inmates," using them as scapegoats or sexual objects.[17] Because of inadequate funds and staff, prison administrators have difficulty protecting retarded offenders from such abuse; they "are caught in the dilemma of trying to provide for the total institutional needs and also curb abuses for this group of retarded offenders."[18]

Like probation, which is usually granted to individuals with higher intelligence, parole for retarded offenders is

generally denied for several reasons.[19] In the first place, the retarded offender is usually unable to complete those prison rehabilitation programs that are sometimes prerequisite for parole. In the second place, "retarded offenders quite often are unable to present a well-defined employment and residential plan at parole hearings," failing again to meet parole requirements.[20] And, in the last place, the incapacity of retrarded inmates to understand what is expected of them by prison authorities leads to rule infractions, resulting in loss of good time, and removing these persons even further from parole consideration.[21] Given the circumstances of incarceration, prison confinement for retarded offenders is custodial in nature not habilitative.

The failure of either mental retardation or criminal justice bureaucracies to assume responsibility for retarded offenders, coupled with inadequate correctional programming, partially accounts for their disadvantaged position. But the problem is compounded even further by trial competency laws which impact placement of mentally retarded offenders by the courts. Though mental retardation and mental illness are two separate and unrelated conditions, retarded defendants are often legally lumped with those in the insanity category by laws that "often make no distinction between mental illness and mental retardation."[22] The assumption that mental retardation and mental illness are the same, in turn leads to the oversimplistic conclusion of "bivariate relationships

between retardation and crime," i.e., that retarded offenders are more likely to commit violent or sexual crimes.[23] The fact that "mental retardation is not a disease subject to recovery through rehabilitative treatment" is ignored by the psychopathy laws in most states.[24] This homogenization of mentally ill and retarded defendants frequently means that the courts use the same solution to handle retarded offenders as they do the mentally ill offender: They place them in mental hospitals. Since mental retardation is not "curable," the reality for the retarded defendant so committed is "a life sentence without parole."[25] Subsequently, competency laws have been detrimental rather than helpful to retarded persons.

Regarding institutionalization of the retarded defendant-offender, the literature finds him/her usually inappropriately incarcerated in one of two places, in prison or in institutions for the mentally ill.[26] Thus, misplacement of the retarded offender by the legal system is yet another contributor to his predicament. But a variable equally as important as the above factors is the failure of criminal justice personnel, from police through judges, to identify defendants with mental retardation early in the legal process. Addressing this failure, Reichard, et al., write:

> The process of arrest and temporary confinement of a retarded person pending legal action involves arresting officers, attorneys, and judges. Based upon the current literature, it is apparent that most representatives of these agencies lack an understanding of the socioeducational characteristics of mentally retarded defendants.[27]

Agreeing, Santamour and West note that retarded persons are generally not understood by law enforcement and court personnel, and that they are therefore not identified as retarded by those same personnel.[28] When identified, they are not appropriately assessed at the various procedural stages in the criminal process, and the result is that their mental retardation is ignored in the legal actions taken. Early identification of the retarded is absolutely necessary, according to Santamour and West, if they are to be successfully diverted from the courts or given a fair treatment in subsequent court proceedings.[29] From the standpoint of the literature, detection is fundamental to the entire program.

In discussing the issue of early identification, Santamour and West further note that "individuals who are profoundly and severely retarded (IQ under 50) would be easily identifiable as retarded at the time of arrest," and consequently are not the real problem.[30] It is, rather, those individuals indistinct in both appearance and behavior, possessing higher IQs within the retarded range, who pose detection difficulties. Perceived as "normal" by police, lawyers, and judges, their retardation simply goes unnoticed.

Where identification of the retarded is concerned, it is important to consider the "heterogeneity of the group."[31] It is this heterogeneity that criminal justice professionals often miss.

Suggestions for Improvement

The issue of the mentally retarded offender is multi-dimensional and highly complex. To address the causes behind the criminal justice system's failure to treat retarded offenders appropriately, the literature offers an array of solutions. Among them are proposals for segregated incarceration, specialized probation plans, in-house special education for those incarcerated, prison work-release plans, revision of psychopathy laws, and exceptional offender courts.[32]

Out of the possible remedies, one in particular receives broad support from the literature surveyed: training for criminal justice professionals in the detection and understanding of mental retardation. Santamour and West believe there to be, among retardation professionals, an "overwhelming consensus" for the training of law enforcement and court personnel.[33] The overriding advantage of such training, according to Forget, is that it could address the problem in a multifaceted manner, at all major stages of the criminal process, from arrest to sentencing.[34] Describing the potential impact of training, Foss and Beerman write:

> Educating those professionals ranging from the policeman who makes the first decision to arrest, to the judge, who has the power to decide whether prison or some alternative will follow conviction, is a valid and necessary step in the correction of whatever inequities now exist for retarded persons accused of crimes.[35]

The consensus of the literature, then, seems to be that educating criminal justice personnel to recognize and understand mental retardation is a highly viable intervention strategy to correct mishandling of retarded persons by the criminal justice system.

The above preliminary analysis is an attempt to assess the common patterns that characterize the management of the mentally retarded offender in this country. To what extent mentally retarded offenders are mishandled in Montana remains to be seen and will have to be ascertained by research that focuses on the state itself. Assuming at this point that Montana is not an exception to the rule, that there are retarded offenders at various points in the criminal justice system (Brown and Courtless estimate that 2.6 percent of those incarcerated in the Mountain States are retarded), and that they are inappropriately served, then one possible approach to the problem here would be to train criminal justice personnel in the identification and understanding of mental retardation.[36] If Karl Menninger II is right, and what is needed "is not special doctrines for people with mental retardation, but special awareness on the part of lawyers, police, court service workers, and judges about the

nature of mental retardation," then training is an approach with promise.[37] Upon consideration of the literature, it seems the logical place to start.

General Questions

The literature depicts the issue of mentally retarded offenders as highly complex, entailing numerous factors. Among those factors, and a strong theme in the literature, is the attitude of criminal justice personnel toward these offenders. Accordingly, in exploring the attitudes of criminal justice personnel toward retarded offenders, this study poses several questions, listed below and followed by a rationale for their use.

1. What are the attitudes of criminal justice personnel as a general group toward mentally retarded offenders?

2. Do criminal justice personnel understand the basic facts of mental retardation as a disability?

3. To what extent do criminal justice personnel feel that mentally retarded offenders are appropriately handled by the criminal justice system?

4. Do criminal justice personnel feel a need for training in the field of mental retardation?

5. Will there be any significant difference in the attitudes of criminal justice personnel in relation to previous training they may have in the field of mental retardation?

6. Will there be any significant difference in the attitudes of criminal justice personnel in relation to their occupations?

7. Will there be any significant difference in the attitudes of criminal justice personnel in relation to their levels of education?

8. Will there be any significant difference in the attitudes of criminal justice personnel in relation to their years of professional experience?

General Questions One through Four are descriptive in nature. General Question One solicits a general attitude profile of criminal justice personnel as a whole, while general questions two through four explore these factors emphasized by the literature: 1) the level of understanding criminal justice personnel have of mental retardation, 2) whether they feel that the mentally retarded are appropriately handled by the criminal justice system, and 3) the extent to which they perceive a need for training in the field of mental retardation.

General Questions Five through Eight are relational in nature, concerned with any relationships that might exist between criminal justice personnel attitudes towards retarded offenders and the following variables: previous training in the mental retardation field, occupation, level of education, and years of experience. The importance of mental retardation training to criminal justice personnel attitudes is suggested by the literature, thus its appearance in the study. The other variables - occupation, education, and years of experience - were selected to lend sharper profile to state criminal justice personnel, i.e., as an exploratory starting point to define their attitudes toward retarded offenders according to specific criteria. Breaking down the general groups of criminal justice personnel according to

these common criteria and isolating their responses seemed a way to bring personnel attitudes into clearer focus.

Summary

Though providing services for mentally retarded persons in general has been a strong concern nationwide for some time, resulting in both school and community programs, mentally retarded offenders have, as a distinct group, been largely ignored. Generally, their status in the criminal justice system is one of inequity. They are less likely to comprehend laws and procedures and, therefore, often cannot adequately advocate for themselves. Mentally retarded offenders are overrepresented in prison populations when compared to their percentage in the population at large. They are less able to cope with prison life than nonretarded offenders, and are likely to suffer abuse in the prison setting. They are denied parole more frequently than non-retarded offenders.

The inferior status of mentally retarded offenders seems due to the ambivalence of mental retardation and criminal justice agencies over which should assume responsibility for mentally retarded offenders, and to the frequent failure of criminal justice personnel to identify the mentally retarded with whom they come in contact. Several proposals have been made for the better treatment of mentally retarded offenders; among them training of criminal justice personnel to recognize and understand mental retardation. The extent of the

problem in Montana is unknown. In an attempt to partially determine the extent of the problem, this study investigates the attitudes of state criminal justice personnel towards mentally retarded offenders. Eight general questions regarding criminal justice personnel are posed. Ensuing chapters will discuss the methods and results of the study.

Chapter 3

PROCEDURES

The problem this study addresses is twofold: a) to determine the attitudes of Montana criminal justice personnel toward mentally retarded offenders, and b) to determine factors which affect those attitudes. The method used to study the problem was an analysis of survey data gathered in September and October of 1984 from Montana criminal justice personnel. This chapter describes the general procedures used in analysis.

Subjects and Their Selection

The literature suggests that criminal justice personnel may not understand the nature of mental retardation sufficiently enough to deal effectively with retarded offenders they encounter in their work. The literature also expresses concern over the effect this lack of knowledge may have on the attitudes of criminal justice personnel toward retarded offenders. The sample for this study was drawn with these concerns in mind.

The general population sample for this study was comprised of criminal justice system personnel throughout Montana. In order to get a clearer focus on criminal justice attitudes and level of knowledge, however, the general sample

was broken down into subgroups according to occupation, education level, years of experience, and level of previous training in the field of mental retardation. The rationale here was to examine whether those factors might be related to the level of knowledge and attitudes of criminal justice personnel, and to then compare the various subgroups; i.e., to see if certain occupations, levels of experience, and education might correlate with more or less knowledge of, rigid or more flexible attitudes toward mentally retarded offenders. It should be noted that the factor of training was specifically included because of the literature's strong indication that training raises the knowledge level of criminal justice personnel and positively impacts their attitudes toward mentally retarded offenders.

Sampling methods employed for this study include both randomization and stratification to assure representativeness. The survey population was stratified into the following occupational groups to represent major personnel segments of the state criminal justice system: urban police officers, sheriffs, urban public defenders, county attorneys, justices of the peace, district court judges, and probation officers.

Of the sample categories, district court judges, justices of the peace, county attorneys, sheriffs, and probation officers were all solicited from lists in the Directory of Criminal Justice Agencies in Montana - 1984, published by the Montana Board of Crime Control. Samples of

these groups were selected to represent the state at large, in addition to occupational categories. The manner of selection was as follows: names of district court judges were randomly drawn from the Directory, with every fourth name omitted, leaving a survey sample of twenty-four judges from a total state population of thirty-two. Names of sheriffs were drawn in a similar manner, with every third name omitted, leaving a survey sample of thirty-two sheriffs from a total of fifty-two. County attorneys were selected by drawing every other name from a list of fifty-two, leaving a survey sample of twenty-six. All probation officers listed in the Directory were surveyed, for a total of thirty-three. Numbers were roughly equal in the above sample groups.

Where urban police officers were concerned, the sample was drawn from four cities: Billings, Great Falls, Missoula, and Helena. The total of urban police officers from the four cities was 238. Selected from lists provided by the Peace Officers Standards and Training Council (POST), with every third name omitted from each city's roster, the total survey sample of urban police officers was eighty.

In selecting public defenders, sample was limited to the more populated counties, primarily because organized public defender systems exist in urban rather than rural counties. In urban counties with such organized defender systems, attorneys are specifically retained at public expense for defense purposes. Thus, public defenders were drawn from

these five urban counties: Yellowstone, Cascade, Butte-Silver Bow, Missoula, and Lewis and Clark. Defender lists were procured by phone from the Clerk and Recorder's Office in each of the five counties. All defenders from these counties were included in the survey sample, for a total of twenty-five.

With all groups included, the total survey population numbered 259. An attempt was made to select "a sufficient sample of the population such that there is a high probability of reproducing the essential characteristics of the total population."[38] Table 1 shows total statewide populations and the sample sizes of each of the seven criminal justice personnel subgroups.

Table 1

Sample size for criminal justice personnel according to occupational groupings

Occupational Category	Total Numbers Statewide	Percent Of Total Numbers Statewide	Total Sample Numbers	Percent of Total Sample
Urban Police Officers	238	47.3	80	30.9
Sheriffs	52	10.3	35	13.5
Urban Public Defenders	25	5.0	25	9.7
County Attorneys	52	10.3	26	10.0
Justices of the Peace	70	13.9	36	13.9
District Court Judges	33	6.6	24	9.3
Probation Officers	33	6.6	33	12.7
Totals	503	100.0	259	100.0

Method for Collection of Data

The instrument used to pose questions and collect data was a mail questionnaire, sent to subjects in the sample on September 28, 1984. To avoid respondent confusion over the complex term "developmental disabilities," survey questions were limited to the most familiar and frequently-occurring disability, mental retardation. Dillman's Mail and Telephone Surveys: The Total Design Method was used as a model for construction of the questionnaire. All respondents were asked the same questions, with wording tailored where necessary to the specific occupational category of the respondent.* Questionnaires were mailed to subjects' places of employment, along with cover letters and stamped self-addressed envelopes for their return. The cover letters were signed by both Attorney General Mike Greeley and the researcher. The instrument was coded for each subject by name. In this way, nonrespondents could be identified and sent a follow-up letter to prompt responses.

Survey questions were designed to elicit data from criminal justice personnel in each of the following categories: a) their awareness (levels of information) regarding mental retardation, b) their attitudes toward mentally

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*It should be noted that Jeffrey Schilit's study, "Analysis of the Criminal Justice Personnels' Understanding of Mental Retardation and of the Mentally Retarded Offender" provided a partial model for the questionnaire used in this study; i.e., some items on the questionnaire are replicated from Schilit's questionnaire.

retarded offenders, c) their past training in the field of mental retardation, d) the extent to which they perceive a need for training, e) their recommendations for more appropriate handling of retarded offenders by the criminal justice system, and f) their attributes, including professional occupation, educational level, and years of professional experience.

Where criminal justice personnel attitudes in particular are concerned, seven items were selected from the questionnaire to analyze those attitudes. These items are referred to as Attitude Items One through Seven in the text of this study. The seven attitude items appear below as they are worded on the questionnaire, along with a statement of the purpose of each. Attitude Items One through Five were statements to which subjects were asked to respond either "agree," "disagree," or "undecided." The remaining two items, Attitude Items Six and Seven, asked respondents to choose the institution they felt most appropriate for retarded offenders convicted of misdemeanors and those convicted of serious felonies.

