

A PROPOSED PROGRAM FOR . . .

**MENTALLY
RETARDED
ADULT
OFFENDERS**

IN THE SOUTH CAROLINA CRIMINAL JUSTICE SYSTEM

JANUARY, 1974

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
William D. Leeke, Director

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✓ MENTALLY RETARDED ADULT OFFENDERS
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ACQUISITIONS

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

WILLIAM D. LEEKE, Director

January 28, 1974

Ms. Craig Hunter
DDSA Planning Director
Health and Social Services
Division of Administration
Edgar A. Brown Office Building
Columbia, South Carolina 29201


Dear Ms. Hunter:

It is a pleasure for me to transmit to you copies of the final report of A Proposed Program for Mentally Retarded Adult Offenders in the South Carolina Criminal Justice System, in fulfillment of the contract between the South Carolina Department of Corrections and the office of Health and Social Services of the Office of the Governor. It represents the efforts of the project staff from the Department of Corrections, with the cooperation of the Alston Wilkes Society and other agencies, both private and public.

This report is the follow-up of a previous study, The Mentally Retarded Adult Offender: A Study of the Problems of Mental Retardation in the South Carolina Department of Corrections. That report was published in August, 1973, and was submitted to the Department of Mental Retardation. It represents the first step in the direction of finding better ways of serving the needs of the offender population as a whole and the needs of mentally retarded offenders in particular. It recommended further more specific research for the purpose of formulating feasible programs for retarded offenders.

It is hoped that the positive actions recommended in this report can reach fruition quickly. It must be recognized, however, that the resources of the South Carolina Department of Corrections are limited. To the extent that the Department of Corrections and other agencies are unable to provide the necessary resources for meeting the special needs of mentally retarded offenders, assistance from other resources will be required.

Sincerely,



William D. Leeke

WDL:hh

Enclosure

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INTRODUCTION

A. Background

This document represents the first step in the implementation of the recommendations set forth in a study entitled The Mentally Retarded Adult Offender, published in August 1973 by the South Carolina Department of Corrections.

The Mentally Retarded Adult Offender had as its primary objectives the definition of the nature and the scope of the problem of retardation among the inmate population of the South Carolina Department of Corrections. That investigation revealed that perhaps a significant number of inmates are retarded; that the present system of incarcerating retarded inmates with the other inmates is highly inappropriate, and that mentally retarded inmates are afforded very little specialized treatment. A number of recommendations were proposed which provide for a succession of actions to be taken on the behalf of the mentally retarded offender with the ultimate goal of attaining the ideal offender rehabilitation program presented in the South Carolina Adult Corrections Study.

This study has as its purpose, the continuation of research necessary for decision makers in their formulation of programs and facilities for mentally retarded offenders in South Carolina.

B. Objectives of the Study

The overall objectives of this study are twofold:

1. the investigation of the feasibility of diversionary programs for the mentally retarded offender.

It is recognized that not all mentally retarded offenders will be immune to incarceration within the criminal justice system. It is felt, however, that a system emphasizing the early diversion of mentally retarded offenders would be beneficial to both society and the individual

offender in the following respects:

- a. Services and programs already administrated by other agencies would not have to be duplicated within the Department of Corrections.
 - b. Recidivism among the mentally retarded would be expected to decline as they were better prepared to function in society.
 - c. The retarded offender would be protected from the abuses so often suffered by them in a prison setting.
2. assessment of present evaluation procedures within the South Carolina Department of Corrections and the feasibility of offering specialized treatment programs for incarcerated retarded offenders.

It is important for the South Carolina Department of Corrections to have the capability to identify and properly evaluate mentally retarded offenders. First of all, it is likely that a formal diversionary program for mentally retarded offenders will be accomplished over a period of several years. During this interim period, mentally retarded offenders will be entering institutions of the South Carolina Department of Corrections. Secondly, even after the establishment of a formal diversionary program, some mentally retarded offenders must be incarcerated, either because of the nature of the offense or because of acting-out behavior. The best program of rehabilitation for these inmates can be effected only if their needs are recognized.

The accomplishment of these objectives requires the formulation of a number of more specific sub-objectives. Detailed explanations of these sub-objectives as well as the methodology employed to accomplish them, are contained in the introductions to Part I and Part II.

C. Organization of the Study

Essentially the two broad objectives of the study can be viewed as being concerned with those aspects of mentally retarded offenders which are either internal or external to the South Carolina Department of Corrections. The investigation of the feasibility of early diversionary programs is of an external nature. On the other hand, the analysis of evaluation procedures used at the Reception and Evaluation Center and recommendations for treatment modalities within the Department of Corrections are of an internal nature. Given a time constraint of five months, and the fact that the study easily could be divided into two rather independent parts, the decision was made to subcontract a part of the study. The Alston Wilkes Society, a non-profit organization which assists inmates, and their families, and ex-offenders and which also serves as a public information agency for enhancing the understanding and aid of released inmates, was selected for the contract. It was felt that the objectivity arising from the Society's independent status would be particularly beneficial in the evaluation of existing facilities and services for the mentally retarded as well as the study of the attitudes of the judiciary. Consequently, Part I, containing the investigation of the feasibility of diversionary programs, is the result of the efforts of the Alston Wilkes Society.

D. Summary of Findings and Recommendations

PART I

1. Evaluation of the Legal Aspects of Mentally Retarded Offenders
 - a. Findings - The review of South Carolina law in this section as it pertains to the mentally retarded and to mentally retarded offenders reveals that presently the legal framework

is insufficient for the formal early diversion of retarded offenders from the criminal justice system.

- b. Recommendations - The Legislative committee of Alston Wilkes Society as well as other interested groups should make a presentation to the Legislative - Governor's Committee on Mental Health and Mental Retardation when hearings occur on Bill S-539. This bill could become a vehicle for special legislation for the retarded offender.

The American Civil Liberties Union may be persuaded to undertake a class action in order to achieve a definitive legal opinion as to the constitutionality of incarcerating mentally retarded offenders. The grounds for a suit could be based on the denial of a right to treatment, or cruel and unusual punishment

2. Survey of the Attitudes of the Judiciary

- a. Findings - As a group, the judges and solicitors seem to be willing to divert the mentally retarded offender. Furthermore, they recognize the need for a separate facility and specialized training for those retarded offenders who are (and those who will be) incarcerated.

Most members of the judiciary recognize the need for enabling legislation for a standardized procedure for diverting mentally retarded offenders.

- b. Recommendations - It is recommended that efforts be made to further acquaint those who must recognize, defend, and prosecute the mentally retarded offender with their special

problems. The following professional organizations are deemed important for these efforts:

1. South Carolina Judicial Conference
2. South Carolina Solicitor's Association
3. South Carolina Public Defender's Association
4. South Carolina Bar Association
5. South Carolina Probation Officers
6. Continuing Legal Education Program

3. Survey of Probation Officers

- a. Findings - The majority of the probation officers favored diverting the mentally retarded offender from the Criminal justice system. For those offenders requiring incarceration, there was general agreement that a special correctional facility is needed.

4. Survey of Community Resources

- a. Findings - The majority of the agencies, organizations, and individuals interviewed were in favor of some type of diversion. Additionally, most respondents felt that there should be a separate facility for the mentally retarded and cooperative agreements among existing agencies for the treatment and training of the retarded.
- b. Recommendations - It is recommended that the contact established between the Department of Corrections and the agencies and organizations involved with the mentally retarded be continued and expanded. Their knowledge, personnel and facilities will be

vital for the proper care of mentally retarded offenders - particularly in the long range implementation of a program of formal diversion.

It is recommended that Alston Wilkes Society and the South Carolina Department of Corrections propose to the South Carolina Office of Criminal Justice Programs that a diversionary program for the retarded offender be implemented in the proposed model correctional system in the Upper Savannah Region.

PART II

1. Identification and Evaluation

- a. Findings - The correlation of the Revised Beta scores with the WAIS scores for a sample of inmates reveals the possible deficiencies of Revised Beta scores as the sole determinant of intelligence.
- b. Recommendations - It is recommended that a procedure for the identification and evaluation of mentally retarded inmates be one that combines the expertise of the Department of Corrections, the Department of Mental Retardation and the Department of Vocational Rehabilitation. The suggested procedure is as follows:

When an inmate at the Reception and Evaluation Center is tentatively identified through normal evaluation

procedures as being mentally retarded he is referred for a more intensive evaluation. The mental retardation evaluators could come to the Reception and Evaluation Center to evaluate the inmate. If conditions there are not suited to an evaluation as prescribed for that inmate, he could be transferred to another location within the Department of Corrections or to a Department of Mental Retardation facility. The inmate would in that event be returned to the Reception and Evaluation Center immediately upon completion of the evaluation. If, after this more comprehensive evaluation, indications are that the inmate is retarded, he is staffed by both the Classification Committee and a representative of the Department of Mental Retardation. A joint decision is made concerning recommendations for placement and treatment. If there remains a serious question about the inmates level of functioning he may be referred to the Department of Mental Retardation for further evaluation.

2. Proposed Treatment Program

Since a formal program of early diversion is not immediately feasible, a plan for providing specialized treatment for the mentally retarded within the South Carolina Department of Corrections was formulated.

The salient features of the plan developed in Section V are as follows:

1. Placement Criterion - Three levels of intellectual functioning are suggested as the criterion for placement in special programs.
2. Mentally Retarded Female Inmates - Since the number of mentally retarded female inmates is not likely to exceed twenty, the present staff and the new facilities of the Women's Correctional Center can adequately provide for the needs of the majority of these people.
3. Mentally Retarded Male Inmates - Those retarded inmates who remain institutionalized should be segregated from the other inmates. Manning Correctional Institution, located near Columbia, is felt to be the best location for the establishment of a mental retardation unit for adult male offenders.
4. Staff Requirements - It is suggested that, if possible, the Department of Mental Retardation provide the instructional and training staff. The Department of Corrections would supply the facilities and security personnel.

5. Program Implementation - Efforts should begin immediately to locate external sources of funds for the establishment of a mental retardation unit within the South Carolina Department of Corrections.

PART I

I: INTRODUCTION

A. Purpose of the Study

This research study (Part I) is the product of the efforts of the Alston Wilkes Society in accordance with an agreement made between the Society and the South Carolina Department of Corrections. The agreement requested that an exploration be made of the implications and the feasibility of a diversionary program for the adult mentally retarded offender. The need for this research became evident in the Mentally Retarded Offender, an initial research project concerned with the mentally retarded offender which was conducted by the South Carolina Department of Corrections.

B. Objectives of the Study

The basic concern of this study is with the early diversion of mentally retarded offenders from the criminal justice system. Diversion is predicated on the assumption that some individuals can best be rehabilitated by means other than incarceration. An in-depth investigation into the feasibility of diversionary programs requires consideration of a number of distinct topics. Accordingly, the objectives of this study are several and are as follows:

1. An assessment of present laws and other legal aspects concerning mentally retarded offenders.
2. An investigation and analysis of present methods and procedures employed in identifying and evaluating the

mentally retarded offender at the pre-trial and pre-sentence stage in the criminal justice process.

3. The determination of the extent of the awareness and interest in the diversion of retarded offenders by the institutions and individuals who presently have contact with the retarded.
4. An evaluation of existing community resources, to include both facilities and services for the treatment and training of the mentally retarded.
5. A preliminary delineation of the roles to be assumed by the various agencies and organizations deemed to have responsibility for the retarded offender.

C. Project Staff

The project staff consisted of Mr. John A. Brown as project coordinator and three research assistants: Mrs. Alice Benton, Ms. Suzanne Ravenel, and Mr. Walter Harvey. Although operating under a rather severe time constraint, the project staff feels confident that the appropriate persons and agencies were contacted, and that their opinions about the diversion of mentally retarded offenders were revealed.

It must be noted that the views and opinions expressed in Part I represent those of the Alston Wilkes Society and are not necessarily those of the South Carolina Department of Corrections.

II: METHODOLOGY

A. Introduction

Acquisition of the information necessary for the accomplishment of the objectives of this study dictated a variety of investigative procedures. This section is devoted to a brief description of these procedures.

B. Survey of the Literature

A diligent research was conducted of the literature concerned with adult mentally retarded offenders. Of particular importance were discussions of legislative and judicial initiatives toward diversion and community programs which provide supervision and training for the retarded offender. Letters requesting relevant information and literature were sent to selected individuals and agencies (see Appendix A).

