

**PERSISTENT FELONY OFFENDERS
IN KENTUCKY:
A PROFILE OF THE
INSTITUTIONAL POPULATION**

**RESEARCH REPORT SERIES
NUMBER 1**

100810



**KENTUCKY
CRIMINAL
JUSTICE**



**STATISTICAL
ANALYSIS
CENTER**

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UNIVERSITY OF LOUISVILLE

KENTUCKY CRIMINAL JUSTICE STATISTICAL ANALYSIS CENTER

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The Kentucky Criminal Justice Statistical Analysis Center (SAC) was established in 1984 as a centralized clearinghouse for criminal justice statistics. A major objective of SAC is to gather concrete data about the criminal justice system in Kentucky and to disseminate that data statewide. With this information, policymakers will be better able to make criminal justice decisions.

THE STAFF

Co-Directors: C. Bruce Traughber
Office of the Attorney General
Commonwealth of Kentucky

Knowlton W. Johnson, Ph.D.
Urban Studies Center
College of Urban & Public Affairs
University of Louisville

Manager: Jack B. Ellis

University Faculty: Gordon S. Bonham, Ph.D.
Gary W. Sykes, Ph.D.
Gennaro F. Vito, Ph.D.
Deborah G. Wilson, Ph.D.

Research Analyst: Linda Burgess

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The Kentucky Criminal Justice Statistical Analysis Center is housed in the Office of the Attorney General, Commonwealth of Kentucky, and operated by the Urban Studies Center--the policy research component of the College of Urban & Public Affairs--in cooperation with the U.S. Bureau of Justice Statistics.

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Mr. Jack B. Ellis
Urban Studies Center
College of Urban & Public Affairs
University of Louisville
Louisville, Kentucky 40292
(502) 588-6626

**PERSISTENT FELONY OFFENDERS IN KENTUCKY:
A PROFILE OF THE INSTITUTIONAL POPULATION**

Research Report Series: Number 1

Conducted by
Urban Studies Center
College of Urban and Public Affairs
University of Louisville

Deborah G. Wilson, Ph.D.

for
Kentucky Criminal Justice Statistical Analysis Center

David L. Armstrong
Attorney General

November, 1985

AUTHOR'S NOTES

Dr. Deborah Wilson, Principal Investigator of this study, is an assistant professor of the School of Justice Administration and an associate faculty member of the Urban Studies Center.

U.S. Department of Justice National Institute of Justice

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Co-Directors

Knowlton W. Johnson
Urban Studies Center

C. Bruce Traugher
Office of the Kentucky Attorney General

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COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DAVID L. ARMSTRONG
ATTORNEY GENERAL

CAPITOL BUILDING
FRANKFORT 40601

November 21, 1985

NCJRS

JAN 20 1986

ACQUISITIONS

Dear Friend:

The Kentucky Criminal Justice Statistical Analysis Center is now one year old. This report is one of six work products developed by SAC in its first year of operation. Each of these reports validates, I believe, the hard work and effort that went into getting the SAC started.

I am firmly convinced that the lack of good data and analyses has contributed to the problems we face in the criminal justice system. The SAC staff and I are committed to overcoming this deficiency in our criminal justice system.

The entire SAC Team deserves to be acknowledged for their efforts. The SAC has also had strong support and encouragement from the Bureau of Justice Statistics, U.S. Department of Justice--especially from our grant coordinator, Mr. Don Manson.

Please take the time to study this research. We can all learn from it. If you have questions, please feel free to contact me or the SAC staff. Together, we can make a difference for criminal justice in Kentucky.

Sincerely,

DAVID L. ARMSTRONG
Attorney General

DLA/mb

EXECUTIVE SUMMARY

The purpose of the study is to develop a profile of convicted and incarcerated persistent felony offenders in the State of Kentucky. Data on all persistent felony offenders (PFO's) incarcerated in Kentucky correctional facilities on May 1, 1985, were collected. Persistent felony offenders are repeat offenders who have been convicted of persistent criminality and who receive enhanced sentences because of this conviction. There are two types of persistent felony offenders. Persistent felony offenders in the second degree must have a minimum of two adult felony convictions while persistent felony offenders in the first degree must have a minimum of three adult felony convictions. The data were analyzed and a descriptive profile of persistent felony offenders was developed. This profile included individual, offense, and criminal career characteristics. The highlights of this study are presented below.