Attitude Item One: "Mentally retarded persons know when they commit a crime; that is, they know the difference between right and wrong."

The purpose of this item was to investigate whether criminal justice personnel believe retarded persons are able to distinguish between criminal and noncriminal behavior.

Since, according to the literature, retarded individuals often have difficulty making such a distinction, it seemed important for this study to ask to what extent criminal justice personnel view the retarded as capable of taking responsibility for their criminal acts. Disagreement with the statement is assumed to indicate an understanding of the unique characteristics of mental retardation, i.e., an attitude of fairness toward retarded offenders.

Attitude Item Two: "Mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded."

Another trend reported by the literature was the tendency of personnel in the criminal justice system to mistakenly assume that mentally retarded offenders are more prone than others to commit sexual crimes. The purpose of this item, therefore, was to investigate to what extent, if any, state criminal justice personnel subscribe to this assumption. Disagreement with the statement was assumed to indicate an understanding of the unique characteristics of mental retardation, specifically, an attitude of fairness.

Attitude Item Three: "Mentally retarded persons should be held accountable to the same laws as persons who are not retarded."

The purpose of this item was to investigate whether criminal justice personnel believe that laws should be adjusted or changed to account for the mental disabilities of

retarded offenders. Again, disagreement with this statement was assumed to indicate an attitude of fairness toward mentally retarded offenders.

Attitude Item Four: "When a mentally retarded person is tried by a jury, the jury should be told that the defendant is mentally retarded."

The purpose of this item was to investigate whether criminal justice personnel feel that, in trials of mentally retarded persons, juries should be informed of defendants' retardation. The point was to determine to what extent subjects believe that special consideration should be given to retarded defendants at this point in the criminal justice process. Agreement with the statement was assumed to indicate an attitude of fairness toward mentally retarded offenders.

Attitude Item Five: "Sentences for crimes should be the same for both retarded and nonretarded offenders."

The purpose of this item was to investigate whether criminal justice personnel feel that distinctions should be made in the way that retarded and nonretarded offenders are sentenced for crimes. Since the literature indicates concern over whether sentencing gives consideration to a retarded offender's disability, it seemed important to ask subjects their opinion on this issue. Disagreement with the statement was, again, construed to indicate an attitude of fairness on the respondent's part.

Attitude Items Six and Seven: Attitude Item Six asked subjects which institution among the following they believed to be most appropriate for retarded offenders repeatedly convicted of misdemeanors: a mental hospital, prison or jail, or community-based facilities (such as group homes). Attitude Item Seven asked subjects which of the same institutions they believed most appropriate for retarded offenders convicted of serious felonies. In both items, a response category of "other" was also provided.

Where the topic of placement of retarded offenders is concerned, the literature indicates that they are often institutionally misplaced, frequently in mental hospitals. Further, the literature views prison as often inappropriate for retarded offenders. Thus, the purpose of these two questionnaire items was to investigate the attitudes of criminal justice personnel toward the placement of mentally retarded offenders, and to determine if responses would differ according to the severity of the crime involved. Choice of either "mental hospital" or "prison/jail" was assumed to indicate a lack of understanding of what constitutes appropriate placement of mentally retarded offenders.

A last section of the questionnaire consisted of space for subjects to make comments and suggestions. Subjects were asked to give any suggestions they might have for improving the handling of developmentally disabled offenders by the criminal justice system. They were also encouraged to make

comments about the questionnaire in general or about specific items on it.

Analysis of Data

The response rates by every occupational group except urban police officers exceeded 80 percent. The response rate for urban police officers was 62.5 percent. The overall response rate for the entire criminal justice personnel sample was 78.8 percent, with 204 of the 259 subjects surveyed responding.

Survey data was used to answer eight general questions posed in Chapter Two. Information received from the questionnaires was hand tabulated by the researcher for each of these variables: occupation, level of education, years of professional experience, and previous training in the field of mental retardation. Analysis of survey results was both descriptive and relational, exploring the relationship between the attitudes of respondents toward mental retardation and the four variables, in order to determine whether attitudes significantly fluctuate with occupation, education, experience, or past training. Both descriptive univariate and relational bivariate tables in percentages were used to depict data results.

Summary

A mail questionnaire was used to obtain data concerning the relationship between criminal justice personnel attitudes

toward mentally retarded offenders and four factors: occupation, years of professional experience, level of education, and previous training in the field of mental retardation. Seven items were selected from the questionnaire to be used in analyzing the attitudes of respondents toward retarded offenders. Random samples were selected from each of seven justice system personnel subcategories: urban police officers, sheriffs, urban public defenders, county attorneys, justices of the peace, district court judges, and probation and parole officers. A total of two hundred and fifty-nine criminal justice personnel were sent questionnaires in the fall of 1984. The total response rate was 78.8 percent. Data from the survey respondents were divided into descriptive and relational categories and are reported in percentages on tables.

Chapter 4

REPORTING OF DESCRIPTIVE DATA

This study is concerned with identifying the attitudes of criminal justice personnel toward mentally retarded offenders, and determining factors which might affect those attitudes. Data for the study were gathered through the mailing of 259 questionnaires to randomly selected subjects. Two hundred and four questionnaires were returned, for a 78.8 percent response rate. Data collected through the administration of the questionnaire can be broken down into two categories: descriptive and relational. This chapter will report descriptive data on all respondents sought in answer to General Questions One through Four posed in Chapter Two. Relational data sought in answer to General Questions Five through Eight are reported in Chapter Five. Each general question will be stated below and data related to it presented as percentages in tables followed by interpretations.

General Question One

What are the attitudes of criminal justice personnel as a general group toward mentally retarded offenders?

General Question One solicits an overall profile of criminal justice personnel attitudes, without regard at this

beginning point, to the four variables of training, occupation, level of education, or years of experience. Accordingly, to answer the question, data for all seven attitude items were tabulated for all respondents without stratification by training, occupation, education, or experience.

Responses of the entire sample of respondents to the seven attitude items are analyzed in Tables 2-8 below. Each table indicates both the number of responses and the percentages in each response category and is followed by an interpretation.

Attitude Item One asked respondents whether they agree that retarded persons know when they commit a crime. Table 2 depicts data in response to this item.

Table 2

Responses of criminal justice personnel in general to Attitude Item One

"Mentally retarded persons know when they commit a crime; that is, they know the difference between right and wrong."

Response	N	%
Agree	84	42.2
Undecided	64	32.2
Disagree	51	25.6

Total Respondents = 199
Total Nonrespondents = 5

The most frequently-occurring response to this statement, comprising 42.2 percent of the total responses, was in the "agree" category, while 32.2 percent, of the

respondents were undecided, and 25.6 percent disagreed with the statement. Thus the data shows that a minority of respondents (42.2 percent) believe that mentally retarded persons know the difference between right and wrong. Another minority, 32.2 percent are not sure whether such offenders are able to differentiate between right and wrong. The literature indicates that mentally retarded persons often have difficulty distinguishing between right and wrong. Given the view of the literature, the extent to which respondents agree or are undecided that the retarded know right from wrong may be a matter of concern.

Attitude Item Two asked respondents whether they agree that mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded. Data in response to this item are arrayed in Table 3 below.

Table 3

Responses of criminal justice personnel in general to Attitude Item Two

"Mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded."

Response	N	%
Agree	28	13.8
Undecided	47	23.2
Disagree	128	63.1

Total Respondents = 203
Total Nonrespondents = 1

A clear majority (63.1 percent) of the respondents disagreed with the statement. Only 13.8 agreed that mentally

retarded persons are more likely to commit sexual crimes, and 23.2 percent were undecided. Seemingly, the misconception that retarded persons are more likely to commit crimes of this nature, a major concern of the literature, is not prevalent among the respondents.

Attitude Item Three asked subjects whether or not they feel that retarded persons should be held accountable to the same laws as those who are not retarded. Responses to this item are characterized in Table 4 below.

Table 4

Responses of criminal justice personnel in general to Attitude Item Three

"Mentally retarded persons should be held accountable to the same laws as persons who are not retarded."

Response	N	%
Agree	129	64.5
Undecided	26	13.0
Disagree	45	22.5

Total Respondents = 200
Total Nonrespondents = 4

Of the respondents to this item, a large majority, 64.5 percent, agreed that mentally retarded persons should be held accountable to the same laws as those who are not retarded; 13 percent were undecided, and 22.5 percent disagreed with the statement. Given the data in Table 4, the strongest apparent tendency here is for criminal justice personnel sampled to reject changing laws as an acceptable means of dealing with mentally retarded persons.

Attitude Item Four from the questionnaire asked respondents whether juries should be instructed of a defendant's retardation. Data in response to this item by the subjects as a whole are depicted in Table 5.

Table 5

Responses of criminal justice personnel in general to Attitude Item Four

"When a mentally retarded person is tried by a jury, the jury should be told that the defendant is mentally retarded."

Response	N	%
Agree	118	58.1
Undecided	35	17.2
Disagree	50	24.6

Total Respondents = 203
Total Nonrespondents = 1

A majority of respondents, 58.1 percent, agreed that juries should be instructed when a defendant is mentally retarded, while 17.2 percent were undecided, and 24.6 percent disagreed. Seemingly, a majority of the respondents view jury instruction of a defendant's retardation as desirable trial procedure. In light of the literature's concern that the mentally retarded person's disability may not be taken into account during criminal proceedings, the data in Table 5 seems significant. At the jury stage at least, it appears that respondents are in favor of special consideration for retarded offenders.

Attitude Item Five asked respondents whether sentences for crimes should be the same for both retarded and

nonretarded offenders. Subjects' responses to this item are depicted in Table 6.

Table 6

Responses of criminal justice personnel in general to Attitude Item Five

"Sentences for crimes should be the same for both retarded and nonretarded offenders."

Response	N	%
Agree	34	16.7
Undecided	40	19.7
Disagree	129	63.5

Total Respondents = 203
Total Nonrespondents = 1

In response to this item, a large majority, 63.5 percent of the respondents, disagreed that sentences for retarded offenders should be the same as those for nonretarded offenders, while 19.7 percent were undecided, and only 16.7 percent agreed that sentences for both groups should be the same. Of particular interest here is the comparison of subjects' responses to this item with their responses to Attitude Item Three (see Table 4). While respondents do not agree that laws should be changed to accommodate mentally retarded offenders, they do seem to believe that sentences for crimes should take a defendant's retardation into consideration. It appears, therefore, that Montana criminal justice personnel as a general group view restructuring sentencing, rather than laws, as a more appropriate way to introduce fairness into the judicial process for mentally

retarded offenders. Given the literature's suggestion that too often no distinctions are made between the retarded and nonretarded in the criminal justice process, it is notable that Montana criminal justice respondents, for the most part, believe that sentences for retarded and nonretarded offenders should be differentiated.

Attitude Item Six asked respondents which of the listed institutions they felt would be most appropriate for retarded offenders repeatedly convicted of misdemeanors: mental hospitals, prisons, or community facilities. Table 7 below arrays the data in response to this attitude item.

Table 7

Responses of criminal justice personnel in general to Attitude Item Six*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders repeatedly convicted of misdemeanors?"

Response	N	%
Mental Hospital	80	40.0
Prison/Jail	13	6.5
Community Facilities	112	56.0
Other	14	7.0

Total Respondents = 200
Total Nonrespondents = 4

*It should be noted that several respondents selected more than one response to this question. Therefore, percentages from response categories, when added will exceed 100.

Only a small minority, 7 percent, offered responses other than those listed in the question. The literature

Table 8

Responses of criminal justice personnel in general to Attitude Item Seven*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders convicted of serious felonies?"

Response	N	%
Mental Hospital	127	63.8
Prison/Jail	21	10.6
Community Facilities	55	27.6
Other	22	11.1

Total Respondents = 199
Total Nonrespondents = 5

*Multiple responses by some respondents result in response category percentages exceeding 100 when added together.

While a majority of respondents chose community facilities for retarded misdemeanor offenders, when asked about appropriate placement for felony retarded offenders a strong majority, 63.8 percent, chose mental hospitals. Only 27.6 percent would place felony offenders in community facilities. Here, the severity of the crime may have influenced whether preferred placement was community facilities or mental institutions. Or it may be, as the literature's suggests that there is confusion within the criminal justice system between mental retardation and mental illness.

General Question One was concerned with attitudes of criminal justice personnel as a whole toward mentally retarded offenders. To answer the question, data was

suggests that criminal justice personnel often fail to distinguish mentally retarded persons from mentally ill persons and that courts too frequently place retarded offenders in mental hospitals. It is notable that survey respondents as a whole do not reflect this trend in the literature where misdemeanor offenders are concerned since a majority of them, 56 percent, would place such offenders in community facilities rather than mental hospitals. It should be of some concern, however, that a substantial minority, 40 percent, would place misdemeanor retarded offenders in mental hospitals.

Attitude Item Seven asked respondents which of the same institutions they believed to be most appropriate for retarded offenders convicted of serious offenses. Table 8 shows the response of criminal personnel in general to this attitude item.

gathered from subjects in response to seven attitude items from the questionnaire. The data was arrayed in Tables 2-8 above.

While General Question One was concerned with the attitudes of criminal justice personnel toward retarded offenders, General Question Two, analyzed below, probed whether respondents understand the basic facts of mental retardation.

General Question Two

Do criminal justice personnel understand the basic facts of mental retardation as a disability?

Five items on the questionnaire administered to subjects were intended to produce data in answer to this question. The first of those five items investigated whether criminal justice personnel feel that it would be important to know if a defendant were mentally retarded. The remaining four items investigated whether criminal justice personnel understand the basic facts of mental retardation. Those four items asked subjects what approximate percentage of the population, nationwide, they believe to be retarded, what IQ score they believe usually distinguishes retarded from nonretarded persons, whether they believe mental retardation to be hereditary, and whether they believe there to be a difference between mental retardation and mental illness. Tables 9-13 present these data. Each table is followed by an interpretation.

To solicit data in response to General Question Two, respondents were first asked whether it would be important for them to know if a defendant were retarded and whether it would make a difference in the way they would handle such a defendant. Table 9 depicts data from respondents on this question.

Table 9

Respondents' views on the importance of knowing when a defendant is mentally retarded

"In your opinion, would it be important for you to know if a defendant were mentally retarded? That is, would it make a difference in the way you would handle him/her?"

Response Category	N	%
Yes	188	92.2
No	8	3.9
Not Sure	8	3.9

Total Respondents = 204
Total Nonrespondents = 0

Given the emphasis in the literature on the importance of criminal justice personnel awareness of mental retardation, the data here seems particularly significant. Nearly without exception, respondents seem to believe that it would be important for them to know if a defendant were retarded and that it would make a difference in the way they deal with him/her.

