Inmates with Developmental Disabilities in New York State Correctional Facilities

New York State Commission on Quality of Care
for the Mentally Disabled

Inmates with Developmental Disabilities in New York State Correctional Facilities

A Report

by the New York State Commission on Quality of Care for the Mentally Disabled

Clarence J. Sundram
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Preface

The incarceration of people who are developmentally disabled raises troubling public policy questions with respect to the fair administration of justice to the individual, the protection of public safety, and the protection of inmates who are developmentally disabled while they are in the custody of the state. Committees of the Senate and Assembly have held public hearings on these questions, most recently in the fall of 1987. Consistent with much of the research and literature in this field, these hearings were marked by testimony offering widely varying estimates of the nature and dimension of the problem, much of it based on anecdotal evidence or impressions formed by interested observers.

The Legislature therefore requested the Commission to conduct a study and provide a reliable estimate of the number of persons with developmental disabilities in the state prison system, while also evaluating current practices for identifying such inmates and meeting their needs.

This report responds to the request by the Legislature.

Briefly, the following are the principle findings and conclusions of the study.

1. **Contrary to many estimates, the study found that a relatively small proportion of prison inmates are developmentally disabled.**

   - Our study indicates that only approximately one to three percent of the state prison population meets the federal statutory definition of developmental disabilities (Report p. 24).
   - Although these inmates had significant limitations in basic life skills required to meet this definition,* they were unlikely to suffer such severe developmental disabilities as to cause substantial limitations in expressive or receptive language (Report p. 25).
   - Moreover, these inmates with developmental disabilities, although having long prior histories of criminal convictions involving more serious offenses than other inmates of state prisons, were no more likely than other inmates to have served a prior prison or jail term (Report p.28). These findings suggest that they may have been treated more leniently in sentencing decisions in the past.

* According to the federal statutory definition, persons with developmental disabilities must have a significant limitation in at least three of the following seven life skill areas: self-care, receptive and expressive language, learning, mobility, self-direction, independent living, and economic self-sufficiency.

2. **The battery of academic achievement tests and the Revised Beta IQ test administered to all incoming prison inmates at the reception centers appears to be unreliable in identifying inmates who may be developmentally disabled.**

   - These group-administered tests lack sufficient precision to cull out the relatively small percentage of inmates who meet the federal definition of developmental disability from a significantly larger subgroup of inmates who have similar, but less numerous or severe functional limitations.
   - More significantly, these tests which are administered by English-speaking staff, significantly deflate the test scores for Spanish-speaking inmates (Report p. 17). All of the Spanish-speaking inmates in our "at risk" subsample had Revised Beta IQ scores of less than 80 and those who were tested scored above 100 on the Spanish version of the WAIS test. This is a matter of considerable concern as the number of Spanish-speaking inmates in state prisons has been increasing rapidly.
   - These findings strongly suggest that it should be a high priority for the Department of Correctional Services to recruit additional Spanish-speaking staff for its reception centers. In the meantime, there appears to be little justification for continuing to administer these tests in English to Spanish-speaking inmates, and recording invalid scores in their records.

3. **Notwithstanding these limitations in the testing tools and procedures, correctional officers in the reception centers seemed to identify approximately half of the inmates with developmental disabilities for additional testing or placement in special units.** These identifications were largely due to observations made by the officers of inappropriate behaviors of the inmates. There is a potential to enhance the expertise of the correctional officers in reception centers through specialized training in identifying persons with developmental disabilities. The Office of Mental Retardation and Developmental Disabilities' Bureau of Forensic Services has developed training materials for other segments of the criminal justice system that could be utilized in this effort.

4. **The vast majority of the inmates with developmental disabilities are "mainstreamed" into the general population of state prisons.** Consistent with reports in the literature, our study found that inmates with developmental disabilities have more difficulties adjusting to prison rules and are thus more likely to have prison rule infractions on their records and to serve more time in "keep-lock" due to inappropriate behavior (Report p. 29). However, despite the absence of special protections for them in the general prison population, our study found that they did not differ significantly from other inmates in terms of their likelihood to suffer a

serious injury in prison or to lose "good time" against their parole dates (Report p. 32).

5. **Approximately 10 percent of the inmates with developmental disabilities are housed in two special units reserved for inmates who are determined, based on their disabilities and behaviors, to be at high risk of harm if placed in the general population.** While these specialized units offer a measure of additional protection for inmates who would be vulnerable in the general population and some basic programs geared to their developmental level, the paucity of professional staff limit their habilitative and rehabilitative programs and, thus, do little to prepare inmates for eventual release from prison. At the same time, inmates in these special units are deprived of other programs that are available to inmates in the general prison population. Finally, according to reports from correctional officers and parole officials, identification of inmates as developmentally disabled usually made parole arrangements for these inmates more difficult, and placement in a special unit was viewed by inmates as stigmatizing.

These factors lead the Commission to be wary of recommending more aggressive efforts to identify inmates who may be developmentally disabled and to develop larger programs for separate treatment of these inmates. We believe that the professional staffing and resources of the existing special units need to be augmented to enable them to provide adequate habilitative and rehabilitative programs to meet the needs of developmentally disabled inmates. We also support plans for modest expansion of this program of special units to meet the needs of additional developmentally disabled inmates who may be particularly vulnerable in the general prison population. In that connection, we support the plan of the Department of Correctional Services to open a new special unit to prepare inmates with special needs for parole.

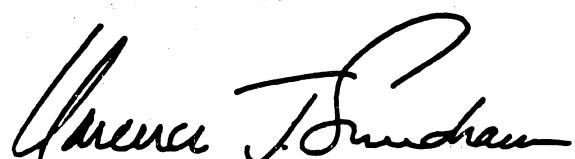
Thus, for the majority of inmates with developmental disabilities we see no advantage to abandoning the existing practice of "mainstreaming" them into the general prison population. Instead of devoting resources toward much more extensive and expensive testing, and assessment practices to identify inmates who may be developmentally disabled and much more expansive separate and possibly stigmatizing prison programs dedicated to serving these inmates, the Commission believes that their needs will be better met if available limited resources are devoted to integrated programs addressing the functional daily living skill training needs of these inmates and the many others who are not developmentally disabled. The study findings suggest that approximately 6500 inmates in the state prisons have such needs, yet existing academic and vocational programming in state correctional facilities do not address these fundamental needs, so essential to an inmate's successful transition into the community.

Finally, although issues of the parole of inmates with developmental disabilities were not included in the Legislature's study request to the Commission, nor were they a focus of our formal data collection, this report would be incomplete if it were not to emphasize the grave difficulties which confront inmates with developmental disabilities as they attempt to leave prison and rejoin their communities. The complexities of these difficulties clearly require further study, but reports from Steering Committee members from the study, officials of the Department of Correctional Services and the Division of Parole, and staff of correctional facilities indicate plainly that the problems of making adequate arrangements for the parole of these inmates often far outweigh the problems they encounter inside prison.

A critical component in finding workable approaches to solving this problem is specialized housing with support services, and case management to assist in making linkages with services available from other agencies including mental health, mental retardation, social services and educational and vocational services.

It is also important to emphasize that the Commission's study focused on the identification and services offered to persons with developmental disabilities in state prisons. Some observers of the state's criminal justice system have advised that a comparable study to the one completed by the Commission is needed related to local jails. Many of these advocates maintain that there are both more persons with developmental disabilities incarcerated in local jails and that in these settings there are far fewer protections for vulnerable persons.

The findings and conclusions of this report represent the unanimous opinion of the members of the Commission. A draft of this report has also been circulated to members of the Steering Committee. A response to the draft report from the Department of Correctional Services is included as an appendix to the report.



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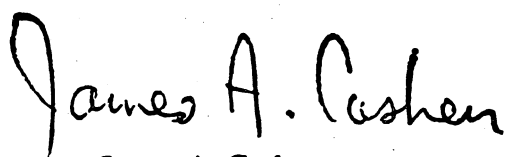

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Acknowledgement

The assistance and cooperation of many individuals and agencies were critical to the completion of this study. Throughout the course of the study, the Commission received invaluable help from the Steering Committee members beginning with their role in identifying research questions and ending with their thoughtful and thought-provoking comments and recommendations after reviewing the Commission's findings. Individual Steering Committee members included Dr. Raymond Broaddus (Department of Correctional Services), Barbara Broderick (Division of Parole), Joel Dvoskin (Office of Mental Health), John Finn (Office of Mental Retardation and Developmental Disabilities), Pamela Graham (Commission of Correction), Shirley Reynolds (Developmental Disabilities Planning Council), Edward Shaw (Division for Youth), and David Singer (Division of Probation and Correctional Alternatives). Thomas Connolly, Terri Crowley, and Donald Robbins of the Assembly Program and Counsel Staff were also members of the Steering Committee.

The Commission is also grateful for the ongoing assistance from many individuals at the Department of Correctional Services. A special thanks goes to James Newton and John Culkin (Bureau of Mental Health Services) and Henry Donnelly, Paul Korotkin, John Nuttal, and Donna Mackey, as well as their staff in the Bureau of Records and Statistics, Division of Program Planning, Research, and Evaluation, Bureau of Academic Education, and Division of Central Files. The Commission would also like to thank Superintendents Elaine Lord (Bedford Hills), Stephen Dalsheim (Downstate), Bert Ross (Elmira), and Dominic Mantello (Wende), who were the superintendents of the four state prison reception centers at the time of the study. The Commission would like to thank Assistant Deputy Superintendent William Burke from the Clinton Assessment and Preparation Unit and David Mangus who was Senior Counselor at the Wende Special Needs Unit at the time of the study. These individuals and their staff accommodated our visits, answered our questions, and helped us to better understand the correctional system.

The willingness of correctional counselors and officers from many state correctional facilities in assisting the Commission in conducting the functional assessment surveys of sample inmates, as well as the assistance of several OMRDD, DOCS, and OMH staff psychologists in administering individualized WAIS testing were also critical.

The Commission is also indebted to the individuals who served as the study's panel of clinical experts—Keith Curry, Ph.D., Sheldon Grand, Ph.D., Edmond Lester Ph.D., and Carolyn Smith. The Commission would also like to thank Peter Hayman for permission to use his Prison Functional Behavior Scale in our study.

Finally, the Commission is grateful to the cooperation of many inmates in the study's sample who willingly agreed to participate in extra testing procedures which made the study possible.

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The Commission would also like to extend its appreciation to the many individuals from each of the Bureaus who were involved in the different aspects of the study. Their efforts were important to the completion of this study.

Chapter I

Overview of the Study

Much of the testimony focused on the premise that persons with developmental disabilities are disadvantaged in the judicial system, and that they later suffer from poor services and treatment in the correctional system.

In Chapter 50 of the Laws of 1988, the State Legislature asked the Commission on Quality of Care for the Mentally Disabled to conduct a "scientific" study to determine the number of inmates in New York State local jails and prisons who were developmentally disabled. The term scientific was noteworthy, as the sponsors of the legislation were well aware that prior estimates of this population had varied widely and were roundly debated (Santamour and West, 1982; Denkowski and Denkowski, 1985; Herron, 1984). The Legislature's objective was to obtain an estimate which would have credibility among all involved parties and which would provide a reliable figure upon which the State could base its plans for developing appropriate correctional facility programs for inmates who are developmentally disabled. The Legislature was also interested in knowing how well existing screening procedures, used by the local jails and the Department of Correctional Services, were able to identify inmates who may be developmentally disabled, and if changes were warranted in these procedures.

Early in the discussion of the study with key legislative staff it was agreed that the study's scope would be narrowed to focus only on the estimate of persons with developmental disabilities in state prisons. Although there was agreement that study of the population of persons with developmental disabilities in local jails was also important, available resources dictated that this phase of the study be deferred.

Prior to this request, in the fall of 1987, the New York State Senate Select Committee on the Disabled and the Assembly Standing Committees on Correction and Mental Health, Mental Retardation and Developmental Disabilities held hearings on issues related to criminal offenders who were developmentally disabled. Much of the testimony before the Committees focused on the premise that persons with developmental disabilities are disadvantaged in the judicial system, and that they later suffer from poor services and treatment in the correctional system. Most witnesses concurred with the concerns expressed by Judge Joseph Harris of Albany County Court, that persons with developmental disabilities were still treated like second-class citizens in the criminal justice system (Harris, 1987; Propek, 1987; and Seigel, 1987). Many witnesses also emphasized that the screening of incoming prison inmates was inadequate to identify persons with developmental disabilities and that, in reality, there were no reliable estimates of the size or characteristics of this population in the state prisons (Berko, 1987;

Caputo, 1987; Coughlin, 1987; Golden, 1987; McMahon, 1987; Murphy, 1987; Schultz, 1987; and Steelman, 1987).

Review of the Literature

Early in its efforts to plan the study, the Commission conducted a thorough review of the literature on issues related to persons with developmental disabilities. (See Appendix A for a complete bibliography.) This review revealed a myriad of academic, clinical, and political issues which have long impaired both a more reliable estimate of the number of prison inmates who are developmentally disabled and a better understanding of the characteristics and special needs of this population in the correctional setting. Indeed, the literature indicated that the concerns of the New York State Legislature were shared by many states which, for the most part, had made few successful efforts to address the special needs of inmates with mental and developmental disabilities.

While virtually all experts have abandoned the dated theories that mental disability predisposes an individual to criminal behavior, there remains much debate over the appropriate services and programs to meet the needs of offenders with developmental disabilities.

Santamour and West (1982), for example, prefaced their comprehensive anthology of related research with comments that estimates of the prevalence of persons with mental retardation in state prisons varied from 1 to 3 percent to as high as 27 percent in published studies. They added that virtually all research on the subject was suspect because there was so little agreement on key issues, such as the definitions of terms and the appropriate testing instruments, and because actual testing conditions in most correctional settings were unsatisfactory. In a more recent study, Spruill and May (1988) presented additional empirical findings, indicating the limited validity of group-administered tests in determining prevalence rates for inmates with mental retardation.

A survey of national practices, conducted by Denkowski and Denkowski (1985) for the Texas Department of Mental Health and Mental Retardation, confirmed these limitations of current practices, noting that 15 states failed to do any screening for inmates who may be mentally retarded, and that states doing screening typically relied heavily on group-administered tests, often administered by unqualified personnel. Furthermore, only 14 states formally incorporated adaptive behavior evaluations into their screening processes. A similar national survey conducted by Reichard, Spencer, and Spooner (1982) reported almost identical findings.

Additionally, while virtually all experts have abandoned the dated theories that mental disability predisposes an individual to criminal behavior, there remains much debate over the appropriate services and programs to meet the needs of offenders with developmental disabilities. In particular, experts debate whether special segregated programs should be established for this population, and even disagree as to whether the prison setting can be adapted to meet the special needs of these inmates (Santamour and West, 1982; Rideau and Sinclair, 1983; Conine and MacLachlan, 1982; Perel, 1982; *Legislative Research Commission*, 1975). Perhaps reflective of this debate, most states responding to the Texas study reported having no special

rehabilitation programs for this population in their correctional facilities, and only eight states, including New York, reported having at least one special needs unit designed to meet the needs of offenders with developmental disabilities.

The literature is also replete with citations that inmates with mental retardation or developmental disabilities adjust more poorly to prison. Most researchers appeared strongly convinced that the developmentally disabled offender was victimized in the prison setting, with most concurring with the position taken by Rideau and Sinclair (1983):

> The mildly retarded person can hide his or her disability during the initial stages of the legal process. Once inside, however, the other prisoners recognize the disability and take advantage of that individual through extortion, slavery, physical abuse, humiliation, and ridicule.

Few of these studies, however, are based on empirical data, and many may also be biased by an undue reliance on the predictive validity of intelligence measures, based on group-administered tests, for identifying the mentally retarded offender (Rideau and Sinclair, 1983; Crowley, 1985; Santamour and West, 1982; Denkowski and Denkowski, 1985).

While there appeared to be common beliefs that many "unidentified" persons with developmental disabilities are confined in state prisons. . . there was no consensus either in the published literature, or among New York State officials, on acceptable methods to identify individuals with these disabilities.

Methods

As suggested by the above discussion, in conducting this study the Commission was confronted with a threshold paradox. While there appeared to be common beliefs that many unidentified persons with developmental disabilities are confined in state prisons, that these inmates suffer undue hardships in prisons, and that their identification would allow state policymakers, as well as prison officials, to better meet their needs, there was no consensus, either in the published literature or among New York State officials, on acceptable methods to identify individuals with these disabilities. Significant statutory differences in New York State and federal laws defining "developmental disabilities" further contributed to the debate over how to identify inmates having developmental disabilities in New York's prisons (Figure 1).

