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SAC Notes

A Report on Crime, Criminal Justice and Technology
The Florida Statistical Analysis Center
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NCJRS

Who's to Blame? Assessing the Careers of Florida's Criminals 1994

ACQUISITIONS

Introduction

We call them many things: career criminals, habitual offenders or chronic offenders, to name a few. The names have been around for many years and so have some of the offenders. Crime, too, and courts and prisons, but never before has Florida faced the crime and violence, the overburdened criminal justice system and the competition for resources it now confronts. These circumstances require sound legislative and other policy decisions, decisions that are based on fact and a clear understanding of what the facts really mean.

Popular sentiment suggests that the worst offenders, i.e., those responsible for the greatest number of crimes and/or the most violent crimes, should be "put away for good." Thus, Florida's career criminals would spend their careers behind bars, preventing untold numbers of crimes. This approach forces us to ask two basic questions: 1) how many career criminals do we have in Florida? and 2) how many crimes can we attribute to these offenders?

Many have tried to answer the career criminal questions over the years, a complicated process because there are as many definitions of a career criminal as there are names for one (and identifying their crimes is not always a straightforward proposition).

MWL The RAND Corporation, for example, completed a series of projects designed to estimate individual crime rates, i.e., understand how much crime can be attributed to an individual offender. Estimates ranged from less than one offense per year to as many as ten per year (Greenwood, 1979), but only a few individuals committed crimes at the highest rates. The worst individuals had engaged in several crime types and had prior felony convictions; and they had been involved in serious crimes as juveniles (Greenwood, 1979).

Maybe the most well known research on criminal careers is a 1972 study completed by

Marvin Wolfgang, Delinquency in a Birth Cohort. For his study, Wolfgang tracked 9,945 juvenile males born in 1945, from birth to their 18th birthday. Wolfgang found that about 35% of the cohort had at least one "contact with the police."

Wolfgang defined a chronic recidivist as one with five or more contacts with the police. Using his definition, then, 6% of the entire cohort (and therefore 18% of the delinquents) were responsible for more than one-half of all the offenses committed during the study period.

Although it gives some general guidance as to the criteria which should be adopted when identifying and prosecuting these offenders, this (and other) research does not *define* a career criminal with any specificity, leaving the details to those directly concerned with criminal justice policy.

Tackling the Career Criminal in Florida

The Florida legislature first addressed the career criminal issue as early as 1927, when it adopted enhanced and minimum penalties for repeat felony offenders (EDR, 1992). Habitual offenders became eligible for parole when Florida created its Parole Commission in 1941. In 1971, the law was again modified, allowing the court to impose an additional sentence when necessary "to protect the public from further criminal activity." During sentencing, the court had to consider:

- if the offender had previously committed a felony or other qualified offense (punishable by death, or imprisonment for more than one year),
- when the prior offense was committed, and
- the present age of the offender and his/her age at the time of the prior offense.

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The Florida Legislature enacted sentencing guidelines in 1983, in an attempt to eliminate unwarranted variations in sentencing. As adopted, these sentencing guidelines considered a number of factors, including prior record. The sentencing guidelines brought with them a challenge to the habitual offender statute and, in 1986, its application was invalidated by the Florida Supreme Court. In *Whitehead v. State* (498 So.2d 863) the Court found that:

- (1) the terms of the guidelines expressly required their use, even in the case of an habitual offender;
- (2) application of the guidelines actually resulted in harsher sentences than established in the original habitual offender statute; and
- (3) because the sentencing guidelines accounted for prior record, application of the habitual offender statute was "double-dipping."

Enhanced sentences for habitual offenders was again provided by statute during the 1988 Legislative session. Although similar to the original in many respects, the new law includes provisions for both an *habitual felony offender* and an *habitual violent felony offender*. Both categories require, among other things, a minimum number of prior felony convictions. The statute also requires the court:

(1) to determine if (a) the defendant meets the criteria for habitual felony offender or habitual violent felony offender; and (b) an extended sentence is necessary; and

(2) to notify the defendant of its findings prior to presentation in court.