C. Survey of South Carolina Laws

The first step in the evaluation of the legal framework regarding the diversion of mentally retarded offenders is a survey of existing South Carolina laws. Additional information and insight into the legal aspects of diversion was obtained from the Attorney General's office, the Legislative-Governor's Committee on Mental Health and Mental Retardation, the South Carolina Association of Retarded Childred and the legal advisors of the Department of Mental Health, the Department of Mental Retardation and the Department of Corrections.

D. Questionnaires and Personal Interviews

Mailed questionnaires and structured personal interviews were the primary means of collecting the data used in the evaluation of judicial attitudes and opinions and in the survey of available community facilities and services.

1. Circuit Judges Letters requesting personal interviews were sent to the sixteen circuit judges in the state. It was possible to personally interview nine of the judges. Of the remaining seven, five judges completed mailed questionnaires. Therefore, data were received from fourteen of the sixteen judges.

The questionnaires used in conducting the personal interview and those mailed to the judges were identical and contained seventeen questions and a section for comments and suggestions. The questions and responses appear in Appendix C.

2. County Judges A questionnaire consisting of ten questions was sent to the six County Court judges who have criminal jurisdiction. Completed questionnaires were received from all of the judges and the results are summarized in Appendix D.
3. Solicitors A questionnaire containing 10 questions was sent to the sixteen solicitors in the state. With the exception of the judge, the solicitor has the greatest discretion in deciding how a certain case should be handled; thus, it was felt that their opinions were important to the prospect of diversion for the adult mentally retarded offender. Eight of the sixteen or 50% of the solicitors responded. The questions and responses constitute Appendix E.

4. South Carolina Probation Officers Each of the 42 district probation offices was sent a questionnaire containing questions covering its experience with mentally retarded probationers. Completed questionnaires were received from thirty-four (80 percent) of the districts. It is felt that these responses represent a consensus of the approximately ninety state probation officers. In answering the questions some of the offices gave more than one answer, or added a condition to their response. In order to reflect the complete scope of their opinions all comments were tabulated and are listed in Appendix F.
5. Community Facilities and Services Two types of interview techniques were employed in exploring the facilities and services available for the mentally retarded.

- a) Structured Interviews - A questionnaire containing 6 questions was devised as an outline for personal interviews with administrators and staff personnel of the South Carolina Department of Vocational Rehabilitation and the South Carolina Department of Mental Retardation. (See Appendices G and H.) A total of twenty-seven people (ten administrators and 17 staff members) were interviewed in these agencies. Multiple responses were given to all questions, therefore answers listed in the Appendix exceed twenty-seven.

There are twelve Vocational Rehabilitation field counselors throughout the state who are specifically designated public

offender counselors. Seven of the twelve responded to mailed copies of this questionnaire. Their responses were tabulated among those recorded in Appendix I.

- b) Unstructured Interviews - In addition to the structured inquiry, twenty-four informal interviews were conducted with top-management personnel from an extensive list of state agencies and other organizations. The purposes of these informal interviews were to gain additional information about available facilities and services and, more importantly, to assess the attitudes and solicit the suggestions of these individuals who will be influential in the implementation of a diversionary program for mentally retarded offenders.

Subject matter covered in these discussions was similar to that encompassed by the questions in the structured interviews. A list of the people contacted in this section of the survey appears in Appendix H.

III. EVALUATION OF THE LEGAL ASPECTS OF MENTALLY RETARDED OFFENDERS

A. Introduction

The investigation in this section of the study is directed toward an evaluation of the laws in South Carolina which affect mentally retarded offenders. Such an evaluation will reveal the deficiencies and strengths of present laws, and thereby will form the basis for a determination of whether a sufficient legal framework presently exists in South Carolina for the diversion and specialized care of mentally retarded offenders.

B. Statutory Laws

There are four statutory laws in South Carolina which specifically mention the mentally retarded or mentally defective and which could be used for the benefit of the adult mentally retarded offender.

1. Title 32 Health Chapter 4 Mentally Ill and Mentally Defective Persons

Section 32-927.22(4) Mentally retarded means any person, other than a mentally ill person, primarily in need of mental health services, whose intellectual deficit and adaptive level of behavior requires for his benefit, or that of the public, special training, education, supervision, treatment, care or control in his home or community or in a service facility or program under the control and management of the Department (of Mental Health).

This law essentially provides the definition of a mentally retarded person. It is noteworthy that while it does not specifically include mentally retarded offenders, there is no mention of an exclusion for them.

2. Title 55 Prisons and Other Methods of Corrections
Chapter 11 Probation, Parole and Pardons

Section 55.592 Report of probation officer on offense and defendant. When directed by the court the probation officer shall fully investigate and report to the court in writing the circumstances of the offense and the criminal record, social history and present condition of the defendant, including, whenever practicable, the findings of a physical and mental examination of the defendant. When the services of a probation officer are available to the court no defendant charged with a felony and, unless the court shall direct otherwise in individual cases, no other defendant shall be placed on probation or released under suspension of sentence until the report of such investigation shall have been presented to and considered by the court.

This statute provides for an investigative report to the court prior to the granting of probation or the suspension of a sentence. Under this system, the possible early identification of mental retardates being considered for probation or a suspended sentence is reduced significantly because 1) the report is not required in all cases and 2) even in cases where the report is rendered, a mental examination is included in the report "whenever practicable".

The following three statutes, to some extent, are concerned with the incarceration of the mentally retarded:

3. Title 32 Health
Chapter 4 Mentally Ill and Mentally Defective Persons

Section 32-927.28 Involuntary admission.... Pending a final determination of the appeal, the mentally retarded person shall be placed in protective custody in either a facility of the Department (of Mental Health) or in some other suitable place designated by the court. Provided, however, that no person shall be confined in jail unless there be a showing that he is a danger to himself or to others, and that no other suitable place of custody is available.

4. Title 55 Prisons and Other Methods of Corrections
Chapter 9 Jails and Jailers

Section 55-411.1 Mentally ill, etc., persons not to be confined in jail. No person who is mentally ill, mentally defective or epileptic shall be confined for safekeeping in any jail. If it appears to the office in charge that such a person has been imprisoned he shall notify the South Carolina Mental Health Commission immediately.

Cross reference As to admissions to State mental health facility of persons in jail mentally ill or defective, see Section 32-1012.

Both of the above statutes seem to indicate that perhaps the legal basis exists for diversion of the mentally retarded. The Attorney General's office indicated, however, that in both laws the responsibility for identification of the retarded person rested with no particular authority. Moreover, the word "safekeeping" in Section 55-411.1 was unclear and could not be interpreted. Thus it is likely that both statutes are in fact of very little substance.

5. Title 55 Prisons and Other Methods of Corrections
Chapter 2 Corrections of Juveniles

Section 55-50.7 Mentally ill and mentally retarded children; standards of health for children committed. No person shall be committed to an institution under the control of the Board (of Youth Services) who is seriously handicapped by mental illness or retardation. If, after a person is referred to the Reception and Evaluation Center, it shall be determined that he is mentally ill, as defined in Section 32-911, or mentally retarded to an extent that he could not be properly cared for in its custody the Board may institute necessary legal action to accomplish the transfer of such person to such other State institution as in its judgement is best qualified to care for him in accordance with the laws of this State. Such legal actions shall be brought in the resident county of the physical and mental health of persons which it can accept for commitment.

This law indicated that in the instance of mentally retarded juvenile offenders (under seventeen years of age) the responsibility of identification of retarded

persons is clearly defined and rests with the Reception and Evaluation Center. Furthermore this statute provides the authority for the transfer of the retarded juvenile to such other state institution considered best qualified to care for him. The legal basis for diversion then exists for juvenile offenders.

Because there is no case law further defining them and because the statutes are so few in number, they are in fact inefficacious with regard to adult mentally retarded offenders.

C. Case Law

The status of existing case law concerning mentally retarded offenders in South Carolina is not favorable to the prospects of diversion. Indeed, present case law may prove to be an obstacle in aiding the mentally retarded offender.

The case law concerning mentally retarded offenders primarily has evolved from consideration of the concept of criminal responsibility and mental age. In State v. Bradford¹, in which the South Carolina Supreme Court reviewed a rape case where there was testimony to the effect that the defendant was "feeble minded, with an I.Q. of 55 and a mental age of nine." The court concluded that "the record does not support the contention that (the defendant) was of insufficient mentality to meaningfully participate in his defense..."² Furthermore, in the same case, the Court repeated a rule enunciated in State v. Gardner:³

¹State v. Bradford, 256 S.C. 51, 180 S.E. 2d 632 (1971).

²Ibid., at S.C. 55, at S.E. 2d 636.

³State v. Gardner, 219 S.C. 97, 64 S.E. 2d 130 (1951).

Criminal responsibility does not depend upon the mental age of the defendant, nor upon whether his mind is above or below that of the average or normal man. Subnormal mentality is not a defense to crime unless the accused is by reason thereof unable to distinguish between right and wrong with respect to the particular act in question. **

The implication of the two cases is that in South Carolina mental retardation alone is not sufficient to find a defendant incompetent to stand trial. That is, mental retardation alone is not deemed a legitimate defense for criminal behavior.

D. Anticipated Legal Developments

In an effort to gauge the readiness of the South Carolina legislature to pass special legislation for the retarded offender, three members of the Legislative Governor's Committee on Mental Health and Mental Retardation were interviewed. Their opinion was that the passage of any legislation without the appropriation of funds is unlikely. Moreover, they indicated that any appropriation of funds for a separate facility for the retarded within the Department of Corrections was unlikely. Thus it appears that conditions for special legislation providing separate facilities for mentally retarded offenders presently do not exist.

It is expected that in early part of the 1974 legislative session the South Carolina Senate will consider a bill (S-539) which will have important implications for the mentally retarded. (See Appendix B) The bill was developed to amend procedures for admission to the Department of Mental Health. The thrust of the bill will be to bring South Carolina's commitment procedures in

line with the United States Constitution. Section 32-970 of this bill concerns competency to stand trial and Section 32-983 concerns the defense of criminal nonresponsibility which includes both the mentally deficient and the mentally ill. Originally the thinking of the drafters of the bill was limited to include only the mentally ill. Since then, the decision was made to include the mentally "deficient" so that these persons would not be cut off from the merits of the bill.

Some of the obvious disadvantages of lumping the mentally "deficient" with the mentally ill are:

1. there is no definition in the bill for mental deficiency,
2. the evaluation as presently proposed in the bill would be done by the Department of Mental Health alone; perhaps such evaluations should involve personnel from both the Department of Mental Health and the Department of Mental Retardation,
3. should a person be found either incompetent to stand trial or not criminally responsible because of mental deficiency, that person would be subject to civil commitment proceedings to the Department of Mental Health and not to the Department of Mental Retardation where he should receive appropriate evaluation.

It is important to note that the legislators contacted were hopeful that hearings on the bill would show the need for a clearer delineation between

the mentally ill and the mentally deficient. Therefore, the opportunity exists for the improvement of the bill. Interested agencies and groups should formulate presentations for the hearings.

Despite the noted drawbacks, this bill has much merit, for perhaps it is the initial step toward special legislation for the mentally retarded offender.

The American Civil Liberties Union indicated that a definitive legal determination as to the legality of incarcerating mentally retarded persons in jails or prisons could be obtained by filing a class action. It is their recommendation that such a suit be filed and that the grounds for the suit possibly could be the denial of treatment, since the Department of Corrections does not have a program for the retarded, or on the grounds of cruel and unusual punishment based on the abuses which the retarded suffer in a penal institution.

CONCLUSIONS

The review of South Carolina law in this section as it pertains to the mentally retarded and to mentally retarded offenders reveals that presently the legal framework is insufficient for the formal early diversion of retarded offenders from the criminal justice system. It appears that early diversion, therefore, will necessitate new legislation.

RECOMMENDATIONS

In regard to the legal aspects of diversion, the following recommendations are offered:

1. The Legislative committee of Alston Wilkes Society as well as other interested groups should make a presentation to the Legislative - Governor's Committee on Mental Health and Mental Retardation when hearings occur on Bill S-539. This bill could become a vehicle for special legislation for the retarded offender.
2. The American Civil Liberties Union may be persuaded to undertake a class action in order to achieve a definitive legal opinion as to the constitutionality of incarcerating mentally retarded offenders. The grounds for a suit could be based on the denial of a right to treatment, or cruel and unusual punishment.