Recognizing that these issues were central to developing a study design which would have credibility with all relevant parties, a Steering Committee, comprised of representatives of relevant state agencies, as well as the State Legislature, was established to assist the Commission throughout the study (Figure 2). In concert with this Steering Committee, the Commission identified three basic research questions for the study:

(1) How many inmates in state prisons are developmentally disabled?

(2) How are these inmates different from other inmates in state prisons?

Figure 1: New York State and Federal Statutory Definitions of Persons with Developmental Disabilities

New York State (Mental Hygiene Law §1.03 [22])

Mental Hygiene Law Section 1.03 (22) specifies a developmental disability to mean a disability of a person which:

(1) is attributable to mental retardation, cerebral palsy, epilepsy, neurological impairment, or autism; or

(2) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

(3) is attributable to dyslexia resulting from a disability described in subparagraph (1) or (2) of this paragraph; and

(4) originates before the person attains age 22;

(5) has continued or can be expected to continue indefinitely; and

(6) constitutes a substantial handicap to such person's ability to function normally in society.

Federal (Public Law 98-527)

Public Law 98-527 defines a developmental disability as a "severe, chronic disability of a person which:

(a) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) is manifested before the person attains age 22;

(c) is likely to continue indefinitely;

(d) results in substantial functional limitations in three or more of the following areas of major life activity:

- self-care
- receptive and expressive language
- learning
- mobility
- self-direction
- capacity for independent living, and
- economic self-sufficiency; and

(e) reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated." (Section 102)

Figure 2: State Agencies and Legislative Committees Represented on the Steering Committee for the Study

- Department of Correctional Services
- Office of Mental Health
- Office of Mental Retardation and Developmental Disabilities
- Division of Parole
- Division for Youth
- Division of Probation and Correctional Alternatives
- Commission of Correction
- Developmental Disabilities Planning Council
- Assembly Mental Health Committee
- Assembly Corrections Committee

(3) Do these differences cause particular problems which warrant specific changes in procedures in state prisons in identifying or providing services for inmates who are developmentally disabled?

The Steering Committee also participated in three critical decisions of the study design:

(1) the definition of developmental disabilities to be used;

(2) the criteria for sample selection; and,

(3) the screening process for identifying inmates who are developmentally disabled.

The Steering Committee agreed that use of the federal definition had important advantages for the broad applicability of the study findings.

After considerable discussion and debate, the Steering Committee agreed that use of the federal definition had important advantages for the broad applicability of the study findings. The Committee members also believed that, as the federal definition is somewhat broader in scope than the state definition, it would be possible within this framework to identify a reliable estimate of inmates who also meet the criteria of the state definition.

In discussing the optimal sampling strategy for the study, the Steering Committee members agreed on three essential criteria:

(1) the sample should assure reasonable statistical reliability;

(2) the sample should be drawn from the current inmate population (rather than only incoming inmates); and,

(3) the sample should allow for more careful examination of the subgroup of inmates who are perceived to be the most likely to be developmentally disabled.

Focusing on these criteria, a stratified random sample of 294 of the approximately 42,000 inmates in state prisons in 1988 (the year the Legislature requested the study) was selected. The stratified sampling strategy allowed for a disproportionate sampling of inmates with Beta IQ scores less than 80, and, thereby, ensured that sufficient numbers of the highest risk inmates would be represented in the sample.

This sample included 70 inmates with Beta IQ scores less than 70 (24 percent); 70 inmates with Beta IQ scores between 70 - 79 (24 percent); and 154 inmates who had Beta IQ scores of 80+ or no Beta IQ scores (52 percent).* By contrast, aggregate files on current prison inmates in 1988 indicated that 8 percent of the general prison population had Beta IQ scores of less than 70; that 10 percent had Beta IQ scores

* The vast majority of inmates in New York State prisons are administered the Revised Beta IQ test upon reception to the prison system. Of those inmates in the system in 1988 for whom such scores are not available (19 percent), almost all had entered the prison system prior to 1983, when administration of the Beta became standard in all reception centers.

Figure 3: Screening Process for Sample Inmates

Step 1: Comprehensive Record Review

A primary focus of the record review was the inmate's academic, vocational, and familial background, as well as health and mental health problems. Official semi-annual ratings of the inmate's adjustment to the prison setting, any programs he/she may have attended, as well as rule infractions and penalties with which he/she may have been charged with during the current incarceration were also reviewed. The review also entailed an assessment of the inmate's current crime of incarceration, as well as his/her past criminal history.

*Step 2: Administration of the Adaptive Behavior Scale**

The American Association on Mental Deficiency Adaptive Behavior Scale was administered to all but 21 of the 294 sample inmates. These 21 inmates had either been paroled or deported or were otherwise unavailable for testing. This standardized test, developed in 1969 (and revised in 1973 and 1974), is designed to assess an individual's basic adaptive behaviors in daily living skills, like dressing, eating, managing money, following directions, using public transportation, etc. (See Appendix B for more specific descriptions of the subtests of the Adaptive Behavior Scale.)

Developed to be administered by interviewing a person who is familiar with the individual, the Adaptive Behavior Scale was administered by interviewing the prison counselors of the sample inmates. Prior to the interview, counselors were briefed on the study and its objectives, allowed to review the test, and instructed to discuss the identified sample inmates with correctional officers on the cell block, as well as program staff who worked with the inmates.

Step 3: Identification of "At Risk" Sample Inmates

A subsample of 81 of the 294 sample inmates determined to be ***"at risk"*** for developmental disabilities was identified for further screening. In concurrence with the Steering Committee, ***"at-risk"*** inmates were defined as sample inmates who:

(1) scored below the 80th percentile on subtests of the Adaptive Behavior Scale related to ***three or more*** functional areas identified in the federal definition of developmental disabilities; ***or,***

(2) scored below the 80th percentile on subtests of the Adaptive Behavior Scale related to ***two*** functional areas identified in the federal definition of developmental disabilities ***and*** had a Beta IQ score less than 80.

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* Each sample inmate was also administered the Prison Functional Behavior Scale, which had been developed by Peter Hayman for Syracuse University in 1980, specifically for application in the prison setting. Similar to the Adaptive Behavior Scale, this test includes items assessing functional abilities that have direct relevance to an inmate's experiences in a prison setting. Although this test has not yet been normed on a standardized population, and thereby could not be relied upon as the study's basic measure of an inmate's functional abilities, Department of Correctional Services' officials were interested in determining the correlation of inmates' scores on this tool and the Adaptive Behavior Scale. As described in Appendix C, sample inmates' scores on the two assessment tools were significantly correlated.

The relatively high 80th percentile threshold score on Adaptive Behavior Scale subtests was selected because this tool was normed on a population of persons in institutions for the mentally retarded and also because the Steering Committee sought to cast a wide net in identifying possible *"at risk"* inmates for developmental disabilities.

Step 4: Administration of the WAIS

The Wechsler Adult Intelligence Scale (WAIS), an individually administered intelligence test, was administered to 52 of the 81 *"at risk"* sample inmates. While the study design called for WAIS administration to all *"at risk"* sample inmates, the WAIS could not be administered to 29 of these inmates either because they had already been paroled (19 inmates) or because they refused to participate in the testing (10 inmates).

Step 5: Expert Clinical Reviews

Two clinical experts provided individual clinical case assessments of each *"at risk"* sample inmate. The clinical experts were provided with a complete summary of the inmates' correctional records (see Appendix D), as well as copies of their completed Adaptive Behavior Scale and WAIS instruments, and their official prison 3612 Forms, which record information pertinent to inmates' adjustment and performance in prison.

Each of the four clinical experts who conducted the assessments had substantial academic and experiential backgrounds in the assessment of individuals in forensic settings for mental disabilities. Three of the four clinical experts held doctorates in psychology and were licensed psychologists, and the fourth expert held a master's degree in social work, was completing her doctorate in criminal justice, and was a certified social worker.

In their assessments, experts were required to identify the specific life skill limitations of the inmate, the degree of the limitation (some or significant), and to provide a determination if the inmate was:

(1) ***developmentally disabled, or***

(2) ***not developmentally disabled, but having some functional limitations in specific life skills, or***

(3) ***not developmentally disabled.***

Experts were also required to provide a brief written rationale for their decision.

"At risk" inmates were classified as developmentally disabled, only if ***two experts*** made this determination. In cases where one, but not both experts, judged the inmate to be developmentally disabled, the case was assigned to a third expert for a final determination.

of 70 - 79; and that 63 percent had Beta IQ scores of 80 or higher. The remaining 19 percent of inmates had no available Beta IQ score, largely reflective of their entry to the prison system prior to 1983.

This sample allowed a 90 percent confidence level in projecting findings across each of the identified Beta IQ subgroups to the state's general prison population. Although a 95 percent confidence level would have been more desirable, to achieve this confidence level, a sample size of over 1,000 inmates would have been required, which was beyond the resources available to the Commission to conduct the study.

Steering Committee members strongly echoed the sentiments of academic literature that there was no single standardized measure or test which could be applied in isolation to determine if an inmate was developmentally disabled. Additionally, clinical experts consulted by the Commission confirmed that this determination was considerably more complicated, and that it involved an assessment of the individual's background, historical performance at home, school, and work, as well as his/her performance on specific tests of intellectual aptitude and functional abilities and limitations. Recognizing these concerns and the inadvisability of relying on any single screening tool or activity, the screening process involved several steps.

Steering Committee members strongly echoed the sentiments of academic literature that there was no single standardized measure or test which could be applied in isolation to determine if an inmate were developmentally disabled.

As described in greater detail in Figure 3, this process involved a complete record review, the administration of the Adaptive Behavior Scale, the selection of a subsample of inmates identified as "at risk" for developmental disabilities, and additional individualized WAIS testing and clinical expert review of these "at risk" inmates. Final identification of sample inmates as developmentally disabled was based on the concurrence of two expert reviewer assessments.

The final estimate of the number of inmates with developmental disabilities in New York State prisons was extrapolated based on the number of sample inmates within each of the study sample's three stratified Beta IQ subgroups (< 70, 70 - 79, ≥80 or no score) determined to be developmentally disabled. Additionally, this estimate was ultimately presented as a range figure, that was based on a 90 percent confidence level.

Limitations

Two limitations of the study design should also be noted. Twenty-one (21) of the original 294 sample inmates were not administered the Adaptive Behavior Scale because they had been paroled, deported, or otherwise could not be tested. These inmates included nine inmates with Beta IQs less than 70, five inmates with Beta IQs between 70 - 79, and seven inmates with Beta IQs over 80 or with no Beta IQs. As the Adaptive Behavior Scale results were critical to the final determination of "at risk" inmates, these inmates were also *de facto* excluded from that subsample and additional WAIS testing and final clinical expert

review. To accommodate for this limitation, calculations for the final estimate of the number of persons in the prison system who are developmentally disabled were adjusted to accommodate for the loss of these inmates.

Additionally, as noted above, this study was conducted during an era of great growth in the population of New York's prisons. This tremendous growth in the prison population has been accompanied by evidence that the composition of the prison population has changed as well. For example, data maintained by the New York State Department of Correctional Services indicate that in the past decade the racial profile of the inmate population has shifted considerably with a significant increase in inmates of Hispanic origin (19 percent in 1980 and 32 percent in 1990). Additionally, these data show that the percentage of inmates with low scores on group-administered intelligence and academic achievement tests has significantly increased in recent years.

This changing profile of New York's prison inmates may have implications for the long-term reliability of the study's estimate of the number of inmates with developmental disabilities. Since the sample population of the study was selected in 1988, the state's prison population has increased by 11,000 inmates, or by nearly 25 percent.

*The objective of the study was to identify the number of inmates who are **developmentally disabled** in New York State prisons and no conclusions can be drawn from the findings regarding the prevalence of persons with **mental retardation** in this population.*

Finally, it should be emphasized that the objective of the study was to identify the number of inmates who are *developmentally disabled* in New York State prisons and that no conclusions can be drawn from the study's findings regarding the prevalence of persons with mental retardation in this population. As clarified in Figure 1 the federal and state statutory definitions of an individual with developmental disabilities differ substantially from the clinical definition of *mental retardation*. The study's methodology designed to identify persons with developmental disabilities, did not ensure an effective "screen" for identifying individuals who may be mentally retarded.

Report Organization

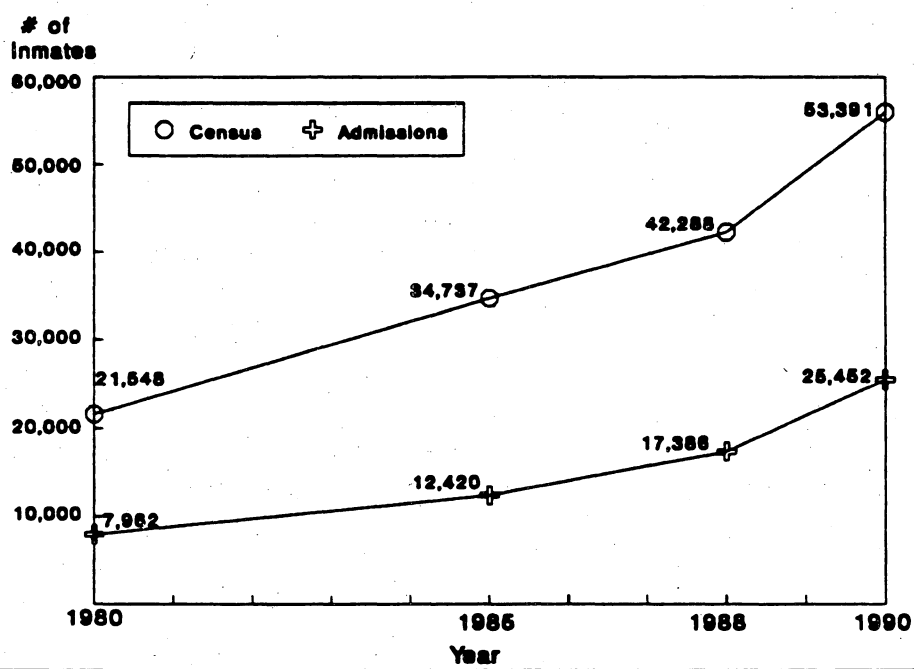
The findings of the Commission's study are prefaced in Chapter II with an overview of the population served in New York State prisons and the current practices of the prison system in identifying and serving inmates who are physically, mentally, or developmentally disabled. This overview provides a necessary context for a full understanding of the study's findings and their implications, which are discussed in Chapter III. The Commission's conclusions and recommendations are presented in Chapter IV.

Chapter II

New York State's Prison Population

An overview of New York State's prison population, as well as its current practices in identifying and serving arrested persons who may have mental or developmental disabilities or other special needs, is critical to placing the findings, conclusions, and recommendations of the study in context. This overview must necessarily begin with the tremendous growth in the number of inmates in the New York State prison system in the past decade, largely attributable to the increase in drug-related crimes and the state's mandatory minimum sentencing laws (Figure 4).*

Figure 4: Growth in the New York State Prison Population (1980-1990)



* Chapter 276 of the Laws of 1973 mandated life sentencing for both sellers and users of proscribed drugs, as well as limitations on plea bargaining. In addition, Chapter 277 of the Laws of 1973 placed limitations on plea bargaining for persons charged as second felony offenders, without regard to the nature of the underlying current or predicate offense. Mandatory minimum sentencing terms is a feature of both laws.

Growth in the NYS Prison Population

In 1980, there were 21,548 inmates in New York state prisons; by 1985 this population had swelled to 34,737; and in 1988, when the Legislature had requested this study, the population had again grown to 42,288.* In April 1990, there were 53,391 inmates in New York prisons. Reflective of this growth, the annual number of incoming inmates in New York State prisons has increased 220 percent since 1980, with approximately 25,452 new inmates entering the prison system in 1990 compared to 7,962 new inmates in 1980. To accommodate this increase in the number of inmates, New York State has opened four new maximum security facilities, twenty new medium security facilities, and five new minimum security camps between 1980 and 1990. It has also been compelled to double-bunk in a number of its medium security facilities.

The annual number of incoming inmates in New York State prisons has increased 220 percent since 1980, with approximately 25,452 new inmates entering the prison system in 1990 compared to 7,962 new inmates in 1980.