The extended sentence is not subject to other sentencing guidelines and carries with it strict rules regarding parole, gain time and release. Appendix 1 summarizes the terms of the habitual felony offender and habitual violent felony offender statutes.

With the 1988 rewrite, the Florida Legislature also set in motion a process that placed priority on investigating, apprehending, prosecuting and incarcerating career criminals. The

statute (§775.0843, F.S.) charges state and local law enforcement agencies with the development of career criminal apprehension programs. It also directs the state attorney in each judicial circuit to adopt and employ uniform eligibility criteria for dealing with felony offenders. At FDLE, career criminal program activities include:

- investigative assistance to local law enforcement agencies, with designated personnel in each operations region;
- training related to the requirements of §775.0843, F.S., and
- technical assistance, including the identification of career criminals in the computerized criminal history file.

Evaluating Florida's Career Criminal Problem

The Florida Statistical Analysis Center recently began a multi-phase evaluation of habitual offenders in Florida. The study will track an arrest cohort, i.e., all persons arrested between January 1 and June 30, 1993. This group was selected for two reasons: (1) enough time has elapsed since arrest to allow for submission, verification and data entry on the fingerprint cards for these offenders; and (2) this is the earliest cohort for which law enforcement and corrections records and identification numbers have been consolidated, so that the offenders can be tracked as they pass through the entire criminal justice system.

Using the arrest cohort will allow the SAC to statistically establish the extent of the career criminal problem in Florida, and to examine the potential impact of career criminals on the criminal justice system.

The method for this study is based on the recommendations of a career criminal study "working group" that includes representatives from FDLE, the Florida Department of Corrections and the Joint Legislative Management Committee. The working group suggested that the SAC:

- use the study as a resource which profiles the seriousness of criminal histories;

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- focus on criteria that are meaningful for law enforcement, and that complement FDLE's violent crime program elements (violent offenders, ViCIS offenses);
- adopt a view that considers an offender's move through the criminal justice system; and
- provide an overview of the history of the habitual offender statute. Emphasize the many changes to the statute's provisions, the variation in its application, and the move to more standard criteria for use by prosecutors.

Phase I. As reflected here, the first phase of the study examines offender demographic characteristics and arrest statistics for the period January - June 1993. It also offers an overview of the habitual offender statute and career criminal programs in Florida.

Phase II. The second phase of the study will summarize past arrest, conviction and incarceration histories, and identify those offenders who meet the statutory requirements for a career criminal in Florida.

Phase III. The third phase of the study will track the offenders as they move through the criminal justice system. The study will examine plea bargaining or other actions that impact prosecution, including application of the habitual offender statute.

The Arrest Cohort

Demographic Characteristics. FDLE's Computerized Criminal History (CCH) system indicates that 183,588 persons were arrested between January 1 and June 30, 1993. As shown in Table 1, this arrest cohort was predominantly male (81.7%) and white (64.1%), with the largest percentage of offenders between the ages of 25 and 34 (38.7%). The youngest offender is a white male, age 12, and the oldest a white male, age 93, with an average age of 33 years for the entire cohort.

Current arrest statistics. The offenders in the study cohort accounted for a total of 337,416 arrest charges for the period between January 1 and June 30, 1993, 14.6% of which were for violent crimes:

Homicide	1,566
Forcible Sex Offenses	1,674
Robbery	5,050
Aggravated Assault	41,020
Burglary	15,405
Larceny	31,661
Motor Vehicle Theft	5,577
Part II	235,463.

The arrest charges are detailed in Table 2. [These figures should not be confused with the number of arrest events, since each arrest event may result in more than one arrest charge against an individual offender.] Note that, while black males comprise 28.7% of the arrest cohort, they represent 38.8% of all violent crime charges, including nearly one-half of all homicide charges and nearly two-thirds of all robbery charges. The greatest proportion of all arrest charges are Part II offenses, e.g., simple assault, drug violations or fraud; among Part I offenses, aggravated assault is charged most frequently.

Overall, Florida offenders averaged nearly two arrest charges each over the six months from January to June 1993:

	<u>Mean</u>
Violent crime charges	0.27
Non-violent crime charges	1.57
All arrest charges	1.84.