Profile of PFO's Incarcerated in Kentucky

- Most incarcerated persistent felony offenders in Kentucky are white (59%), male (97%), and receive an additional sentence as a persistent felony offender in the second degree (60%).
- Most of the incarcerated persistent felons are relatively young, between 25 and 34 years of age (56%), the average being 29 years of age, with ages ranging from 22 to 73 years.
- The frequency of the most serious charge of conviction is: burglary (29%), robbery (21%), theft by unlawful taking over \$100.00 (11%), other property offenses (13%), other violent offenses (12%), sex offenses (6%), and other offenses, i.e., drug offenses (8%).
- All PFO's were convicted of at least two counts (one PFO count and one underlying criminal count). Half (50%) were convicted of two counts; the other half (50%) were convicted of three or more counts.
- The average PFO sentence is 16.8 years. Most sentences range from 10 to 19.9 years (41%).
- Sixty-one percent of all the incarcerated persistent felons were convicted in two of the state's 120 counties (Jefferson and Fayette).
- Forty-three percent of the most recent crimes for which these felons were convicted were determined to include some form of threatened or actual violence.

- Most persistent felony offenders began their adult criminal career at an early age. Most were under 21 years of age at the time of their first felony arrest (68%), conviction (52%), and incarceration (45%). Nearly three-fourths (75%) were incarcerated for their first adult felony conviction.
- The careers of these felony offenders ranged from under one to forty-six years. The average career was ten years and the most frequent length was four years. Over their careers, these felons accumulated an average of four felony convictions.
- Based on the seriousness of the charge at conviction, 36 percent of these offenders had careers involving only property crimes while only 9 percent had careers which were exclusively violent.

Comparison of PFO I's and PFO II's

- Data on security and programmatic needs show that, based on behavior while incarcerated, these persistent felony offenders do not pose serious control problems. They are physically healthy but most have some alcohol or drug related dependency; some exhibit sexual behavior problems and emotional problems. The most extreme deficiencies are in the areas of vocational, job related, and living skills; marital-family relations; companions; and intellect.
- Persistent felony offenders in the first degree are older (mean = 36 years of age vs. 32 years of age), receive lengthier sentences (mean = 20.6 years vs. 14.3 years), and are slightly more likely to engage in burglary than persistent felony offenders in the second degree.
- Persistent felony offenders in the first degree were slightly younger at age of first adult felony arrest and at age of first adult felony conviction and incarceration.
- Persistent felony offenders in the first degree have had lengthier criminal careers (mean = 12 years vs. 7.5 years) and have accumulated more felony convictions. Forty-one percent had five or more felony convictions while 64 percent of the persistent felons in the second degree had no more than three convictions.
- Persistent felons in the first degree were more likely to have a current conviction with a nonviolent charge as the most serious count but the actual criminal act involved violence or intimidation.
- The two groups of persistent felons differed only slightly on their institutional security and programmatic needs:

- (1) Persistent felony offenders in the first degree were somewhat more likely to pose control problems in the institution;

- (2) persistent felony offenders in the second degree were identified as substance abusers at a slightly higher rate;
- (3) persistent felony offenders in the first degree evidenced more sexual behavior problems;
- (4) persistent felony offenders in the first degree were more likely to have a high school degree;
- (5) persistent felony offenders in the first degree were more likely to have problematic marital-family relations;
- (6) persistent felony offenders in the second degree were more likely to have at least some adverse companions.

Implications of the Findings

- The data suggest that the application of the PFO statute is meeting the statutory requirements established for this sentencing enhancement.
- While these persistent felony offenders will serve lengthy sentences, they will eventually be released.
- The classification data point to specific deficiencies and needs exhibited by these offenders which, if not met, may lead to recidivism.