In order to determine if respondents understand the basic facts of retardation, they were asked some elementary questions about the nature of mental retardation. The first

such question asked them what percentage of the population, nationwide, they would guess to be retarded. Data in response to this question is arrayed in Table 10.

Table 10

Subjects' estimations of what percentage of the population is retarded

"When thinking about mental retardation, what percentage of the population, nationwide, would you guess to be retarded?"

Response Category	N	%
1%	59	30.1
5%	103	52.6
10%	34	17.4

Total Respondents = 196
Total Nonrespondents = 8

The literature estimates that three percent of the national population is retarded; i.e., have measured IQ scores of 70 or below. In this questionnaire item, subjects were given a range of population percentages at even intervals to choose from. Five percent was the answer closest to the correct population percentage of three percent and was, therefore, considered for purposes of this study to be the choice demonstrating a recognition of the approximate portion of the retarded in the national population. A majority of the respondents, 52.6 percent, chose 5 percent as the approximate percentage; 30.1 percent chose 1 percent, and 17.4 percent chose 10 percent. In view of the literature's concern with the amount of knowledge criminal justice personnel have about the basic facts of mental retardation,

it seems clear that a majority of respondents have an accurate grasp of approximately what percent of the national population is comprised of mentally retarded persons.

A second item on the questionnaire sought to test respondents' understanding of mental retardation by asking them what IQ score they would suppose usually distinguishes mentally retarded persons from those who are not retarded. Responses of subjects to this item are characterized in Table 11.

Table 11

Subjects' choice of IQ score distinguishing retarded from nonretarded persons

"Which IQ score do you suppose usually distinguishes mentally retarded persons from those who are not retarded?"

Response Category	N	%
50	65	33.5
70	108	55.7
90	21	10.8

Total Respondents = 194
Total Nonrespondents = 10

According to the literature, the IQ score commonly assumed to distinguish retarded from nonretarded persons is 70. A majority of respondents, 55.7 percent, chose 70 as the distinguishing score, although the 33.5 percentage rate of those choosing the lower score, 50, should be noted. The data on Table 11 indicated that respondents in general tend

to know the correct IQ score which distinguishes retarded from nonretarded persons.

A third questionnaire item designed to ascertain respondents' level of understanding of mental retardation asked them whether they believe mental retardation to be hereditary. Respondents' answers to this item are illustrated on Table 12.

Table 12

Respondents' views on the extent to which mental retardation is hereditary

"In your estimation, is mental retardation hereditary?"

Response Category	N	%
Usually	23	11.7
Sometimes	166	84.7
Never	7	3.6

Total Respondents = 196
Total Nonrespondents = 8

The literature reports a common misconception that mental retardation is always hereditary, in fact, there are various causes of retardation, and it is only occasionally hereditary. Seemingly, most respondents recognized that fact: 84.7 percent of them believed retardation to be hereditary only sometimes. Thus, almost all the respondents in this survey have an accurate grasp of this basic fact of mental retardation.

A fourth questionnaire item designed to determine respondents' understanding of the basic facts of mental

retardation and mental illness asked them whether there is a difference between mental retardation and mental illness. Table 13 describes data in response to this item.

Table 13

Respondents' views on the difference between mental retardation and mental illness

"In your estimation, is there a difference between mental retardation and mental illness?"

Response Category	N	%
Yes	193	94.6
No	3	1.5
Not Sure	8	3.9

Total Respondents = 204
Total Nonrespondents = 0

Another concern of the literature is the tendency of the general public to assume that mental retardation and mental illness are the same. Where criminal justice personnel respondents to this item are concerned, the results are as follows: Almost all subjects, 94.6 percent, answered that there is a difference between mental retardation and mental illness. It is interesting to compare the data on Table 13 with the data on Tables 7 and 8. Seemingly, though almost all of the respondents understand that there is a difference between mental retardation and mental illness, a substantial number of them (40 percent on Table 7 and 63.8 percent on Table 8) would nonetheless choose mental hospitals as the

appropriate place of incarceration for misdemeanor and felony retarded offenders.

General Question Two was concerned with the extent to which criminal justice personnel comprehend the basic facts of mental retardation. General Question Three, analyzed below, asks to what extent criminal justice personnel feel that mentally retarded offenders are appropriately handled by the criminal justice system.

General Question Three

To what extent do criminal justice personnel feel that mentally retarded offenders are appropriately handled by the criminal justice system?

Concern over accurate diagnosis, fair treatment during incarceration, and rehabilitation for mentally retarded offenders are strong themes in the literature. It was hoped that data in answer to General Question Three, might provide views of criminal justice personnel on the status of mentally retarded offenders in the state where diagnosis, treatment during incarceration, and rehabilitation are concerned. Four questionnaire items were designed to gather data to answer this question. The first item asked subjects to what extent mentally retarded offenders are a problem to them in their work. The remaining three items asked for subjects' opinions regarding whether the criminal justice system has sufficient diagnostic services to evaluate mentally retarded offenders, whether mentally retarded offenders are treated differently

in prison than other inmates, and whether mentally retarded offenders can be successfully rehabilitated by the criminal justice system. Data in response to these questionnaire items are reported on Tables 14-17. Each table is followed by an interpretation.

To answer General Question Three, it seemed important to first determine to what extent respondents' viewed mentally retarded offenders as a problem in their work. Responses of subjects to a questionnaire item asking them whether the retarded are a work-related problem are characterized in Table 14 below.

Table 14

Respondents' views of the extent to which mentally retarded offenders are a problem in their work

"To what extent are mentally retarded offenders a problem to you in your work?"

Response Category	N	%
No Problem	45	22.3
A Slight Problem	104	51.5
A Moderate Problem	41	20.3
A Serious Problem	12	5.9

Total Respondents = 202
Total Nonrespondents = 2

The most frequent response to the question, at 51.5 percent, was that mentally retarded offenders are only a slight problem to respondents in their work. Only 5.9 percent viewed retarded offenders as a serious problem, 20.3 percent viewed them as a moderate problem, and 22.3 percent

viewed them as no problem at all. The literature has noted serious problems in identification of retarded offenders. To what extent respondents might view the problem as a slight one because they do not always recognize retarded offenders with whom they might come in contact cannot be determined by this study and remains an important question.

In order to determine respondents' perceptions of the handling of retarded offenders by the justice system, one item on the questionnaire focused on diagnostic services. Subjects were asked whether the criminal justice system has sufficient diagnostic services to evaluate mentally retarded offenders. Table 15 illustrates respondents' answers to this item.

Table 15

Respondents' views on the sufficiency of criminal justice system diagnostic services

"The criminal justice system has sufficient diagnostic services to evaluate mentally retarded offenders."

Response Category	N	%
Agree	50	24.6
Undecided	42	20.7
Disagree	111	54.7

Total Respondents = 203
Total Nonrespondents = 1

A majority of respondents, 54.7 percent, did not feel that the criminal justice system has sufficient diagnostic services to evaluate mentally retarded offenders. Given the

literature's emphasis on the importance of correctly diagnosing retardation in defendants/offenders, the fact that a majority of respondents do not feel that diagnostic services in the state are sufficient seems significant. In keeping with the literature's view of the problem on a national scale, a majority of respondents seem to view identification of retarded offenders as inadequate within the state justice system.

In addition to their views on the adequacy of diagnostic services, subjects were asked about their views on the treatment retarded prisoners receive. Specifically, respondents were asked whether they believe that retarded and nonretarded offenders are treated the same by the prison system. Respondents answers to this questionnaire item are depicted in Table 16.

Table 16

Respondents' views on the treatment of mentally retarded offenders in prison

"In prison, mentally retarded offenders are generally treated no differently by their fellow inmates than are nonretarded offenders."

Response Category	N	%
Agree	10	5.0
Undecided	46	22.8
Disagree	146	72.3

Total Respondents = 202
Total Nonrespondents = 2

A majority of respondents, 72.3 percent, disagreed with the statement that mentally retarded offenders are treated no differently than other inmates in prison. Again, given the literature's concern with the treatment that retarded offenders receive in prison, the data on Table 16 seems particularly significant. It appears that a large majority of respondents believe that retarded offenders are treated differently than those who are not retarded. The concern of the literature that differential treatment includes abuse might be an important issue here.

A last item on the questionnaire designed to answer General Question Three asked for respondents' views regarding whether or not the criminal justice system can successfully rehabilitate retarded offenders. Subjects' responses to this item are illustrated in Table 17.

Table 17

Respondents' opinions on the capacity of the criminal justice system to rehabilitate retarded offenders

"In your opinion, can convicted mentally retarded offenders be successfully rehabilitated by the criminal justice system?"

Response Category	N	%
Usually	17	8.4
Sometimes	137	67.8
Never	48	23.8

Total Respondents = 202
Total Nonrespondents = 2

The data on Table 17 shows that only 8.4 percent of the respondents believed that retarded offenders can be successfully rehabilitated by the criminal justice system. The large majority of respondents, 67.8 percent, believed that retarded offenders could sometimes be rehabilitated, and 23.8 percent believed that they could never be successfully rehabilitated. The literature comments on the difficulty of rehabilitating retarded offenders through the means normally employed by the criminal justice system; in this light, again, the data on Table 17 seems important. In keeping with the literature's national-level view, very few respondents feel that retarded offenders can be successfully rehabilitated by the state criminal justice system.

General Question Three asked to what extent criminal justice personnel believe the criminal justice system appropriately handles mentally retarded offenders. General Question Four focuses on a major theme of the literature and asks respondents whether they perceive a need for training in the field of mental retardation.

General Question Four

Do criminal justice personnel feel a need for training in the field of mental retardation?

The literature strongly suggests a need for training on the part of criminal justice personnel in the recognition and handling of mentally retarded offenders. Such training is viewed by many writers in the field of developmentally

disabilities as indispensible for the appropriate treatment of mentally retarded offenders. Given the emphasis on training by the literature, it seemed important for this study to investigate whether or not personnel in the sample viewed training as important. Therefore, two items on the administered questionnaire were designed to solicit responses on the importance of training to subjects. The first item sought to determine if criminal justice personnel feel that they currently have sufficient knowledge of mental retardation to effectively deal with retarded offenders. The second item asked respondents if they feel that criminal justice professionals should be specially trained to deal with mentally retarded offenders. Tables 18 and 19 characterize data in response to these two questionnaire items. An interpretation follows each table.

In soliciting data to answer General Question Four, it seemed important to first ascertain to what extent criminal justice personnel feel they have sufficient knowledge of mental retardation to effectively deal with retarded persons in their work. The responses of subjects to a questionnaire item asking them the extent of their knowledge of mental retardation are depicted in Table 18.

Table 18

Extent to which respondents feel
they have adequate knowledge of mental retardation

"Do you feel you have sufficient knowledge of mental retardation to deal effectively with the mentally retarded in your work?"

Response Category	N	%
Yes	77	37.9
No	75	36.9
Not Sure	51	25.1

Total Respondents = 203
Total Nonrespondents = 1

Of the respondents, only 37.9 percent answered that they currently have sufficient knowledge of mental retardation to deal effectively with the mentally retarded in their work. A combined percentage of 62 percent were either unsure or felt that they did not have sufficient knowledge. Thus, only slightly more than a third of the respondents actually felt that they had the knowledge necessary to effectively deal with mentally retarded persons in their work.

In addition to asking the extent to which they feel they have sufficient knowledge of mental retardation, as a means to gather further data in answer to General Question Four, respondents were asked whether they felt criminal justice personnel should be specially trained to deal with retarded offenders. Their responses are characterized in Table 19 below.

Table 19

Opinion of respondents on the importance of training for criminal justice personnel

"Do you feel that criminal justice system professionals should be specially trained to deal with mentally retarded offenders?"

Response Category	N	%
Yes	182	89.2
No	22	10.8

Total Respondents = 204
Total Nonrespondents = 0

An overwhelming percentage of respondents, 89.2 percent, answered that criminal justice personnel should be trained to deal with mentally retarded offenders. Only 10.8 percent felt that criminal justice personnel should not be trained. As with the questionnaire item covered by the data on Table 9, there is a possibility here that respondents might have answered the question defensively, answering "yes" under the assumption that answering "no" would make them appear "unfair" or "biased" where mentally retarded offenders are concerned. Again, it can only be assumed that the question was answered sincerely by respondents. If so, then respondents felt strongly that training for criminal justice personnel in handling retarded offenders is important. Given the emphasis in the literature on training for criminal justice personnel, the data on Table 19 seems particularly important. The data suggests strong support for training,

paralleling the literature's advocacy of training as a solution to the problem of retarded offenders.

Summary

Descriptive data on survey respondents as a whole, arrayed in answer to General Questions One through Four, reveals several patterns related to the knowledge Montana criminal justice personnel have of mental retardation and their attitudes toward mentally retarded offenders. Those patterns are summarized below.

Where General Question One is concerned, regarding attitudes of personnel as a whole, the data reveals several trends. Some of these trends contradict nationwide attitude patterns stated in the literature. For example, in accordance with the literature, one might expect Montana personnel to believe that the retarded are more likely than the nonretarded to commit crimes and that they should receive no special consideration in sentencing. Contrary to such expectations, however, a clear majority of respondents did not agree that the retarded are more likely to commit crimes or that they should be sentenced on the same basis as nonretarded offenders. Furthermore, respondents seem to indicate additional consideration for retarded offenders in their majority agreement that juries should be instructed of a defendant's retardation and that misdemeanor retarded offenders should be placed in community facilities.

Other trends in response data to General Questions One through Four might support some concerns voiced in the literature. First, a majority of respondents, for instance, believe that the retarded should be held accountable to the same laws as those who are not retarded. It is difficult to judge the basis for this response, however: it may be the result of intolerance for retarded offenders, reflecting the literature's concern, or it may simply reflect a belief that there are better ways than changing laws to address the problem of retarded offenders. Second, though a majority of respondents prefer that misdemeanor offenders be placed in community facilities, they would place retarded felons in mental hospitals. From the literature's standpoint, the immediate concern here would be that personnel are confusing mental retardation with mental illness when they elect to place retarded felons in mental hospitals. However, when asked by another questionnaire item if there is a difference between mental retardation and mental illness, an overwhelming majority of respondents answered that there is. It seems more likely, therefore, that the choice for placement of felons in mental institutions is more related to concern over the seriousness of felony crimes than to confusion of mental retardation with mental illness. Respondents may simply feel that community facilities are too lenient for retarded felons and jails too harsh, leaving mental hospitals as the only middle ground between the two. Third, on the

issue of whether retarded persons know the difference between right and wrong, response was split, though more respondents agree than disagree that retarded persons do know when they commit a crime. Given the literature's claim that the retarded often cannot distinguish between right and wrong, this trend is also notable.