This is consistent with the findings of a recently released RAND fact sheet that estimates offending rates "would be in the range of 2 to 4 violent crimes per year for active violent offenders and 5 to 10 property crimes for active property offenders" (1994, p. 2.) Although figures for Florida offenders fall below the 2-to-4 and 5-to-10 estimates, consider that the arrest information covers only six months and not one year.

Table 3 offers more detail on the distribution of arrest charges for the six month period. According to the table, offenders with 5 or more arrest charges represent 5% of the cohort and are responsible for 17.3% of all charges. This trend is primarily a function of non-violent offending; the majority of violent offenders have only one arrest charge. The maximum number of charges for any one offender is 26, with a maximum of 8 violent arrest charges and 26 non-violent arrest charges.

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The total arrest figures suggest that many offenses (especially non-violent offenses) can be attributed to a few individuals, yet the rate of offending is not as skewed as Wolfgang's work might indicate. Recall that, in Wolfgang's study, chronic delinquents (those with five or more police contacts) represented 18% of the cohort and were responsible for more than 50% of the offenses committed by the cohort. In this case, 25.4% of the cohort was responsible for 50% of all arrest charges. This discrepancy, though, may be a function of the difference in police contact with adults as opposed to juveniles.

Those offenders with the greatest number of charges vary in the degree of "risk" they pose to the general public. One active violent offender's charges include homicide, forcible sex offenses, robbery, aggravated assault, arson, kidnapping, weapons violations and possession of cocaine -- the worst of the worst. Alternatively, a frequent non-violent offender was charged with disorderly conduct, disorderly intoxication, trespassing, resisting an officer, and failure to appear -- 23 "Other" charges in all. Figures such as these prove how important it is to understand individual careers and patterns of offending.

Phase II

The data gathered for the first phase of the career criminal study allows for a better

understanding of the arrest cohort, but it does not address the primary focus of the study: criminal careers. This report merely offers a "feel" for the types of offenders and the distribution of their offending over a six month period.

The next phase of the analysis will examine the careers of Florida's criminals in greater detail. Three areas of inquiry are anticipated:

1. Arrest Histories
 - number of arrest events
 - number and type of arrest charges
 - age at first arrest

2. Consequences of Arrest
 - number of felony convictions
 - dispositions, including sentence length
 - length of stay in prison
 - reason for release from prison
 - date of release from prison

3. Recidivism
 - number of times in prison
 - time from prison release to next arrest event and its consequences
 - offenders meeting the requirements of the habitual felony and habitual violent felony offender statutes.

Table 3
Distribution of Offenses and Offenders

Total Arrest Charges	All Arrest Charges		Violent Crime Charges		Non-Violent Crime Charges	
	Offenders	Charges	Offenders	Charges	Offenders	Charges
0			141,571		24,627	
1	105,084	105,084	36,012	36,012	91,525	91,525
2	42,679	85,358	5,053	10,106	37,736	75,472
3	18,095	54,285	726	2,178	15,156	45,468
4	8,542	34,168	158	632	7,099	28,396
5 or more	9,188	58,521	68	382	7,445	47,245
TOTALS	183,588	337,416	183,588	49,310	183,588	288,106

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Table 1
Demographic Characteristics of January 1 - June 30, 1993 Arrest Cohort

Age	Number of Offenders										Total
	White		Black		Asian		Indian		Race Unknown		
	M	F	M	F	M	F	M	F	M	F	
0 - 17	191	8	354	17							570
18 - 24	22,585	4,182	14,850	3,083	30	6	11	2	36	4	44,789
25 - 34	36,887	8,472	19,748	5,815	34	9	28	1	50	12	71,056
35 - 44	24,612	5,519	12,684	3,173	19	9	15	6	38	5	46,080
45 - 54	8,729	1,743	3,647	598	7	4	5	2	19	4	14,758
55 - 64	2,774	458	1,069	120	1	1	2	1	1	2	4,429
65+	1,252	202	395	51	1	1	1		3		1,906
TOTAL	97,030	20,584	52,747	12,857	92	30	62	12	147	27	183,588
	117,614		65,604		122		74		174		