IV: SURVEY OF THE ATTITUDES OF THE JUDICIARY

A. Introduction

The purpose of this section is to determine the attitudes and opinions of members of the judiciary about the diversion of mentally retarded adult offenders. Their attitudes are felt to be important for several reasons:

- 1) because of their role in the criminal justice system, their attitudes will influence the system's operation,
- 2) further insight can be gained about the present state of law concerning the diversion of mentally retarded offenders, and
- 3) the suggestions and proposals of the judiciary should be considered for incorporation into the recommendations.

B. Findings

Circuit Judges, County Judges, and Solicitors (a total of 28 responses were received) were queried either by mail or personal interview. The salient features of the results are as follows: (See Appendices C, D, and E for detailed results).

- 1) Perception of Mental Retardation - All three groups - Circuit Judges, County Judges, and Solicitors - were asked this question. Most members said that between one and five percent were retarded, but at least two judges and three solicitors said ten percent or more.
- 2) Procedure if defendant thought to be mentally retarded - The same procedure was used by all of the respondents if a defendant was

suspected of not having the mental capacity to have the requisite criminal intent for conviction. This standard procedure called for sending the defendant to the State Hospital for a 30 day evaluation if a local Mental Health Clinic was not available and willing to do the evaluation. It should be important to note here that the test answered by the State Hospital in its evaluation was that of the criminal responsibility of the defendant, and not that of competency to stand trial. Bill S-539 (discussed in Section III) would provide for an examination to determine if the person on trial is "fit to stand trial." However, none of those interviewed mentioned this distinction.

Another alternative available to the solicitors when they felt the defendant was not criminally responsible was to nolle prosequere the case, that is, to drop the charges and not prosecute.

- 3) Pre-trial and pre-sentence evaluation - As to the availability of a place to receive pre-trial or pre-sentence evaluation, most respondents referred only to local Mental Health Clinics or the State Hospital. Three judges said that they could ask their probation officers to do pre-sentence investigations, but that lack of thorough training and time on the part of the probation officers made this an unsatisfactory solution. Sixty-three

percent of the respondents indicated that there was a definite need for such a service, thereby presumably implying that the existing facilities are inadequate.

- 4) Need for education - Only the circuit court judges were posed a question on the need to educate the officers of court (meaning the police, attorneys, and judges) to recognize and understand the mentally retarded offender. The majority indicated that education was needed by at least some officers of the court.
- 5) Appropriateness of incarceration - When asked about the appropriateness of sending the mentally retarded offender to the Department of Corrections, most respondents felt that there should be somewhere else available. The solicitors as a group were more cautious about taking the mentally retarded offender out of the Department of Corrections than the judges.
- 6) New legislation - Seventeen of the twenty-seven or 63 percent of those questioned felt that new legislation was required to enable a judge to divert a mentally retarded offender from sentencing to the Department of Corrections.
- 7) Existing legislation - The circuit judges were asked to evaluate two

South Carolina statutes⁴ which might possibly be interpreted so as to preclude sentencing a mentally retarded offender to the Department of Corrections. The responses, in general, indicated that these statutes would not inhibit this practice.

- 8) Appropriateness of minimum and maximum sentences - The circuit judges were asked about the appropriateness of the minimum and maximum limitations on a sentence they might give to a mentally retarded offender. Conclusions from this line of questioning point to the wide discretion the sentencing judge has. Many of the judges felt that the statutory minimum and maximum could be circumvented easily by conditional and suspended sentences; two judges favored indeterminate sentencing.
- 9) Adequacy of the M'Naughten Rule - All groups were asked the adequacy of the M'Naughten rule for the mentally retarded offender. The M'Naughten rule is the basic legal rule in most jurisdictions, including South Carolina, in which the court decides if a particular defendant will be held "criminally responsible", that is, answerable to society for his criminal acts. The rule states that a defendant

⁴Article 2.2 South Carolina Mentally Retarded Persons Act: S-32-927.28 Involuntary Admission-... no person shall be confined in jail unless there be a showing that he is a danger to himself or to others, and that no other suitable place of custody is available.

Chapter 9 Jails and Jailers - S55-411.1 No person who is mentally ill, mentally defective, or epileptic should be confined for safekeeping in any jail. If it appears to the officer in charge that such a person has been imprisoned he shall notify the South Carolina Mental Health Commission immediately.

will not be held responsible if because of a defect of reason, he did not know the nature and quality of the (criminal) act, or if he did know it, he did not know that the act was wrong. This is known as the right/wrong test. Because many persons knowledgeable about criminal law and the mentally retarded have criticized the rule, an assessment of the attitude of the judges and solicitors toward it was deemed necessary. It is noteworthy that the judges were almost evenly split on the worthiness of the rule, yet the great majority of the solicitors felt the rule was adequate.

- 10) Opinion about ALI test - Dennis Haggerty⁵ head of the American Bar Association's Committee on the Legal Rights of the Mentally Retarded, has suggested that the American Law Institute (ALI) test of criminal responsibility is a more appropriate test for all, especially the mentally retarded. The judges and solicitors were asked their opinions of this test. The ALI test states that a person is not responsible for criminal conduct if, at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law. Only four judges out of the twenty-seven judges and solicitors questioned thought

⁵Dennis E. Haggerty, et al., "Protecting the Rights of the Retarded," Student Lawyer, 1 (3) (November, 1972), 60.

the test was better than the M'Naughten rule. The great majority either were not familiar enough with the ALI rule to comment or were satisfied with the M'Naughten rule.

- 11) Suggestions and Proposals - The final, and probably most important, question asked of all called for suggestions and proposals which each thought important. Eleven of the thirteen circuit court judges called for a special separate facility for the mentally retarded offender. Many of the judges were aware of the abuses suffered by the mentally retarded offender in prison and they evidenced frustration as a group in not having a proper place to put the "acting out" or violent mentally retarded person.

C. Conclusions

As a group, the judges and solicitors seem to be willing to divert the mentally retarded offender. Furthermore, they recognize the need for a separate facility and specialized training for those retarded offenders who are (and those who will be) incarcerated.

The present judicial system is characterized by extreme flexibility. Thus it is understandable that an informal system of diversion would develop. A formal, standardized procedure for diversion of retarded offenders, however, will require new legislation. Most members of the judiciary are cognizant of the need for enabling legislation, but as one circuit judge stated, "changes in our criminal laws will require the appropriation of funds by the General Assembly to support additional psychiatric and social services and institutions".

V: SURVEY OF SOUTH CAROLINA PROBATION OFFICERS

A. Introduction

Probation officers were included in this study because they work closely with both the courts and the offender from pre-sentence to longer range aftercare, and it was felt that they were likely to have practical knowledge of the problems of dealing with the retarded offender.

According to South Carolina statute, probation officers, if directed by the court, are charged with the pre-sentence investigation of the defendant before probation or suspension of sentence can be granted. It is felt that their opinions and attitudes are important for the formulation of a diversionary program for retarded offenders.

B. Findings

The summarized results of questionnaires received from the probation officers in the state are contained in this section. Detailed responses of all questions are contained in Appendix F.

1. Attitude toward diversion - The majority of the probation officers indicated a preference for diversion of the mentally retarded from the criminal justice system.
2. Extent of Retardation - The majority of the probation officers estimated that 1 to 2 percent of their probationers were mentally retarded with some estimates going as high as 15 percent. This probably reflects a difference of opinion as to the definition of retardation.

3. Identification - When asked whether mentally retarded probationers were formally identified as such before being placed on probation, a majority of the probation officers felt that the mentally retarded were not identified.
4. Effect of mental retardation on sentence - Most probation officers believe that being mentally retarded influences the court in placing an individual on probation rather sentencing him to an institution.
5. Problems of Supervision - Problems in communications, the inability to follow instructions, and failure to make the monthly reports to the probation office are the most frequently encountered problems with the handling of retarded probationers. In addition, the officers found that job placement and retention was a difficult problem. Supervision of the mentally retarded is complicated because of the extremely large caseload each officer has.
6. Specialized Training of Probation Officers - There was no indication of any comprehensive training in dealing with the retarded probationer.
7. Community Resources Utilized - The Department of Mental Health and the Department of Vocational Rehabilitation rather than the Department of Mental Retardation were cited as the primary resources being utilized. The number of resources and facilities, and the use made of them seemed to vary widely across the state.
8. New legislation - The majority of the respondents indicated that a special law for the mentally retarded adult offender was needed.

C. Conclusions

In summary, the majority of the probation officers favored diverting the mentally retarded offender from the criminal justice system. Some reservations were expressed, however, as to the appropriateness of diverting habitual and violent offenders. For such offenders there was general agreement that a special correctional facility was needed.

The director of the South Carolina Probation, Parole, and Pardon Board was interviewed and his thoughts generally paralleled those of the probation officers. The thrust of his remarks favored the diversion of some mentally retarded offenders and the development of a special facility within the South Carolina Department of Corrections for those who are judged as dangerous.

D. Recommendations

Probation is a means of diversion from institutionalization. On an informal basis, probation presently is being used for diverting mentally retarded offenders. In the event that a formal diversionary system for the retarded offender is in some way meshed with the system of parole officers in the state, it will require:

- 1) an increase in the number of parole officers,
- 2) educational and training programs for those expected to handle mentally retarded offenders.

VI: SURVEY OF COMMUNITY RESOURCES

A. Introduction

It is anticipated that the early diversion of mentally retarded offenders will involve the efforts of several state agencies and private organizations. The results of a survey of available resources which conceivably could aid in this diversion is contained in this section. The primary purpose of this endeavor is to indicate the services of those agencies and organizations which possibly could become involved in a diversionary system.

A formal system for diverting mentally retarded offenders will be comprised of organizations and agencies with varying viewpoints and interests. The best system will be the one that can best incorporate such variance and still accomplish the objectives of the system. In order that the recommendations outlining the responsibilities of these agencies and organizations be compatible with their own perception of what their posture in a diversionary system should be, the survey also sought an understanding of their opinions and attitudes toward mentally retarded offenders.

B. Department of Mental Retardation

The Department of Mental Retardation is the state agency charged with the responsibility for mentally retarded persons in South Carolina. This department has demonstrated its concern for mentally retarded offenders; it was through the Department of Mental Retardation that funds were obtained for the first research project, which produced The Mentally Retarded Adult Offender.

1. Physical Facilities - At present, the Department of Mental Retardation supports four regional centers which provide residential and educational services. Currently these centers are operating at maximum capacity, and although efforts are being made to deinstitutionalize the less severely retarded, there are still rather long waiting lists. There are two activity centers which are cooperative efforts between the Department of Mental Retardation and the Department of Vocational Rehabilitation. These pilot projects are being operated for the more severely retarded who cannot function in a sheltered workshop situation.
2. Services - Given the Department of Mental Retardation's expertise in the evaluation of the retarded, their participation (possibly in several aspects) in a diversionary program seems appropriate. It is their belief that a clear, mutually-agreed-to definition of retardation and thorough and accurate identification and evaluation procedures are mandatory before diversionary programs can be implemented.
 - a) Definition - It is suggested that the definition of mental retardation be one that is built around the quality of adaptive behavior as determined by a complete battery of tests. Such an evaluation should distinguish the truly retarded individual from those persons suffering from cultural deprivation.

b) Identification - The Department of Mental Retardation believes that the identification of the mentally retarded offender should rest with all of those who come in contact with him following the offense - from the initial contact with police on through the criminal justice system.

c) Education and Training Programs - In addition to the treatment programs for the retarded offender, the Department of Mental Retardation has indicated a willingness to provide educational presentations to aid individuals in the identification and handling of the retarded.

3. Attitudes toward Diversion of the Mentally Retarded - The Department of Mental Retardation generally supports the concept of diverting the mentally retarded offender. If funds for additional space are made available through legislation or grants, it is their belief that interagency agreements can be used as the means of working out the problems related to the mentally retarded offender. They envision that the responsibility for the diverted adult mentally retarded offender will be shared between the Department of Corrections and themselves with other agencies furnishing specific services in their fields.

C. Department of Vocational Rehabilitation

The Department of Vocational Rehabilitation is a nationally recognized leader in the field of rehabilitation of the handicapped. The participation of

this department in a diversionary program seems likely in view of the fact that this department offers, 1) a variety of services to inmates in most of the institutions of the Department of Corrections, and 2) services to the mentally retarded.

1. Physical Facilities - The Department of Vocational Rehabilitation operates twenty-two facilities in the state as well as having personnel located in facilities of other agencies (such as the Department of Mental Health, the Department of Corrections, and the Veterans Administration).
2. Services - Services provided by the Department of Vocational Rehabilitation include counseling and job placement by their field counselors. In addition, twelve area workshops offer sheltered employment, vocational evaluation, and personal and social adjustment training. If they do not provide a service, they purchase it for their clients or make appropriate referrals.