Another concern of the literature was whether criminal justice personnel know the basic facts of mental retardation. Here, Montana respondents fared well, seeming to clearly grasp the elementary features of retardation. A majority correctly estimated the percentage of retarded within the national population, chose the IQ score commonly assumed to distinguish retarded from nonretarded persons, recognized that retardation is hereditary only sometimes, and knew that there is a difference between mental retardation and mental illness. Furthermore, in an apparent attitude of concern for retarded offenders, an overwhelming majority of respondents indicated that it would be important for them to know when a defendant is retarded.

Data in response to General Question Three which asked respondents whether retarded offenders are appropriately handled by the criminal justice system also reveals trends contrary to the literature. For one thing, a majority of respondents did not feel that the criminal justice system has sufficient diagnostic services to evaluate retarded offenders. For another, a majority also disagreed that retarded

offenders are treated no differently in prison by their fellow inmates than are nonretarded offenders. And when asked if the criminal justice system has the capacity to adequately rehabilitate retarded offenders, a majority agreed with the literature that rehabilitation is only sometimes successful.

Thus, Montana personnel seem to recognize that the justice system may deal inadequately with retarded offenders. At the same time, however, it should be noted that, while they might view the system as inadequate to meet the needs of retarded offenders, a majority of respondents stated that such offenders pose only a slight problem to them in their work. Thus, though they tend to believe that the justice system as a whole needs to upgrade its treatment of the retarded, respondents may not view these offenders as seriously related to their particular work within the system.

Data in response to the last question, General Question Four, related to the issue of training, depicts two trends. The first trend appears to validate a concern of the literature that personnel do not have adequate training in the field of mental retardation. A majority of respondents were either unsure or felt that they had insufficient knowledge of mental retardation. Thus, while respondents seem to understand basic facts of retardation, data here indicate a feeling that they may not have enough knowledge to deal adequately with the retarded offenders they encounter in

their work. The second data trend related to General Question Four shows a strong concurrence by respondents with the literature's claim that criminal justice professionals should be specially trained to deal with mentally retarded offenders. Given the two trends here, the literature's advocacy for criminal justice personnel training seems relevant to Montana.

Overall, state respondents as a whole tend to be an exception to many of the literature's nationwide trends. They appear to be generally both more knowledgeable of mental retardation and more concerned about retarded offenders than might be expected based on the literature's profile. Data showing how Montana criminal justice personnel fare in knowledge and attitude, when broken down into subgroups by occupation, education, years of experience, and level of training will be presented in the next chapter.

Chapter 5

REPORTING OF RELATIONAL DATA

This chapter presents relational data in answer to General Questions Five through Eight. These questions were posed in Chapter Two to investigate the relationship between attitudes of criminal justice personnel toward retarded offenders and their previous training in the field of mental retardation, their occupation, levels of education, and years of experience. Data here will be arrayed in the same manner as in the previous chapter: each general question will be stated and data related to it presented as percentages in tables, followed by an interpretation.

The first question analyzed in this chapter, General Question Five, asked if there are significant differences in the attitudes of criminal justice personnel in relation to past training they may have had in the field of mental retardation. Data from survey respondents relevant to the question are presented below.

General Question Five

Will there by any significant difference in the attitudes of criminal justice personnel in relation to previous training they may have in the field of mental retardation?

It was the intent of this research to compare criminal justice respondents trained in the field of mental retardation with those who were not trained in order to investigate any differences between the two groups in their attitudes toward mentally retarded offenders, based on their responses to Attitude Items One through Seven. To gather data in answer to General Question Five, the questionnaire asked subjects: "Have you received any training which you consider relevant to dealing with mentally retarded persons in your work?" Subjects who answered "yes" to the item were asked to explain the kind of training they had received. Table 20 stratifies respondents by occupation and depicts their responses to the questionnaire item on past training.

Table 20

Subjects' responses to query about previous training in mental retardation

"Have you received any training which you consider relevant to dealing with mentally retarded persons in your work?"

Occupation	%Yes	%No	N
Urban Police Officers	32.0	68.0	50
Sheriffs	32.1	67.9	28
Urban Public Defenders	35.0	65.0	20
County Attorneys	13.6	86.4	22
Justices of the Peace	33.3	66.7	33
District Court Judges	30.0	70.0	20
Probation Officers	26.7	73.3	30

Total Respondents = 203
Total Nonrespondents = 1

In all occupational categories, a significant majority of respondents stated that they had had no training relevant to dealing with mentally retarded persons. Percentages of those stating that they had not had training were similar among all groups (ranging from 63 percent to 73.3 percent), except for county attorneys, where 86.4 percent reported no training.

It should be noted that there is a weakness in the data on Table 20. The problem apparent with criminal justice personnel responses to the item on previous training is related to what the term "training" means. When explanations by those who stated that they had training are examined, it becomes clear that the term "training" was loosely construed by respondents to mean anything from "experience" to "psychology courses." There were sixty subjects who responded "yes" when asked if they had prior training in the field of mental retardation. Forty-one of those responses, listed below, demonstrate the wide variety among respondents in their interpretations of what "training" means.

"My own research."

"On-going through performance of duties as county attorney."

"Teacher's aide for the mentally retarded in undergraduate school."

"Discrimination laws concerning mental handicaps."

"What I've picked up through experience."

"As a social worker, I received some limited training, before becoming an attorney."

"Past experience dealing with retarded persons - approximately six months training informal."

"General experience."

"Minor in psychology earned about 40 years ago - general reading such as Psychology Today."

"College psychology courses. Handling sanity matters, alcoholic commitments."

"The 24 years that I have been in law enforcement I have had lots of experience with retarded people."

"In 23 years of work in law enforcement I have dealt with many mentally retarded persons and every case teaches you something."

"We have had a little training at the Law Enforcement Academy in Bozeman (not much though.)"

"Court seminars."

"From 1972 through 1977 I was employed as a nurse's aide at a privately owned convalescent center. The patients were mentally retarded patients who had been transferred from the Boulder, Mt. facility, patients that were transferred from Warm Springs State Hospital as well as the elderly."

"I worked as an aide in a Special Education Program for several years."

"Advanced criminology FBI Academy 1977."

"Training sponsored by Mental Health."

"Common sense."

"Only minimal training at M.L.E.A. several years ago."

"I worked at Warmsprings for three years before becoming a police officer. In 18 years as a police officer, I have never received any training regarding this problem."

"I received some training in recruit school & polygraph school."

"Very little. Some classes have dealt with how to recognize abnormal behavior (Classes were at MLEA)."

"I have a masters degree in education with a minor in psychology and a cognate area in counseling."

"Limited; crises intervention."

"B.A. psychology/intern special ed. class."

"Class while in college and experience at Warm Springs State Hospital."

"On hands experience over the years and dealings with sheltered workshops."

"Code books & couple hours training on how to handle mentally retarded persons."

"Only through college courses - I have a degree in psychology."

"No in-service training. Training only in college psych. courses."

"B.A. sociology - 9 months as social worker at Montana State Hospital."

"B.S. degree psychology."

"Experience of private practice and associated experiences as well as awareness of the requirements of criminal procedure."

"I have a (relative) who is mentally retarded."

"Abnormal psych courses while in the service."

"Some instruction from group home counselors."

"Basically experience working in areas having retarded centers based in the area. After working for several years, experience is gained in handling these people."

"College work and OJT through advocacy programs."

"As an educator prior to my judicial responsibilities."

The foregoing descriptions demonstrate how loosely construed the term "training" was by respondents. Very few respondents reported training in any formal or specific sense, such as workshops, in-service programs, or courses which focused on mental retardation. Clearly, if the questionnaire item had defined the word "training" in more specific terms, the response data might have had greater validity. Under the circumstances, however, since responses to the item seem obscure, it did not seem legitimate to retain "training" as a variable for measuring criminal justice personnel attitudes toward mentally retarded offenders. Previous training in the field of mental retardation was subsequently eliminated as a variable to be tested against the seven attitude items in the questionnaire.

Despite obscurity, however, the questionnaire item on prior training did produce some useful information: data from it show that a majority of those sampled do not claim to have any training in the field of mental retardation relevant to their work, and that among those who claimed to have training, very few had training of a formal or specific nature. Given the literature's strong emphasis on the importance of training for criminal justice personnel, this information seems significant. Montana personnel as a whole appear to lack formal training in the field of mental retardation.

General Question Five inquired about the relation between criminal justice personnel attitudes and previous training in the field of mental retardation. General Question Six was concerned with any relationship that might exist between criminal justice personnel attitudes and professional occupation.

General Question Six

Will there be any significant difference in the attitudes of criminal justice personnel toward mentally retarded offenders in relation to occupation?

In order to answer this question, data from responses to the seven attitude items on the questionnaire were stratified into the following occupational categories: urban police officers, sheriffs, urban public defenders, county attorneys, justices of the peace, district court judges, and probation

officers. Table 21 shows the number of respondents in each of the seven occupational categories, as well as accompanying percentages.

Table 21

Respondents' occupational subgroups

Occupation	N	%
Urban Police Officers	50	24.5
Sheriffs	28	13.7
Urban Public Defenders	20	9.8
County Attorneys	22	10.8
Justices of the Peace	34	16.7
District Court Judges	20	9.8
Probation Officers	30	14.7

Total Respondents = 204
Total Nonrespondents = 0

Since representativeness rather than balance was the priority in selection of samples, and the state urban police population was substantially larger than state populations of the other groups, police officers were most numerous of the respondents at 24.5 percent. Next were justices of the peace, followed by probation officers. Sheriffs comprised 13.7 percent of the respondents, county attorneys 10.8 percent, and urban public defenders and district court judges each comprised 9.9 percent of the sample.

Tables 22-28 show the responses in percentages of criminal justice occupational subgroups to the seven questionnaire attitude items. Each table is followed by an interpretation which analyzes the relationship, if any, between respondents' occupations and their attitudes.

Attitude Item One asked respondents whether they believed retarded offenders know when they commit a crime. Table 22 presents data in response to this item according to occupational subgroup.

Table 22

Responses of criminal justice personnel subgroups to Attitude Item One

"Mentally retarded persons know when they commit a crime; that is, they know the difference between right and wrong."

Occupation	%Agree	%Undecided	%Disagree
Urban Police Officers	56.0	24.0	20.0
Sheriffs	32.1	32.1	35.7
Urban Public Defenders	16.7	38.9	44.4
County Attorneys	38.1	42.9	19.0
Justices of the Peace	48.5	24.2	27.3
District Court Judges	47.4	42.1	10.5
Probation Officers	36.7	36.7	26.7

Total Respondents = 199
Total Nonrespondents = 5

Where data on Table 22 are concerned, two occupational groups stand out in their responses to the statement. Urban police officers, first of all, were the only group in majority agreement that the retarded know the difference between right and wrong. Urban public defenders, on the other hand, are notable because of their very low percentage of agreement with the statement. With both of these groups, it may be that their particular jobs are the major determinants in their responses. In other words, because the urban police officer's basic responsibility is to arrest criminals,

there may be a tendency to assume that all criminals, retarded or not, know the difference between right and wrong. Conversely, the main task of urban public defenders is to defend those accused of crimes, under a presumption of innocence. Urban public defenders, therefore, may naturally assume mental retardation to be a mitigating factor in determining culpability. Aside from urban police officers and urban public defenders, the responses of those in the remaining occupational categories were split among the three answer categories.

The literature states that the retarded frequently cannot distinguish right from wrong. Where this issue is concerned, Montana personnel do not fare badly, given that only one of the occupational groups believed by majority response that the retarded do know right from wrong. Interestingly, county attorneys, who because of their role as prosecutors in criminal cases might be expected to be in majority agreement with the statement, were not.

Attitude Item Two asked respondents whether they agreed that mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded. Table 23 presents the responses of the seven occupational subgroups to this item.

Table 23

Responses of criminal justice occupational subgroups to Attitude Item Two

"Mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded."

Occupation	%Agree	%Undecided	%Disagree
Urban Police Officers	12.0	22.0	66.0
Sheriffs	21.4	39.3	39.3
Urban Public Defenders	5.0	10.0	85.0
County Attorneys	4.5	18.2	77.3
Justices of the Peace	15.2	27.3	57.6
District Court Judges	15.0	30.0	55.0
Probation Officers	20.0	13.3	66.7

Total Respondents = 203
Total Nonrespondents = 1

In all occupational subgroups but one, a majority of the respondents disagreed with the statement. Clearly, a substantial majority of the respondents do not subscribe to the misconception that mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded. The one subgroup deviating from this pattern was sheriffs, with only a minority of them disagreeing with the statement. It should also be noted, however, that their rate of "undecided" responses was greater than that of any other subgroup, at 39.3 percent. So while sheriffs did not disagree by majority with the statement, neither did they agree with it. Overall, the data show that a majority of personnel do not believe the retarded are more likely than others to commit sexual crimes. The literature's concern that criminal justice personnel may wrongly assume the

retarded to be prone to sexual crimes is not borne out for Montana professionals by the responses of the various occupational subgroups presented in Table 23.

Attitude Item Three asked subjects whether or not they felt that retarded persons should be held accountable to the same laws as those who are not retarded. Responses of groups by occupation are depicted in Table 24 below.

Table 24

Responses of criminal justice occupational subgroups to Attitude Item Three

"Mentally retarded persons should be held accountable to the same laws as persons who are not retarded."

Occupation	%Agree	%Undecided	%Disagree
Urban Police Officers	74.0	10.0	16.0
Sheriffs	53.6	28.6	17.9
Urban Public Defenders	42.1	10.5	47.4
County Attorneys	72.7	4.5	22.7
Justices of the Peace	60.6	12.1	27.3
District Court Judges	73.7	5.3	21.1
Probation Officers	65.5	17.2	17.2

Total Respondents = 200
Total Nonrespondents = 4

According to the data, all subgroups except urban public defenders tend to agree that mentally retarded persons should be held accountable to the same laws as persons who are not retarded and, apparently, do not subscribe to changing laws for retarded offenders. An exception to the overall pattern of agreement was urban public defenders with only a minority of them agreeing with the statement. As in their dissent against the claim that the retarded know when they commit a

crime, here again, the reason for public defenders' rate of disagreement may lie in the nature of their job. Since they defend those accused of crimes, and seek mitigating circumstances in any criminal case, they may believe that laws should consider such handicaps as mental retardation.

In Attitude Item Four, respondents were asked whether juries should be told when a defendant is retarded. Data in response to this item, by occupational subgroups, is provided in Table 25.

Table 25

Responses of criminal justice occupational subgroups to Attitude Item Four

"When a mentally retarded person is tried by a jury, the jury should be told that the defendant is mentally retarded."