New York State prison inmates also share a unique demographic profile (Figure 5). Eighty-four (84) percent originate from the New York City metropolitan area, with only 16 percent coming from the 49 upstate counties.** Almost two-thirds (64 percent) are under the age of 30, with 14 percent under the age of 21. Almost all are male (95 percent), and 83 percent are non-white. One-fourth have Revised Beta IQ scores of less than 80, and 12 percent have scores less than 70. Over three-fourths lack a high school diploma, and 20 percent had not completed school beyond the sixth grade. Their crime(s) of incarceration are most likely to be drug-related offenses (33 percent), robbery (22 percent), murder/homicide (15 percent), and/or burglary (11 percent).

Most inmates have minimum sentences of less than five years, and 44 percent have minimum sentences of 30 months or less. Only 15 percent have a maximum sentence of life imprisonment.

As the prison population has grown, the profile of the inmate population has also changed. Data maintained by the New York State Department of Correctional Services indicate a significant increase in inmates of Hispanic origin (19 percent in 1980 and 32 percent in 1990), a significant decrease in white inmates (28 percent in 1980 and 17 percent in 1990), and a modest decrease in black inmates (53 percent in 1980 and 50 percent in 1990). Additionally, since 1983 when New York began administering the Beta IQ test to all incoming inmates, the percentage of incoming inmates scoring below 80 on the test has also increased from 8 percent in 1986 to 25 percent in 1990 (Figure 6).

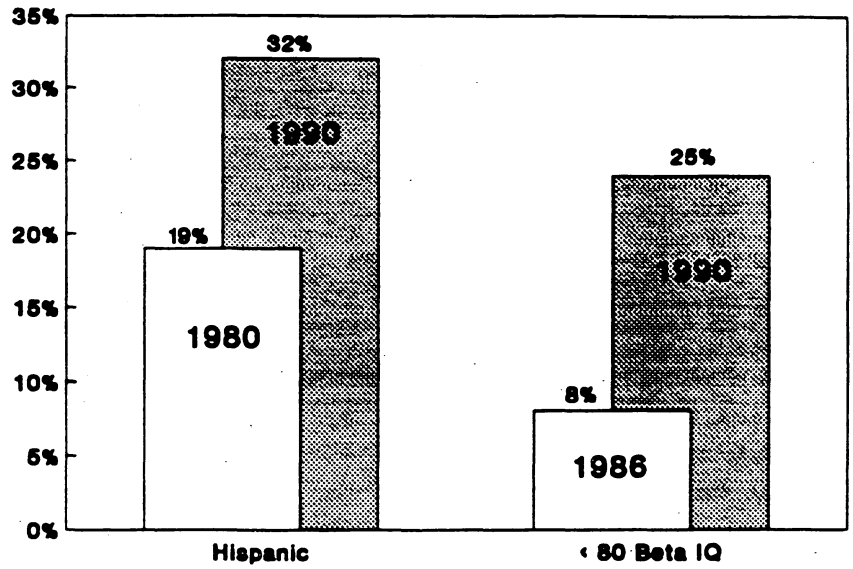
* All data in the report describing the general prison population was provided by the Department of Correctional Services from the Bureau of Records and Statistics and the Division of Program Planning, Research, and Evaluation.

** Thirteen counties are designated in the New York City metropolitan area—the five boroughs of New York City (Bronx, Kings, Manhattan, Queens, and Richmond), the two Long Island counties (Nassau and Suffolk), and the downstate counties of Dutchess, Orange, Putnam, Rockland, Sullivan, and Westchester.

Figure 5: Profile of the 1990 New York State Prison Population

Age:	50% between 21-29 years of age 14% are under the age of 21
Sex:	95% are male
Ethnicity:	50% are Black 32% are Hispanic 17% are White
Beta IQ Scores:	12% have Beta IQs less than 70 13% have Beta IQs between 70-79
Language Dominance:	86% use English as their primary language 12% use Spanish as their primary language
Residence:	70% are from New York City 84% are from New York City metropolitan area
Education:	78% lack a high school diploma 7% who did graduate high school went on to post-secondary study
Crime:	33% drug-related 22% robbery 15% murder/homicide 11% burglary
Minimum Sentence:	44% are sentenced for 12-30 months 22% are sentenced for 31-59 months 19% are sentenced for 60-119 months 8% are sentenced for 120-239 months 7% are sentenced for 20 + years
Maximum Sentence:	15% have a 3 year maximum sentence 22% are sentenced for 37-60 months 26% are sentenced for 61-120 months 21% are sentenced for more than 120 months 15% have a life sentence

Figure 6: Changes in the New York State Prison Population



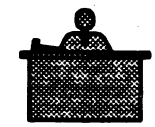
Identifying Inmates with Special Needs in the Criminal Justice System

Getting into New York prisons is a multi-stage process, starting with an offender's arrest by the police, movement through the criminal justice system, and finally his/her reception center processing in the prison system. This process, which can often extend over a period of months or even years, varies from individual to individual based on his/her alleged crime(s), county of jurisdiction, and decisions the individual may make with his/her attorney. At several points along the way, an arrested, charged, or convicted person may be screened for mental, developmental, or physical disabilities (Figure 7).

At the time an individual is arrested and booked, the police have an initial opportunity to identify individuals who may have disabilities. While this informal screening process is largely dependent on the individual police officer's knowledge and understanding of the specific signs or symptoms of disabilities, identification at this point can result in the police notifying the prosecutor and the individual's attorney and/or obtaining other assistance to further assess the individual. Notably, the Office of Mental Retardation and Developmental Disabilities has developed some easy to use resource materials to assist police officers in identifying key signs and symptoms of persons who may be developmentally disabled (See inside front and back cover).

The second point of intervention comes at the individual's arraignment in court. At this time the judge establishes the individual's identity, informs him or her of the charges, sets bail, appoints counsel (if

Figure 7: Screening Opportunities for Identifying Persons with Developmental Disabilities



Police ***Court*** ***Corrections***

Arrest/Booking → ***Arraignment*** → ***Jail*** (< 1 year sentence)

- informal screening
- dependent on officer's knowledge and understanding of signs, symptoms
- can notify prosecutor/attorney
- obtain further assistance

- judge or attorney may ask for evaluation to determine competency

Plea Allocution

- judge can determine if defendent comprehends charges and consequences of pleading guilty
- not competent to stand trial — referred to OMRDD

Trial

- not guilty "by reason of mental disease" —acknowledges disabilities
- if guilty, presentence report preparation may uncover functional limitations/specific disabilities

- intake screening may identify disabilities

or

Prison (over 1 year sentence)

- reception center process may identify limitations, disabilities or potential problems

necessary), and sets a date for a preliminary hearing. During arraignment, the judge or the individual's attorney may ask for an evaluation by a mental health or a mental retardation professional to determine if the individual is incompetent to stand trial.

A third screening point may present itself during plea allocution, which occurs when the individual participates in plea bargaining. In New York, plea bargaining is the most common resolution of criminal charges and occurs in approximately 90 percent of the cases. During plea allocution, the judge asks the defendant a series of questions to determine if he/she understands the charges, the consequences of pleading guilty, and the sentence that the parties have agreed upon. During this process, the disabilities of the individual may become apparent.

For the small number of defendants who do not enter a guilty plea or who are not determined incompetent to stand trial, going to trial also presents several checkpoints where specific disabilities may be identified. For example, based on expert professional testimony an individual may be found "not guilty by reason of mental disease or defect." Alternately, upon being found guilty, the court will order a presentence report to be prepared, which describes the defendant's medical, psychological, social, educational, and criminal history. Not infrequently, these reports will describe functional limitations and/or specific disabilities of defendants.

While Commission visits to each of the state's four prison reception centers revealed that practices among the centers vary, at each center inmates are evaluated for educational, psychological, developmental, medical, and social problems.

Finally, inmates with sentences of less than one year will be sent back to their local jail to serve their sentence. During intake screening at the local jail, which varies considerably from county to county, an inmate may also be identified as having a specific disability.

Reception Center Screening in State Prison

If an offender's sentence is more than one year, he/she is remanded to state prison. In most cases, these offenders are first sent back to the local jail where they wait until there is space available in the prison system. When space is available, these offenders, referred to as "state readies," are transferred to one of the state's four prison reception centers, which serve as the "entry ports" for the state's prison system.

While Commission visits to each of the state's four prison reception centers revealed that practices among the centers vary, at each center inmates are evaluated for educational, psychological, developmental, medical, and social problems, and they are also subject to certain administrative procedures for entry into prison. This evaluation process, among other steps, entails the administration of group-administered ap-

titude (Revised Beta IQ*) and math and reading achievement tests. Across all centers, the Commission also noted that inmates were typically processed in a fairly regimented manner, which focused on the completion of a series of tasks in a time-efficient manner (Figure 8).

Data provided by the Department of Correctional Services indicate that an inmate's stay in a prison reception center may range from only a few days to nearly a year, but that the average inmate stays in a reception center 30 to 60 days. Subsequent to their stays in reception centers, inmates are assigned a maximum (A or B), medium (A or B), or minimum security classification, and they are sent to a transit unit where they await transfer to a state prison facility that meets their security classification.

Figure 8: Reception Center Processing in New York State Prisons

- Inmates are assigned Department Identification Numbers, given showers and haircuts, and issued uniforms.
- Inmates are fingerprinted and photographed and provided with a security orientation.
- Inmates are quickly screened for psychological, medical, and emotional problems, as well as for known enemies.
- Presentence and probation reports are reviewed.
- Inmates are given a battery of group-administered tests, including the Revised Beta IQ test, reading and math achievement tests, a language dominance test, and the Michigan Alcohol Screening Test (MAST).
- Inmates receive physical and dental exams, x-rays, bloodwork, and a brief mental health interview.
- Inmates are interviewed by classification analysts, who obtain assorted background information, including additional information about the inmate's psychiatric, medical, social, and educational history and his/her programming interests.
- Inmates participate in a brief AIDS education program.

* The Revised Beta IQ is a non-verbal group-administered intelligence test, consisting of six subtests that measure perceptual motor skills. The test takes approximately 15 minutes to administer.

Extended Classification

At any point in the prison reception process, inmates with special needs attributed to a medical or physical problem, bizarre behavior, a psychiatric history, poor aptitude or achievement test scores, or poor compliance with reception center rules and practices, may be referred for extended classification. During extended classification, the inmate will be afforded more individualized assessments and testing (sometimes including the Wechsler Adult Intelligence Scale [WAIS]), and he/she may be referred for special placement in one of the prison system's 11 existing special residential units.

These referrals are sent to the Department of Correctional Services in Albany, where the Bureau of Health and Psychiatric Services (based on the information provided) makes final decisions about special unit placements. Due to space constraints in the special units, these decisions are also necessarily influenced by the waiting period an inmate may be required to serve in the reception center. Prison officials report that stays in extended classification may vary from one to several months, largely contingent on space availability in special units.

Reception Center staff note that pending influxes of "state readies" often result in the abrupt acceleration and abridgement of the screening process designed to identify inmates who may suffer developmental disabilities.

Department of Correctional Services' data indicate that in 1990 approximately 3,600 of the 25,500 incoming inmates (14 percent) were referred for extended classification, the majority for psychiatric reasons (66 percent). Less than 400 were referred in 1990 due to mental retardation or learning disabilities.

Limitations of the Prison Screening Process

In acknowledging the relatively small number of inmates referred due to possible mental retardation or learning disabilities, reception center staff at all centers, and especially the Downstate Reception Center, note that pending influxes of "state readies" often result in the abrupt acceleration and abridgement of the screening process designed to identify inmates who may suffer these or other developmental disabilities. They report that sometimes there is only time for an inmate to receive an arrival day itinerary, a quick record review, administration of the Beta IQ test, a security check, and prompt transfer to a transit unit.

Reception center staff also acknowledge other limitations in the screening process, particularly relevant to the identification or misidentification of inmates who may be developmentally disabled. For example, whereas the screening process relies extensively on Beta IQ scores to identify inmates at risk of developmental disabilities, testing is done almost exclusively in English, as Spanish-speaking staff and Spanish versions of the Beta IQ test are typically unavailable. Reception center staff admit that this practice has particularly prejudicial results for the increasing numbers of Hispanic inmates entering the state prison system. They also caution that group-administered testing, com-

pleted within three days of an inmate's reception into prison when he/she is likely to be under considerable stress, may result in deflated scores. For these reasons, low Beta IQ scores are often not seen by prison officials as valid indicators of mental retardation or a developmental disability.

Reception center staff also concede that reception centers have neither the capacity nor the resources to comply with the official policy of referring all inmates with Beta IQ scores of less than 70 for additional individualized WAIS testing. With nearly 12 percent of the incoming inmates scoring in this range in 1990, both the pressure on reception centers to move inmates on and the limited staff resources preclude additional testing for most of these inmates. Reception center staff further state that there would be little benefit of additional testing for most of these inmates, as space available in special units can accommodate only a small percentage of their ranks. Creating long waiting lists for the special units is also discouraged by Department officials, as inmates waiting in reception centers would typically be compelled to spend 23 out of 24 hours locked in their cells without any structured program or anything to do.

Creating long waiting lists for the special units is also discouraged by Department officials, as inmates waiting in reception centers would typically be compelled to spend 23 out of 24 hours locked in their cells.

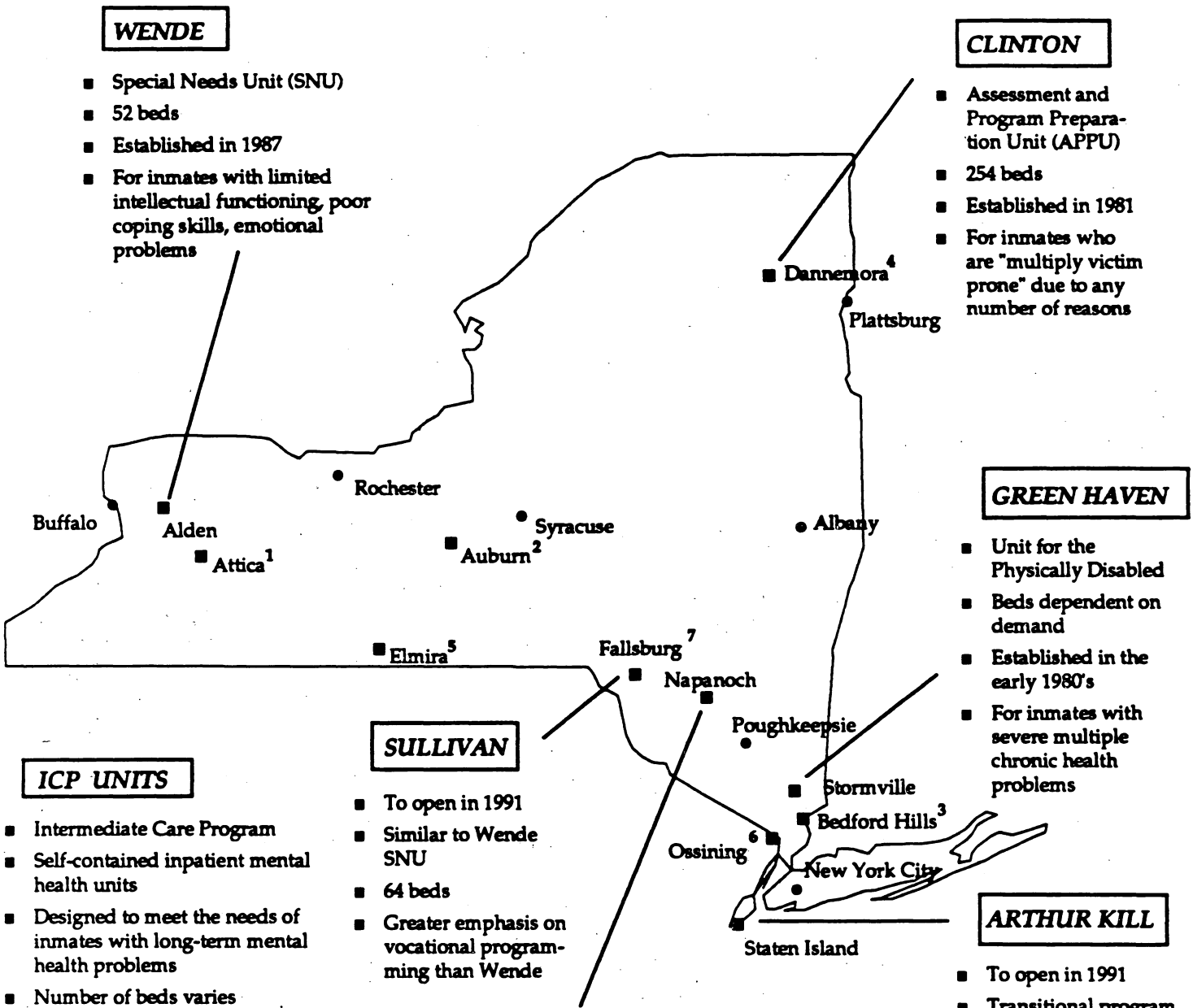
Special Services for Inmates Identified as Developmentally Disabled

As noted above, New York stands out from many other states in the number of special residential units in its state prison system for inmates with special needs (Figure 9). These units, largely created in the past decade, are designed to ensure separate housing and some "specialized" services for inmates who are identified as having physical, mental health, or developmental disabilities, as well as for other inmates whose backgrounds indicate that they warrant special protection in prison. Bed availability in these special units is very limited, however, and admission to the units is strictly regulated by the Department of Correctional Services' Bureau of Health and Psychiatric Services in Albany, which evaluates all referral recommendations and makes final placement decisions.