As noted previously, the South Carolina Vocational Rehabilitation Department currently is providing vocational training to the inmates in the Department of Corrections, and they also are involved with the mentally retarded (about 20 percent of the rehabilitated cases in 1972 were mentally retarded). The expansion of their role to include mentally retarded offenders in a diversionary setting would offer not only the benefit of

vocational training outside, but also could offer another possibility for the early identification and evaluation of retarded offenders (perhaps complementing the Department of Mental Retardation's role in the identification and evaluation process). Currently, the Vocational Rehabilitation Department gives complete evaluation services and accepts mentally retarded persons with I.Q.'s below 80.

3. Attitudes Toward Diversion of the Mentally Retarded - It is the belief of most of those people interviewed that the mentally retarded adult offender has great difficulty functioning within the criminal justice system and should be granted the benefits of training and education provided by the Vocational Rehabilitation Department and other agencies in the state. They have indicated a willingness to furnish all of their services to adult retarded offenders who have a reasonable expectation of employability.

Opinion was divided among those interviewed as to the placement of responsibility for the adult retarded offender in the event of diversion. The Courts, the Department of Corrections and the Department of Mental Retardation were mentioned separately but joint responsibility by a combination of agencies met with the most approval.

D. Department of Mental Health

The Department of Mental Health is still deeply involved with the mentally retarded of South Carolina although they feel that the responsibility for the retarded of all categories should rest with the Department of Mental Retardation as soon as possible.

1. Facilities - The largest facilities of the Department of Mental Health are the South Carolina State Hospital and Crafts-Farrow State Hospital. Both of these facilities are located in the Columbia area. The recent emphasis on the provision of local mental services has fostered the establishment of 14 area mental health centers.
2. Services - As noted above, the Department of Mental Health feels that the responsibility for the retarded of all categories rests with the Department of Mental Retardation. For this reason, they hesitate to suggest any specific laws or programs for the retarded, but did indicate their willingness to assist with any programs that called for their special competence according to an interagency agreement.
3. Attitude Toward Diversion of the Mentally Retarded - For security reasons they believe the Department of Corrections should retain responsibility of the offender, whether diverted from a correctional institution or not, but that established community resources should be called upon to train and educate the mentally retarded adult offender.

E. Other Organizations Contacted

A number of other organizations were contactedd which presently are involved with the mentally retarded and which might be involved (to a lesser extent than those organizations previously discussed) with the diversion of mentally retarded offenders.

1. South Carolina Association for Retarded Children - The South

Carolina Association for Retarded Children is a coordinating agency composed of local volunteer chapters and was helpful in providing resource material and contacts with people deeply committed to all aspects of the problem of mental retardation.

The South Carolina Association for Retarded Children stated that it was inappropriate to place the retarded in prison because programs and services they need are unavailable there.

The Association recommends the following:

- a) Dialogue and agreement between the Department of Mental Retardation and Department of Corrections for solutions to more appropriate placement and programs for the retarded offender.
- b) A separate facility for the mentally retarded offender with the Department of Corrections providing custody and security and the Department of Mental Retardation providing training and services.

- c) Educational programs about mental retardation for police, public defenders, solicitors, magistrates and judges so they can recommend pre-sentence investigation and possibly diversion for the mentally retarded offender.

2. South Carolina Criminal Justice Academy and the University of South Carolina Department of Criminal Justice -

Both the South Carolina Criminal Justice Academy and the University of South Carolina's Department of Criminal Justice touch on the subject of mental retardation in one or more of the courses they offer. However, each would be interested in considering arrangements with the Department of Mental Retardation.

3. South Carolina Department of Social Services - The Department of Social Services furnishes contract services to the mentally retarded, which have recently been revised to apply to adults as well as children. The only direct involvement the Department of Social Services has with retarded citizens is for counseling and referral and working with their families.

4. Social Security Administration - The Social Security Administration provides financial assistance and referral services for the permanently disabled. The mentally retarded are eligible for Social Security services.

5. Public Health and Welfare Committee of the House of Representatives - One member of the Public Health and Welfare Committee of the South Carolina House of Representatives was interviewed. She felt that

an educational program concerning the problems of the mentally retarded offender would be necessary for favorable legislative action to occur.

6. Intervention Programs - The Pre-Trial Intervention Project of Richland County, the Municipal Court Counseling Service for Charleston County, the Municipal Offender Redirection Services of Greenville, and the City Recorders Counseling Program of Florence were all contacted to determine if their programs were ones to which mentally retarded offenders could be referred if diverted.

The Richland County program does not work with mentally retarded clients unless they can refer them to another agency that provides services for the mentally retarded.

Approximately one or two percent of the clients of the Charleston County program are mentally retarded and where possible the services of the Departments' of Mental Health and Vocational Rehabilitation have been relied upon.

The caseload of the Greenville program was 370 clients this year, about 10 percent of whom were mentally retarded. No attempt is made to work with mentally retarded offenders since they require more time and training than people with other disorders. They are referred to Vocational Rehabilitation workshops immediately, but continue under the supervision of the service.

Although they have had a few mentally retarded offenders sent to them the Florence program, like the others, is not equipped to directly assist in such cases except by referring them to other appropriate agencies.

F. Diversion of the Mentally Retarded and The Adult Corrections Study

The South Carolina Office of Criminal Justice Programs in 1973 completed a report entitled the Adult Corrections Study in which a model correctional system was proposed for South Carolina. This model emphasizes diversion (when possible) of all offenders from the criminal justice system and views institutionalization as an alternative of last resort.

The implementation of this model system will necessitate the establishment of regional correctional centers and the extended use of community resources. The diversion of mentally retarded offenders is compatible with this model and indeed will be enhanced as the model is implemented.

In the model system a mentally retarded offender would be identified at the pre-trial and pre-sentence stages by an intake assessment component. The degree of retardation would affect the court's decision as to the disposition of the case. The severely retarded perhaps would be committed to the Department of Mental Retardation, and the moderately retarded would be sentenced to a special facility within the Department of Corrections. Probation would be considered an alternative whenever possible.

G. Conclusion

In summary, the majority of the people interviewed were in favor of some type of diversion, even though they put certain qualifications on their answers. Most of the respondents felt that there should be a separate facility for the mentally retarded and cooperative agreements among existing agencies for the treatment and training of the retarded. A clear definition of mental retardation for the purpose of diversion was felt to be a necessary prerequisite to further planning.

PART II

I: INTRODUCTION

A. Background and Purpose of the Study

Part I of this document is concerned with the feasibility of the early diversion of the mentally retarded offender. The implementation of a formal diversionary program is contingent upon a number of factors - new legislation, funding, interagency agreements among them - which will require a substantial time period for resolution. This portion of the study is concerned with the more immediate action which can be taken on behalf of the mentally retarded offender. As pointed out in Part I, diversion of the mentally retarded does in fact exist, albeit on an informal and limited basis. The limited scope of this informal diversion and the aforementioned probable time required for the implementation of a formal diversionary program, means that the South Carolina Department of Corrections will be faced for some time with a number of retarded inmates.

B. Objective of the Study

This part of the study (PART II) addresses the needs of mentally retarded offenders in a correctional setting. To do so requires an objective which can best be accomplished by viewing it as having two parts.

1. The assessment of present evaluation procedures within the South Carolina Department of Corrections.

Research in the first Mental Retardation Study Project revealed several inadequacies in the evaluation procedures at the Reception and Evaluation Center. Additionally, it was noted in Part I of this study that a formal program for the early diversion of the mentally retarded offender will not be soon

forthcoming. Therefore, it must be recognized that many mentally retarded offenders will become mentally retarded inmates; that is, because of a lack of alternatives, many retarded offenders will be sentenced to institutions of the South Carolina Department of Corrections. Before any specialized treatment programs can be instituted for retarded inmates, it is imperative that proper procedures exist for the identification and evaluation of retarded inmates.

2. The assessment of the feasibility of offering specialized treatment programs for incarcerated retarded offenders.

Since the first Mental Retardation Study Project was concerned basically with the identification of problem areas, the recommendations contained in that report were rather general. The goal of this part of the objective is to formulate specific, concrete proposals for treatment of the mentally retarded offender in the South Carolina Department of Corrections.

Given the fact that the South Carolina Department of Corrections will be faced with a significant number of mentally retarded inmates, an investigation of the possibilities open for the specialized treatment of them is needed. Included in such an investigation should be; the types of training and educational programs for retarded inmates, a consideration of segregating the mentally retarded inmate from the inmate population, and the specialized training of personnel who will care for retarded inmates.

II: METHODOLOGY

A. Introduction

The first Mental Retardation Study Project served mainly to identify the problem areas in broad terms. Since the scope of this study is significantly narrower, the methodology employed in obtaining the data has been altered somewhat from that employed in the first study.

B. Personal Interviews

The recommendations contained in this report are the result of the suggestions and opinions obtained from lengthy consultations with responsible individuals in the Department of Corrections, Department of Mental Retardation and the Department of Vocational Rehabilitation.

C. Inquiries Sent to Other States

Contained in the first Mental Retardation Study Project report are the results of questionnaires designed to determine the rehabilitative efforts for mentally retarded offenders that were being made in other correctional systems. The questionnaires were sent to the Department of Corrections of all fifty states and the District of Columbia. Specifically, the questionnaires sought information to:

1. indicate South Carolina's position relative to other states in terms of treatment for mentally retarded offenders and,
2. identify programs which could serve as models for South Carolina.

The first goal was accomplished. Unfortunately, because of brief responses, the second was not. Limitations on the project period prevented further inquiries. An effort has been made, however, during this second project toward a follow-up of that first survey.

Of the 42 states initially responding 18 were judged by the project staff to have programs for mentally retarded offenders either currently functioning or in planning stages that should be investigated further. Inquiries were sent to those states requesting more specific information about their programs. The letters reminded them of the preliminary study last summer, and explained the goals of the current survey. In six weeks 12 responses (66 2/3 percent of the total) were received.

III: SURVEY OF RETARDATION PROGRAMS IN OTHER STATES

A. Introduction

The results of mailed questionnaires in the first Mental Retardation Study Project revealed that 18 states have or plan to have programs for the mentally retarded offenders. In an effort to identify the programs in other states that could serve as models for South Carolina, inquiries for in-depth descriptions were mailed to these 18 states.

Two major problems were encountered in trying to obtain the information from these states.

- 1) Although the letters were addressed in the same manner as the initial questionnaire, many of the letters were answered by other personnel who apparently did not have the necessary information to provide an adequate response. Consequently, in the two surveys two different people were responding to the questionnaires and frequently the information was contradictory.
- 2) Most of the states responded in a very brief fashion; thereby providing little or no information.

Of the 12 states who responded to the inquiry, therefore, 10 were unable to provide any new or additional information. In fact, one state denied the information that was received on the initial questionnaire, stating that this information was incorrect.

B. Findings

Two states were able to provide more complete information:

North Carolina - Mentally retarded inmates are tentatively identified at the Reception and Evaluation Center. They are then referred to the Department of Mental Retardation for confirmation. When possible, inmates judged as retarded are placed in a separate program which provides special education up to the eighth grade as well as vocational training. Because North Carolina's correctional system contains a number of small institutions, it is not economically feasible to offer special education and vocational training to mentally retarded inmates in all of the institutions.

Florida - The Division of Corrections provided a copy of a research report which contained specific recommendations for the implementation of a pilot program for mentally retarded inmates.

Although the committee responsible for this research represented several state agencies, the recommended program relies very little on personnel from agencies other than the Division of Corrections.

The salient features of the Florida report include: the establishment of a separate facility for mentally retarded inmates; the categorization of the degree of retardation (severely retarded, moderately retarded and mildly retarded) to facilitate education and training programs; that this unit have the capacity to treat 50 mentally retarded offenders who are in the last 18 months of their sentence.

IV: IDENTIFICATION AND EVALUATION

A. Introduction

This section is devoted to an analysis of the evaluation process as it presently exists in the South Carolina Department of Corrections. The purpose of the analysis is to reveal the deficiencies in the present system so that recommendations can be properly formulated. The reader is reminded of the importance of the evaluation process as it concerns the mentally retarded; the effective and efficient rehabilitation of mentally retarded offenders is predicated upon a comprehensive evaluation process administered by qualified personnel.

B. The Present Evaluation Process

Virtually all male inmates enter the South Carolina Department of Corrections through the Reception and Evaluation Center in Columbia. An evaluation is employed for the purpose of classifying the inmate for work assignments, educational and vocational training and assignment to a particular security-level institution. Such decisions are made by the Classification Committee which obtains much of the inmate information from this initial evaluation.