Occupation	%Agree	%Undecided	%Disagree
Urban Police Officers	62.2	14.0	24.0
Sheriffs	60.7	10.7	28.6
Urban Public Defenders	75.0	15.0	10.0
County Attorneys	36.4	18.2	45.5
Justices of the Peace	60.6	27.3	12.1
District Court Judges	51.0	10.0	39.0
Probation Officers	56.7	23.3	20.0

Total Respondents = 203
Total Nonrespondents = 1

The tendency depicted by the data in Table 25 was for six of the seven subgroups to generally agree that juries should be instructed of a defendant's mental retardation. Agreement rates among urban police officers, sheriffs, urban public defenders, justices of the peace, district court judges, and probation officers ranged from 51 to 75 percent.

County attorneys appeared to be the exception to the pattern of agreement, with only 36.4 percent of them agreeing that juries should be instructed that a defendant is mentally retarded. As with many of the responses by urban public defenders to various attitude items, it may be that, because their job is to prosecute those accused of crimes, only a minority of county attorneys believe that juries should be told when a defendant is retarded. In other words, where defense attorneys tend to naturally advocate for mitigating circumstances in criminal cases, county attorneys do the opposite, and usually resist granting such mitigations for defendants. With the exception of county attorneys, then, the data from Table 25 depict an attitude of apparent fairness toward retarded offenders by occupational subgroups, at least where jury instruction of retardation is concerned.

While Attitude Item Four asked respondents whether juries should be instructed of a defendant's retardation, Attitude Item Five asked them whether sentences for crimes should be the same for both retarded and nonretarded persons. Data in response to this item are illustrated on Table 26.

Table 26

Responses of criminal justice occupational subgroups to Attitude Item Five

"Sentences for crimes should be the same for both retarded and nonretarded offenders."

Occupation	%Agree	%Undecided	%Disagree
Urban Police Officers	26.0	18.0	56.0
Sheriffs	21.4	17.9	60.7
Urban Public Defenders	0.0	5.0	95.0
County Attorneys	27.3	9.1	63.6
Justices of the Peace	12.1	27.3	60.7
District Court Judges	10.0	30.0	60.0
Probation Officers	10.0	26.7	63.3

Total Respondents = 203
Total Nonrespondents = 1

According to the data on Table 26, a majority of all occupational subgroups disagreed that sentences for retarded and nonretarded offenders should be the same. Urban public defenders are conspicuous in their almost unanimous disagreement with the statement. Again, the response of public defenders to this item may be the result of their obligation to defend those accused of crimes and to seek mitigating circumstances throughout the legal process, sentencing included. Generally, then, the data on Table 26, depict all occupational subgroups as willing to adjust criminal sentences for mentally retarded offenders. In their response to this item, Montana criminal justice personnel appear to be more flexible in their attitudes than might be at first

thought given the trends of intolerance described by the literature.

Attitude Item Six asked respondents which institution they felt most appropriate for misdemeanor retarded offenders. Data in response to this item are arrayed according to occupation in Table 27 below.

Table 27

Responses of criminal justice occupational subgroups to Attitude Item Six*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders repeatedly convicted of misdemeanors?"

Occupation	Mental Hospital	Prison/ Jail	Community Facilities	Other
Urban Police Officers	42.0	10.0	42.0	12.0
Sheriffs	60.7	3.6	32.1	10.7
Urban Public Defenders	11.1	0.0	77.8	16.7
County Attorneys	59.1	13.6	36.4	4.5
Justices of the Peace	48.5	0.0	60.6	0.0
District Court Judges	52.6	10.5	63.2	5.3
Probation Officers	3.3	6.7	93.3	0.0

Total Respondents = 200
Total Nonrespondents = 4

*Multiple responses by some respondents result in response category percentages exceeding 100 when added.

A concern of the literature is the proper placement of retarded offenders after conviction. Specifically, the literature reports that retarded offenders are often "misplaced" in mental institutions. Where placement of misdemeanor retarded offenders is concerned, the response rates of two occupational subgroups - sheriffs and county

attorneys - are notable. By majority response, both these groups chose mental institutions as the proper place for retarded misdemeanors offenders. The response rates of these groups may lend some credence to the literature's concern that justice personnel too often misplace retarded offenders in mental institutions. Though the response rate of district court judges for placement in mental hospitals was high, it should be noted that, because of multiple answers, their rate for community facilities was higher.

At the other end of the continuum were public defenders and probation officers, significant in their markedly low answer rates for mental hospitals and their high rates for community facilities. Both of these groups opted for the least restrictive environment for misdemeanor offenders, displaying apparently the greatest level of tolerance for these offenders.

The lack of response by all the subgroups for placement of retarded misdemeanor offenders in prison or jail should also be mentioned. Apparently, only a few respondents from the seven categories believed those facilities to be appropriate for misdemeanor retarded offenders. It is difficult to discern from the data whether those respondents chose mental hospitals because they genuinely confuse mental retardation and mental illness (a concern of the literature), or because they coincidentally view community facilities as

too lenient for repeated misdemeanor offenders and prisons as too harsh.

Attitude Item Seven dealt with the preference of respondents for placement of retarded felons. In Table 28 responses to this item by the occupational subgroups are shown.

Table 28

Responses of criminal justice occupational subgroups to Attitude Item Seven*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders convicted of serious felonies?"

Occupation	Mental Hospital	Prison/ Jail	Community Faciliies	Other
Urban Police Officers	70.0	12.0	14.0	10.0
Sheriffs	82.1	7.1	17.9	7.1
Urban Public Defenders	38.9	0.0	55.6	27.8
County Attorneys	61.9	9.5	23.8	14.3
Justices of the Peace	75.6	3.0	30.0	9.0
District Court Judges	52.6	31.6	26.3	5.3
Probation Officers	46.7	13.3	43.3	10.0

Total Respondents = 199
Total Nonrespondents = 5

*Multiple responses by some respondents result in response category percentages exceeding 100 when added.

Where felony retarded offenders are concerned, the majority response from all occupational subgroups except probation officers and urban public defenders, was for mental hospitals. While probation officers' choice of mental hospitals was not a majority one, it was the most frequent

response given by this group, at slightly under 50 percent. In their majority preference for placement of retarded felons in community facilities, urban public defenders appear to be the conspicuous dissenters from the data trend. Again, the nature of their jobs may have been an influence in their majority choice of community facilities over mental hospitals.

In general, then, the data in Table 28 depict a preference by all groups except defenders for mental hospitals as the appropriate place of incarceration for retarded felons. There is an obvious divergence in the response pattern of respondents to misdemeanor and felony retarded offenders where proper placement is concerned. Table 27 indicates a greater propensity for the placement of retarded misdemeanor offenders in less-restrictive community facilities than does Table 28, where the tendency is to place felons in mental institutions. The differences in data between the two tables may be related to the severity of the crime. Respondents may simply be more tolerant of misdemeanor offenders than felony offenders.

It should be noted that, as in Table 27, the data on Table 28 reveal few responses for placement of retarded felons in prison or jail. Again, it is difficult to discern whether the choice of mental institutions over either prison or community facilities for retarded felons reflects the literature's claim that personnel sometimes confuse mental

retardation with mental illness, or whether it represents a compromise between placement which respondents consider too lax, community facilities, or too stringent, prison. Given the earlier agreement by respondents as a whole that there is a difference between mental retardation and mental illness (see Chapter Four), the latter seems most likely.

The variable involved in General Question Six was occupation of criminal justice personnel. General Question Seven focuses on another variable, educational level, and its possible relationship to criminal justice personnel attitudes toward mentally retarded offenders.

General Question Seven

Will there be any significant difference in the attitudes of criminal justice personnel in relation to their levels of education?

In order to answer this question, data from responses to the seven attitude items on the questionnaire were stratified into the following four categories of educational level: high school, some college, college or higher, and law school. The questionnaire administered asked all subjects to state their educational level except urban public defenders, county attorneys, and district court judges, all of whom were assumed to have law degrees. Tables 29-36 below array data in answer to this question. Table 29 describes the educational levels of criminal justice personnel respondents, and Tables 30-36 characterize their responses to each of the

seven questionnaire attitude items according to their levels of education.

Table 29

Educational levels
of criminal justice personnel

Level of Education	N	%
High School*	40	19.6
Some College**	55	27.0
College or Higher	47	23.0
Law School	62	30.4

Total Respondents = 204
Total Nonrespondents = 0

*Three of the respondents stated that they had less than a high school education. Since that number was so small, it did not seem warranted to place them in a separate educational category. Therefore, the three were incorporated into the "High School" category.

**Respondents in the "College or Higher" category include those who have taken post-bachelor's degree courses or have completed a masters degree.

The largest groups according to educational levels were those respondents with a law school education, at 30.4 percent. Next were those who had attended some college, at 27 percent of the respondents. Those with a college education or higher comprised 23 percent of the respondent population. Those with a high school education were the smallest group, at 19.6 percent of all respondents.

Table 30 below characterizes data in response to the first attitude item, which asked respondents whether retarded

persons know when they commit a crime, based on categories of educational level.

Table 30

Responses of criminal justice personnel by educational level to Attitude Item One

"Mentally retarded persons know when they commit a crime; that is, they know the difference between right and wrong."

Level of Education	%Agree	%Undecided	%Disagree
High School	50.0	17.5	32.5
Some College	38.9	35.2	25.9
College or Higher	40.4	34.0	25.5
Law School	34.5	41.4	24.1

Total Respondents = 199
Total Nonrespondents = 5

The literature expresses concern that criminal justice personnel often erroneously assume that the retarded can readily distinguish right from wrong and are aware when they commit a crime. With regard to this issue, the data on Table 30 show those with high school educations to be more inclined than the other educational groups to agree that mentally retarded persons know the difference between right and wrong. For the other educational groups, response rates in the three answer categories were generally similar, none of the answer categories receiving a majority response. Though the 50 percent agreement rate of those with high school educations might be of some concern, overall, the data on Table 30 does not appear to reflect a graduated tendency for those with higher educations to disagree with the statement.

The second attitude item asked respondents if mentally retarded persons are more likely to commit sexual crimes than nonretarded persons. Table 31 arrays the data in response to this item by educational level.

Table 31

Responses of criminal justice personnel by educational level to Attitude Item Two

"Mentally retarded persons are more likely to commit sexual crimes than persons who are not retarded."

Level of Education	%Agree	%Undecided	%Disagree
High School	15.0	32.5	52.5
Some College	16.7	27.8	55.6
College or Higher	12.8	23.4	63.8
Law School	8.1	19.4	72.6

Total Respondents = 203
Total Nonrespondents = 1

A majority of respondents in all educational categories disagreed with this statement. Here, rates of disagreement increased with educational level. Overall, the data clearly indicate that personnel in all educational categories do not tend to subscribe to the notion that mentally retarded offenders are more likely to commit sexual crimes than those who are not retarded. Thus, the literature's concern that criminal justice personnel may mistakenly assume that the retarded are more likely to commit sexual crimes is not supported for Montana personnel by the data on Table 31.

The third attitude item asked respondents if mentally retarded persons should be held accountable to the same laws

as nonretarded persons. Table 32 arrays the data in response to this item by educational level.

Table 32

Responses of criminal justice personnel by educational level to Attitude Item Three

"Mentally retarded persons should be held accountable to the same laws as persons who are not retarded."

Level of Education	%Agree	%Undecided	%Disagree
High School	52.5	20.0	27.5
Some College	63.0	18.5	18.5
College or Higher	78.3	10.9	10.9
Law School	63.3	6.7	30.0

Total Respondents = 200
Total Nonrespondents = 4

A majority of respondents in all educational categories agreed with the statement, with percentages of agreement ranging from a low of 52.5 percent for those with high school educations to a high of 78.3 percent for those with college educations or higher. The expectation that those with higher educational levels might be more flexible; i.e., willing to change laws to accommodate retarded offenders, is not supported by the data. Those with the highest educational levels, in fact, were in greatest agreement with the statement. Seemingly then, regardless of educational level, respondents are generally not willing to change laws for retarded offenders.

The fourth attitude item from the questionnaire asked respondents whether or not juries should be told when a

defendant is retarded. Answers to this item, according to level of education, are presented in Table 33.

Table 33

Responses of criminal justice personnel by educational level to Attitude Item Four

"When a mentally retarded person is tried by a jury, the jury should be told that the defendant is mentally retarded."

Level of Education	%Agree	%Undecided	%Disagree
High School	75.0	5.0	20.0
Some College	61.1	20.4	18.5
College or Higher	46.8	25.5	27.7
Law School	53.2	14.5	32.2

Total Respondents = 203
Total Nonrespondents = 1

The assumption in Attitude Item Four is that agreement to jury instruction of retardation by respondents would indicate an attitude of fairness or tolerance towards retarded offenders. Further, it might be expected that respondents with higher levels of education would hold more tolerant attitudes than those with lower educations and would therefore agree at higher rates that juries should be instructed of a defendant's retardation. The data, however, do not tend to support this expectation. First of all, the only respondents who fall short of majority agreement, at 46.8 percent, are those with educational levels of college or higher. And second, those with only high school educations or some college, have the highest rates of agreement. Seemingly then, regardless of educational level, most

respondents believe that juries should be instructed of a defendant's retardation.

Table 34 characterizes data from the fifth attitude item, which asked whether sentences for crimes should be the same for retarded as nonretarded offenders, as it appears when broken down by educational levels.

Table 34

Responses of criminal justice personnel by educational level to Attitude Item Five

"Sentences for crimes should be the same for both retarded and nonretarded offenders."

Level of Education	%Agree	%Undecided	%Disagree
High School	25.0	15.0	60.0
Some College	18.5	29.6	51.9
College or Higher	14.9	21.3	63.8
Law School	12.9	14.5	72.6

Total Respondents = 203
Total Nonrespondents = 1

By majority, all educational subgroups disagreed that sentences should be the same for both retarded and non-retarded offenders. There are no notable differences in the response rates of the groups according to educational level. Apparently, criminal justice personnel in general simply tend to believe that retarded offenders should be accorded some special consideration in the sentencing process. Overall, an attitude of tolerance regarding the issue of sentencing is fairly general to respondents, regardless of educational level.

The sixth attitude item asked respondents which institution they felt most appropriate for misdemeanor retarded offenders. Data in answer to this item by educational level are described in Table 35.

Table 35

Responses of criminal justice personnel by educational level to Attitude Item Six

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders repeatedly convicted of misdemeanors?"

Level of Education	Mental Hospital	Prison/ Jail	Community Facilities	Other
High School	60.0	15.0	22.5	10.0
Some College	41.8	0.0	60.0	1.8
College or Higher	17.4	4.3	78.3	8.7
Law School	42.4	8.5	57.6	8.5

Total Respondents = 200
Total Nonrespondents = 4

*Multiple responses by some respondents result in response category percentages exceeding 100 when added.