Among these special units, two are most likely to serve inmates who are identified as having developmental disabilities: the Assessment and Program Preparation Unit (APPU) at Clinton Correctional Facility and the Special Needs Unit (SNU) at Wende Correctional Facility. Both units are for male inmates only, and both are located in maximum security facilities in rural areas of upstate New York, more than 300 miles from New York City.

As described in Figure 10, both of these special units offer placed inmates some special protection, a separate living unit, and some program services. Neither of the programs, however, offers a truly comprehensive rehabilitative program as understood in the field of

Figure 9: Special Residential Units in the New York State Prison System



WENDE

- Special Needs Unit (SNU)
- 52 beds
- Established in 1987
- For inmates with limited intellectual functioning, poor coping skills, emotional problems

CLINTON

- Assessment and Program Preparation Unit (APPU)
- 254 beds
- Established in 1981
- For inmates who are "multiply victim prone" due to any number of reasons

GREEN HAVEN

- Unit for the Physically Disabled
- Beds dependent on demand
- Established in the early 1980's
- For inmates with severe multiple chronic health problems

ICP UNITS

- Intermediate Care Program
- Self-contained inpatient mental health units
- Designed to meet the needs of inmates with long-term mental health problems
- Number of beds varies
- Located in 7 maximum security prisons: Attica[1], Auburn[2], Bedford Hills,[3] Clinton General,[4] Elmira,[5] Sing Sing,[6] Sullivan[7]

SULLIVAN

- To open in 1991
- Similar to Wende SNU
- 64 beds
- Greater emphasis on vocational programming than Wende

EASTERN

- Unit for the Sensorially Disabled
- 28 beds
- Established in 1984
- For inmates with hearing and/or sight disabilities making it difficult to program in general prison population

ARTHUR KILL

- To open in 1991
- Transitional program prior to parole
- 50 beds
- For both DD inmates and others in need of a transitional setting

Figure 10: Special Units in New York State Prisons Serving Persons with Developmental Disabilities

Special Needs Unit (SNU)

The Special Needs Unit at Wende Prison, with 52 beds, opened in 1987, and it is designed to exclusively serve inmates with poor intellectual or life skill functioning. Although conceived to provide specialized and intensive short-term programming, constraints in staffing and space have limited the type of programs that are offered to the inmates. The inmates in this unit are separated from the rest of the prison population in virtually all aspects of daily life.

Programming primarily consists of basic educational classes offered in the mornings, Monday through Friday. Although one or two inmates on the unit are released to participate in vocational programs in the main prison, and a small number volunteer to perform custodial tasks, like mopping floors on the unit, vocational training for other inmates is not offered. Inmates also have the opportunity to participate in daily recreation in the yard. Occasionally, inmates may also participate in special clinical groups, which discuss and address inmates' alcohol abuse and inappropriate sexual behavior. Additionally, whereas the goal of the unit was to prepare inmates for re-integration into the general prison population after a short three-month stay, in practice, most inmates remain on the unit for the duration of their sentence.

Staff on the unit include both program staff and correctional officers. Correctional officers who work primarily on the Special Needs Unit receive a 40-hour training program in serving inmates with developmental disabilities. Other correctional officers who "float" from the general prison to work on the unit, however, do not receive this training.

Assessment and Program Preparation Unit (APPU)

Opened in 1981, APPU has 254 beds and is actually a prison within a prison, with inmates having no contact with the other inmates in the Clinton Prison. Only approximately 60 of the inmates in the unit are developmentally disabled. The remainder have been referred to the unit or have requested placement in the unit for a variety of other reasons. Some have committed bizarre or infamous crimes; some have enemies within the prison; some are informants; and some are criminal justice system employees (e.g., police officers). Inmates in this unit may also be mentally ill; they may be homosexuals or transsexuals; or they may be sexual offenders. Notably, placement in the unit is based primarily on the inmate's judged need for special protection, and all inmates in the prison system sharing the above characteristics are not necessarily remanded to APPU.

Designed to simulate a general prison environment, program offerings in APPU include education (adult basic education through college), vocational training (e.g., shop, building, masonry, drafting, architecture), handicrafts (e.g., drawing, painting, woodworking, fine arts), physical education, and clinical mental health services. APPU staff report that in each of these offerings they make an effort to integrate basic life skills and socialization issues for inmates. Inmates are assigned to a program unit by a program committee with input from the inmate. Assignments in specific units are usually for 60 days, with the exception of inmates pursuing their Graduate Equivalency Diplomas who will usually stay in this program until they pass the exam.

The average length of stay in APPU is from 8 to 12 months, and all inmates must stay at least four months (the assessment period). Some inmates, however, serve their entire sentence in APPU.

developmental disabilities services, and the Wende Special Needs Unit, in particular, offers very limited vocational services for inmates.

The Commission's study also indicated that many inmates with developmental disabilities also have concomitant psychiatric problems, in which case they may also spend time in Intermediate Care Programs (ICPs). These self-contained inpatient units, located in seven maximum security prisons across the state, are designed to meet the needs of inmates with serious mental health problems. Like Wende's Special Needs Unit or Clinton's APPU, where inmates usually stay for extended periods, and some for their entire sentence, ICPs are designed for longer term treatment.

In addition to these existing special units, the New York State Department of Correctional Services has recently announced plans to develop two additional special units for inmates with special needs, many of whom may be developmentally disabled. One of these units, to be developed at the Sullivan Correctional Facility, a maximum security prison, located 88 miles from New York City, will have space for 64 inmates and will be similar to the Wende Special Needs Unit, except that inmates will have more opportunities to participate in special programs, as well as integrated vocational programs with the general prison population. The second unit, to be established at the Arthur Kill Correctional Facility, a medium security prison located in Staten Island, 10 miles from Manhattan, will serve approximately 50 special needs inmates who are approaching their release date. Inmates are expected to stay three to six months in this parole-preparation unit, during which time they will be assisted in developing skills and making arrangements for jobs or special services to foster their successful community re-integration.

Neither of the special units offers a truly comprehensive rehabilitative program as understood in the field of developmental disabilities services, and the Wende Special Needs Unit, in particular, offers very limited vocational services for inmates.

Department of Correctional Services officials acknowledge, however, that, even with the two new units, special placement units will not serve all inmates with developmental disabilities, and they emphasize that special units are primarily targeted for inmates who would be likely to have serious problems if they were placed in the general prison population. Other inmates with developmental disabilities, who may or may not be identified in the reception center process, spend their sentence in the general population, where they may participate in a range of educational and vocational programs depending on their abilities and interests and the program options actually available at the facility where they are placed.

Summary

In summary, New York is ahead of many other states in the comprehensiveness of its formal evaluation/assessment process for incoming inmates upon reception to prison. At the same time, however, day-to-day exigencies in the state's prison system, and especially the rapidly increasing numbers of incoming inmates in the past decade, often compromise essential steps in this formal process. These com-

promises appear to have particularly unfortunate consequences for the validity of inmates' Beta IQ scores, which are put forth as the key criteria for screening inmates who may be developmentally disabled.

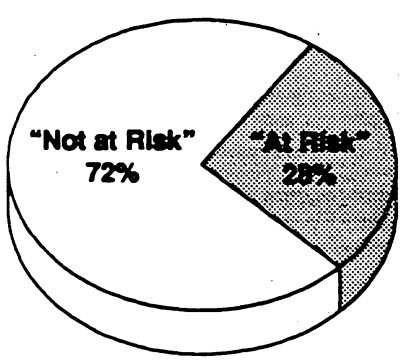
New York State also differs from most other states in its provision of special units in its prison system designed to meet the needs of inmates with developmental disabilities. While bed space in these units is very limited, and neither of the two existing special units offers truly comprehensive habilitative or rehabilitative programming, these units do offer inmates with developmental disabilities some special services and protection, which they would likely not be afforded in the general prison population. Simultaneously, the Commission learned that, due to limited bed space, these units are, in practice, reserved for a select group of inmates with developmental disabilities who are more likely to suffer a very poor adjustment if placed in the general population. As a result, most inmates with developmental disabilities serve their sentence terms integrated in the general population and are afforded no special treatment.

Chapter III

The Developmentally Disabled Offender

As described in Chapter I, the study sample of 294 inmates who were randomly selected included an over-representation of inmates with Beta IQ scores less than 80. For all sample inmates, researchers conducted a complete record review, which included demographic characteristics, academic achievement/Beta IQ scores, criminal history, and information related to the inmate's current crime of incarceration, sentence, and adjustment in prison. Additionally, inmates were administered the Adaptive Behavior Scale* and, based on their scores on this scale and their Beta IQ scores, 81 of the original 294 sample inmates were identified as "at risk" of being developmentally disabled (Figure 11).

Figure 11: Inmates Who Are "At Risk"
(N=294)



Criteria for "At Risk" Inmates:

(1) Scored below the 80th percentile on subtests of the ABS related to three or more functional areas identified in the federal definition of developmental disabilities; or

(2) Scored below the 80th percentile on subtests of the ABS related to two functional areas identified in the federal definition and had a Beta IQ score less than 80.

* Only subtest scores from Part One of the Adaptive Behavior Scale, related to adaptive behaviors, were used. Subtest scores from Part Two of the Scale related to maladaptive, aberrant, and destructive behaviors were not used, as these subtests do not correspond to the life skills areas in the federal definition of developmental disabilities.

In accord with the agreed-upon screening methodology, these 81 "at risk" sample inmates were subject to additional individualized WAIS testing* and final review by two clinical experts whose determinations would ultimately be used to identify inmates who were developmentally disabled. Additionally, any "at risk" inmate who was determined to be developmentally disabled by one clinical expert, but not the other, was subject to review by a third expert.

How Many Inmates Are Developmentally Disabled?

Results of the clinical expert reviews indicated that only seven of the 81 "at risk" inmates were determined to be developmentally disabled.** By extrapolating the results from the sample inmates to the general prison population, an estimate of the number of inmates in the New York prison system who are developmentally disabled was calculated.***

The extrapolation indicated that 1,064 (2 percent) of the 53,391 inmates in New York prisons, as of April 1990, are developmentally disabled. Allowing for a 90 percent confidence interval, these data suggest that approximately 322 - 1,806, or 1 to 3 percent of inmates in New York prisons are developmentally disabled. (Figure 12). However, the number of inmates with developmental disabilities in state prison's most likely falls within one standard deviation of the predicted number of developmentally disabled inmates which ranges from 610 - 1,518 inmates.

Profile of Identified Inmates

All seven of the inmates identified as developmentally disabled were rated (by at least one expert) as having a significant limitation in at least four of the seven life skill areas in the federal definition of developmental disabilities; one inmate was rated as having significant limitations in five areas, and one inmate was rated as having significant limitations in six areas.****

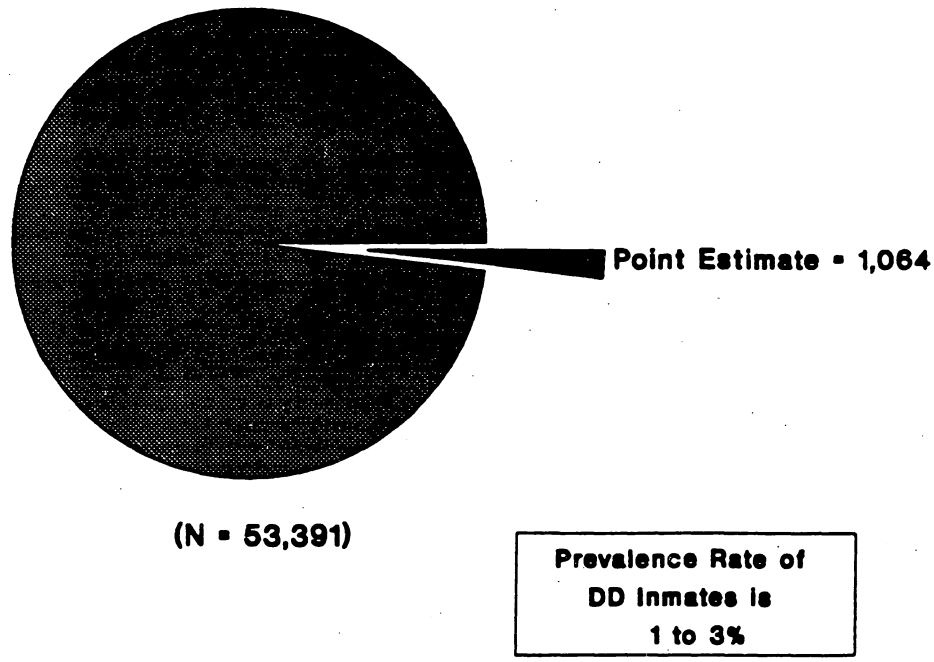
* As noted above, WAISs were not administered to 29 of the 81 "at risk" sample inmates because they refused to participate or they had been paroled.

** See Appendix E for case profiles of the seven sample inmates determined by two clinical experts to be developmentally disabled.

*** Adjustments were made in this calculation to account for the 21 original sample inmates who were not administered the Adaptive Behavior Scale and thus *de facto* excluded from the subsample of "at risk" sample inmates, subject to final expert determinations.

**** The federal definition of an individual who is developmentally disabled specifies that the individual must have significant limitations in at least three of the seven life skill areas.

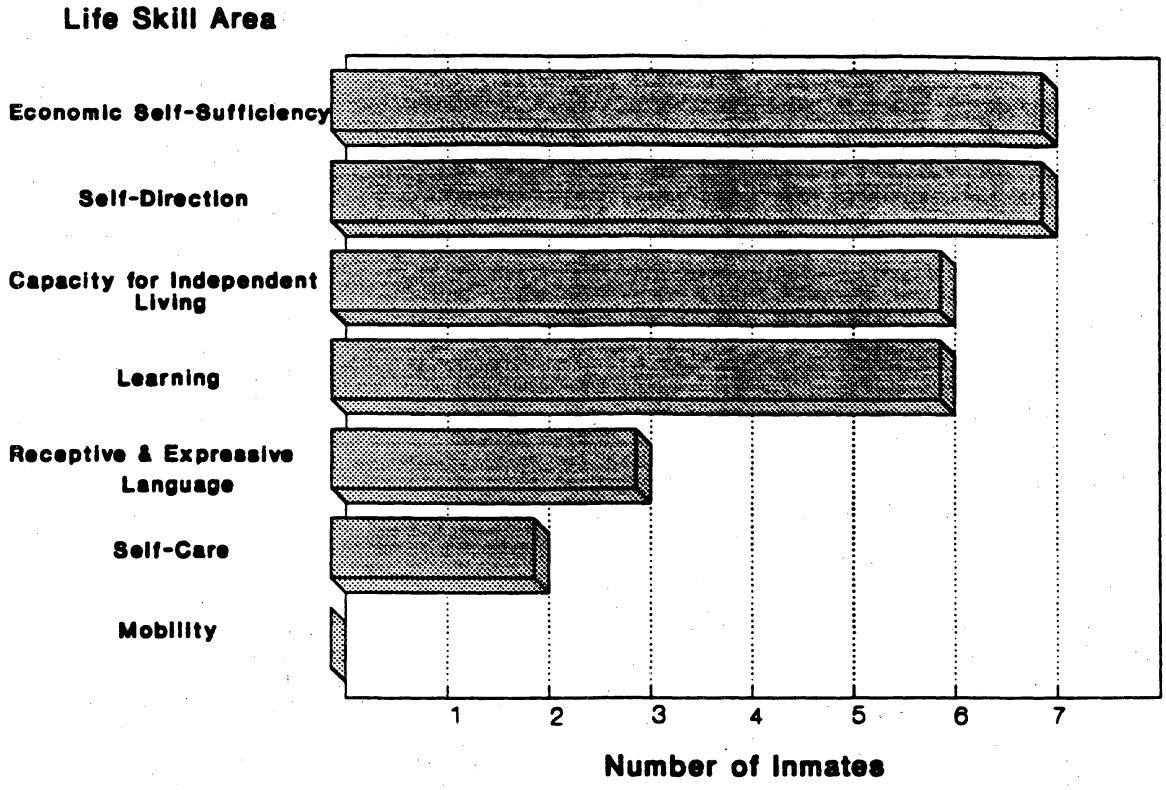
Figure 12
Estimated Number of Developmentally Disabled Inmates in New York State Prisons



As a group, the inmates' significant life skill limitations also tended to cluster in four areas: *(1) Learning, (2) Self-Direction, (3) Capacity for Independent Living,* and *(4) Economic Self-Sufficiency.* In each of these life skill areas, at least six of the seven inmates were rated (by at least one expert) as having a significant limitation. In contrast, only three of the seven inmates were rated as having a significant limitation in *Receptive or Expressive Language*; only two were rated as having a significant limitation in *Self-Care*; and none of the seven inmates was rated as having a significant limitation in *Mobility* (Figure 13).