At present, the evaluation process consists of an interview and several tests - intelligence, educational, and vocational. Although the concept of a reception and evaluation center such as the one the Department of

Corrections operates has been criticized for numerous reasons,⁶ it seems that the Department of Corrections to this point has had no feasible alternatives. The first Mental Retardation Study Project report revealed several shortcomings in the evaluation process at the Reception and Evaluation Center. These shortcomings were felt to seriously hamper the accurate assessment of an inmate's strengths and weaknesses. The deficiencies noted included the Center's extreme overcrowdedness, the small and ill-equipped testing rooms, the lack of professional involvement by psychologists and social workers, and the fact that the inmates have just entered the system and are often in a state of anxiety and/or hostility which possibly results in atypical feelings or behavior.

C. Shortcomings of the Revised Beta Test

The greatest criticism of present procedures at the Reception and Evaluation Center was directed at the use of the Revised Beta Examination. It should be noted, however, that this test is widely used in corrections systems throughout the United States. Therefore, the findings of this study may be of interest to other correctional systems.

1. Previous Survey Results Using Revised Beta Test Scores

The Revised Beta Examination is a non-verbal group-administered intelligence test. Although it is designed to be a quick and easy group screening device, it has been used by the Department of

⁶Stanley L. Brodsky, Psychologists in the Criminal Justice System (American Association of Correctional Psychologists, 1972), pp. 144-145

Corrections as the determinant of the level of intellectual functioning of inmates, because of the limitation of resources and the time constraint placed on processing inmates at the Reception and Evaluation Center. It was suggested in the first report, The Mentally Retarded Adult Offender, that the margin of error on the Revised Beta may be 5 points or more.

Despite the limitations of the evaluation process, the Beta I.Q. scores were the only available data with which to identify and describe the mentally retarded offender population in the South Carolina Department of Corrections. Due to staff and time limitations, the Project Staff had no alternative but to use these figures, but with reservation.

The first report stated that 8 percent of the inmates in the South Carolina Department of Corrections were functioning in the retarded range with Beta I.Q.'s of 70 or less. Furthermore, of this group 1.3 percent were functioning at a Beta I.Q. level of 50 or below. This finding was based on a sample of 610 of the approximately 3,400 inmates in the Department.

2. Expanded Statistical Sample in Present Study

This survey has since been replicated with a larger statistical sample. A survey was conducted to identify all those inmates in the Department of Corrections who have an indicated Beta I.Q. of 70 or less based on the intake data collected at the Reception and Evaluation Center. Beginning January 1, 1973, all incoming inmates were administered the Revised Beta Examination along with other intake data measures. Prior to this time only inmates

who met certain requirements upon entering the Department of Corrections (particularly that of having a sentence of fewer than six years) were administered the Revised Beta and the rest of the evaluation package.

This list, therefore, represents a records search of approximately 2,500 inmates. Of these inmates 198, or 7.9 percent were found to have reported Beta I.Q. scores of 70 or less. This percentage is very close to the 8.0 percent predicted in the first Mental Retardation Study Report.

Applying this 7.9 percent figure to the remaining approximately 900 inmates (26%) who have not been tested indicates that there are perhaps about 71 inmates in this group who would have Beta I.Q.'s of seventy or less. The resulting total of 269 inmates who fall in this range is very close to the 274 inmates predicted in the first Mental Retardation Study Report.

Twenty-seven of the inmates in the second sample population have Beta I.Q. scores of 50 or less. A projection of this figure to the total population suggest that 37 inmates (1.1 percent) fall in this range. These figures, also, are close to the 43 (1.3 percent) inmates projected in the first sample.

3. Re-Evaluation - Comparison of Revised Beta Scores with WAIS Scores

The initial report, The Mentally Retarded Adult Offender, seems to have fostered a great deal of interest in improving the evaluation process. A decision was made that those inmates who were

identified in the second sample group as having Beta I.Q.'s of 50 or less would be retested with the Wechsler Adult Intelligence Scale (WAIS) by the Psychological Services Department. The WAIS is a highly regarded individually administered measure of intellectual ability.

Twenty-five of the original twenty-seven inmates were still incarcerated. These inmates were given the WAIS. The resulting scores were correlated with the Revised Beta scores and the results were startling. The 25 inmates scored a mean of 24 points higher on the WAIS than they had on the Revised Beta. Some striking examples of this divergence are contained in the table below:

SCORE COMPARISONS

<u>Revised Beta</u>	<u>WAIS</u>
21	74
29	64
37	94
40	75
43	73

Since the Revised Beta is thought to be a measure of general intelligence, albeit a nonverbal measure, some close correspondence between scores on that instrument and the WAIS would be expected. Examination of the two sets of scores, however, reveals widely divergent scores for nearly all individuals tested. A Pearson Product-Moment Correlation Coefficient was computed to indicate the degree of mathematical relationship between the two sets of scores. Correlation coefficients can range from -1.00 through 0.0 to +1.0 where -1.0 indicates a perfect negative relationship between two measures,

0.0 indicates no relationship, and +1.0 indicates a perfect positive relationship. In this instance the correlation coefficient was found to be 0.12 which indicates virtually no relationship between the two measures.

Since the two tests were administered at different times and under varying conditions, the comparison cannot be considered conclusive. It does raise questions as to the appropriateness of a widely used instrument - the Revised Beta - as the sole determiner of intelligence.

D. Conclusions

The results of the correlation of the Revised Beta scores with the WAIS rather dramatically illustrate the possible deficiencies of the Revised Beta Examination as the sole determinant of the level of intellectual functioning of an inmate. These results, of course, are of a preliminary nature. Further retesting with a larger sample and of groups in different Beta ranges are necessary before concrete conclusions can be drawn. Owing to the time required for administering the WAIS test to individual inmates, more definitive results cannot be obtained within the time frame of this follow-up study. However, the Psychological Services Department of the Division of Specialized Services, South Carolina Department of Corrections, is currently conducting further re-evaluations and analysis of test scores. This will undoubtedly unfold means by which the evaluation and identification process can be improved.

Based on this experience with Revised Beta scores, and since many state correctional systems admitted the use of this test in identifying the

mentally retarded, it is recommended that similar score comparisons be made by other systems. Such comparison can probably provide additional insight into the evaluation procedures in corrections.

E. Recommendations and Proposed Changes

It is almost certain that improvements will be made in the evaluation process. Probable directions of change will include the use of more valid and reliable instruments, more comprehensive interviews and the employment of professionals. However much it is improved, the initial evaluation process must, because of present limitations of funds, facilities and staff, remain only a screening procedure. To positively identify the mentally retarded, delineate his strengths and weaknesses, and prescribe a rehabilitative program for him will require a much more thorough evaluation than is feasible for the Department of Corrections to administer to all inmates. Beyond the initial screening, a comprehensive evaluation probably will require the assistance of experts in the field of mental retardation.

- 1) Proposed Evaluation Procedure - Positive steps toward changes have already been initiated. Several meetings between Mental Retardation Study Project staff members representing the Department of Corrections and officials of the Department of Mental Retardation have resulted in a tentative verbal agreement on a cooperative evaluation program.

This proposed procedure is almost identical to the one currently being employed by the Departments of Youth

Services and Mental Retardation in a cooperative program for the evaluation and treatment of mentally retarded juvenile offenders. Both agencies agree that the program is working well and they are taking steps to expand the program. It is reasonable to assume that a similar program would be effective with adult retarded offenders.

(a) Outline of Procedure

When an inmate at the Reception and Evaluation Center is tentatively identified through normal evaluation procedures as being mentally retarded he is referred to the Psychological Services Department for a more intensive evaluation. The mental retardation evaluation could be made at the Reception and Evaluation Center. If conditions there are not suited to an evaluation as prescribed for that inmate, he could be transferred to another location within the Department of Corrections or to a Department of Mental Retardation facility. The inmate would in that event be returned to the Reception and Evaluation Center immediately upon completion of the evaluation. If, after this more comprehensive evaluation, indications are that the inmate is retarded, he is staffed by both the Classification Committee and a representative of the Department of Mental Retardation. A joint decision is made concerning recommendations for

placement and treatment. If there remains a serious question about the inmate's level of functioning he may be referred to the Department of Mental Retardation for further evaluation.

The Department of Mental Retardation would write a full report on the finding of their evaluation including recommendations for treatment and rehabilitation. A member of the Department of Mental Retardation staff would again meet with the Classification Committee to make a joint decision about the case.

The standard Reception and Evaluation Center evaluation and Classification Committee staffing would take the normal amount of time required for all inmates. The mental retardation evaluation and report would require about one week to complete. However, as most inmates stay at Reception and Evaluation at least several days longer than is required the mental retardation evaluation could be sandwiched in during this period. The total time to evaluate a mentally retarded offender, therefore, would probably be no more than for normal offenders.

(b) Referral Process

A referral process will be needed to identify those retarded inmates already within the correctional system.

A retarded inmate could be tentatively identified by a correctional employee such as his teacher or work supervisor. This person would refer the inmate to the Psychological Services Department for testing and positive identification. The inmate possibly could then be sent through the staffing process with the Department of Mental Retardation representative (as outlined in (a) above).

This referral process could also act as a back-up system. Occasionally, as with all systems, a breakdown could occur and a mentally retarded inmate could for some reason pass undetected through the evaluation process at the Reception and Evaluation Center.

In order for such a referral system to be effective, specified correctional employees should be given training in the identification of mental retardates.

- 2) Female Inmates - It is recommended that the content of the evaluation procedure for women in the Department of Corrections differ very little from that for male inmates. Female inmates should be evaluated at the Women's Correctional Institution in Columbia. The same procedures for identification, staffing, and placement should apply.

- 3) Implementation of Proposals - The Department of Mental Retardation has expressed a willingness to begin immediately joint staffings and special evaluations. Further dialogue between that department and officials of the Department of Corrections should be initiated to finalize the cooperative evaluation program outlined in this section.
- 4) Personnel Requirements - The implementation of such a program will necessitate the involvement of personnel who have been given specialized training in the field of mental retardation. Certainly the possible assignment of personnel from the Department of Mental Retardation will meet this need to some extent. A need still would exist, however, for Department of Corrections' personnel with specialized training. Efforts, therefore, should begin immediately to:
- (a) estimate the personnel requirements,
 - (b) estimate the extent of specialized training needed, and
 - (c) locate funding sources for this training.
- 5) Conclusion - The kind of process used in the comprehensive evaluation of a mentally retarded person is not necessarily the best for the evaluation of a person with normal abilities. An improved general evaluation procedure at the Reception and Evaluation Center should be adequate for the evaluation of most inmates. Only in the case of a retarded inmate should it be necessary to employ the intensive techniques described above.

The first Mental Retardation report described a number of problems which were created by the inclusion of retarded persons with those of normal intelligence in the correctional system. An identification and evaluation program such as the one described above would offer benefits to both the retarded inmate and the correctional system by allowing retarded inmates to be identified and placed in a program designed for the retarded. This program is outlined in the next chapter.

V: PROPOSED TREATMENT PROGRAM

A. Introduction

Since a formal program of early diversion is not immediately feasible, attention is directed toward an assessment of the possibility of establishing treatment modalities for the mentally retarded offender within the South Carolina Department of Corrections. The goal of this effort is to outline a plan of action for providing specialized treatment for the mentally retarded within a correctional setting.

B. Criterion for Program Acceptance

Special programs for the mentally retarded must be defined in terms of the functioning level of those who participate in them. Further dialogue between the Department of Corrections and Department of Mental Retardation officials has resulted in the formulation of three levels of intellectual functioning as a criterion for placement in special programs. These major functioning levels are as follows:

1. Inmates who on the basis of an extensive assessment are found to be severely retarded should be transferred to a mental retardation facility. Such individuals would usually be functioning below an intelligence quotient (I.Q.) level of 50. Retardation and not criminal behavior is almost certainly the primary factor in these cases. Certain of these inmates who exhibit dangerous behavior may have to be retained in a correctional setting.

Ideally, though, training and care of these moderately and severely retarded individuals should be the responsibility of the Department of Mental Retardation.

2. Inmates who are functioning in the mildly retarded range of intelligence with adaptive levels equivalent to I.Q.'s of approximately 50 to 70 should also receive special training. These individuals, however, can remain in a correctional setting, although removed from the mainstream of the prison environment. Special programs should be developed to provide them with learning experiences and skills commensurate with their abilities.
3. Inmates who are functioning above an I.Q. level of approximately 70 should be considered in or near the average range of intelligence and inappropriate for special training. They can be placed in the institutions and training programs that most inmates enter.