Where the issue of correct placement of retarded misdemeanor offenders is concerned, two educational groups have distinctive profiles in the data on Table 35. Sixty percent of those with high school educations, the only group to do so by majority response, opted to place retarded misdemeanor offenders in mental institutions. At the same time, those with college or higher educations were notable in their high rate of choice for placement of such offenders in community facilities. By substantial majorities, those with some

college or law school educations chose community facilities also. If opting for community facilities indicates an attitude of tolerance or understanding toward retarded offenders, then the data here may substantiate to some extent the assumption that justice personnel with lower educational levels, i.e., high school, are less tolerant of or knowledgeable about mental retardation. Again, to what extent the choice of mental hospitals was the result of confusing mental retardation with mental illness is difficult to determine from the data.

The last attitude item from the questionnaire asked respondents the institution they most preferred for placement of retarded felons. Their responses, according to educational level, are depicted on Table 36.

Table 36

Responses of criminal justice personnel
by educational level to Attitude Item Seven*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders convicted of serious felonies?"

Level of Education	Mental Hospital	Prison/ Jail	Community Facilities	Other
High School	72.5	12.5	17.5	10.0
Some College	74.1	9.3	16.7	5.6
College or Higher	59.6	6.4	40.4	12.8
Law School	51.7	13.8	34.5	15.5

Total Respondents = 199
Total Nonrespondents = 5

*Multiple responses by some respondents result in response category percentages exceeding 100 when added.

A majority of responses to this item by all educational groups was for placement of retarded felons in mental institutions. Those with high school educations and those with some college chose mental institutions at greater rates than those with college educations or higher or those with law school educations. Thus, the data indicate a general preference for placement of retarded felons in mental hospitals regardless of respondents's educational background. Again the seriousness of the crime may have shaped respondents's answers: they may view community facilities as too lax in both security and punishment, but at the same time see prison or jail as too severe. To what extent they may

confuse mental retardation with mental illness is not clear from the data.

The preceding General Question Five through Seven probed the relationship between the attitudes of criminal justice personnel respondents and their prior training in the field of mental retardation, their occupations, and their levels of education. The last general question, General Question Eight, asked if there is a relationship between attitudes of criminal justice personnel toward retarded offenders and the years of experience respondents have in their jobs.

General Question Eight

Will there be any significant difference in the attitudes of criminal justice personnel in relation to their years of professional experience?

In order to answer this question, data for responses to the seven attitude items on the questionnaire were stratified into the following four categories of years of experience: under five years, five through ten years, eleven through fifteen years, and over fifteen years of experience. Data in answer to the question will be presented in Tables 37 - 44. Table 37 is descriptive, depicting the years of experience of criminal justice personnel respondents, and Tables 38 - 44 are bivariate, depicting their responses to each of the seven questionnaire attitude items according to years of professional experience. Each table is followed by a data interpretation.

Table 37

Years of experience
of criminal justice personnel

Years of Experience	N	%
Under 5	38	18.7
5 - 10	75	36.9
11 - 15	47	23.2
Over 15	43	21.2

Total Respondents = 203
Total Nonrespondents = 1

The largest group of respondents according to years of experience was in the "5 - 10" category and comprised 36.9 percent of the sample. The next largest group was those in the "11 - 15" category, comprising 23.2 percent of the total respondents. Next were those with "over 15" years of experience at 21.2 percent of the total. And last were respondents with "under 5" years of professional experience, comprising 18.7 percent of the total sample.

Table 38 arrays the responses of subjects to Attitude Item One, which asked if mentally retarded persons know when they commit a crime, according to the years of experience categories.

Table 38

Responses of criminal justice personnel
by years of professional experience to Attitude Item One

"Mentally retarded persons know when they commit a crime; that is, they know the difference between right and wrong."

Years of Experience	%Agree	%Undecided	%Disagree
Under 5	33.3	33.3	33.3
5 - 10	36.5	35.1	28.4
11 - 15	51.1	34.0	14.9
Over 15	40.5	31.0	28.6

Total Respondents = 199
Total Nonrespondents = 4

Where Attitude Item One is concerned, it might be expected that those respondents with more years of experience might be more rigid in their attitudes toward retarded offenders, believing them to know right from wrong. The data on Table 38, however, reveals that only those with eleven through fifteen years experience agreed by majority that retarded persons know the difference between right and wrong. Responses from the other experience groups were generally split among the answer categories. Thus, according to the data here, the assumption that those with more years of experience tend to be more rigid in their attitudes appears to be unwarranted, at least in regard to the issue of whether the retarded know right from wrong.

A depiction of data in response to Attitude Item Two, which asked whether respondents believes retarded persons are

more likely than the nonretarded to commit sexual crimes, according to years of experience, is provided in Table 39.

Table 39

Responses of criminal justice personnel by years of professional experience to Attitude Item Two

"Mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded."

Years of Experience	%Agree	%Undecided	%Disagree
Under 5	5.3	21.1	73.7
5 - 10	16.0	14.7	69.3
11 - 15	14.9	34.0	51.1
Over 15	18.0	31.0	51.0

Total Respondents = 202
Total Nonrespondents = 1

A majority of respondents in all years of experience categories disagreed that retarded persons are more likely than others to commit sexual crimes. Disagreement rates were substantially higher for respondents with ten or less years of experience, while those with eleven or more years experience were more undecided. There may be a slight tendency here for those with fewer years of experience to exhibit more understanding of mentally retarded persons. At the same time, however, it should be noted that few respondents with over ten years of experience agreed that the retarded are more likely to commit sexual crimes. Thus, overall,and regardless of years of experience, respondents do not appear to subscribe to the myth that retarded persons are predisposed to sexual crimes.

Attitude Item Three asked subjects whether retarded persons should be held accountable to the same laws as those who are nonretarded. Table 40 illustrates responses to this item according to years of experience.

Table 40

Responses of criminal justice personnel by years of professional experience to Attitude Item Three

"Mentally retarded persons should be held accountable to the same laws as persons who are not retarded."

Years of Experience	%Agree	%Undecided	%Disagree
Under 5	51.4	10.8	37.8
5 - 10	71.6	10.8	17.6
11 - 15	65.2	13.0	21.7
Over 15	61.9	16.7	21.4

Total Respondents = 199
Total Nonrespondents = 4

A majority of respondents in all four years of experience categories agreed with the statement. Though still a majority, agreement rates for those with under five years of experience were significantly lower than those of the other groups. It may be, therefore, that those with fewer years of experience are slightly more open to altering laws in favor of retarded offenders than other years-of-experience groups. Nonetheless, regardless of experience level, all groups agreed that retarded offenders should be held accountable to the same laws as the nonretarded.

Attitude Item Four asked subjects whether juries should be told when a defendant is mentally retarded. Table 41

depicts the answers of respondents according to their years of experience.

Table 41

Responses of criminal justice personnel by years of professional experience to Attitude Item Four

"When a mentally retarded person is tried by a jury, the jury should be told that the defendant is mentally retarded."

Years of Experience	%Agree	%Undecided	%Disagree
Under 5	55.3	36.8	7.9
5 - 10	60.0	13.3	26.7
11 - 15	51.1	17.0	31.9
Over 15	69.0	4.8	26.2

Total Respondents = 202
Total Nonrespondents = 1

By substantial majorities, respondents in all experience categories agreed with the statement that juries should be informed of a defendant's retardation. There does not seem to be a significant correlation between years of experience and responses to Attitude Item Four. Seemingly, regardless of their experience, respondents generally believe that juries should be informed when a defendant is mentally retarded.

When responses to Attitude Item Five, which asked whether sentences for the retarded and nonretarded should be the same, were categorized according to years of experience, the data appeared as in Table 42.

Table 42

Responses of criminal justice personnel
by years of professional experience to Attitude Item Five

"Sentences for crimes should be the same for both retarded and nonretarded offenders."

Years of Experience	%Agree	%Undecided	%Disagree
Under 5	15.8	26.3	57.9
5 - 10	12.0	17.3	70.7
11 - 15	21.3	17.0	61.7
Over 15	23.8	21.4	54.8

Total Respondents = 202
Total Nonrespondents = 1

A majority of respondents in all experience categories disagreed that sentences for retarded offenders should be the same as those for nonretarded offenders. The data indicate a general consensus among respondents, apparently unrelated to years of experience, that sentencing should take an offender's mental retardation into consideration.

Attitude Item Six asked subjects which institution they most preferred for placement for retarded misdemeanor offenders. Response data, according to years of experience, appear in Table 43.

Table 43

Responses of criminal justice personnel
by years of professional experience to Attitude Item Six*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders repeatedly convicted of misdemeanors?"

Years of Experience	Mental Hospital	Prison/ Jail	Community Facilities	Other
Under 5	31.6	7.9	76.3	2.6
5 - 10	33.3	5.6	55.6	12.5
11 - 15	37.0	6.5	54.3	4.3
Over 15	60.5	4.7	39.5	2.3

Total Respondents = 199
Total Nonrespondents = 4

*Multiple responses by some respondents result in response category percentages exceeding 100.

The data on Table 43 shows that all groups but those with over fifteen years of experience preferred by majority response that retarded misdemeanor offenders by placed in community facilities. Those respondents with over fifteen years experience opted to place retarded misdemeanor offenders in mental hospitals by a substantial majority, 60 percent. This may suggest either confusion of mental retardation and mental illness (a strong concern of the literature), or a belief that community facilities would be too lenient for repeat offenders, while prison would be too harsh. Those with over fifteen years of experience aside, then, respondents demonstrate a general attitude of tolerance for retarded offenders, at least in their majority choice of

the least restrictive environment offered in the answer categories.

The last attitude item, Attitude Item Seven, asked subjects which institution they preferred for retarded offenders convicted of serious felonies. Table 44 depicts the results of responses to this item by years of experience.

Table 44

Responses of criminal justice personnel by years of professional experience to Attitude Item Seven*

"Which of the following institutions do you feel would be most appropriate for mentally retarded offenders convicted of serious felonies?"

Years of Experience	Mental Hospital	Prison/ Jail	Community Facilities	Other
Under 5	65.8	10.5	39.5	5.3
5 - 10	56.2	6.8	34.2	13.7
11 - 15	53.3	13.3	24.4	13.3
Over 15	81.0	2.4	11.9	9.5

Total Respondents = 198
Total Nonrespondents = 5

*Multiple responses by some respondents result in response category percentages exceeding 100.

Where the data on Table 44 is concerned, those respondents with over fifteen years of experience are notable. Though a majority of all experience groups chose mental hospitals as the appropriate place for retarded felons, the rate for those with over fifteen years of experience was markedly higher than the rates of the other groups. This group seems somewhat more adamant than the others that

retarded felons be housed in mental institutions. Where majority selection of mental hospitals by all groups is concerned, the severity of the crime may be the determining factor. Notably, all groups except those with over fifteen years of experience elected to place repeat misdemeanor offenders in the least restrictive environment, community facilities. Apparently they are not, however, willing to so place retarded felons. As was the trend with the previous variables of occupation and education, few respondents in the four experience categories would place retarded felons in prison or jail. Again, it may be that, rather than confusing retardation with mental illness, as the literature fears, respondents simply consider community facilities too lenient for retarded felons but prison too harsh. They may have selected mental institutions as a middle ground between the two.

Summary

The data depicted in this chapter concerns the relationship between respondents' attitudes toward mentally retarded offenders and their prior training in the field of mental retardation, their occupations, their levels of education, and their years of professional experience. Data trends for each of these variables are discussed below.

The first variable, training in the field of mental retardation had to be eliminated as a test for attitudes because its meaning, as used in the questionnaire, was

apparently too obscure and too widely interpreted by respondents. Nonetheless, the data does provide some useful insights. First of all, it is apparent that over half of the respondents have had no training of any kind in the mental retardation field. Secondly, among those who claimed to have training, very few listed training of a formal nature, specific to mental retardation. Since the literature places strong emphasis on specific personnel training as an avenue to improved handling of retarded offenders, the evident lack of such training on the part of Montana criminal justice personnel may be important. The implication is that, to any extent that state professionals might appear intolerant in their attitudes, training may be a remedy for that intolerance.

With regard to criminal justice professionals by occupational groups, the anticipation was that some personnel groups would emerge as more intolerant toward retarded offenders than others. On some attitude items, there were signals of concern in the data. Urban police officers, for example, were the only group to agree by majority that the retarded know right from wrong. Sheriffs were the only group who failed to disagree by majority that the retarded are more inclined to commit sexual crimes than others. County attorneys were also alone in their lack of majority agreement that juries should be informed when a defendant is retarded. And three groups, county attorneys, sheriffs, and district

court judges, were the only groups with a majority preference for placement of retarded misdemeanor offenders in mental hospitals (though it should be noted that district court judges gave a yet greater rate of majority preference to community facilities in their multiple responses). Given the above response profiles, it appears that some groups, whose jobs are to arrest and prosecute suspected criminals, may express some intolerance toward retarded offenders in response to specific survey items. To what extent attitudes on those issues are related to their jobs as adversaries of criminals in general rather than a prejudice toward retarded offenders, may be an important consideration.

Conversely, urban public defenders appear to be the group most open and tolerant in attitude toward retarded offenders. As with law enforcement officers and county attorneys, it may be that the attitude of urban public defenders is related more closely to their responsibility to defend those accused of crimes than anything else. Possibly, defenders would be more likely to consider retardation a legitimate mitigating circumstance than would law officers or prosecutors.

On two questionnaire items, six of the seven occupational groups expressed a consensus that might be of concern. A majority of respondents in all occupational categories agreed that existing laws should not be altered to accommodate retarded offenders. Similarly, a majority in each of

the six groups chose mental institutions as the most appropriate place of incarceration for felony retarded offenders. Public defenders were the only dissenters from these two views. Seemingly, personnel in general are simply not willing to change laws for the retarded. It is difficult to discern whether their insistence on accountability to the law is due to intolerance or to the perception that law modification is simply an inappropriate solution to the problem. Similarly, it is difficult to determine whether the choice for placement of retarded felons in mental hospitals is due to genuine confusion of mental retardation with mental illness or simply a reaction to the severity of the crime. Given that respondents as a whole agreed that there is a difference between retardation and mental illness (see Chapter Four), the latter seems most likely.

Though the data does reveal some concerns, when Montana personnel are viewed by occupation they appear much more tolerant toward and informed about mental retardation than might at first be expected. Specifically, most of them grant that the retarded have difficulty distinguishing right from wrong. Most of them know that the retarded are not more prone than others to sexual crimes. Further, they generally believe that juries should be informed of a defendant's retardation and are willing to place retarded misdemeanor offenders in less restrictive community facilities rather than in mental hospitals, prison, or jail. And, without

exception, a majority of respondents in all groups agreed that the sentencing process should take a defendant's retardation into consideration.