Reflective of the identified inmates' significant life skill limitations, their low scores on the Adaptive Behavior Scale also tended to cluster on certain subtests. Six of the seven inmates identified as developmentally disabled had scores at or below the 70th percentile on the *Vocational Activity* and *Self-Direction Subtests*, and five had scores at or below the 70th percentile on the *Responsibility Subtest.* In contrast, none of the identified seven inmates had subtest scores at or below the 70th percentile on the *Economic Activity Subtest*, which assessed basic money management skills, and only one or two of the identified inmates had subtest scores at or below the 70th percentile on the *Physical Development, Language Development, Numbers and Time, and Domestic Activity Subtests.*

Figure 13: Significant Limitations of Developmentally Disabled Inmates



Federal Definition of Developmental Disabilities
The Seven Major Life Activities

Self-Care:

A person who has a long-term condition which requires that person to need significant assistance to look after personal needs such as food, hygiene, and appearance.

Receptive and Expressive Language:

A person who has a long-term condition which prevents that person from effectively communicating with another person, a person with special skill or with a mechanical device, or a long-term condition which prevents him/her from articulating his/her thoughts. "Language" encompasses reading, writing, listening, and speaking as well as cognitive skills necessary for receptive language.

Learning:

A person who has a long-term condition which seriously interferes with cognition, visual, or oral communication, or use of hands to the extent that special intervention or special programs are required to aid that person in learning.

Mobility:

A person who has a long-term condition which impairs the ability to use fine and/or gross motor skills to the extent that assistance of another person and/or mechanical device is needed in order for the individual to move from place to place.

Self-Direction:

A person who has a long-term condition which requires that person to need assistance in being able to make independent decisions concerning social and individual activities and/or in handling personal finances and/or protecting his/her own self-interest.

Capacity for Independent Living:

A person who has a long-term condition that limits the person from performing normal societal roles or which makes it unsafe for that person to live alone to such an extent that assistance, supervision or presence of a second person is required more than half the time.

Economic Self-Sufficiency:

A person who has a long-term condition which prevents that person from working in a regular employment or which limits his or her productive capacity to such an extent that it is insufficient for self-support.

Figure 14: Mean Beta IQ, WAIS, and Part One Adaptive Behavior Scale Subscores of "At Risk" Inmates

Mean Scores	Identified DD (n=7)	"At Risk" Not Identified (n=74)	Others (n=213)
Beta IQ	76.57	76.93	85.34
WAIS	77.14	85.98	—
ABS: Part One Subtests			
Independent Functioning	72.71	76.26	89.36
Physical Development	85.29	76.07	86.88
Economic Activity	86.86	86.27	89.86
Language Development	82.00	77.07	89.49
Numbers and Time	85.00	86.62	89.89
Domestic Activity	79.00	80.43	89.74
Vocational Activity	57.43	61.93	87.99
Self-Direction	41.43	45.03	78.94
Responsibility	62.29	65.62	85.35
Socialization	63.29	60.77	85.28

*Profiles of these seven inmates indicate that they were not, however, significantly different from other "at risk" sample inmates **not** identified as developmentally disabled, in terms of their Beta IQ, WAIS, or Adaptive Behavior Scale scores.*

Profiles of these seven inmates indicate that they were not, however, significantly different from other "at risk" sample inmates *not* identified as developmentally disabled, in terms of their Beta IQ, WAIS, or Adaptive Behavior Scale scores (Figure 14). Three of the seven inmates had Beta IQs below 70; two had Beta IQs between 70 - 79; and two had Beta IQs of 80+. Mean Beta IQ scores for the seven inmates identified as developmentally disabled and the other "at risk" sample inmates differed by less than one point ($\bar{x}$ = 76.57 and 76.93, respectively).

Full scale WAIS scores of these seven inmates were similarly distributed, with two of the seven inmates having full scale WAIS scores below 70; four having full scale WAIS scores between 70 - 79 (including one inmate with a score of 70); and the remaining inmate having a full scale WAIS score of 110.* The mean full scale WAIS score for inmates identified as developmentally disabled did tend to be slightly lower than the mean full scale WAIS score for other "at risk" sample inmates, *not* determined to be developmentally disabled ($\bar{x}$ = 77.14 and 85.98, respectively), but this difference was not statistically significant.

Additionally, whereas the inmates identified as developmentally disabled generally did tend to score slightly lower on Part One of the Adaptive Behavior Scale than other "at risk" sample inmates *not* identified as

* This latter inmate, age 18, also had a documented history of special education placements, serious behavioral problems, and significant mental health and physical health disabilities dating back to at least age 16.

developmentally disabled, these differences were also not statistically significant. More careful analysis of the inmates' Adaptive Behavior Scale scores also indicated no trends in specific subtest scores which differentiated the inmates identified as developmentally disabled.

In contrast to their similarity in terms of Beta IQ, WAIS, and Adaptive Behavior Scale scores, the inmates identified as developmentally disabled and the other "at risk" inmates *not* identified as developmentally disabled did present different demographic and criminal history profiles (Figure 15). Although these differences must be cautiously interpreted in view of the small number of inmates identified as developmentally disabled, they do offer some interesting observations.

In contrast to their similarity in terms of Beta IQ, WAIS, and Adaptive Behavior Scale scores, the inmates identified as developmentally disabled and the other "at risk" inmates not identified as developmentally disabled did present different demographic and criminal history profiles.

Inmates identified as developmentally disabled were *more likely* to be under 26 (71 versus 23 percent) and white (43 versus 12 percent), and they were *slightly more likely* to have no stable work history (100 versus 84 percent), perhaps attributable to their young age. Inmates identified as developmentally disabled were also *more likely* to have completed less than nine grades of schooling (57 versus 39 percent) and considerably *more likely* to have reading and math achievement test scores at or below the 5th grade level (67 versus 30 percent [Reading]; 100 versus 55 percent [Math]).

In terms of their current crime of incarceration, inmates identified as developmentally disabled were *more likely* to have been convicted for a crime against persons (e.g., murder, homicide, assault, robbery, sex offenses, etc.) (57 versus 42 percent), but *less likely* to have used drugs at the time they committed their crimes, or at the time of their arrest for their current incarceration (43 versus 67 percent). These inmates also appeared *more likely* to have eight or more prior arrests (43 versus 38 percent) and five or more prior felony convictions (29 versus 7 percent).

Paradoxically, however, despite their more extensive criminal histories, the seven inmates identified as developmentally disabled were not different from other "at risk" inmates *not* identified as developmentally disabled, in terms of their likelihood to have served a prior jail or prison term, suggesting that they may have received more leniency in the criminal justice system (71 versus 70 percent).

The seven inmates identified as developmentally disabled differed most substantially from other "at risk" inmates *not* identified as developmentally disabled, in terms of their poorer adjustment to incarceration. These inmates were considerably *more likely* to be screened out for "extended classification" in prison reception centers (43 versus 7 percent). Three of the seven inmates identified as developmentally disabled had been selected for "extended classification;" two for psychiatric reasons. Additionally, one other inmate, not referred for "extended classification," was immediately transferred to APPU, indicating that reception center staff immediately detected his need for special placement consideration.

Figure 15: Demographic, Criminal, and Incarceration History Profiles of the Sample Inmates

Characteristics	Identified DD (n=7)	"At Risk" Not Identified (n=74)	All Others (n=213)
Demographics			
< 26 years old	71%	23%	28%
White	43%	12%	14%
No stable work history	100%	84%	81%
< 9 grades of education	57%	39%	21%
Reading level at/below 5th grade*	67%	30%	26%
Math level at/below 5th grade*	100%	55%	30%
Criminal			
Committed crime against person	57%	42%	45%
Drug abuse during crime/time of arrest	43%	67%	72%
8+ prior arrests	43%	38%	31%
5+ prior felony convictions	29%	7%	9%
Received at least one prior jail/prison sentence	71%	70%	62%
Incarceration History			
Identified for "extended classification"	43%	7%	9%
Spent time in "special living unit"**	43%	10%	9%
Committed 7+ rule infractions	57%	31%	24%
Spent time in "keep-lock"	71%	58%	47%
Spent > 60 days in "keep-lock"	43%	22%	15%

* Only inmates who had a math and/or reading achievement score were included.

** Special living units included ICPs, Wende's SNU and Clinton's APPU.

Once in prison, these seven inmates were also *more likely* to experience difficulties. Specifically, they were *more likely* to have spent time in a "special living unit" (43 versus 10 percent); they were *more likely* to have committed seven or more rule infractions (57 versus 31 percent); and they were *more likely* to have spent time in "keep-lock" (71 versus 58 percent) and to have spent more than 60 days in "keep-lock" for rule infractions (43 versus 22 percent).

Finally, as shown in Figure 15, the seven inmates identified as developmentally disabled also evidenced different demographic and criminal history profiles from the remaining 213 sample inmates who had been excluded from the study's "at risk" subsample, based on their Beta IQ and Adaptive Behavior Scale scores. These findings further confirm the uniqueness of the demographic and criminal history profile of the seven inmates identified as developmentally disabled, although their scores on standardized assessment tools did not uniformly discriminate them from many of the sample inmates *not* identified as developmentally disabled.

Summary

These findings indicate a very low prevalence of persons with developmental disabilities in state prisons. They also suggest that while the small number of developmentally disabled inmates, as a group, do differ in many respects from the typical prison inmate, they cannot be easily distinguished by their Beta IQ or WAIS scores, which ranged from less than 70 to over 100. Similarly, the seven inmates identified as developmentally disabled were not significantly different in terms of their Adaptive Behavior Scale scores from inmates in the "at risk" subsample who were *not* identified as developmentally disabled.

While each of these assessment tools had some validity in identifying inmates who may be "at risk" for having developmental disabilities, each also tended to over-identify inmates to such a substantial degree that their viability as cost-effective screening tools for the prison system is highly questionable. At the same time, despite the tendency of these tools to over-identify inmates, each of the tools applied in isolation would have missed one or more of the inmates identified as developmentally disabled.

These findings indicate that the task of identifying the small percentage of incoming prison inmates who are developmentally disabled is a difficult one, not likely to be achievable through the administration of a single or even a combination of screening tools or instruments.

For example, Beta IQ and/or WAIS test scores alone, which primarily assess an individual's intelligence or learning capacity, would have missed one to four of the identified inmates, depending on whether the screening threshold score was less than 80 or less than 70. Similarly, if the study's design had restricted admission to the "at risk" subsample only to inmates whose scores on the Adaptive Behavior Scale suggested significant limitations in at least three life skill areas in the federal definition, one inmate identified by the experts as developmentally disabled would have been missed.

Other characteristics of the seven inmates identified as developmentally disabled demonstrate that, as a group, these inmates do experience more difficulties in adjusting to prison than the average sample inmate, but that they simultaneously tend to have more extensive and serious criminal histories. Additionally, despite their criminal histories, inmates identified as developmentally disabled were no more likely than other inmates to have served prior jail or prison terms.

Together, these findings indicate that the task of identifying the small percentage of incoming prison inmates who are developmentally disabled is a difficult one, not likely to be achievable through the administration of a single or even a combination of screening tools or instruments. The findings also indicate that, whereas three of the seven inmates identified as developmentally disabled had spent some of their prison time in a "special living unit," all but one of these inmates had spent most of their time residing in the general population. Although their more troubled adjustment to prison may be attributed to their greater difficulties in this general prison setting, these difficulties must be cautiously interpreted, as over one-third of the sample inmates *not* determined to be developmentally disabled suffered similar adjustment problems.

Chapter IV

Conclusions and Recommendations

The few inmates with developmental disabilities in state prisons appear to meet the statutory definition of developmental disabilities chiefly as a result of multiple mild-moderate impairments, which often include childhood onset of severe emotional problems, rather than any one single outstanding or severe disability or impairment.

In many respects, the conclusions of this study are very heartening. The study confirmed the estimates of the State's Commissioners of the Department of Correctional Services and the Office of Mental Retardation and Developmental Disabilities that only a relatively small percentage (1 to 3 percent) of inmates in New York State prisons are developmentally disabled. The profile of these inmates further suggests that they are most likely to meet the clinical criteria for mild or borderline mental retardation, and that they are unlikely to have significant impediments in mobility or language development which are more common among individuals with severe or profound developmental disabilities. Indeed, as a group, the few inmates with developmental disabilities in state prisons appear to meet the statutory definition of developmental disabilities chiefly as a result of multiple mild-moderate impairments, which often include childhood onset of severe emotional problems, rather than any one single outstanding or severe disability or impairment.

The study also found that despite operational limitations in the prison system's screening process for incoming inmates, as well as the inherent difficulties of identifying such a low prevalence population, four of the seven inmates judged developmentally disabled were, in fact, identified by the prison reception centers. Ironically, these identifications did not appear to emanate from the standardized testing procedures which distinguish New York's prison reception center process, but from the ability of correctional officers to informally detect inmates whose demeanor and behavior in the reception center may signal mental or developmental disabilities.

Perhaps most important, there was little indication that the seven inmates judged to be developmentally disabled had found their way to prison as a result of minor or first criminal offenses. As a group, these inmates were more likely than other sample inmates to have been convicted of more and more serious prior criminal offenses, and they were more likely to be currently incarcerated for a crime against a person (as opposed to a crime against property). Notably, the inmates identified as developmentally disabled shared these distinctions despite the fact that they tended to be much younger than other inmates in the sample (71 versus 28 percent under 26). Additionally, notwithstanding their more substantial criminal histories, these inmates were no more likely to have served a prior jail or prison term than other inmates in the sample, sug-

gesting that inmates with developmental disabilities may actually be afforded greater leniency than the average offender by the criminal justice system.

The Commission also found no reason to question the basic premise of the Department of Correctional Services that inmates with developmental or other disabilities should be integrated in the "general population," except in those situations where clear and convincing evidence suggests that they would be of danger to themselves or others unless placed in a "special unit." All but one of the inmates judged to be developmentally disabled in the Commission's study had spent most of their time in prison in the general population, and, although most had experienced somewhat more troubled adjustments to prison life than the average inmate in the sample, none had suffered any specific serious harm and there was no indication that, compared to other sample inmates, they lost more "good time" (as a result of rule infractions) which can affect an inmate's parole date.

Although "special unit" placement could afford inmates with developmental disabilities some special protection, such placements also lent these inmates a stigmatizing label and provided no guarantee that they would not continue to violate prison rules and be subject to more "keep-lock" and other prison penalties.

It was also clear to the Commission that, although "special unit" placement could afford inmates with developmental disabilities some special protection, such placements also lent these inmates a stigmatizing label and provided no guarantee that they would not continue to violate prison rules and be subject to more "keep-lock" and other prison penalties. Specifically, 9 of the 15 Wende Special Needs Unit inmates randomly selected for review by Commission staff had at least one documented rule infraction since their arrival on the unit, and five, or one-third, had more than seven documented rule infractions since they arrived, including one inmate with 33 documented infractions. In total, 8 of these 15 inmates had spent at least 30 days in "keep-lock" since their arrival on the unit; and three inmates had spent more than 100 days in "keep-lock" since they arrived on the unit.

The Commission also noted that, although initial plans for the "special units" called for rich programming, budget constraints and other priorities left both Wende's SNU and Clinton's APPU with minimal programming services. The Commission is also mindful that the standard of separate but equal is universally difficult to achieve in practice and that persons with mental disabilities have historically been especially vulnerable to the vagaries of its implementation.