These alternatives assume that no pre-trial or pre-sentence diversion programs are operating or were offered to those inmates in the first two categories. Placement of an inmate in one of the above categories is based on a thorough evaluation of his total level of functioning, not solely on I.Q. scores.

C. Institutional Segregation of Mentally Retarded Inmates

The report of the first Mental Retardation Study Project indicated that the mentally retarded inmate is often the victim of abuses by other inmates. For this reason and the fact the programs for retarded inmates require special equipment and staff training, it is recommended that those retarded inmates who remain institutionalized be segregated from the other inmates.

Inmates transferred to the Department of Mental Retardation (those judged to be severely retarded) would fall under that agency's jurisdiction for institutional placement and training. Pending legislative and judicial changes, the Department of Corrections would remain as advocate for these persons. If the Department of Mental Retardation sought release from institutionalization for them it would have to be according to current requirements for Department of Corrections inmates e.g., parole or work release. If release is sought after the expiration of their sentence they would be released in the same manner as are all other persons under the care of the Department of Mental Retardation.

D. Location of Special Facilities

The following narrative deals with the provision of special facilities with the SCDC for the mentally retarded inmate. The suggestions contained herein are based upon lengthy discussions with personnel from the Department of Corrections, the Department of Mental Retardation and the Department of Vocational Rehabilitation.

1. Facility for Females - Females represent only about 4 percent (150) of the total inmate population of approximately 3,400. The number of retarded female inmates is not known, but could reasonably be expected to be near the national norm of 9.5⁷; i.e., 14 inmates.

The women's institution already has the necessary features for developing a program for the retarded female offender. This spacious new facility features cottage-type housing with 1, 2, and 4-person rooms. If deemed appropriate, a special living section could easily be arranged by simply rearranging room assignments so that all retardates are in one cottage.

Since the number of female retarded inmates is likely to be so small, the economic feasibility of offering specialized education and training classes should be examined.

The institution presently has a full-time staff which includes educators, counselors, a nurse, a social worker, and a psychologist. The women's institution also has a relatively liberal policy concerning inmates working and/or receiving

⁷ Bertram S. Brown and Thomas F. Courtless, The Mentally Retarded in Penal and Correctional Institutions. (American Journal of Psychiatry 124:9, March, 1968) pp. 50-56.

training in the community. For these reasons, the capability already exists for serving many of the needs of retarded female inmates.

It is recommended that procedures be formalized for administering comprehensive assessments to those inmates who are tentatively identified as retarded during their entry process to the institution.

2. Facility for Males - For the reasons noted in Section IV. of this report, a separate facility for retarded male inmates is highly recommended.

At present the number of retarded inmates in the Department of Corrections is not known precisely. The two preliminary investigations alluded to in Section IV revealed that perhaps 218 inmates in the Department of Corrections at any given time would fall in the mildly retarded range of intelligence. The first Mental Retardation Research Project urged that as many of these persons as possible be removed from or kept out of correctional setting. The suggestion was that the type of offense committed, that is, crime against persons or crime against property could serve as a broad guideline for determining whether institutional or community based rehabilitation could be utilized. As preliminary statistical information indicated that

each category represented about 50 percent, the mildly retarded inmate population could be reduced roughly by one-half (to approximately 110).

A study is presently being conducted to find ways to improve the evaluation of inmates. This study should prove helpful in determining which inmates are retarded.

- a) Location of Facility - It is recommended that the special retardation unit for retarded male inmates be located at Manning Correctional Institution. Manning is a 300-man medium security institution location just north of Columbia. It has advantages of being:
- i. near a major metropolitan area with opportunities for training and employment,
 - ii. near a bus line to Columbia,
 - iii. only 1 mile from a Department of Mental Retardation institution,
 - iv. near the University of South Carolina,
 - v. near major medical facilities both at the main correctional institution and in the community, and
 - vi. near a local mental health center.

By being a medium security institution with a high double fence around the perimeter, Manning can accomodate inmates in all security classification levels. The fences and grassy areas help Manning seem somewhat less like a prison than the barren, stone-walled maximum security prison across town.

- b) Work Requirements - Manning is the site of the Department of Corrections laundry facility. Most of the inmates work in the laundry, though some have other jobs such as clerical or cafeteria work. Even 75-100 inmates who attend school at Manning usually spend half of each day working in the laundry. The laundry usually is operating at peak capacity. The warden of Manning states that he cannot reduce his manpower by turning over one or two of the institution's six sixty-man wards to become retarded offender wards when these retarded offenders may not be assigned to work in the laundry. Therefore, it will be necessary to determine which retarded inmates should be scheduled for work in the laundry. It is expected that the time spent each day in the laundry and time spent in education and training programs would vary among the

inmates. If the total amount of manpower available is reduced by the utilization of one or two of the wards for retarded inmates, then additional wards must be constructed so that the laundry can continue to operate.

- c) Description of Wards at Manning - The wards at Manning are 50' x 100' open structures built on both sides of and at right angles to a long corridor. They have beds to accommodate 60 inmates along the outer walls and in a double row up the middle. There are bathroom facilities and a television room in each ward.

Assuming that there will be about 110 retarded inmates incarcerated within the Department of Corrections, Manning then would need to set aside or build two wards for the mental retardation unit.

The Accreditation Council for Facilities for the Mentally Retarded has published a document through the Joint Commission on Accreditation of Hospitals entitled Standards for Residential Facilities for the Mentally Retarded. The standards for accreditation are quite high

and to date only two mental retardation facilities in the nation have been accredited. The simple wards at Manning Correctional Institution would cost an estimated \$50,000 each; the stringent housing requirements that the Commission sets are prohibitively expensive for the Department of Corrections. It is not the purpose of the retarded offender unit to seek accreditation as a full-scale mental retardation facility, but to rehabilitate mildly retarded offenders. It is suggested that this document be referred to and its recommendations utilized where feasible in the structuring of both the living quarters and the school.

- d) Educational Facilities - The school at Manning Correctional Institution is barely adequate to hold 75 "normal" students; therefore, the specialized programs for retarded inmates will require the construction of additional classrooms and vocational areas. The Department of Education recommends that no more than 15 students be assigned a special education class. The Department of Mental Retardation recommends that each classroom contain a minimum of 720 square feet for 10-12 students. Classrooms should have enough room for the development of various learning areas. Vocational

training areas should be even larger and offices for project personnel are needed. Classrooms can alternately be used in several ways, e.g., for academic education, art and music therapy, and group therapy. Cost estimates at this point in time are premature for the number of classrooms will depend on the number of inmates assigned to the unit.

E. Staff Requirements

In preliminary discussions with the Department of Mental Retardation that agency has indicated a willingness to make the retardation unit a cooperative effort using staff from both departments. The Department of Mental Retardation would consider supplying the treatment staff. This staff would include special education teachers, special vocational instructors, personal adjustment counselors, and teacher aides. The Department of Corrections would, of course, supply the facilities and the security staff. It is recommended that correctional officers who are assigned to the retardation unit receive special training in the field of mental retardation and be upgraded to the position of correctional counselor. The specific number of staff members in each job category would depend on the eventual size of the unit and number of inmates served. Efforts should begin to locate possible sources for funding the training of required staff.

F. Curriculum and Therapy

Specific curriculum development will be left to the Department of Mental Retardation and the Department of Vocational Rehabilitation. Components could be expected to include academic education, vocational training, personal adjustment counseling, and, hopefully, on-the-job training. Content should provide learning experiences in basic academic skills, simple work-related skills, orientation to the world of work, and personal and social development. Suggested areas of vocational training are mechanics helper, service station attendant, landscape maintenance and gardening, custodial and building maintenance, laundry plant work, and food service work. An organized recreational program and a music and arts and crafts program are recommended to teach the retarded inmates productive use of leisure time.

Because of the dual purpose of Manning Correctional Institution - that of a correctional institution and a retardation rehabilitation center - the retarded inmates will come into contact with other inmates. It is recommended that these two groups be allowed to eat, attend worship services and participate in informal recreation together. This contact will help foster good relations as well as make the most efficient use of existing facilities.

The Department of Corrections should supply individual or group therapy to the retarded offender as a contribution to the rehabilitative process. Retarded individuals are characterized by poor adaptive abilities. The presence of these retarded individuals in a correctional setting

demonstrates their low level of social adaptability. Emphasis should be placed on self-concept and family and peer relations.

G. Financing the Program

The implementation of the program envisioned in this report will require expenditures for additional personnel, additional training of existing personnel, new classrooms, equipment, and possibly one or two new wards. The resources for these items are not currently available to the Department of Corrections. Therefore, every effort should be made to locate external sources of funds.

The first Mental Retardation Study Project report listed several potential funding sources within the United States Department of Health, Education and Welfare. Additional potential funding sources include the Developmental Disabilities Services Act, the Emergency Employment Act, and sources within the South Carolina Departments of Education and Vocational Rehabilitation. With the national emphasis now focusing on corrections and, in particular, the emerging interest in the mentally retarded offender the Department of Mental Retardation has expressed confidence in its ability to obtain funds for implementation of the treatment program outlined in this report.

H. Release and Reintegration of Retarded Inmates

Since the primary emphasis in the mental retardation unit discussed above would be on rehabilitation and not punishment, inmates assigned

there should be released from institutionalization as soon as the treatment staff feels they they can adequately function in society. A program for retarded inmates, in addition to including segregated living quarters and special programs, must also meet the special needs of these individuals as they are reintegrated into society.

Evidence exists that these special needs have not gone unnoticed. An embryonic program which combines the efforts of the Department of Corrections, Department of Mental Retardation, and the Department of Vocational Rehabilitation, has been operational for several years.

1. Description of Current Program - Certain retarded inmates at Manning Correctional Institution are selected as candidates for training at the Vocational Rehabilitation unit at the Midlands Center of the Department of Mental Retardation. Selection criteria include:
 - a) inmate must be serving the final 6 - 8 months of his sentence prior to release or parole.
 - b) favorable institutional behavior record.
 - c) relative need for special training.

Initially a Vocational Rehabilitation case is opened on the inmate by the resident counselor at Manning. The inmate is given a Mental Retardation Assessment which includes

institutional summaries, psychological and educational evaluations, social work reports and a Manning treatment team review.

Following a treatment team recommendation and authorization by the Department of Corrections, a request for services is made to the Midlands Center. If accepted for training by the Midlands Center the inmate initially commutes to the Center on a day client status. After several months if his behavior and progress are satisfactory and space is available, he is placed in residency at Midlands for preparation for placement in suitable employment.

The inmate may remain in either of the above two statuses - day client or resident - until his release or parole hearing or he may be placed in the Morris Half-way House of the Department of Mental Retardation again according to behavior and available space. Inmates accepted at Morris continue working under supervision for approximately the four months prior to his parole hearing.

Upon the inmate's parole or release the Department of Vocational Rehabilitation develops a follow-up plan. Three alternatives, based on his functioning level, are available:

- a) returning the inmate to his home as a productive citizen under the sponsorship of the Department of Vocational Rehabilitation.
- b) placing the inmate in a sheltered workshop under the supervision of the Department of Vocational Rehabilitation.
- c) referring the inmate to the Department of Mental Retardation for institutionalization and further training.

The program described above has a total capacity of 20 inmates and receives no special funding.

Even with the program's limited capacity, it is significant in that it demonstrates the willingness of the various agencies to cooperate for the benefit of mentally retarded inmates.

2. Proposed Changes in the Program - A number of changes have been proposed for the expansion of the program described above. Essentially these changes will lengthen the training period prior to the retarded inmates release or parole. This increase is accomplished through the addition of several components in the training process. Specifically, the new components include a protracted period of personal and social counseling by the staff at Manning and the enrollment of educable inmates in the basic education program at Manning.

The proposed training process would, therefore, involve the following sequence with approximate times for each; counseling and education, 4 months; day student status at Midlands, 2 months; residency at Midlands, 2 months; Morris Half-way House residency, 4 months. The total training time for retarded inmates in this program would be approximately the 12 months prior to parole eligibility or release.

3. Implications of this Proposed Expansion - Until the implementation of the recommendations for improved identification and evaluation of retarded inmates and a separate facility for their training can be effected, the program can do much in the interim for retarded inmates provided that its capacity can be significantly increased. The efficacy of the program has been demonstrated and efforts should begin for the acquisition of funding for its expansion.