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ACKNOWLEDGEMENTS

This study of incarcerated persistent felony offenders is one of six studies completed by the Kentucky Criminal Justice Statistical Analysis Center (SAC) during its first year in operation. The study was conducted with funds from the Bureau of Justice Statistics, U.S. Department of Justice.

This study would not have been possible without the assistance of a number of individuals. David L. Armstrong, attorney general, and C. Bruce Traughber, executive assistant to the attorney general and co-director of the Kentucky SAC, recognized the need for this study and provided valuable input in the form of policy relevant issues. Jack Ellis, in his position as SAC manager, provided useful direction and personnel to assist in data collection. Gennaro Vito, Kentucky SAC researcher, assisted in the conceptual development of the data collection form. Tony Biggs and Paige Gottlieb aided in data entry, coding, and also provided invaluable computer consultation.

Denise Riggs, branch manager of planning and evaluation for the Kentucky Corrections Cabinet, was a key to the success of this project. Ms. Riggs provided data, technical assistance, and work space to members of the SAC. Without Ms. Riggs, this project would have been impossible. Mary Yeager, researcher for the Legislative Research Commission, aided in the conceptualization process. Doug Whitesides, Brian Parr, Priscilla Conyers, and Alice Cooper worked diligently to collect the detailed data required for this project. Lastly, the Urban Studies Center Research Dissemination Unit, which includes Vernon Smith, Barbara Farris, Betsy Jones, Monica Bowles, Lisa Johnson, Sharon Mader, and Keitha Brasler, provided word processing, editing, and printing services.

BACKGROUND AND PURPOSE

In 1974, the Kentucky General Assembly passed the Persistent Felony Offender Act (1974 Kentucky Acts, Chapter 406, Section 2806). This act took the place of the Habitual Criminal Act (KSR 431.090). Whether directed toward deterrence, rehabilitation, or incapacitation of dangerous individuals, the objective was to punish offenders, not for a particular act but for repeated criminal activity, making crime a "habit" or "career".

Under the Kentucky PFO statute as amended, persistent felony offenders receive enhanced sentences. The act classifies persistent felons into two categories: Persistent Felony Offenders in the first degree and Persistent Felony Offenders in the second degree. A Persistent Felony Offender in the first degree (PFO I) is a person "more than twenty-one years of age who stands convicted of a felony after having been convicted of two or more felonies" (Section 1 [3]). A person found to be a PFO I is sentenced for 20 years to life for a Class A or B felony and 10 to 20 years for a Class C or D felony. PFO I's are not eligible for probation, shock probation, or parole until a minimum of ten years has been served. They are, however, eligible for statutory goodtime credits and so may be released in seven and a half years, if their sentence is short enough and maximum statutory goodtime is accumulated.

A Persistent Felony Offender in the second degree (PFO II) is an individual over twenty-one years of age who is convicted of a felony after having one prior felony conviction. PFO II's are sentenced to a term of imprisonment for the next higher degree than the degree of the felony for the current conviction. For example, if the offense is a Class B felony, the offender is sentenced as if the offense was a Class A felony. A PFO II is eligible for parole within the same guidelines as the non-PFO population.

The Kentucky Persistent Felony Offender Act has not been without controversy. The Kentucky Corrections Cabinet is and has been involved in litigation with the federal government concerning prison conditions and prison overcrowding. The Corrections Cabinet has expressed concern over the impact these laws will have on prison populations and costs of incarceration. The Office of Public Advocacy has addressed issues involving the use of PFO charges as only a lever in plea negotiations, and the unfair punishment of repeat "small time" property offenders under this statute. Conversely,

commonwealth attorneys and victims groups laud the application of this law and the added protection they believe it provides the community from dangerous, repeat offenders. In spite of the controversy, little is known about the PFO statute in application or consequence. The purpose of this study is to provide some initial information on the nature of persistent felony offenders in an effort to begin the process of analysis of this criminal justice policy. The objective is to develop a profile of convicted and incarcerated PFO's in the State of Kentucky. The study was conducted as part of a collaborative effort with the Kentucky Legislative Research Commission. A report comparing the incarcerated persistent felony offenders to a representative sample of non-PFO, incarcerated felons is forthcoming.