Finally, the Commission's caution in advocating for "special unit" placement for developmentally disabled inmates recognizes that many of the programming and rehabilitative needs of inmates with developmental disabilities may not be significantly different from the needs of many other non-developmentally disabled inmates. Specifically, the clinical experts who assessed the 81 "at risk" sample inmates noted that 44 of the non-developmentally disabled inmates reviewed shared similar, if less severe, functional life skill limitations as the seven inmates identified as developmentally disabled. When extrapolated to the general prison population, these findings indicate that approximately 6,500 non-developmentally disabled inmates may share some of the spe-

cial programming and rehabilitation needs of inmates who are developmentally disabled. These findings suggest that integrated basic life skills programs may be a needed program alternative for many prison inmates with and without developmental disabilities.

In summary, the Commission's study generally did not indicate a need for radical reform in the current procedures and practices of the Department of Correctional Services in identifying and serving inmates who are developmentally disabled. Notwithstanding this conclusion, however, the study does raise a number of questions warranting further study and discussion by the Department of Correctional Services and the Office of Mental Retardation and Developmental Disabilities.

A final meeting of the study's Steering Committee, held on December 7, 1990, focused on several of these issues, including the adequacy of existing diversion programs and screening processes for offenders who may be developmentally disabled. The consensus of the Committee was that for those inmates who find their way to state prison there was not substantial evidence indicating that existing practices, in general, are seriously deficient. Simultaneously, however, Committee members were careful to point out that the same conclusion may not apply to practices of local jails. They were also emphatic in expressing their concern that practices for assessing Hispanic inmates must be improved, if these inmates' needs and rights were to be protected.

Steering Committee members expressed concern that existing "special units" were so limited in special resources and programs for persons with developmental disabilities.

Significantly, the Committee believed that priority should not be placed on "testing procedures in Spanish," but rather on the provision of more correctional officers, especially in prison reception centers, who are bilingual in Spanish and English. As a secondary priority, the Committee also agreed that the Department of Correctional Services should consider replacing or augmenting the administration of the Revised Beta IQ with an assessment instrument which focused more directly on basic living skills limitations. Committee members concurred that such functional assessment tools may have more utility in planning rehabilitation programs for individual inmates, as well as systemic program planning for the prison system, but they acknowledged that such assessments would have little relevance unless the Department of Correctional Services also had the commitment and resources to provide rehabilitative programming for inmates directed toward these basic skills.

The Committee also focused on the current "special" units for persons with developmental disabilities. Committee members agreed with the Commission that, to the greatest degree possible, inmates with developmental disabilities should be integrated in the general prison population and that "special" units should be limited, but they also expressed concern that existing "special" units were so limited in special resources and programs for persons with developmental disabilities. While Committee members debated the advisability of administration of the special units by the Office of Mental Retardation and Developmental Disabilities (OMRDD), most members concurred that, regard-

less of the administrator, the meager offerings of the existing "special" units were unlikely to change significantly unless more resources were made available.

Issues of parole and appropriate discharge of inmates who are developmentally disabled clearly received the most discussion by the Steering Committee. There was strong consensus that the "back door" issues were not only the most problematic, but also the least amenable to easy solutions. Records reviewed by the Commission indicated that Division of Parole staff often spent many hours trying to orchestrate an effective plan for an inmate with developmental disabilities only to see the plan fall apart at the last minute, either because a key service provider (often the residential provider) backed out, or because the inmate failed to comply with the plan.

Issues of parole and appropriate discharge of inmates who are developmentally disabled clearly received the most discussion by the Steering Committee. There was strong consensus that the "back door" issues were not only the most problematic, but also the least amenable to easy solutions.

While the Committee agreed that appropriate supportive housing was often the critical missing link in planning for these inmates, there was little consensus on how to ensure more housing, especially in New York City where low-cost housing for anyone was difficult to obtain. The OMRDD representative maintained that few of these inmates meet the disability criteria for their supervised residential settings and argued that most could effectively manage in generic supportive housing, if such housing were accessible to them. One Steering Committee member also noted the need for additional case management services to help link paroled inmates with developmental disabilities to other services and supports. Other members were quick to point out that, regardless of the setting or auspice, these inmates were not likely to be welcomed as neighbors.

This discussion ended with no consensus, although all were supportive of the Department's initiative to start a special short-term placement unit to assist inmates with functional limitations prepare for parole at Arthur Kill Correctional Facility. Some also felt that the experience of inmates served by the unit may provide valuable insights for more effective long-term solutions.

Appendix A
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Appendix B
American Association on Mental Deficiency Adaptive Behavior Scale

American Association on Mental Deficiency Adaptive Behavior Scale

The American Association on Mental Deficiency's (AAMD) Adaptive Behavior Scale (ABS) provides an evaluation of an individual's functioning level on a range of different daily living tasks, as well as his/her tendency to engage in certain specific maladaptive behaviors.

Part One of the ABS evaluates the skills and habits of an individual in achieving daily living independence in ten skill areas. Part Two measures maladaptive behaviors in 14 behavioral areas.

Part One - Independent Functioning Skills

Independent Functioning

Eating
Toilet Use
Cleanliness
Appearance
Care of Clothing
Dressing and Undressing
Travel
Other Independent Functioning

Physical Development

Sensory
Motor

Economic Activity

Money Handling and Budgeting
Shopping

Language Development

Expression
Comprehension
Social Language Development

Numbers and Time

Numbers
Time
Time Concept

Domestic Activity

Cleaning
Kitchen
Other Domestic Activity

Vocational Activity

Job Complexity
Job Performance
Work Habits

Self-Direction

Initiative
Perseverance
Leisure Time

Responsibility

Personal Belongings
General Responsibility

Socialization

Cooperation
Consideration for Others
Awareness of Others
Interaction with Others
Participation in Group Activities
Selfishness
Social Maturity

Part Two - Maladaptive Behavior

Violent and Destructive Behavior

Threatens/Does Physical Violence
Damages Personal Property
Damages Others' Property
Damages Public Property
Has Violent Temper

Antisocial Behavior

Teases/Gossips About Others
Bosses/Manipulates Others
Disrupts Others' Activities
Is Inconsiderate of Others
Shows Disrespect for Others' Property
Uses Angry Language

Rebellious Behavior

Ignores Regulations/Regular Routines
Resists Following Instructions, Requests, or Orders
Has Impudent or Rebellious Attitude Toward Authority
Is Absent From, Late For, the Proper Assignments or Places
Runs Away/Attempts to Run Away
Misbehaves in Group Settings

Untrustworthy Behavior

Takes Others' Property Without Permission
Lies or Cheats

Withdrawal

Is Inactive/Withdrawn/Shy

Stereotyped Behavior and Odd Mannerisms

Has Stereotyped Behaviors
Has Peculiar Posture or Odd Mannerisms

Inappropriate Interpersonal Manners

Unacceptable Vocal Habits

Has Disturbing Vocal or Speech Habits

Unacceptable or Eccentric Habits

Has Strange and Unacceptable Habits
Has Unacceptable Oral Habits
Removes or Tears Off Own Clothing
Has Other Eccentric Habits and Tendencies

Self-Abusive Behavior

Hyperactive Tendencies

Sexually Aberrant Behavior

Engages in Inappropriate Masturbation
Exposes Body Improperly
Has Homosexual Tendencies
Socially Unacceptable Sexual Behavior

Psychological Disturbances

Tends to Overestimate Own Abilities
Reacts Poorly to Criticism
Reacts Poorly to Frustration
Demands Excessive Attention/Praise
Seems to Feel Persecuted
Has Hypochondriacal Tendencies
Other Signs of Emotional Instabilities

Use of Medications

Use of Prescribed Medications

Appendix C
Prison Functional Behavior Scale

Prison Functional Behavior Scale

Introduction

The *Prison Functional Behavior Scale* was developed in 1980 by Peter Hayman of Syracuse University specifically for evaluating the functioning level of persons within a correctional setting. The purpose of this tool, developed with funding assistance from the NYS Developmental Disabilities Planning Council, was to provide an easy to use "screening device" for correctional officers in jails and prisons in identifying persons who may be developmentally disabled.

Derived from the American Association on Mental Deficiency's *Adaptive Behavior Scale*, the *Prison Functional Behavior Scale* includes many fewer items assessing generic daily functioning (27 items versus 66 items) than the *Adaptive Behavior Scale*, and it completely excludes the rather lengthy section on generic "maladaptive" functioning, which constitutes all of Part Two of the *Adaptive Behavior Scale*. In place of these items, the *Prison Functional Behavior Scale* adds a special subsection labelled "Prison Functioning," which includes many items specifically related to adaptive and maladaptive behaviors in prison environments. Several examples of such items are listed below:

- "Lines up at the living unit and mess hall when ordered."
- "Does not usually drop food on table or floor."
- "Knows and follows rules of mess hall during meals."
- "Can do math necessary to purchase items from commissary."
- "Is slow to lock in [cell]."
- "Is ridiculed by other inmates."

Importantly, the *Prison Functional Behavior Scale* was not designed to assess different functional skills than the *Adaptive Behavior Scale*, but only to present the assessment in terminology that was more immediately relevant to a correctional setting. Additionally, because the *Prison Functional Behavior Scale* has fewer items than the *Adaptive Behavior Scale*, it is briefer and somewhat easier to administer.

In planning for this study, Department of Correctional Services officials were interested in piloting the use of the *Prison Functional Behavior Scale* in assessing inmates who may be developmentally disabled. The Commission agreed to comply with this request, although as the *Prison Functional Behavior Scale* had not been normed on a standardized population, in its final assessments of "at risk" inmates the agency relied on the standardized results of the more universally accepted *Adaptive Behavior Scale*. The simultaneous administration of the *Prison Functional Behavior Scale* and the *Adaptive Behavior Scale*, however, did permit a comparison of inmate performance on the two instruments.

Analysis

This analysis indicated that total raw scores on the *Prison Functional Behavior Scale* correlated significantly with the total raw score on the *Adaptive Behavior Scale* (Part One)($r=.84$, $p<.001$). In addition in most subtest areas, inmates' subtest scores on the two instruments also correlated significantly (Table 1).

Perhaps of greatest interest, the analysis also showed a very high positive correlation ($r=.85$, $p<.001$) between inmates' scores on the "generic functioning" subsection of the *Prison Functional Behavior Scale* and their total raw scores on Part One of the *Adaptive Behavior Scale*. This finding is of particular interest because it suggests that the much briefer "generic functioning" section of the *Prison Functional Behavior Scale* may be substituted with very comparable results for the considerably more lengthy Part One of the *Adaptive Behavior Scale*. Interestingly, but perhaps not surprisingly, while inmates' total raw scores on the "Prison Func-

Table 1: Correlational Analysis of the Adaptive Behavior Scale and the Prison Functional Behavior Scale (N=273)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
1 Independent Functioning	1.000																						
2 Physical Development	.467	1.000																					
3 Economic Activity	.657	.386	1.000																				
4 Language Development	.620	.426	.590	1.000																			
5 Numbers and Time	.443	.392	.465	.541	1.000																		
6 Domestic Activity	.717	.374	.559	.651	.424	1.000																	
7 Vocational Activity	.515	.319	.447	.497	.202	.557	1.000																
8 Self-Direction	.573	.232	.483	.643	.261	.640	.747	1.000															
9 Responsibility	.488	.270	.472	.509	.260	.590	.597	.648	1.000														
10 Socialization	.520	.298	.511	.556	.270	.677	.623	.730	.680	1.000													
11 Generic Functioning	.626	.320	.559	.731	.353	.698	.632	.785	.669	.801	1.000												
12 Prison Functioning	.451	.321	.450	.635	.426	.592	.505	.544	.462	.565	.717	1.000											
13 Overall	.616	.339	.562	.748	.393	.710	.634	.767	.652	.784	.983	.834	1.000										
14 Independent Functioning	.664	.332	.400	.546	.268	.629	.495	.606	.509	.569	.735	.499	.629	1.000									
15 Language Development	.516	.321	.523	.739	.370	.569	.415	.518	.430	.567	.811	.598	.569	.483	1.000								
16 Numbers and Time	.320	.153	.225	.388	.400	.270	.130	.237	.234	.250	.460	.565	.270	.253	.415	1.000							
17 Self-Direction	.476	.185	.425	.571	.205	.527	.641	.816	.581	.667	.849	.570	.527	.584	.529	.304	1.000						
18 Responsibility	.495	.235	.429	.493	.242	.589	.540	.641	.796	.626	.752	.541	.589	.567	.475	.336	.638	1.000					
19 Socialization	.453	.232	.472	.535	.271	.582	.553	.670	.612	.824	.879	.627	.582	.524	.596	.372	.709	.675	1.000				
20 Independent Functioning	.360	.227	.321	.540	.351	.530	.414	.451	.399	.471	.592	.946	.530	.402	.497	.554	.443	.486	.521	1.000			
21 Economic Functioning	.411	.263	.535	.605	.441	.420	.264	.364	.295	.322	.506	.583	.420	.312	.531	.399	.392	.311	.382	.419	1.000		
22 In Cell Functioning	.396	.293	.322	.401	.210	.457	.529	.539	.435	.586	.678	.625	.457	.556	.444	.240	.619	.477	.653	.469	.247	1.000	
23 Victimization	.153[c]	.265	.228	.171[c]	.170[a]	.141[b]	.288	.218	.141[b]	.258	.291	.295	.141[b]	.225	.202	.088[c]	.301	.155[c]	.263	.074[c]	.058[c]	.352	1.000
Average	103	24	16	37	12	16	10	17	5	22	98	45	142	22	29	5	18	5	20	29	6	5	6
Standard Deviation	7	1	2	4	1	3	2	3	1	4	13	4	17	3	4	1	4	1	4	3	1	1	1

a = p < .01

b = p < .05

c = Not Statistically Significant

All Other Coefficients p < .001

tioning" subsection of the *Prison Functional Behavior Scale* also correlated significantly with their total scores on the *Adaptive Behavior Scale* (Part One), this correlation was not as high ($r=.65$, $p<.001$).

Finally, as with inmates' scores on the subtests of the *Adaptive Behavior Scale*, several of the inmates' subtest scores on the *Prison Functional Behavior Scale* were also significantly intercorrelated (Table 1). In particular, inmates' scores on the "Socialization" subtests were significantly correlated with their scores on four other subtests, "Self-Direction," "Independence," "Responsibility," and "Language Development."

These significant intercorrelations of inmates' subtest scores suggest that these subtests may be measuring like or at least closely related abilities. This finding, like the intercorrelation of subtest scores on the *Adaptive Behavior Scale*, indicates that with further testing, it may be possible to further abbreviate the *Prison Functional Behavior Scale* without limiting the validity of its scores. Even more critically, the very high positive correlation of the "generic functioning" score on the *Prison Functional Behavior Scale* with the inmates' total score on the *Adaptive Behavior Scale* suggest the possibility that users may be able to rely only upon this very brief subsection of the former tool and achieve comparable results.

For prison officials, often constrained by tight staff and time constraints in screening inmates, these possibilities would have more importance if the *Adaptive Behavior Scale* or the *Prison Functional Behavior Scale* had shown significant predictive value in identifying inmates who were developmentally disabled. As discussed in greater detail in Chapter III of the Commission's report, however, the study found that New York's prison inmates identified as developmentally disabled were not distinguished from many inmates not determined to be developmentally disabled in terms of their scores on the *Adaptive Behavior Scale*. Like other standardized tests assessed in the study, this tool was more successful in making a very rough cut of inmates possibly "at risk" of being developmentally disabled. Approximately 90 percent of these inmates, however, were later judged by clinical experts not to be developmentally disabled.

Conclusions

This analysis suggests that the *Prison Functional Behavior Scale* and the *Adaptive Behavior Scale* are comparable and that there is a strong positive correlation between inmates' scores on the two tools. Additionally, the high positive correlation between inmates' scores on the much abbreviated "generic functioning" subsection of the *Prison Functional Behavior Scale* and their total raw scores on the *Adaptive Behavior Scale* suggests that this very limited and efficiently administered subsection may suffice as a quick functional skills assessment of prison inmates. The study's findings, however, provide little support for New York State Department of Correctional Services to adopt either of these two tools as a means of identifying inmates who may be developmentally disabled. At least among New York's prison population neither tool has significant predictive validity in identifying the small number of inmates who may be developmentally disabled. Simultaneously, it should be stressed that both tools may be more valuable in assessing populations which include persons with more severe functional disabilities, including perhaps individuals incarcerated in New York's local jails or correctional facilities in other states.