I. Conclusion

The objective of a special correctional program for the retarded offender should be the same as that for any other offender; that is, to return him or her to society as a more productive, self-fulfilled, and law-abiding citizen. To date the retarded offender in South Carolina has had little opportunity to achieve these goals as his special needs have not been met in the correctional setting. It is hoped that the recommendations presented in this section will reach fruition and thereby fulfill these objectives.

APPENDICES

APPENDIX A

Persons and Agencies Contacted

Clerk of Senate
The Capitol Building
Columbia, South Carolina 29201

Provided copy of Bill S-539.

Floyd Dennis
Community Programs Coordinator
Box 43
George Peabody College for Teachers
Nashville, Tennessee 37203

Provided various speeches and papers on the subject of the mentally retarded offender.

Robert L. Denny, Director
Council on Developmental Disabilities
443 North Harrington Street
Raleigh, North Carolina 27603

Provided information on what is available for the mentally retarded offender in South Carolina.

Robert M. Gettings
Executive Director
National Association of Coordinators
of State Programs for the Mentally Retarded, Inc.
2001 Jefferson Davis Highway
Arlington, Virginia 22202

Provided a run-down of existing programs for the mentally retarded offender in the United States.

G. Thomas Graf
Atlanta Association for Retarded Children
Suite 369, First National Bank Building
315 Ponce de Leon Avenue
Decatur, Georgia 30030

Provided a copy of "Study of Georgia's Criminal System as it relates to the Mentally Retarded".

Aris Mallas
Box 3750
Austin, Texas 78764

Provided material from a judicial Mental Retardation education conference in Texas.

National Center for Law and the Handicapped
1235 North Eddy Street
South Bend, Indiana 46617

Could not provide any information but are anxious to receive for their files anything we can send.

National Council on Crime and Delinquency
Continental Plaza
411 Hackensack Avenue
Hackensack, New Jersey 07601

Provided reference materials.

Delores Norley
Florida Association for Retarded
Children
211 20th Street
West Palm Beach, Florida 33407

Provided materials used in the
Florida police Mental Retardation
education program.

Louise R. Ravenel
President's Committee on Mental
Retardation
1 Farmfield Avenue
Charleston, South Carolina 29407

Provided The Naive Offender
pamphlet as well as other
information and aid.

Sterling Ross, Counsel
California Association for Retarded
Children
1225 8th Street, Suite 312
Sacramento, California 95814

Provided a copy of a California
Statute which became the basis
for the Model Law.

APPENDIX B

Excerpts from Bill S-539

Bill S-539 now in the Judiciary Committee of the South Carolina Senate.
The most relevant sections are as follows:

Section 32-970 Whenever a judge of the circuit court, county court, or family court has reason to believe that a person on trial before him, charged with the commission of a criminal offense, is not fit to stand trial because such person lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of mental illness or deficiency, the judge shall:

- 1) Order examination of such person by two designated examiners (such examination shall be made within fifteen days after the court's order), or
- 2) Order such person committed for examination and observation to a State Hospital for a period not to exceed fifteen days. If at the end of fifteen days the State Hospital has been unable to determine whether the person is fit to stand trial, the superintendent of the hospital shall request in writing an additional period for observation not to exceed fifteen days.

If such person or his counsel so requests, the person may be examined additionally by a designated examiner of his choice. If the court determines that the person is indigent, the examination by such additional examiner shall be at public expense. The report of such examination shall be admissible as evidence in subsequent hearings pursuant to Section 32-972. Provided, that the court may prescribe the time and conditions under which such independent examination is conducted.

Section 32-983 In any criminal proceedings where mental illness or mental deficiency is raised as a defense:

- 1) The court may order the examination of a defendant who has asserted the defense of mental illness or mental deficiency by a designated examiner, or may order such defendant hospitalized for examination and observation for a period not to exceed twenty days.

- 2) A defendant who has asserted the defense of mental illness or mental deficiency and who is indigent shall be entitled to be examined by a designated examiner of his choice at public expense.

If the court believes that a person who has been adjudged not to be responsible for his criminal conduct because of mental illness or mental deficiency requires hospitalization, it shall order the initiation of judicial admission proceedings pursuant to Section 32-959 and may detain such person pending the outcome of such proceedings. If such person is found not to require hospitalization, the court shall order his release.

APPENDIX C

Circuit Judges Questionnaire and Results

1. How many years have you been a circuit court judge?

Under 1 year	1
3 years	1
6 - 7 years	5
11 - 13 years	6
15 years	1

2. Could you estimate how many defendants you have had come before you?

No answer	3
90 per week of General Sessions	1
500 per year	1
100 - 500 total	1
1,000 - 2,000	1
2,000 - 3,000	4
3,000 - 4,000	1
6,000 - 7,000	1
12,000	1

3. What percentage of accused persons who come before you would you say are mentally retarded?

No answer	1
1% - 2%	6
3% - 4%	3
7% - 8%	1
9% - 10%	3

4. If you suspect that the mental capacity of a defendant is insufficient to find the requisite mens rea, what is your procedure?

No remedy	1
Send to R&E for pre-trial exam	1
Refer to local mental health clinic	3
Question defendant from bench	1
Commit to state hospital for 30 days	7
Probation with conditions	2
Put case on contingent docket	1
Depends on case	4
It's a jury question	1

5. Is there any place available where you can send the defendant for pre-trial or pre-sentence evaluation?

No	2
Local mental health clinic	4
Vocational Rehabilitation	1
Probation officer	3
Not for the adult	4
Youthful Offender R & E	6
State Hospital	5

6. If not, do you feel there is a need for such a service?

No answer	2
Yes	9
No	1
There are more pressing matters	1
Pre-trial evaluation for all	3
Usually done by defense attorney	1

7. Do you think the average officer of the court is aware of the difference between the mentally retarded and the mentally ill?

Yes	6
No	3
Somewhat	4
Depends on degree	1
Not sufficiently	1

8. Do you feel there is a need to educate the officers of the court to recognize the mentally retarded offender?

No answer	1
Yes	8
No	4
It's already being done	1
Custodial officers need education	1
Assignment officers need education	1
Police and public need education	1
There are more pressing matters	1

9. Do you have any recommendations as to how to go about it?

No answer	7
No	1
American Bar Association	1
Special training	1
MR forum at Judicial Conference	1

Police Academy	1
Provide officers with resume of each defendant	1
Educational television	1

10. Do you feel that there is a more appropriate place to send the mentally retarded offender than to the Department of Corrections?

No answer	2
Yes	3
No	1
Nothing exists	6
Interagency compact	1
A mental retardation penal facility	3

11. Would you be adverse to committing a mentally retarded offender to the custody of another Department rather than to the Department of Corrections?

No	9
Depends on department	1
If not dangerous	2
Nothing exists	3
I follow the prescribed statutes	1

12. Do you think that new legislation is required for a judge to commit a convicted offender to the custody of any department other than the Department of Corrections?

Yes	9
No	3
Should be researched	1
Maybe	2
Judges already have discretion	1

13. Do you feel that either of the following statutes would preclude sentencing a mentally retarded offender to the Department of Corrections?

Article 2.2 South Carolina Mentally Retarded Persons Act
§32-927.28 Involuntary Admission - ... no person shall be confined in jail unless there be a showing that he is a danger to himself or to others, and that no other suitable place of custody is available.

No answer	3
Yes	2
No	6

Not sure	3
Unfamiliar	1

Chapter 9 Jails and Jailers

§55-411.1 No person who is mentally ill, mentally defective, or epileptic should be confined for safekeeping in any jail. If it appears to the officer in charge that such a person has been imprisoned he shall notify the South Carolina Mental Health Commission immediately.

No answer	3
Yes	2
No	4
Not sure	2

14. Do you think that the statutory maximum and minimum sentences as now written should apply to the convicted mentally retarded offender?

No answer	3
Yes	5
No	2
Sometimes	1
Judges have wide discretion	5
They aren't applied	1

15. Would there be a better way to sentence a mentally retarded offender rather than to a set number of years?

No answer	3
Yes	5
Indeterminate sentence	2
Maybe probation	1
Panel to make release decision	2
Judge already has discretion	1
Don't know of any	1

16. Do you think that the M'Naughten test of responsibility is adequate to allow for the mentally retarded defendant who might understand that what he did was wrong, but not grasp the nature or scope of his act?

No answer	3
Yes	3
No	5
Unfamiliar	2
Jurors need to better understand	1
No adequate alternative	2
Depends on case	2

17. Do you think that the ALI test of diminished responsibility would be a better test?

No answer	4
Yes	3
No	2
Unfamiliar	5

18. Comments and what proposals, if any, would you be willing to endorse?

Need separate facility	12
Would endorse a separate facility	4
Might endorse	2
Can't endorse because of ethics code	2
Would like to help, but no time	1
Mentally retarded are passive, could go to Whitten Village	1

APPENDIX D

County Judges Questionnaire and Results

1. What percentage of accused persons who came before you would you say are mentally retarded?

0 - 1%	1
5%	3
20%	1
Small	1

2. If you suspect that the mental capacity of a defendant is insufficient to find the requisite mens rea or criminal intent, what is your procedure?

Commit to State Hospital for 30-day observation	6
Request that defendant's attorney have defendant examined	1

3. Is there any place available where you can send the defendant for pre-trial or pre-sentence evaluation?

Yes	1
Only for youthful offenders	1
Mental health clinic and State Hospital	2
No law requiring evaluation	1
Department of Corrections Reception and Evaluation Center	1

4. If not, do you feel there is a need for such a service?

No answer	2
Yes	3
No	1

5. Do you feel that there is a more appropriate place to send the mentally retarded offender than to the Department of Corrections?

There is nothing available	3
Yes	1
No	1
Conditional probation	1

6. Would you be adverse to committing a mentally retarded offender to the custody of another Department rather than to the Department of Corrections?

No	4
Not aware of facilities in other departments	2

7. Do you think that new legislation is required for a judge to commit a convicted offender to the custody of any department other than the Department of Corrections?

Yes	6
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8. Do you think that the M'Naughten test of responsibility is adequate to allow for the mentally retarded defendant who might understand that what he did was wrong, but not grasp the nature or scope of his act?

Yes	4
No	1
No opinion	1

9. Do you think the ALI test of diminished responsibility would be a better test?

Yes	1
No	3
No opinion	1
Not necessarily	1

10. What proposals would you be willing to endorse in order to help divert the mentally retarded offender?

Proposal which would divert the mentally retarded and protect society	2
No opinion	4

CONTINUED

1 OF 2

APPENDIX E

Solicitors Questionnaire and Results

1. What percentage of the defendants you have prosecuted would you say were mentally retarded?

No answer	2
0 - 1%	1
Less than 5%	1
10%	3
20 - 30%	1

2. If you suspect that the mental capacity of a defendant is insufficient to find the requisite mens rea or criminal intent, what is your procedure?

Commit to State Hospital for 30-day observation	2
Have evaluation made, if possible	1
<u>Nol prosse</u>	4
Leave it up to judge	1

3. Have you ever nol prossed a case because of the defendant's mental retardation?

Yes	5
No	2
Yes, on advice of State Hospital	1

4. Are there any local agencies or organizations which you call on when you have a mentally retarded offender?

No	3
Mental health clinic	5

5. If not, do you feel a need for such a service, and would you use it if it were available?

No answer	1
Yes	5
Uncertain	2

6. Do you feel that there is a more appropriate place to send the mentally retarded offender than to the Department of Corrections?

Yes	2
No	2
Probably should be	3
Only for first offense	1
Not for serious offenses	1

7. Do you feel that new legislation is necessary to divert the mentally retarded offender before he goes into court? If so, do you have any suggestions?

No answer	2
Yes	3
No	2
They must be kept out of society	1
Separate facility to protect them	
from criminals and protect society	1
They should be worked with from birth	1

8. Do you think that the M'Naughten test of responsibility is adequate to allow for the mentally retarded defendant who might understand that what he did was wrong, but not grasp the nature or scope of his act?

Yes	8
The crime, not the I.Q., is the question	1
No answer	1

9. Do you think the ALI test of diminished responsibility would be a better test?

No answer	2
No	4
The crime, not the I.Q., is the question	1
Not familiar with test	1

10. Do you have any suggestions about how to divert the mentally retarded offender?

No answer	1
No	2
Must define mental retardation	1
Need to increase facilities	2
Need pre-natal prevention	1
Need for counseling and supervision	1

APPENDIX F

Probation Officers Questionnaire and Results

1. Would you be in favor of diverting the adult mentally retarded offender from the criminal justice system?

Yes	21
No	10
First offense only	2
Except violent crimes against persons	1
If adequate facilities available	1
No answer	1

2. How many probationers under your supervision are mentally retarded?

None	5
Less than 1%	2
1%	9
2%	5
3%	1
4%	1
5%	5
10%	3
15%	2
No answer	1

3. Were they identified as being mentally retarded before being put on probation?

Yes	7
No	12
Sometimes	6
Known but ignored	1
No answer	7

If so how?