METHODS AND PROCEDURES

One thousand two hundred and sixty-one (1261) inmates sentenced and incarcerated as persistent felony offenders in Kentucky as of May 1, 1985, comprised the population under study. Data concerning the personal, offense, classification, and criminal careers of each offender were collected. A portion of the data was drawn from the Kentucky Corrections Cabinet's computerized information system - Offender Records Information Operation Network (ORION). The remainder of the data was gathered through a search of the central inmate file of each offender. This study provides information on the currently incarcerated persistent felony offender population.

The data for all PFO's were compiled. The population was then split into two groups, Persistent Felony Offenders in the first degree (n = 507) and Persistent Felony Offenders in the second degree (n = 754), in an attempt to ascertain the similarities and differences between the two types of PFO's.

RESULTS

Profile of Incarcerated Persistent Felony Offenders

Individual and offense characteristics for the population of incarcerated persistent felony offenders are shown in Table 1 on page 5.

The incarcerated population of persistent felony offenders consists of primarily PFO's in the second degree (60%). Most persistent felony offenders are white (59%) and male (97%). The percentage of black persistent felony offenders (41%) is an overrepresentation of five times the percentage of blacks in the state population while whites are underrepresented. The incarcerated persistent felony offenders were most often between 25 and 34 years of age (56%). The ages of these offenders ranged from 22 to 73, the mean age was 33 and the modal age was 29.

Under the Kentucky Persistent Felony Offender Statute, persistent felons are charged with persistent criminal behavior as a separate count or counts in their set of charges. The charge or charges of persistent criminal behavior are then tied to an underlying criminal charge or charges. The specific underlying felony charges included a broad spectrum of offenses ranging from the most serious violent crimes (i.e., murder) to theft by deception. Only the most serious offense was recorded. Severity was based on a rank ordering of severity in the Kentucky Criminal Code. As illustrated in Table 1, the most prevalent and most serious charge of conviction was burglary (29%). This was followed by robbery (22%) and theft by unlawful taking over \$100.00 (11%). No other single offense predominated, so the remaining offenses were classified by type. Property offenses (other than burglary and theft by unlawful taking over \$100.00) ranked fourth in frequency (13%). These were followed by other violent offenses (12%), sex offenses (6%), and other offenses (i.e., drugs, tampering with a jury, bribery) (8%).

All PFO's had at least two counts in their current conviction (the PFO charge and the underlying offense charge). Half were convicted on a set of two counts: one PFO and one offense charge (50%). The remaining incarcerated PFO's were convicted of three or more counts: one PFO and two or more offense charges (50%). The number of counts of conviction ranged from 2 to 26. The average number of counts was just under 4 (3.87), while the modal number of counts was 2.

Table 1

Individual and Offense Characteristics for
Incarcerated Persistent Felony Offenders

<u>Item</u>		<u>Item</u>	
<u>Type of PFO:</u>		<u>Most Serious Charge of Current Conviction:</u>	
PFO I	40.2%	Burglary	28.5%
PFO II	59.8	Robbery	21.5
		Theft by Unlawful Taking over \$100	11.0
<u>Race:</u>		Property	13.0
Black	41.1	Violent	12.0
White	58.9	Sex Offenses	6.0
		Other	8.0
<u>Sex:</u>		<u>Number of Counts:</u>	
Male	97.2	Two	50.1
Female	2.8	Three	17.0
		Four	14.0
		Five or more	18.9
<u>Age:</u>		<u>Length of Sentence:</u>	
Under 25	6.6	Under 5 years	0.8
25 - 34	56.4	5 to 9.9 years	16.2
35 - 44	27.0	10 to 19.9 years	40.9
45 - 49	4.8	20 to 29.9 years	22.4
50 and older	5.2	30 or more years	14.0
		Life	5.7
		<u>Average Length of Sentence:</u> 16.8 years	