Appendix D
Developmentally Disabled Offender Profile

Developmentally Disabled Offender Profile

I. Demographic/Social History

1. Current age: ____ 2. Ethnic group: _____

3. Citizenship: _____ 4. Language dominance: _____

5. ESL Level: _____

6. Living arrangement at time of current arrest: _____

_____

7. Inmate's family unit has had problems in the following areas:

Y	N	Involvement in criminal activity	Y	N	Mental health
Y	N	Mental retardation	Y	N	Alcohol abuse
Y	N	Substance abuse	Y	N	Maintaining gainful employment/reliance on public assistance
Y	N	Child abuse/domestic violence	Y	N	Maintaining housing

Comments: _____

_____

_____

8. Social circumstances relating to inmate specifically:

Y	N	Raised by natural parent(s) for entire childhood	Y	N	Abandoned by one parent
Y	N	Raised by extended family	Y	N	Reared in foster homes/institutions
Y	N	Victim of abuse by caretakers/ household members	Y	N	Victimized caretakers/household members
Y	N	History of running away from caretakers	Y	N	Presented disciplinary/control problems for caretakers

Comments: _____

_____

_____

9. Either the Reception Package and/or the Presentence Report indicates inmate has the following problems (Age of onset is listed, if known)

Problem

_____

_____

_____

_____

_____

_____

_____

_____

II. Educational History/Academic Testing

1. Highest grade completed: _____ 2. Beta IQ: _____

3. History of educational problems: _____

Comments: _____

_____

_____

4. Reading test administered at Reception: Y N

Test: _____ Form: _____

Language: _____ Level: _____

Scores: Voc _____ Comp _____ Total _____

5. Math test administered at Reception: Y N

Test: _____ Form: _____

Language: _____ Level: _____

Scores: Comp _____ C and P _____ Total _____

6. Adaptive Behavior Scale Scores: (% Scores)

PART ONE		*PART TWO*	
I. Independent Functioning	_____	I. Violent and Destructive Behavior	_____
II. Physical Development	_____	II. Antisocial Behavior	_____
III. Economic Activity	_____	III. Rebellious Behavior	_____
IV. Language Development	_____	IV. Untrustworthy Behavior	_____
V. Numbers and Time	_____	V. Withdrawal	_____
VI. Domestic Activity	_____	VI. Stereotyped Behavior and Odd Mannerisms	_____
VII. Vocational Activity	_____	VII. Inappropriate Interpersonal Manners	_____
VIII. Self-Direction	_____	VIII. Unacceptable Vocal Habits	_____
IX. Responsibility	_____	IX. Unacceptable or Eccentric Habits	_____
X. Socialization	_____	X. Self-Abusive Behavior	_____
		XI. Hyperactive Tendencies	_____
		XII. Sexually Aberrant Behavior	_____
		XIII. Psychological Disturbances	_____
		XIV. Use of Medications	_____

7. WAIS Test Scores:

Verbal _____ Performance _____ Full _____

III. Employment History

1. Inmate was employed at time of crime of current incarceration:

   _____

2. Based on history provided, the inmate's work history appears to have been:
   (See appendix for history definitions)

   _____

   Justify/Explain: _____

   _____

   _____

   _____

3. Any explanation/reason for mediocre/poor work history:

   _____

   _____

   _____

4. Inmate's last reported occupation: _____
5. Source of income prior to incarceration appears to have been:

   Y N Wages from a job
   Y N Support from relatives/friends
   Y N Unknown
   Y N Public assistance
   Y N Illicit activities
   Y N Other _____

IV. Prior Criminal History

1. Age at time of first arrest: _____
2. Age at time of first conviction: _____
3. Number of prior arrests: _____
4. Number of prior convictions: _____
5. Number of prior felony convictions: _____
6. Summary of dispositions of convictions:

   Unconditional discharges ____
   Probations ____
   Community services ____
   DFY placements ____
   Conditional discharges ____
   Fines ____
   Jail/Prison terms ____
   PINS petitions ____

7. Other dispositions: Dismissed ___ Reduced charges ___ No information ___
8. Time inmate was sentenced to:
   Jail/prison _____ DFY _____ Probation _____
9. Presentence report indicates MH/MR services or referrals to such were incorporated into the disposition of any previous arrest:

   Y N Number of referrals _____

   Details: _____

   _____

10. Presentence report indicates that for prior crimes the inmate:

    Y N Was examined to determine his mental fitness to participate in court proceedings

    Y N Attempted a defense of not responsible due to mental disease or defect

    Details: _____

    _____

V. Current Criminal Incarceration

1. Presentence report indicates that for current crimes the inmate:

   Y N Was examined to determine his mental fitness to participate in court proceedings

   Y N Attempted a defense of not responsible due to mental disease or defect

   Details: _____

   _____

2. Conviction(s): _____

   _____

   Describe crime: _____

   _____

   _____

   _____

   _____

3. Minimum sentence _____ Maximum sentence _____
4. Days spent in reception: _____
5. Inmate was in extended classification: Y N
   Reason: _____
6. DOC Reception Recommendations for Program Participation Priority
   Academic Priority Rating _____

   _____

   _____

   Vocational Priority Rating _____

   _____

   _____

   Counseling Priority Rating _____

   _____

   _____

   Other Priority Rating _____

   _____

   _____

8. Any special placements: Y N Where: _____
   Reason(s): _____

   Length of stay: _____
9. Current Programming (as of 1988):

   _____

   _____

   _____

VI. Prison Adjustment

1. Custodial Adjustment Ratings (Expressed as ratio of total reviews from 3612 Form)
   _____ Outstanding _____ Average _____ Poor
2. Program Adjustment Ratings (Expressed as ratio of total reviews from 3612 Form)
   _____ Outstanding _____ Average _____ Poor
3. Unusual Incidents in Prison - Number of: _____
   Describe: _____
4. Other adjustment comments: _____
5. Total number of transfers: _____
6. Number of transfers for the following reasons:

Program purposes	_____	More secure setting	_____
Unsuitable behavior	_____	Less secure setting	_____
Closer to family	_____	Unknown/unable to determine	_____
Protection	_____		

7. Infractions by Type and Number of:

Escape/attempt	___	Arson/fire setting	___
Physical assault on staff	___	Physical assault on inmate	___
Physical assault/unknown recipient	___	Sexual assault on inmate	___
Sexual misconduct	___	Threatening staff	___
Threatening inmate	___	Threatening/unknown recipient	___
Possession of weapon	___	Possession of drugs/alcohol	___
Possession of other contraband	___	Theft, extortion, possession of stolen property	___
Other conduct jeapordizing health/safety	___	Other conduct jeapordizing facility operations	___

8. Total number of infractions: _____
9. Total number of dismissals: _____
10. Penalties given out by Type and Total Days:

Reprimand/Counsel (number of)	_____	Suspended:	_____
Privilege loss	_____	Suspended:	_____
Work detail	_____	Suspended:	_____
Keep lock	_____	Suspended:	_____
Special housing unit (SHU)	_____	Suspended:	_____
Protective custody	_____	Suspended:	_____
Diet restriction	_____	Suspended:	_____
Loss of good time	_____	Suspended:	_____
Restitution (number of)	_____	Suspended:	_____
Total amount of restitutions ($)	_____	Suspended:	_____

Appendix A

I. *List of problems an inmate's record may mention that would indicate the presence of a developmental disability:*

Mobility problems (needs physical assistance or devices to ambulate or is non-ambulatory)

Vision, speech, hearing problems (other than simple need for eye glasses or language dominance problems)

Seizure disorder (seizure medications)

ADL problems (grooming, dressing, self-care)

Possible MR (Beta below 80)

Definite MR (WAIS total below 71)

Cerebral Palsy

Brain damage

History of head trauma

History of special education placements

History of outpatient psychiatric care

History of inpatient psychiatric care

Indicators of possible psychiatric problems

History of residential placements for MR

History of other residential placements (DFY, etc.)

Substance abuse problems

Alcohol abuse problems

History of hospitalizations for significant health problems not covered above

Physical disfigurement

Risk of attack by other

Risk of attacking others

Risk of sexual exploitation

Other disabling, security risk problems

II. *Definitions for work history categories:*

Fairly stable:	usually held a job for at least a year with no major gaps in employment
Unstable:	multiple job changes, held jobs usually for less than a year, with major or multiple gaps in employment
Negligible:	major periods of unemployment, reliance on public assistance or unknown source of income with only occasional or brief periods of employment
Fairly stable to Unstable:	once fairly stable in the past, but within a year prior to incarceration had an unstable or negligible work history
No work history:	Presentence Report and Reception Package provided no information on work history.

Appendix B

FORMS USED TO ABSTRACT INFORMATION FOR INMATE PROFILE

Reception Package: A seven-page computer printout with area specific information on separate pages under several headings (personal characteristics, family and residence, crime and sentence).

Presentence Report: The format of this report varies depending on which county the inmate was arrested in. This multiple page report includes information on the inmate's legal history-dates of arrests, charges, and disposition of the crimes. It also provides a description of his/her present offense, statements by the offender and victim, and an analysis of the crime and past criminal activities. This report will also provide information on the social circumstances of the inmate including family and environment; education and employment; physical and mental health; and an evaluative summary.

3612 Form: Generally a one-page form used for periodic evaluations of inmates completed by correctional officers/counselor. These reviews are completed at least semi-annually as well as for transfer reviews. Information on infractions and penalties are included as well as a rating for both custodial adjustment and program involvement. Inmate's adjustment can be rated as outstanding, average, or poor; and space is provided for an explanation for the rating.

Warden Card: One side of the warden card contains pertinent information on demographics, current incarceration, transfer history; the reverse side contains space for the inmate's disciplinary record which includes the date of the infraction(s), the reporting correctional officer, the type of infraction with narration, and any disciplinary action taken.

Appendix E
Case Descriptions of Seven Sample Inmates Identified As Developmentally Disabled

Biographical Sketch: R.B.

R.B. is a 20-year-old English-speaking male of Hispanic descent from Kings County. He pleaded guilty to Manslaughter 1st and received a 5 to 15-year sentence. R.B. stabbed the victim several times after an altercation ensued with the victim. According to R.B., the victim shot R.B.'s younger sister and R.B. felt that the police were not doing their job.

His family life was full of problems; his father left when R.B. was four and his mother remarried and moved to Puerto Rico. The family had been the victim of crimes as well as the victimizer; a brother and sister's common-law husband are both serving time and the family relies on public assistance.

R.B. himself has been involved in illegal activities since the age of 16, with five prior felonies generally for larcenous activities with dispositions of conditional discharges and a one-month jail term. He had no employment record to speak of which, in part, may be due to his young age.

According to records, at age five R.B. fell out of a two-story window, landing in a trash can, and suffered head trauma. He had no documented history of educational problems and completed the eighth grade. However, his Beta IQ was 61 and test scores from Reception revealed he has a 1.8 reading level and a 1.9 math level. He also has a history of substance abuse. He was recommended for extended classification.

His Adaptive Behavior Scale scores indicate problems in numbers and time, vocational activity, self-direction, and responsibility. His WAIS scores of 68 (Verbal), 66 (Performance), 66 (Full Scale) also support a classification of mild mental retardation.

While in prison he has committed eight infractions (threats, refusing direct orders, verbal harassment) that resulted in privilege losses and 31 days in "keep-lock." At the time of our study he was involved in the paint shop and had been previously involved in Adult Basic Education.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: Functional limitations cited plus illiteracy plus IQ scores. He more than meets federal definitions.

Reviewer 2: The Beta and WAIS scores (66 and 1st percentile) support a classification of mild mental retardation. There is also apparently a history of brain trauma. The ABS and educational data also indicate a significant limitation in ***learning, self-direction*** is seriously limited according to the prior convictions record, substance abuse, ABS scores, and the privilege loss and keep lock records. While this inmate's record in the paint shop is good, it is questionable whether he would be ***economically self-sufficient*** on the outside. His age at incarceration (18) makes it impossible to judge ***capacity for independent living***. This inmate is mildly retarded, possibly suffering from brain trauma, and is developmentally disabled.

Additionally, assessments of the inmates in the seven functional areas of the federal definition of developmental disabilities indicated that only in two areas (self-care and mobility) did both reviewers judge the inmate to have no functional deficits, and that both reviewers concurred regarding at least some degree of deficiency in three areas (learning, self-direction, and economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	None/None
Receptive and Expressive Language	Significant/None
Learning	Significant/Significant
Mobility	None/None
Self-Direction	Some/Significant
Capacity for Independent Living	Some/None
Economic Self-Sufficiency	Significant/Significant

Biographical Sketch: R.L.

R.L. is a 37-year-old white male from Suffolk County who resided in a rooming house at the time of his current arrest. He was convicted by a guilty verdict of Assault 2nd Degree; using a stick he caused the victim to lose his left eye, although he claims the victim struck first and he was defending himself. He received three and one-half to seven years for his crime.

His family life was unremarkable. He had limited relations with his siblings and his mother died in 1982 and stepfather died in 1986.

He was first arrested and convicted at age 16 and had 17 convictions prior to his current one. Five of these convictions were felonies (e.g., burglary, larceny). He received 12 jail/prison terms (two years), one probation (three years), two unconditional discharges and one conditional discharge. Twice he was sent to Central Islip State Hospital and once he was referred to Kings County Hospital as part of a disposition. He was examined to determine mental fitness to participate in court proceedings following the arrest of one of his crimes (burglary). He was given a diagnosis of schizophrenia-paranoid, however, was deemed mentally competent and held accountable for his actions.

His psychiatric history dates back to the age of 16, with a history of inpatient hospitalizations and a diagnosed seizure disorder and had been prescribed Dilantin. He also has a history of unpredictable explosive behavior. His work history is negligible and he had received income from SSD between 1980-1986.

R.L. completed the eighth grade with no documented history of educational problems. His Beta IQ is 95 and the results of reception center testing include a reading grade level of 4.5 and math level of 5.3. Because of his psychiatric history he was recommended for extended classification.

Scores on the Adaptive Behavior Scale indicate problems in nine of ten subareas. His WAIS scores were 78 (Verbal), 77 (Performance), and 77 (Full Scale).

He has had 11 infractions since entering the system including physical assaults on inmates and staff, threats, interference, failing to obey a direct order, and unhygienic acts. For these, he received reprimands/counsel, loss of privileges, and 135 days of "keep-lock." Comments on his adjustment in prison include: "... has difficulty relating to both staff and peers ... appears to be directly attributable to his psychiatric condition ... is highly assaultive and caution should be exercised when dealing with this inmate. No positive change is expected in this area."

At the time of the study, he was a porter and previous placements included the ICP at Clinton, required constant OMH Level One services and was receiving Haldol and Phenobarbital.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: No evidence of limitations in mobility or learning. Inmate has borderline WAIS - Beta IQ is higher. Inmate requires supervision in daily living. Expressive language impaired by psychiatric illness, including odd verbal behaviors and social withdrawal. Inmate's history and 3612s indicate continuing serious assaultive behavior and need for disciplinary action, special placement, and very close supervision. No evidence of periods of acceptable adjustment. Summary: inmate has history dating from childhood of psychiatric illness and brain dysfunction (seizure disorder). Daily life skills, socialization, motivation, behavior impaired. Requires close supervision and current inpatient psychiatric care. Is developmentally disabled.

Reviewer 2: This inmate falls in the borderline category of intelligence at about the 7th percentile. He has a history of epilepsy and medication prescribed to control it. He also has a significant history, according to the 3612 form, of paranoid schizophrenia. All reports and testing indicate significant limitations in ***learning***, ***self-direction***, ***capacity for independent living***, and ***eco-***

nomic self-sufficiency. Some to serious limitations are indicated in ***self-care*** and ***receptive language***. This individual is developmentally disabled, epileptic, borderline intelligence, and severely emotionally disturbed. He is or should be at least dually diagnosed.

Additionally, assessments of the inmate in the seven functional areas of the federal definition of developmental disabilities indicated that in only one area (mobility) did both reviewers judge the inmate to have no functional deficit, and that both reviewers concurred regarding at least some degree of deficiency in five areas (self-care, receptive and expressive language, self-direction, capacity for independent living, and economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	Some/Some
Receptive and Expressive Language	Some/Some
Learning	None/Significant
Mobility	None/None
Self-Direction	Significant/Significant
Capacity for Independent Living	Significant/Significant
Economic Self-Sufficiency	Significant/Significant

Biographical Sketch: S.G.

S.G. is a 25-year-old white male living with his immediate family in Queens County. He plead guilty to three crimes occurring at different times: Criminal Sale Controlled Substance 5th degree for selling PCP to undercover officers, Burglary 3rd degree, and Assault 2nd degree. In the assault, S.G. demanded $15 from a neighbor who refused. S.G. proceeded to punch him in the face and cut him on the buttocks with a tree saw.