By attorneys	6
By family	5
By school officials	3
By private physician	2
Department of Mental Health	2
Police officers	2
State agency	1
Family Court	1
State Hospital	1

4. Do you think that being mentally retarded influenced the court in giving them probation instead of a prison sentence?

Yes	19
No	5
Depends of crime	3
If court informed	2
No answer	6

5. What kind of special training have you had for working with mentally retarded probationers?

None	12
Classes	11
Seminars - Workshops	5
In-service meetings	2
Literature on subject	5
Observations at Departments of Vocational Rehabilitation and Mental Health	2
Experience	6

6. What resources are available to help the adult mentally retarded probationers?

None	3
Mental Health Centers	21
Department of Vocational Rehabilitation	18
Department of Mental Retardation	4
Adult Activity and Development Centers	4
Department of Social Services	2
Department of Labor	2
County Health Department	1
School programs	1
Pastors and churchmen	1
Family and friends	1

7. What kind of supervisory problems occur with the adult mentally retarded probationer?

None	3
Difficulties in communication	15
Do not - Can not follow instructions	10
Failure to report	6
Difficulties of job placement and retention	7
Lack of family cooperation	5

Need closer supervision	4
Require more time for referrals	3
Repeat offenses	3
Easily influenced and misled	2
Drinking	1
Molesting females	1
Lack of training for dealing with the mentally retarded	1
Each unique	1
No answer	2

8. Do you think there should be a special law for the mentally retarded adult offender?

Yes	20
No	12
Laws already cover	3
Law for separate facility	1
A study should be made	1

9. Comments and recommendations:

No comments	11
Need facilities	5
Need separate treatment	5
Need more probation officers	2
Need services	1
Need trained personnel	1
Need family education	1
Need pre-trial evaluation	1
Need preventive measures	1
Need to do <u>something</u>	1
Should divert to Department of Mental Retardation	5
Should not remain free	5
Must avoid malingers	2
Do not need facilities	1
Few such cases	1
No time for work with the mentally retarded	1
Cannot generalize	1
Hesitates to revoke parole	1

APPENDIX G

Community Resources Questionnaire and Results

South Carolina Vocational Rehabilitation Department

1. Would you be in favor of diverting the adult mentally retarded offender from the criminal justice system?

Administrators

Yes	1
No	2
Yes, pre-trial diversion	1

Staff

No answer	3
Yes	10
No	2
Depends on the crime	4
First offense only	2
If the public is educated	1
For I.Q. 50 and below	3

- 2a. If so, why?

Administrators

No answer	1
Cannot function in present system	2
Need agency cooperation	1

Staff

No answer	4
Positive results with youthful offenders	1
Everyone should have pre-trial evaluation	5
Cannot function in present system	4
Do not know right from wrong	2
Need agency cooperation	1

- b. If not, why?

Administrators

No answer	1
Not pre-trial diversion	1
Need control of sentence	1

Staff

No answer	4
Not pre-trial diversion	1
Know right from wrong	1
Need control of sentence	2

3. Who should, in your opinion, hold primary responsibility for the diverted offender?

Administrators

Parole Board	1
Courts	1
Department of Corrections, Department of Vocational Rehabilitation, and Department of Mental Retardation	2
South Carolina Commission for Mental Retardation	1

Staff

No answer	2
Department of Corrections	2
Courts	3
Department of Corrections, Department of Vocational Rehabilitation, and Department of Mental Retardation	2
Department of Mental Retardation, Department of Vocational Rehabilitation, and Department of Mental Health	1
Agency giving current services	6

4. What are your specific eligibility requirements for the mentally retarded?

Administrators

I.Q. 80 or less	4
Complete evaluation (social, vocational, and intellectual)	1
Reasonable expectation that he be employable after receiving services	2

Staff

No answer	2
I.Q. 80 or less	11
I.Q. 75 or less	1
Must dress and care for self	1

Complete Evaluation (social, vocational, and intellectual)	1
Reasonable expectation that he be employable after receiving services	1
Poor achievement	1

5. How would your eligibility requirements be different for the mentally retarded adult offenders ?

Administrators

None	4
I.Q. 65 or less	1

Staff

No answer	2
None	12
Less than 55 years old	1
Less than 6 year sentence	1
Depends on offense	1
Must be cooperative	1

6. In what way would your agency assume an active role in the diversion of the mentally retarded offender ?

Administrators

None	2
Add some to case load	2
Recommend placement	1
Vocational evaluation	1

Staff

No answer	3
None	2
Add some to case load	3
Recommend placement	2
Vocational evaluation	4
Conceive and implement interagency systems	1
Pre-trial screening	2

7. Facilities available

Administrators

No answer	2
Activity centers	1
Sheltered workshops	1
Evaluation centers	1

Staff

No answer	11
Activities center	1

8. Services

Administrators

No answer	2
Counseling	1
Adjustment training	1

Staff

No answer	11
Counseling	1
Adjustment training	2

9. Comments

Administrators

No answer	3
Separate facility	3

Staff

No answer	7
Separate facility	3
Return to local prison	1
Reception and Evaluation recommendations followed	2

APPENDIX H

Community Resources Questionnaire and Results

South Carolina Department of Mental Retardation

1. Would you be in favor of diverting the adult mentally retarded offender from the criminal justice system?

Yes	5
Depends on the crime	1
If the public is educated	1
For I.Q. 50 and below	2
Pre-trial diversion	1

2. If not, why?
If so, why?

Cannot function in present system	1
Need agency cooperation	1
Have a right to Mental Retardation programs	1

3. Who should, in your opinion, hold primary responsibility for the diverted offender?

Department of Corrections, Department of Vocational Rehabilitation, and Department of Mental Retardation	3
Department of Vocational Rehabilitation, Department of Mental Health and Department of Mental Retardation	1
Agency giving current service	1
After adjudication, the agency responsible for diagnosis	1

4. What are your specific eligibility requirements for the mentally retarded?

I.Q. 60 or less	1
Not a behavior problem	2
Organic <u>not</u> cultural	1
Complete evaluation (social, vocational, and intellectual)	4
Be mentally retarded, and no other program available	1

5. How would your eligibility requirements be different for the mentally retarded adult offenders?

None	2
Depends on offense	2
No security responsibility	2

6. In what way would your agency assume an active role in the diversion of the mentally retarded offender?

No answer	1
Train Department of Corrections personnel	2
Work for evaluation	2
Work for necessary law	1
Conceive and implement interagency systems	3

APPENDIX I

Community Resources - Unstructured Interviews

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BIBLIOGRAPHY

- Allen, Richard C. "The Retarded Offender: Unrecognized in Court and Untreated in Prison." Federal Probation, 32 (3) (September, 1968), 22.
- Atlanta Association for Retarded Children, Inc. A Study of Georgia's Criminal Justice System As It Relates to the Mentally Retarded, Research Project by the Atlanta Association for Retarded Children, Inc. 1973.
- Brown, Bertram S., et al. "Fantasy and Force: A Study of the Dynamics of the Mentally Retarded Offender," 1970. Crime and Delinquency Literature (Abstract), 3 (2) (June, 1971) 210.
- Brown, Bertram S. and Thomas F. Courtless. "The Mentally Retarded Offender," 1971. Crime and Delinquency Literature (Abstract), 5 (1) (March 1973) 51.
- Carter, Robert M. "It is Respectfully Recommended...." Federal Probation, 30 (2) (June, 1966), 38.
- Carter, Robert M. "The Diversion of Offenders." Federal Probation, 36 (4) (December, 1972), 31.
- Chandler, Charles S., and Bernard A. Sandick. Rehabilitating Public Offenders, a Research and Demonstration Project to Study Methods of Rehabilitating Public Offenders in South Carolina. South Carolina Vocational Rehabilitation Department, 1968.
- Ennis, Bruce, and Loren Siegel. The Rights of Mental Patients, An American Civil Liberties Union Handbook. New York: Avon, 1973.
- Giagiari, Susan. "The Mentally Retarded Offender." Crime and Delinquency Literature, 3 (4) (December, 1971) 559.
- Haggerty, Dennis E., et al. "Protecting the Rights of the Retarded." Student Lawyer, 1 (3) (November, 1972), 46.
- John Howard Society of Ontario. Newsletter, Toronto: (October, 1973).
- Matthews, Robert A., and Lloyd W. Rowland. How to Recognize and Handle Abnormal People, a manual for the Police Officer by the Louisiana Association for Mental Health. Arlington, Virginia: The National Association for Mental Health, 1954.

Miller, Clark J., et al. "A Study of Mentally Retarded Juvenile Offenders in Corpus Christi, Texas." Federal Probation, 37 (2) (June, 1973), 54.

Moeller, H. G., "Corrections and the Community: New Dimensions." Federal Probation, 32 (2) (June, 1968), 25.

National Advisory Commission on Criminal Justice Standards and Goals. Corrections. Washington, D. C.: 1973.

National Association for Retarded Children. Facts on Mental Retardation. Civitan Clubs of North America, revised 1973.

Norley, Delores. "Retarded Youth and the Law Enforcement Process." The Naive Offender, Format and Essays. New England Seminar on Retarded Youth and The Law Enforcement Process: August, 1971.

Office of Criminal Justice Programs. South Carolina Adult Corrections Study. Columbia: South Carolina Governor's Office, Division of Administration, Office of Law Enforcement, 1973.

Ogg, Elizabeth. Securing the Legal Rights of Retarded Persons. The Public Affairs Committee: 1973, Pamphlet 492.

Permenter, Nancy. "Retardate for a Week." Journal of Rehabilitation, 39 (3) (May/June, 1973), 18.

President's Committee on Mental Retardation, Mentally Retarded Citizens and the Law Enforcement Process, Conference Proceedings. St. Louis: 1972.

Robinson, Halbert B., and Nancy M. Robinson. The Mentally Retarded Child, New York: McGraw-Hill, 1965.

Robitscher, Jonas. "Psychiatry and Changing Concepts of Criminal Responsibility." Federal Probation, 31 (3) (September, 1967), 45.

Rudousky, David. The Rights of Prisoners, An American Civil Liberties Union Handbook. New York: Avon, 1973.

Sandick, Bernard A., and Donald S. La Belle. Feasibility Study, concerning the Mentally Retarded Youthful Offender. Columbia, South Carolina: 1971.

South Carolina Association for Retarded Children. South Carolina Laws and the Mentally Retarded. Columbia, South Carolina: South Carolina Association for Retarded Children, 1973.

- South Carolina Association for Retarded Children. 13 XIII Thirteen,
A Directory of Services for the Developmentally Disabled in
South Carolina. Columbia: 1972.
- South Carolina Department of Corrections. The Mentally Retarded
Adult Offender, A Study of the Problem of Mental Retardation
in the South Carolina Department of Corrections. 1972.
- South Carolina Department of Mental Retardation. Conference
Proceedings, Southeast Regional Conference on Youthful Mentally
Retarded Offenders. 1968.
- South Carolina Department of Mental Retardation. File Y: 35 - 83:0,
A plan for the Youthful Mentally Retarded Offender. South
Carolina Department of Mental Retardation, 1969.
- South Carolina Legislative - Governor's Committee on Mental Health
and Mental Retardation. Senate Bill 00539, an amendment to the
Code of Laws of South Carolina. June, 1973.
- South Carolina Probation, Parole and Pardon Board. Annual Report.
1972 - 1973.
- State of South Carolina. Code of Laws of South Carolina. 7th. ed. II
(1971).
- Tennessee Legislative Council Committee. "Study on Mentally Retarded
Public Offenders," 1970. Crime and Delinquency Literature
(Abstract), 4 (1) (March, 1972) 76.
- Texas Department of Mental Health and Mental Retardation. Role and
Responsibility of the County Judge in Promoting and Supporting
Local Level Programs and Services for the Mentally Retarded.
County Judges Conference. Austin. Management Services
Association.
- Wickwar, W. Hardy. Criminal Policy in South Carolina. Columbia,
South Carolina: Bureau of Governmental Research and Service
and University of South Carolina, 1968.

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