The sentences which offenders received for their crimes ranged from 0.1 to 500 years of life. The interest in sentences was in the real impact of the sentence in actual years to serve. Therefore, if a sentence ran in part, or whole, concurrently with an existing sentence, only those consecutively added years or parts thereof were recorded. Likewise, if portions of a sentence ran concurrently (for example, two ten-year sentences for two counts) only the time to serve (i.e., ten years) was coded. Consequently, these sentences are an underrepresentation of sentences given, but a truer representation of enhancement time.

The average length of sentence was 16.8 years. Slightly less than one percent (0.8%) received sentences of less than five years. These were offenders who were exclusively convicted of the persistent felony status while incarcerated. This was usually for an offense committed inside the institution (i.e., promoting contraband, theft by unlawful taking) and most of the sentence ran concurrent with the sentence they were serving when they committed the crime. Most of the PFO's received sentences ranging from 10 to 19.9 years (41%) or sentences ranging from 20 to 29.9 years (22%).

Figure 1 on page 7 represents the percentages of incarcerated persistent felony offenders convicted in various Kentucky jurisdictions. Kentucky contains one hundred and twenty counties. Two of these counties, Jefferson and Fayette, were the counties of current conviction for 61 percent of all incarcerated persistent felony offenders. The remaining 118 accounted for 39 percent of these convictions.

Table 2 on page 8 summarizes detailed offense characteristics for the incarcerated persistent felony offenders. An important distinction within crime categories is that of person versus property crime. While many categorizations are made based on the legal label of the offense (i.e., burglary is a property crime, robbery a crime against the person), the familiar legal labels do not always represent the jurisdictional requirements for a crime nor actual events of the criminal act, due to the frequent use of plea bargaining. In an effort to collect more accurate details on the crime event, the narrative of the crime from the presentence investigation was analyzed and coded to determine the exact nature of the event.

Data were collected on numbers of victims injured, treated, and released; hospitalized; killed; or forced into sexual acts with and without a weapon. Likewise, whether or not the act involved verbal, physical, or weapon