His family life is fairly unremarkable except for the fact that he has a brother with a serious drug abuse problem. His mother stated that S.G. was unmanageable when he took drugs. He has a history of substance abuse (angel dust, cocaine, and heroin) and alcohol abuse since age 16.

S.G. also has a history of inpatient psychiatric care and was maintained on Thorazine. He completed the tenth grade and had no documented history of educational problems. At Reception, his Beta IQ was 75 and his reading level was 5.9 and math level was 3.7. He was recommended for extended classification because of his psychiatric problems.

His scores on the Adaptive Behavior Scale indicate problems in four of the ten areas and he had WAIS scores of 78 (Verbal), 73 (Performance), 74 (Full Scale).

Since incarceration, S.G. has committed eight infractions including such rule infractions as sexual misconduct, arson/fire setting, physical assault on an inmate, and threatening staff. For these infractions he has received reprimand/counsel, loss of privileges, and 75 days of "keep-lock." The 3612 Forms note that he has stabilized on his adjustment and is involved in the I.C.P. Unit where he has a very structured environment.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: Subject is unable to negotiate normal living environment; requires close supervision in a highly structured setting; and is not capable of economic self-sufficiency as well as requires the administration of psychotropic medication.

Reviewer 2: This inmate had a Beta IQ of 75 and a WAIS-R of 74, falling in the borderline classification at about the 4th percentile of intellectual abilities. The profile on the WAIS-R indicated some limitations in ***learning***. The indicated intellectual level plus living with immediate family

would indicate some limitations in ***capacity for independent living***. ***Learning*** is significantly limited, as indicated by the intelligence level and the reading (5.9) and math (3.7) scores at reception testing. ***Self-direction*** is significantly limited also, as evidenced by the inmate's arrests, substance abuse, problems while incarcerated, and scores on the ABS. The negligible work history indicates significant limitations in ***economic self-sufficiency***. There are significant psychiatric problems in the history, indicating a dual diagnosis. This individual meets the Federal definition of developmental disabilities.

Additionally, assessments of the inmate in the seven functional areas of the federal definition of developmental disabilities indicated that in only one area (mobility) did both reviewers judge the inmate to have no functional deficit, and that both reviewers concurred regarding at least some degree of deficiency in three areas (self-direction, capacity for independent living, and economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	Some/None
Receptive and Expressive Language	None/Some
Learning	None/Significant
Mobility	None/None
Self-Direction	Significant/Significant
Capacity for Independent Living	Significant/Some
Economic Self-Sufficiency	Significant/Significant

Biographical Sketch: D.S.

D.S. is a 31-year-old black male who lived in Jamaica until he was 20 when he came to the States. He pleaded guilty on two counts of Criminal Possession of a Weapon 3rd degree and Criminal Possession of a Controlled Substance 2nd degree. He received a three-year to indefinite sentence for these crimes. D.S. was in possession of 192 vials of crack and a loaded revolver which he pointed at police officers.

His family life was fairly unremarkable. He was raised by his maternal grandmother in Jamaica, while his mother moved to the United States.

His criminal history in the States began at age 25, and he had eight prior convictions (no felonies) resulting in five fines, one jail/prison term of one month, and one probation. He has an unstable work history and was involved in illicit activities for income.

D.S. has a sketchy educational history. He completed the fifth grade and has a Beta of 60. He was not given a reading achievement test at Reception and math scores were unavailable. He does have problems with alcohol and marijuana.

Adaptive Behavior Scale scores indicate problems in four areas (domestic activity, self-direction, responsibility, and socialization). His WAIS scores also indicate some deficits - 71 (Verbal), 60 (Performance), 64 (Full Scale). He has had four infractions (threatening staff, disorderly conduct, and verbal harassment) and received loss of privileges. During the study, D.S. was involved in Adult Basic Education and welding, with an overall satisfactory adjustment.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: Inmate shows no evidence of self-care or mobility limitations. Inmate shows some impairment in several areas of functioning. IQ is below borderline on WAIS (Beta IQ is 60). Such

limitations in learning would have indicated special needs - e.g., school placement special education. No evidence of this, but inmate lived overseas until adult life. While no areas in ABS suggesting problematic behavior, and no negative prison adjustment ratings (3612), a substance abuse history in later life and unstable work history are evidence of difficulty in economic self-sufficiency or capacity for independent living. Summary: inmate's below borderline IQ places him in DD range of functioning (64 WAIS, 60 Beta). This plus overall pattern of limitations suggests DD despite lack of confirming early history.

Reviewer 2: This inmate scores in the mildly mentally retarded range of the WAIS at the first percentile, although cultural factors may have influenced the scores somewhat. He appears to have significant limitations in ***learning*** as indicated by his grade level (5th), reception testing, and WAIS. ***Self-direction*** is also significantly limited. He has eight prior convictions and somewhat depressed scores on related sections of the ABS. ***Economic self-sufficiency*** appears to be significantly limited as indicated by work history. There appears to be some limitation in ***capacity for independent living*** as indicated by living with the immediate family (although this isn't defined) and his intelligence level. This individual meets the Federal criteria for developmental disabilities.

Additionally, assessments of the inmate in the seven functional areas of the federal definition of developmental disabilities indicated that in two areas (self-care and mobility) both reviewers judged the inmate to have no functional deficits, and that both reviewers concurred regarding at least some degree of deficiency in four areas (learning, self-direction, capacity for independent living, and economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	None/None
Receptive and Expressive Language	Significant/None
Learning	Some/Significant
Mobility	None/None
Self-Direction	Some/Significant
Capacity for Independent Living	Significant/Some
Economic Self-Sufficiency	Significant/Significant

Biographical Sketch: W.H.

W.H. is an 18-year-old white male who was raised in the Westchester area. For this incarceration he plead guilty to Criminal Possession of Stolen Property 3rd degree and two counts of Attempted Grand Larceny 3rd degree and received concurrent one to four year sentences. W.H. stole an automobile, attempted to set a building on fire, and threatened to firebomb police radio cars. He was carrying two bottles of a flammable liquid when he was apprehended walking towards the 45th Precinct.

His family life revolved around abuse. His father was an alcoholic and abused W.H.'s mother. She in turn was physically abusive to W.H. when he was two years old. She ended her abusive behavior when the Child Abuse Center intervened when W.H. was nine years old. The parents divorced in 1987.

W.H.'s criminal history began at age 16 with three prior misdemeanor convictions for larceny resulting in two probations and one prison/jail term of two months prior to his current incarceration. His employment history is negligible (partly due to age), and he has relied upon friends/family support and illicit activities for income.

According to records, W.H. had a history of special education placement, educational problems (truancy), outpatient psychiatric care, and hospitalizations for significant health problems. He was shot by a friend with a .44 Magnum which passed one inch from the heart, punctured a lung and broke two ribs. A psychiatric evaluation in 1986 noted behavioral problems and recommended family counseling.

He completed the ninth grade, had a Beta IQ of 111, and a reading level of 12.9. His WAIS scores were also very good: 96 (Verbal), 128 (Performance), 110 (Full Scale). However, his Adaptive Behavior Scale scores showed problems in independent functioning, numbers and time, vocational activity, self-direction, responsibility, and socialization.

He has had three infractions (threatening staff, refusing direct orders) that resulted in loss of privileges and seven days of work detail. Comments on adjustment to prison life include "... usually polite, cooperative, and soft-spoken; relates in satisfactory manner." He was a cook's helper at the time of our study.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: Subject appears to be highly immature as well as grossly lacking in self-direction. Note: history of special education and outpatient psychiatric care.

Reviewer 2: This inmate had a Beta score of 111 and an overall WAIS-R score of 110, placing him at the bottom of the high average range at the 75th percentile. His verbal score of 96 was in the average range at about the 37th percentile, while his performance score of 128 was toward the top of the superior range at about the 97th percentile. This 32 point discrepancy between the halves, plus the six point scatter on the sub-tests and undefined prior placement in special education class, suggests learning disabilities. There is however, no evidence, from reception testing, of limitations in ***learning***. ABS scores on independent functioning would suggest significant limitations in ***self-care***. Criminal history and ABS scores show significant limitation in ***self-direction***, although the inmate appears to have adjusted to imprisonment according to the 3612 notes. ABS scores on responsibility, socialization, and several sub-tests on Part Two show significant limitations in ***capacity for independent living***. Although only 18, several of the above scores would suggest some limitation in capacity for ***economic self-sufficiency***. This individual meets the Federal criteria for developmental disabilities.

Additionally, assessments of the inmate in the seven functional areas of the federal definition of developmental disabilities indicated that in none of the areas did both reviewers judge the inmate to have no functional deficits, and both reviewers concurred regarding at least some degree of deficiency in four areas (self-care, self-direction, capacity for independent living, economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	Significant/Significant
Receptive and Expressive Language	Some/None
Learning	Some/None
Mobility	Some/None
Self-Direction	Significant/Significant
Capacity for Independent Living	Some/Significant
Economic Self-Sufficiency	Significant/Some

Biographical Sketch: R.R.

R.R. is a 23-year-old Hispanic male who grew up in Brooklyn. He and an accomplice held a store owner to the floor with a knife and forcibly removed U.S. currency and food stamps from the victim. As a result, R.R. was given a sentence of three to six years for pleading guilty to Attempted Robbery 1st degree.

His family life was unstable; an alcoholic father left the family in 1971, leaving the mother to rely on public assistance. R.R. had been a control problem as a youth; a PINS was filed at the age of 15 and he was sent to a group camp through DFY. His criminal history started at age 14, with eight prior convictions (two felonies) for assaults and violent crimes and as a result has received two and one-half years for five jail/prison terms, one year in DFY, and 1 conditional discharge. He worked sporadically as a grocery delivery person but relied on support from friends/relatives, Public Assistance, and illicit activities for income, mainly to satisfy his drug habit.

According to his files, R.R. has a history of special education ("600" school), outpatient psychiatric care (at age 9 due to hyperactivity and acting out in school), substance abuse (heroin) and truancy problems at school. He completed the ninth grade and has a Beta IQ of 72 with a reading level of 2.4. No documented recommendation for extended classification was found in his files.

R.R.'s Adaptive Behavior Scale scores indicated deficits in four of the ten areas and he had a WAIS score of 80 (Verbal), 80 (Performance), and 79 (Full Scale).

While at prison he has had only two infractions for conduct jeopardizing facility operations and received loss of privileges and 20 days "keep-lock." He was a cook at the time of our study.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: IQs and scatter (low on Digit Symbol) and literacy scores and history of special classes. All can be due to psychiatric problems and substance abuse but not able to rule out D.D. with remarkable certainty.

Reviewer 2: Subject is capable of self-care and independent living; has some difficulty with appropriate self-direction, needs marketable skills. Note: Beta below 80; history of special education and outpatient psychiatry.

Additionally, assessments of the inmate in the seven functional areas of the federal definition of developmental disabilities indicated that in only one area (mobility) did both reviewers judge the inmate to have no functional deficits, and that both reviewers concurred regarding at least some degree of deficiency in four areas (receptive and expressive language, learning, capacity for independent living, and economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	None/Some
Receptive and Expressive Language	Some/Some
Learning	Significant/Significant
Mobility	None/None
Self-Direction	None/Significant
Capacity for Independent Living	Significant/Some
Economic Self-Sufficiency	Significant/Significant

Biographical Sketch: G.C.

G.C. is a 24-year-old American Indian who grew up in Buffalo. He plead guilty to Burglary 2nd degree, receiving a three to six year sentence. According to reports, G.C. chopped his way into a garage with an axe and set the building on fire. He then proceeded to chop through a picket fence and threatened police officers with the axe when he was apprehended.

G.C.'s prior criminal history is sketchy, with only a mention that it began at age 14 and that he had been arrested sixteen times including six times for prostitution and once for rape in 1983. He appears to have a negligible work history; however, his last source of income prior to incarceration was reported to be as a landscaper.

Very little social background was available on G.C. because his Presentence Report was unavailable. The Reception Package notes that he was mentally retarded and had both alcohol and substance abuse problems and that he had completed the eighth grade. His Beta IQ from Reception was 62 and he had a 3.7 reading level. It was also mentioned that he may be a risk of attacking others because of impulsive and irrational assaultive behavioral problems. There was no mention in his record concerning extended classification, however, he resided in Clinton's A.P.P.U. (special needs program) when ABS and WAIS tests were administered during our study.

His Adaptive Behavior Scale scores showed problems in seven of the ten areas. His WAIS scores were 66 (Verbal), 77 (Performance), 70 (Full Scale).

While incarcerated, G.C. has had seven infractions including two for physical assaults on inmates and received loss of privileges and 85 days in "keep-lock." At the time of the study he was in an Adult Basic Education program.

Experts' Reviews

Experts' rationale for determining that the inmate is definitely developmentally disabled:

Reviewer 1: Functional limitations, IQs, and literacy deficits.

Reviewer 2: This inmate scores at the upper end of the mildly retarded range at the 2nd percentile according to the WAIS, and has significant limitations in four of the areas in the Federal definition of developmental disabilities. The ABS scores indicate significant limitations in ***self-care***. ***Self-direction*** is poor as indicated by the penalties record, his substance abuse, and criminal activity, and ABS scores. ***Capacity for independent living*** is seriously limited according to the ABS scores in areas of domestic, responsibility, and socialization, as well as his living arrangements at time of arrest (with friends). ***Economic self-sufficiency*** is seriously limited according to his employment history and the vocational score on the ABS. While reading and math scores are incomplete, there are at least some, and possibly significant learning limitations. This individual is mildly retarded and developmentally disabled.

Additionally, assessments of the inmate in the seven functional areas of the federal definition of developmental disabilities indicated that in only one area (mobility) did both reviewers judge the inmate to have no functional deficits, and that both reviewers concurred regarding at least some degree of deficiency in the other six areas (self-care, receptive and expressive language, learning, self-direction, capacity for independent living, and economic self-sufficiency).

Life Area	Level of Limitation (Reviewer 1/Reviewer 2)
Self-Care	Some/Significant
Receptive and Expressive Language	Significant/Some
Learning	Significant/Some
Mobility	None/None
Self-Direction	Some/Significant
Capacity for Independent Living	Some/Significant
Economic Self-Sufficiency	Significant/Significant

Appendix F
Response from the Department of Correctional Services

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONAL SERVICES

THE STATE OFFICE BUILDING CAMPUS

ALBANY, N.Y. 12226

HOMAS A. COUGHLIN III
COMMISSIONER

MARION L. BORUM
DEPUTY COMMISSIONER
PROGRAM SERVICES

January 9, 1991

Dr. Clarence J. Sundram
Chairman
Commission on Quality of Care
for the Mentally Disabled
99 Washington Avenue
Albany, New York 12210

Dear Dr. Sundram:

I would like to take this opportunity to formally express my reaction to the draft report prepared by your staff on their study of the developmentally disabled in the New York State Department of Correctional Services.

I was singularly impressed with the quality of that report. Its comprehensiveness and thoroughness is a positive reflection on the Commission on Quality of Care. This document will provide our Department with a sound empirical basis for our program development efforts well into the next century. It will provide us direction in both the global planning efforts department wide as well as giving us direction at the programmatic and individual level as well.

We are grateful for your efforts and look forward to receiving the final product of your labors.

Sincerely,

Dr. Raymond Broaddus
Assistant Commissioner
Mental Health Programs

Helpful Hints on How to Deal With a Mentally Retarded Suspect, Victim, or Witness

Use simple language: speak slowly and clearly.

Use concrete terms and ideas.

Avoid questions that tell the person the answer you expect.

Phrase questions to avoid "yes" or "no" answers.

When giving Miranda warnings, ask the person to explain rather than give "yes" or "no" answers.

Repeat questions from a slightly different perspective.

Ask for concrete descriptions, colors, clothing, etc.

Proceed slowly and give praise and encouragement.

Avoid frustrating questions about time, complex sequences, or reasons for behavior.

Never make fun of the person; they will sense it and become less cooperative.

If you think you are dealing with a mentally retarded person, free consultation is available by contacting the New York State OMRDD Bureau of Forensic Services or the local Forensic Liaison.

Source: New York State OMRDD Bureau of Forensic Services

Copies of this report are available in large print, braille, or voice tape. Please call the Commission for assistance in obtaining such copies at 518-381-7098.

The Commission on Quality of Care for the Mentally Disabled is an independent agency responsible for oversight in New York State's mental hygiene system. The Commission also investigates complaints and responds to requests concerning patient/resident care and treatment which cannot be resolved with mental hygiene facilities.

The Commission's statewide toll-free number is for calls from patients/residents of mental hygiene facilities and programs, their families, and other concerned advocates.

Toll-free Number: 1-800-624-4143 (Voice/TTY)

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