When examined by level of education, it was expected that tolerance toward the retarded would rise with the educational levels of respondents. The data on the seven attitude items fails, however, to show a consistent correlation. Though those with only high school educations were more likely to respond that retarded offenders know right from wrong and that retarded misdemeanor offenders be placed in mental hospitals, these are the only response rates indicating any correlation between lower educational level and less knowledge of retardation. A majority of those in all educational categories placed retarded felons in mental hospitals. And those with college or higher educations were less likely to agree than other groups that juries should be told of defendant's retardation. There are also no significant differences in the response patterns of the groups to three attitude items: while a majority of respondents agreed that the retarded should be held accountable to the same laws as the nonretarded, they disagreed that they are more likely to commit sexual crimes or that their sentences should be the same as those for nonretarded offenders.

In relation to the last variable, years of experience, there was little in the data to support a general supposition that rigidity in attitude toward retarded offenders would

graduate with years of experience. Respondents in all categories, for example, tended to disagree that the retarded are predisposed to commit sexual crimes. Similar to data on the preceding variables, there was general agreement among all experience groups that the retarded should be held accountable to the same laws as others. Though those with over fifteen years of experience were alone in their preference that retarded misdemeanor offenders be placed in mental hospitals, a majority of respondents in all experience groups placed retarded felons in mental hospitals. Thus, when examined by years of experience, no clear pattern emerged to substantiate the expectation that those who have been in their jobs longer might be less tolerant in their attitudes toward retarded offenders.

Generally, then, regardless of the variable applied to the data, state personnel attitudes do not appear as negative toward retarded offenders as might be supposed from reading nationwide trends in the literature. This is not to say that there aren't pockets of concern in the data. There are. Nonetheless, Montana personnel fare relatively well in attitude when compared with the literature's profile of criminal justice personnel nationwide.

Chapter 6

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

This chapter provides a summary of the information presented by the study. Conclusions drawn from study findings are stated, and recommendations are made based on study results.

Summary

The catalyst for this study was the concern expressed by state developmental disabilities agencies and the Attorney General's Office over the handling of developmentally disabled offenders by the criminal justice system. In 1984, an effort was coordinated between the Developmental Disabilities Planning and Advisory Council and the Office of the Attorney General to examine the situation of developmentally disabled offenders in Montana. This study was developed as a part of that examination. Though the term "developmentally disabilities" encompasses many different handicaps, including autism, cerebral palsy, and emotional disturbance, the scope of this study was limited to the most frequently-occurring disability, mental retardation. The study's purpose was to investigate Montana criminal justice personnel attitudes toward mentally retarded offenders and their levels of knowledge about mental retardation. An examination of

personnel attitudes and knowledge levels, it was believed, might provide information about how appropriately those personnel handle the retarded offenders with whom they come in contact.

A review of the literature revealed several themes related to the treatment of retarded offenders by criminal justice personnel nationwide. First, there is a tendency for retarded persons to be incarcerated in prisons in numbers substantially greater than their numbers in the population at large. Second, the retarded frequently have difficulty determining right from wrong and often do not recognize when they violate the law. Third, retarded offenders tend to confess readily to crimes and plea bargain less than other defendants. At the trial stage, they are almost always convicted, and they generally serve longer sentences than nonretarded offenders. Fourth, prison programs rarely, if ever, take into consideration the retardation of an offender. Fifth, criminal justice personnel often fail to identify those offenders who are retarded, and frequently confuse mental retardation with mental illness. And last, out of several remedies proposed by the literature, the one receiving particularly strong emphasis was training of criminal justice personnel to recognize and understand mental retardation. The literature indicates that such training might instill more tolerance and understanding of retarded

offenders on the part of justice personnel, resulting in more appropriate handling of these offenders.

The procedure utilized by this study to explore personnel attitudes and knowledge was a survey questionnaire. Items on the questionnaire sought to test both attitudes of tolerance toward, and basic understanding of, mental retardation. Seven occupational groups were included in the survey: urban police officers, sheriffs, urban public defenders, county attorneys, justices of the peace, district court judges, and probation and parole officers. The survey questionnaire was sent to 259 subjects on September 28, 1984. The overall response rate for the entire sample was 78.8 percent, with 204 of the 259 subjects responding.

Data from the survey were used in two ways: first, to profile the attitudes and knowledge levels of the respondents as a whole, and second, to profile their attitudes and knowledge levels by particular attributes, specifically by occupation, previous training in the field of mental retardation, level of education, and years of experience. Eight general questions were posed related to personnel attitudes and knowledge levels and data from the survey used to answer these questions. Response rates were characterized in the form of percentages on tables.

Conclusions

Overall, Montana criminal justice system respondents appear more tolerant of, and knowledgeable about, mental

retardation than might be expected given the nationwide trends described in the literature. For example, respondents did not agree that the retarded are more likely to commit crimes or that they should be sentenced on the same basis as nonretarded offenders. They also generally agreed that juries should be told when a defendant is retarded, and they believe that retarded misdemeanor offenders should be placed in less restrictive community facilities rather than mental hospitals, prison, or jail. Attitudes which might be considered intolerant were expressed in respondents' majority beliefs that laws should not be changed for the retarded and that retarded felons should be placed in mental institutions. Whether respondents are truly intolerant in their refusal to consider law modification, or whether they simply do not believe such modification to be a proper solution to the problem is difficult to determine. Similarly, whether respondents' choice for placement of retarded felons in mental hospitals is due to confusion of mental retardation with mental illness (a concern of the literature), is an open question. Since respondents agree almost unanimously that there is a difference between retardation and mental illness when asked on the questionnaire, it seems likely that their preference for mental institutions was more a response to the severity of the crime. In other words, respondents may have viewed community facilities as too lenient for retarded

felons and prison as too harsh, choosing mental hospitals as a middle ground between two extremes.

Of the specific variables applied to test respondents' attitudes and knowledge, the one producing the clearest patterns was occupation. Some concerns emerged here in relation to occupation. Police officers were the only group to agree that the retarded know right from wrong, in contradiction to the literature's claim that they often do not. Sheriffs were the only group to seem somewhat unsure whether the retarded are more likely to commit sexual crimes; the literature indicates emphatically that they are not. County attorneys appear unwilling for juries to be instructed when a defendant is retarded, and county attorneys and sheriffs tend to believe that retarded misdemeanor offenders belong in mental hospitals. It appears, then, that these groups, whose jobs involve arresting and prosecuting suspected criminals, may express some intolerance toward retarded offenders, at least related to the above issues. It may be, however, that their attitudes are tied more closely to their jobs as adversaries of criminals in general than to a real prejudice against retarded offenders. Along these lines, public defenders, who are obligated to advocate for all those accused of crimes, appear to be the group most tolerant of retarded offenders. Despite pockets of concern in the response patterns by occupation, personnel appear to be more tolerant than might be supposed from the negative attitude

profile the literature presents of criminal justice personnel nationwide.

Where the other two variables are concerned, education and years of experience, conclusive patterns did not emerge from the data. The expectation that tolerance would increase with education level was not generally supported by the data; neither was the expectation that rigidity in attitude would increase with years of experience.

It is also clear from the data that respondents generally understand the basic facts of mental retardation. A majority correctly estimated the percentage of retarded persons in the national population, chose the IQ score commonly assumed to distinguish retarded from nonretarded persons, recognized that retardation is hereditary only sometimes, and knew that there is a difference between mental retardation and mental illness. The literature stressed that often personnel do not understand mental retardation. In view of the literature's claim, with regard to these elementary facts, Montana personnel appear fairly well informed.

It is also apparent that respondents generally believe that the criminal justice system deals inadequately with retarded offenders. Specifically, they stated that the system has insufficient diagnostic services to properly evaluate the retarded. They also believe that the retarded are probably discriminated against by other inmates in prison, and that prison rehabilitation programs are only

sometimes successful in reaching retarded inmates. In these criticisms of the criminal justice system, respondents echo concerns of the literature.

A last conclusion that can be drawn from the data is that criminal justice personnel have little if any formal training in the field of mental retardation. Furthermore, a majority of respondents were either unsure or felt that they had insufficient knowledge of mental retardation to effectively deal with the retarded they might encounter in their work. An overwhelming majority of respondents concur with the literature that criminal justice professionals should be specially trained to deal with mentally retarded offenders. The data from this study on training support the literature's concern that criminal justice personnel frequently have no formal training in mental retardation to help them adequately deal with retarded offenders.

Recommendations

Several recommendations are offered as a result of the findings of this study. First, it needs to be reiterated that the problem of the developmentally disabled offender is a complex and multidimensional one. This study explored criminal justice personnel attitudes and knowledge about only the most prevalent of developmental disabilities, mental retardation. The treatment of offenders with other developmental disabilities besides retardation - emotional

disturbance, for example - is a matter that also deserves study.

Second, it is recommended that an effort be made to determine to what extent retarded offenders exist in the Montana criminal justice system. A majority of respondents in this study stated that such offenders were only a slight problem to them in their work. Whether the problem is a slight one, as perceived by respondents, or a serious one, as claimed by the literature, might be clarified by identifying retarded offenders currently incarcerated in Montana correctional facilities and determining their actual numbers. A study of the numbers of incarcerated retarded offenders might give some numerical definition to the scope of the problem in Montana. If numbers of the retarded in correctional facilities are disproportionately large compared to their numbers in the general population, then it may be that respondents see the problem as a slight one simply because they fail to recognize the retarded when they come into contact with them. It is obvious that a study of the magnitude suggested here, to identify and enumerate retarded offenders, would require extensive resources and expertise to be effectively executed.

Third, respondents in this study were selected from only seven of the many criminal justice system professions that exist in Montana. The attitudes and knowledge levels of those in the many other justice occupations would also seem to be important to the appropriate handling of retarded

offenders. Correctional facilities teachers, guards, and social workers are just a few of the groups not included here who might have an important impact on the retarded offenders with whom they come in contact. It is therefore recommended that such criminal justice professionals also be examined for their attitudes toward and knowledge of mental retardation.

Fourth, it is recommended that Montana criminal justice personnel from the occupational groups studied here be trained in the field of mental retardation. It is apparent that few respondents in this study have had formal training in recognizing and understanding mental retardation; and though they appear to be more tolerant and informed than expected, given the literature's negative portrayal of criminal justice personnel nationwide, there are still some areas of concern. The strong preference made by respondents for placement of retarded felons in mental institutions is one. Though their choice of mental hospitals may simply be a reaction to the severity of the crime, it may also reflect some confusion of mental retardation with mental illness. If this misconception exists, it is a serious one. Training might correct it. And, since respondents themselves, by an overwhelming majority, agree that training is important and would make a difference in the way they handle retarded offenders, it deserves serious consideration.

Another concern emerging from the data is the response rates of particular occupational groups to certain

questionnaire items. A majority of urban police officers, for example, believe that the retarded know the difference between right and wrong, though the literature indicates that this is not the case. The tendency of sheriffs and county attorneys to see mental hospitals as appropriate for retarded misdemeanor offenders, and the refusal of county attorneys to agree that juries should be informed of a defendant's retardation are other signals of concern. Some of these attitudes may be strongly entrenched as a part of respondents' occupations. Nonetheless, training might be successful in producing more tolerance and understanding in these groups where mental retardation is concerned.*

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*Numerous respondents also offered recommendations for improved handling of mentally retarded offenders in the "comments and suggestions" portion of the questionnaire. Those comments and suggestions are provided in Appendix A. Developmental disabilities and criminal justice professionals may find these suggestions useful in their search for solutions to the problem of the retarded offender.

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35. Gelbert Foss and Louis L. Beermann, "Professional Short-Term Training as an Approach to Intervention," in Rehabilitation and the Mentally Retarded Offender, p. 212.

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37. Karl Menninger II, "Representing the Mentally Retarded Defendant," Journal of the Kansas Trial Lawyers Association 3 (Spring 1979): 117.

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APPENDICES

APPENDIX A

RESPONDENTS' COMMENTS AND SUGGESTIONS

I don't believe the criminal justice system is where the mentally retarded offenders should be placed. Working with the mentally retarded is a field in itself, and the justice system are not trained in this field.

I would like to clarify that the judge should consider the mental competence of the subject at time of sentencing and sentence to the State Mental Hospital rather than prison if the subject poses a danger to society. By the same token, the question to be answered prior to release should be "Does this subject still pose a danger to society because of his mental incompetence or retardation?" not "Is he now eligible for parole?"

I would be willing to serve on any committee to look into this matter, as both the retarded persons and society as a whole deserve something better than the present system has to offer.

Retarded people should be held, through trial, accountable to the same standards as others. Distinctions should be made in the area of sentencing, now quilt or innocence. Release and aftercare should be under control of the Department of Corrections, upon consultation with mental health officials not under sole authority of mental health.

I do not feel "special" instruction is necessary for law enforcement officers. The state should concentrate on improving the present Law Enforcement Academy. I would be ashamed to compare it to other state/city academies. The course on instruction is so general as to be worthless to large and small depts. The state needs to increase the length of the school, start rigorous physical training and if persons can't cut it, so be it. Thats the only way the quality of law enforcement will improve in the state of Montana.

The typical police officer, who himself is the subject of much stereotyping, stereotypes all who they perceive to be less intelligent than themselves are CRAZIES. This is unfortunate & contrary to our image as public servants. The whole criminal justice system should practice the biblical injunction, "Judge not lest ye be judged" in this instance.

I feel that any person judged not competent to stand trial should be placed in the State Hospital as he is not competent to stay on the streets.

I personally feel that the BS brought up in court by attorneys trying for a cheap shot should be

revaluated...Retardation in my view is physiological and might warrant adjusted punishment if it is a factor in a crime. I certainly feel a retarded person is subject to abuse by inmates in prison.

What the law enforcement officer needs is more individual establishments in their own towns to take the offender to and more power to make a decision on whether the offender can take care of himself or needs to be incarcerated.

I believe it is important for a doctor or someone who is educated in the area of mental retardation to help the offender realize what is right & wrong, perhaps setup a rehabilitation program for them. Perhaps a program of instruction on laws to local workshops to the retarded on what is criminally right or wrong, but then you would have to look at the costs of this type of program or something similar.

The main problem in handling mentally retarded people, as far as enforcing the laws and prosecuting retarded offenders, is the different levels of retardation...My question is where do you find that level in which some people can & should be prosecuted and where the other people are handled through counseling?

Most criminal defendants are dullardly or chose to be. These are more often caught and penalized. In this group we find the retarded who are placed under supervision rather than incarceration penalty. Others, and fewer than the above, are bright intelligent persons and are predators who aggressively 'take' to satisfy immediately whatever is their desire. Some are caught but less frequently than the dullards. Fewer yet are the brightest persons, criminal defendants who make crime pay handsome profit. Very less frequently caught...They generally 'use' the other two classes quite successfully.