Table 2
Offenses Committed by Arrest Cohort During Period January 1 - June 30, 1993

Offense Type	Number of Offenses Committed, by Offender Demographic Characteristics										Total
	White		Black		Asian		Indian		Unknown		
	M	F	M	F	M	F	M	F	M	F	
Homicide	700	59	731	72				1	3		1,566
Forcible Sex	1,050	18	600	4			2				1,674
Robbery	1,613	141	3,081	214	1						5,050
Agg Assault	21,253	3,359	13,422	2,907	20	6	15	2	32	4	41,020
Burglary	8,753	584	5,684	341	17		10	1	13	2	15,405
Larceny	15,288	3,949	8,979	3,373	18	11	10	1	21	11	31,661
MV Theft	2,742	328	2,316	184	1		3		3		5,577
Part II	119,403	25,253	74,576	15,798	99	21	68	14	195	36	235,463
TOTAL	170,802	33,691	109,389	22,893	156	38	108	19	267	53	337,416
	204,493		132,282		194		127		320		

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Appendix 1 Habitual Felony Offender and Habitual Violent Felony Offender Statutes §775.084, F.S.	
Habitual Felony Offender	
Criminal History	<ol style="list-style-type: none"> 1. previously convicted of any combination of two or more felonies in Florida or qualified offenses¹ 2. last prior conviction sentenced separately from other felonies under consideration and prior to current offense 3. defendant has not received a pardon for any felony or qualified offense under consideration 4. prior felony conviction has not been set aside in postconviction proceeding 5. probation without adjudication of guilt treated as prior conviction if current offense committed during the probationary period
Current Offense	<ol style="list-style-type: none"> 1. felony under consideration committed within 5 years of the last felony conviction or within 5 years of release from prison or other commitment 2. felony under consideration and one or two prior felonies is not for purchase or possession of a controlled substance regulated by §893.13, F.S.
Sentencing	<ol style="list-style-type: none"> 1. separate proceeding to determine status as either habitual felony offender or habitual violent felony offender 2. sentencing not subject to §921.001, F.S. (sentencing guidelines) 3. <i>shall impose</i>: first degree, for life, not eligible for release for 15 years; second degree, up to 30 years, not eligible for release for 10 years; third degree, up to 10 years, not eligible for release for 5 years 4. eligible for incentive gain time; not eligible for basic gain time 5. eligible for control release² 6. may be subject to post release supervision, known as conditional release

¹ "Qualified offense" means any similar offense punishable by death or imprisonment of more than one year in another state, the District of Columbia, the United States, or any possession, territory or foreign jurisdiction.

² The Florida Legislature has repealed control release eligibility, effective June 1, 1995.

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Habitual Violent Felony Offender	
Criminal History	<ol style="list-style-type: none"> 1. defendant previously convicted of a felony/attempted felony/conspiracy to commit a felony (enumerated in #2) 2. at least one prior conviction for arson, sexual battery, robbery, armed burglary, kidnapping, aggravated child abuse, aggravated assault, aggravated battery, murder, manslaughter, or unlawful throwing, placing or discharging a destructive device or bomb 3. last prior conviction sentenced separately from other felonies under consideration and prior to current offense 4. prior felony conviction has not been set aside in postconviction proceeding 5. probation without adjudication of guilt treated as prior conviction if current offense committed during the probationary period
Current Offense	felony under consideration committed within 5 years of the last conviction for an enumerated felony or within 5 years of release from prison or other commitment resulting from conviction for an enumerated felony
Sentencing	<ol style="list-style-type: none"> 1. separate proceeding to determine status as either habitual felony offender or habitual violent felony offender 2. sentencing not subject to §921.001, F.S. (sentencing guidelines) 3. <i>may impose</i>: first degree, for life, not eligible for release for 15 years; second degree, up to 30 years, not eligible for release for 10 years; third degree, up to 10 years, not eligible for release for 5 years 4. eligible for incentive gain time; not eligible for basic gain time 5. eligible for control release² 6. may be subject to post release supervision, known as conditional release

² The Florida Legislature has repealed control release eligibility, effective June 1, 1995.

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