Your questionnaire makes a basic error - mentally retarded persons do not go to trial. Section 46-14-221 MCA provides that a person that lacks fitness to proceed (i.e. mentally retarded) shall have the charges dismissed. If the person were developmentally disabled he might go to trial if the disability were of a limited nature.

I think it requires special attorneys for criminal cases.

As a proposition of law we should be vary of being too specific until the court determines that mental retardation entitles the defendant to a different program to be prescribed by law. As a judge I rely on my intuition and experience in recognizing mental retardation of a criminal defendant and utilize expert advice within the parameters and

resources provided by law in disposition of the case...If further provisions are to be made it should be done outside the judicial system who will then observe those provisions.

Great caution dictates we do not set up separate standards because if we do the system will become overburdened with the "mentally retarded" defense which will be self defeating.

Unless an accused is so mentally defective as to be incompetant, he or she must be held accountable to the same laws as others, or already overburdened courts would be burdened with an impossible load in attempting to determine degrees of mental defects. However, mental ability should be considered in sentencing.

Given the demographics of this state, I feel that it would be feasible to have monies appropriated for diagnosis & expert testimony at sentencing hearings. The budget for these services could be administered statewide by an advocacy program or even by the prosecutor's assistance program within the A.G.'s office.

Perhaps Law Enforcement & Judges should designate a certain number of personnel to be trained to deal with these problems.

A full day of training/instructions at an MMA session would help immensely - all JP's & City Judges must attend.

The criminal justice system can only deal with mentally retarded persons if such persons are identified to the Courts and law enforcement personnel. Public education and awareness are necessary so anyone related to or working with such persons make that fact known to the justice criminal system.

A mentally retarded person can be taught to know right from wrong, but they like anyone else have to be taught. I think that if a retarded defendant were to appear in my court I would like to have some background on that person before I could make a judgement against him. I do not believe that a mentally retarded person should be imprisoned with ordinary criminals.

Community based centers offering a structured sheltered program would appear to be the best method of treatment for those that are <u>significantly</u> retarded. We do see many offenders who are borderline, i.e. IQs in the 70-90 range. These clients may have retardation resulting more from environmental factors rather than organic. Specific outpatient nonresidential programs may be most effective in

these cases. Issues of vocational rehabilitation need to be looked at.

I think it is very important to have evaluations and background investigations done on these people prior to any sentencing - making judges aware of the problems. Where there is no alternatives but incarceration I feel a separate wing or facility is needed to separate these people from the general prison population as they are almost always abused and used. However if these people are living in the community they must live by the rules of society and if this can't be accomplished alternatives must be found. As always education of all involved is necessary so that the problem can be identified and the solutions, alternatives, and goals can be made aware to those involved.

The most important part of dealing with "DD" offenders is to keep them from being entrenched in the system or identifying themselves as being a convict. If there can be deterred prosecution that would be preferable way to handle the situation and coordinate any treatment and/or living plans between the probation officer or county attorney's staff and other agencies i.e. SRS - Institutions; group home living. If the case is violent or sexually oriented there may have to be treatment through in-patient services or W.S.S.H. as part of the judgement & order of the court. Hopefully, the Montana State Prison will eventually get a forensics unit to effectively deal with that population in the prison which may be considered as developmentally disabled and a serious threat to the safety of society.

I would like to have exposure (school) to alternatives for dealing with mentally retarded - also learn about options for sentencing, etc. I am pleased that someone is looking into this subject.

Once a mentally retarded is placed on probation, the probation officer makes referrals to local Mental Health. The problem is then getting the client to go without adequate funds and also getting Mental Health officials to cooperate in releasing info to the PO's. It takes an act of congress to get the necessary info needed for the PO to adequately supervise the probationer. We need less restrictive disclosure laws or more power alloted to PO's in acting as wards to the courts.

We have numerous mentally retarded offenders in our system. Our problem is that there aren't sufficient staff and programs to deal with these offenders - that also includes the State Hospital in Warm Springs. In order to effectively deal with these problems - we as professionals must have training, more state wide facilities, i.e. private - such as

Helena Industries, Eastern Mt. Industries - staff trained in the criminal element at W.S.S.H. etc.

I believe more bed space should be available in group homes and prerelease centers for juvenile and adult D.D. offenders. Since many of these D.D. offenders require more attention for medication and supervision, i feel any facility providing care for them should receive a higher rate of payment than for their general population.

I feel good about any community base correctional program. We deal better with folks when we can work with them individually. I'd like to see a community center for mentally retarded people where self-reliance is the focal point.

A mentally retarded person should not be placed on probation and in 95% of the time should not be placed in prison, as we do not have the ability, training or facilities to deal with mentally retarded people.

In this area we have only had one serious crime committed by a retarded offender. I believe he was handled appropriately by being sent to and remaining in Warm Springs for over a year. He has not been cycled into out patient group type settings. All minor offenses have been handled by placing the offender into the supervision of either a group or individual to date with complete success.

On the one hand the innocent must be protected from harm, however, it is an injustice to place a mentally retarded person in prison for an act he did not realize was wrong. I have little hope any of the present state institutions can rehabilitate or more appropriately "educate" a retarded offender that his actions were wrong.

I believe that the wholesale release of retarded persons from Boulder with no real support system for them has caused many of the problems. The ones in foster homes do well. The ones in group homes have problems due to overcrowding. We need more group homes and we need better qualified counselors.

The department of Institutions must recognize the need for a separate facility for holding mentally retarded persons who have been convicted of a crime and sentenced to serve a prison term. As an attorney representing several mentally retarded persons who have been arrested and convicted of crimes, I am aware of the shocking treatment of these people both by other inmates and by law enforcement personnel. Also there is a need for community based group homes specifically for mentally retarded offenders who do not have the mental capacity to be convicted of a crime, and sent to prison, but

need some supervision. These are people who are not commitable under the mental health statutes because they do not present a danger to the physical well being of others or themselves, but they continue to commit petty property crimes, because they have no structured environment and no supervision.

Theoretically, the elements of an offense should exclude those whose mental capacity is insufficient to appreciate the criminality of their behavior. If they are found to possess the ability to appreciate the culpability of the act, then the rules on trying the case should be the same as for others. Sentencing, terms of probation, counselling and restitution guidelines should be different for retarded offenders.

Our system presently can deal with such offenders. It's up to the various participants in this system to utilize the possibilities available.

I am sure that prosecutors and law enforcement officers alike try to divert these offenders out of the criminal justice system or into an area of the system which will protect the offender as well as the public.

If I had faith in the experts, psychiatrists, psychologists, I would recommend testing and evaluation by experts as to degree of mental comprehension as to intent, understanding of whether or not certain acts or behavior constitute crime. However - what else do we have? We have special education in all of our schools, it would appear to me that mental retardation should be discovered by the Special Ed teachers and referred to experts...Let's face it: some mental retardation is undetectable but, depending upon the degree, some rehabilitation can be attained...The Boulder River School's program and facilities should be used not only to warehouse the severely retarded but its functions should be ...to teach and train living and working skills of the mentally retarded and instill an understanding of acceptable behavior to allow them to live and function in society. It is not a problem that is being very well addressed today by our society - But - there should be clear understanding, and court decisions, that mental retardation is a separate and distinct situation and has nothing to do with insanity.

In our criminal justice system, the "rights" of the individual need to be protected. However, the "rights" of the citizens as a whole need more protection at this time. We have, over the past decade or so, opened the doors of our institutions and set upon society a problem it is not able to deal with. We cannot and should not have two different systems of justice. The one system we do have should concern

itself with the task it is charged with, the protection of society!

The criminal justice system is not geared to dealing with the retarded, and I believe better cooperation and understanding between mental health workers and we in the justice system is needed. I don't believe the laws should specifically exempt retarded persons, but that sentencing and caring for the retarded should be outside the normal criminal process.

The system appears at this time unable or unequipped to have the time and facilities to get involved. Some people truly should be dealt with accordingly and others as policy dictates. Help is essential and foremost in dealing with any offenders. However, the social structure doesn't necessarily run along with complete rehabilitation and hitting the core of the problem, perhaps with the symptoms more with retarded persons. We in law enforcement know there are some in dealing with this percentage. I's like to understand them more than give up on them.

APPENDIX B

SAMPLE QUESTIONNAIRE*

*Questionnaires sent to all respondents are the same with wording tailored where necessary to the respondents' specific occupations. The questionnaire provided in this appendix is an example of the one sent to district court judges and justices of the peace.

Q-1 To begin with, we would like to ask you some questions about the contact you have with mentally retarded persons in your work. As a judge, have you had any experience with defendants whom you believe to be mentally retarded? (Circle number of your answer)

1 YES
2 NO
3 NOT SURE

Q-2 Have you ever presided over the trial of a mentally retarded defendant? (Circle number)

1 YES
2 NO
3 NOT SURE

Q-3 In your opinion, would it be important for you to know if a defendant were mentally retarded? That is, would it make a difference in the way you would handle him/her? (Circle number)

1 YES
2 NO
3 NOT SURE

Q-4 Generally, through which of the following might it come to your attention that a defendant is mentally retarded? (Circle number)

1 THE DEFENDING ATTORNEY
2 THE PROSECUTING ATTORNEY
3 THE DEFENDANT'S FAMILY
4 THE DEFENDANT HIMSELF
5 OTHER (PLEASE SPECIFY)

_____

Q-5 To what extent are mentally retarded offenders a problem to you in your work? (Circle number)

1 NOT A PROBLEM AT ALL
2 A SLIGHT PROBLEM
3 A MODERATE PROBLEM
4 A SERIOUS PROBLEM

Q-6 At the present time, if you were assigned the trial of a mentally retarded defendant, do you feel you would have sufficient knowledge of mental retardation to effectively preside over his/her trial? (Circle number)

1 YES
2 NO
3 NOT SURE

Q-7 Have you received any training which you consider relevant to dealing with mentally retarded persons in your work? (Circle number)

1 YES
2 NO

(If yes) please explain _____

_____

Q-8 Which type of crimes do you believe mentally retarded persons are more likely to commit, felonies or misdemeanors? (Circle number)

1 FELONIES
2 MISDEMEANORS
3 NOT SURE

Q-9 In your opinion, can convicted mentally retarded offenders be successfully rehabilitated by the criminal justice system? (Circle number)

1 ALWAYS YES
2 USUALLY YES
3 SOMETIMES
4 SELDOM
5 ALMOST NEVER
6 NEVER

Q-10 Which of the following institutions do you feel would be most appropriate for mentally retarded offenders convicted of serious felonies? (Circle number)

1 STATE MENTAL HOSPITAL
2 STATE PRISON
3 CITY/COUNTY JAIL
4 COMMUNITY-BASED FACILITIES SUCH AS GROUP HOMES
5 OTHER (PLEASE SPECIFY)

_____

Q-11 Which of the following institutions do you feel would be most appropriate for mentally retarded offenders repeatedly convicted of misdemeanors? (Circle number)

1 STATE MENTAL HOSPITAL
2 STATE PRISON
3 CITY/COUNTY JAIL
4 COMMUNITY-BASED FACILITIES SUCH AS GROUP HOMES
5 OTHER (PLEASE SPECIFY)

_____

Q-12 Do you feel that criminal justice system professionals should be specially trained to deal with mentally retarded offenders? (Circle number)

1 YES
2 NO

(If yes) which of the following groups do you think should receive training? (Circle as many as applicable)

1 LAW ENFORCEMENT OFFICERS
2 PROBATION AND PAROLE OFFICERS
3 LAWYERS
4 JUDGES
5 OTHER (PLEASE SPECIFY)

_____

Q-13 At this point, we would like to ask you a few questions about mental retardation in general. When thinking about mental retardation, what percentage of the population, nationwide, would you guess to be retarded? (Circle number)

1 1%
2 5%
3 10%

Q-14 Which IQ score do you suppose usually distinguishes mentally retarded persons from those who are not retarded? (Circle number)

1 50
2 70
3 90

Q-15 In your estimation, is mental retardation hereditary? (Circle number)

1 ALWAYS YES
2 USUALLY YES
3 SOMETIMES
4 SELDOM
5 NEVER

Q-16 In your estimation, is there a difference between mental retardation and mental illness? (Circle number)

1 YES
2 NO
3 NOT SURE

Q-17 An important part of our study has to do with how you feel about issues related to mentally retarded offenders. Based upon your present awareness, please indicate to what extent you agree or disagree with the following statements.

SA means Strongly Agree
A means Agree
U means Undecided
D means Disagree
SD means Strongly Disagree

1	Mentally retarded persons should be held accountable to the same laws as persons who are not retarded.....	SA	A	U	D	SD
2	Mentally retarded persons are more likely to commit sexual crimes than are persons who are not retarded.....	SA	A	U	D	SD
3	Tests for competence to stand trial should be the same for both retarded and non-retarded defendants.....	SA	A	U	D	SD
4	Mentally retarded persons know when they commit a crime; that is, they know the difference between right and wrong.....	SA	A	U	D	SD
5	The criminal justice system has sufficient diagnostic services to evaluate mentally retarded offenders.....	SA	A	U	D	SD
6	Judges take into consideration clinical evaluations of mentally retarded offenders.....	SA	A	U	D	SD
7	Mental retardation is a favorable consideration in plea bargaining.....	SA	A	U	D	SD
8	Sentences for crimes should be the same for both retarded and non-retarded offenders.....	SA	A	U	D	SD
9	Mentally retarded offenders should be eligible for parole on the same basis as non-retarded offenders.....	SA	A	U	D	SD
10	When a mentally retarded person is tried by a jury, the jury should be told that the defendant is mentally retarded.....	SA	A	U	D	SD
11	In prison, mentally retarded offenders are generally treated no differently by their fellow inmates than are non-retarded offenders.....	SA	A	U	D	SD
12	Any attorney is capable of effectively representing a mentally retarded person charged with a crime.....	SA	A	U	D	SD

Q-18 At this point, we would like to ask you about the term "naive offender." As far as you can tell, what does this term mean? That is, what type of person do you think would be a "naive offender?" (Use blanks below)

_____

_____

Q-19 Finally, we would like to ask a few questions about yourself for statistical purposes. Which of the following describes your professional status? (Circle number)

1 DISTRICT JUDGE
2 JUSTICE OF THE PEACE

If you are a justice of the peace, what is your educational level? (Circle number)

1 GRADE SCHOOL
2 SOME HIGH SCHOOL
3 COMPLETED HIGH SCHOOL
4 SOME COLLEGE
5 COMPLETED COLLEGE
6 SOME GRADUATE WORK
7 A GRADUATE DEGREE

Q-20 How many years have you been a judge? _____

We realize that the format of this questionnaire does not allow for the expression of complex opinions and ideas. Should you desire, please use the back of the questionnaire to elaborate upon any of the above items. We would particularly value any recommendations you might have for the appropriate handling of mentally retarded offenders by the criminal justice system.