Figure 1

COUNTY OF CONVICTION
Incarcerated PFO's

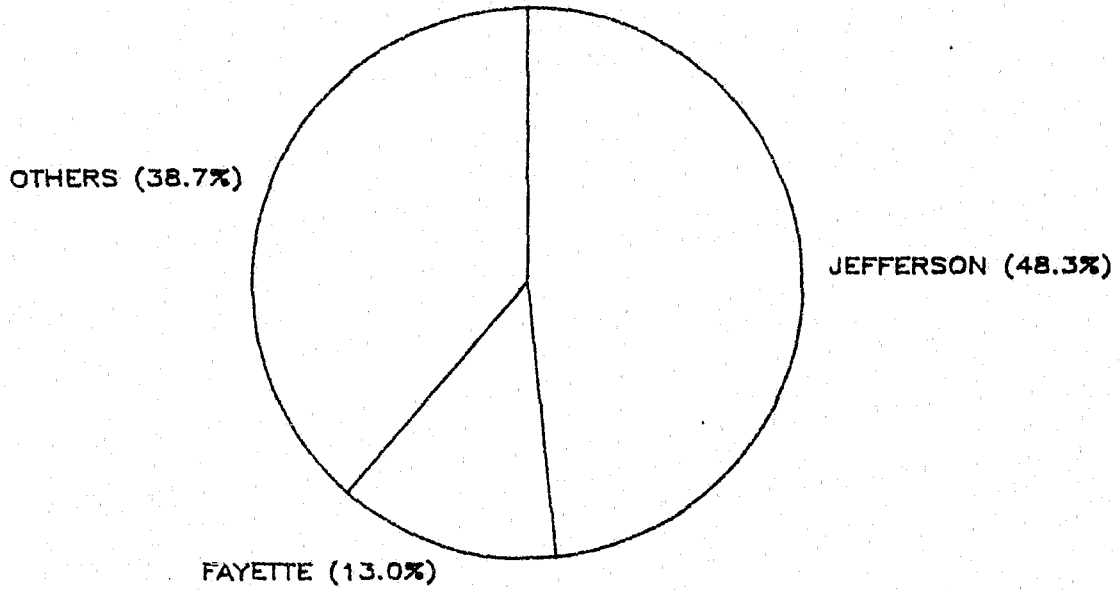


Table 2

Detailed Current Offense Characteristics for
Incarcerated Persistent Felony Offenders

<u>Item</u>				
<u>Crime Type:</u>				
Person	43.4%			
Property	49.3			
Other	7.3			
	<u>100.0%</u>			
	<u>All Current Convictions Involved:</u>		<u>Nonviolent Convictions Involved:</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Injury	7.2%	95.2%	1.6%	98.4%
Victim Treated	4.8	95.2	0.9	99.1
Victim Hospitalized	5.5	94.5	0.4	99.6
Victim Killed	4.2	95.7	0.1	99.9
Victim of Forced Sexual Act(s)	4.7	95.3	0.5	99.5
Victim of Forced Sexual Act(s) Using Weapon	2.5	97.5	0.3	99.7
Verbal or Physical Intimidation	31.0	69.0	5.3	94.7
Weapon to Intimidate	31.0	69.0	3.9	96.1

intimidation was also established. All of the generally accepted property offenses were then cross-tabulated with these variables to establish a truer measure of distinction between person and property crimes. Drug charges and other offenses not readily classified in either category constitute the "other" category. These offenses were also cross-tabulated with violence variables. The data on most serious charge of conviction suggest that when the legal label for the offense is used, 39 percent of these offenders were involved in a crime resulting in conviction with a violent crime as the most serious charge. However, when data from the narrative of the presentence investigation was used to determine actual or threatened violence, 43 percent of the persistent felons engaged in crimes which included some form of violence.

For all offenses, the most frequent form of violence was threatened violence or intimidation. Almost a third (31%) involved physical or verbal intimidation and almost a third (31%) involved the use of a weapon to intimidate. The percentages of crimes involving violence actually carried out was lower but nonetheless significant. Specific acts of violence were evident in 7 to 2 percent of all offenses. The precise representation varied according to the nature of the violent act.

Those convictions for a most serious legal charge which would not require violence indicate a pattern of actual and threatened violence that is low. Only 5 percent of these offenses involved physical or verbal intimidation and only 4 percent involved intimidation with a weapon. The other indices of violence exhibit similarly low rates, under 2 percent.

Table 3 on page 10 contains the criminal career characteristics for incarcerated persistent felony offenders. Most of these offenders were arrested for their first adult felony offense and were convicted of their first adult felony offense at an early age. Almost 68 percent were under 21 at the time of their first adult felony arrest and slightly more than 50 percent were under 21 at the time of their first adult felony conviction.

The percentage of persistent felony offenders incarcerated for their first adult felony conviction seems high given the current rate of incarceration for first offenders. However, given the changes in sentencing practices over the years and the possibility that these offenders may have had extensive and serious juvenile records, it does not seem inappropriate.

Table 3

Criminal Career Characteristics for
Incarcerated Persistent Felony Offenders

<u>Item</u>		<u>Item</u>	
<u>Age at First Adult Arrest:</u>		<u>Incarcerated for First Adult Conviction:</u>	
Under 21	67.7%	Yes	74.8%
21 - 25	22.3	No	25.2
26 - 30	6.6		
31 - 35	1.8		
36 and older	1.6		
<u>Age at First Adult Conviction:</u>		<u>Length of Criminal Career:</u>	
Under 21	52.5	0 - 1 year	4.3
21 - 25	33.8	2 - 5 years	28.0
26 - 30	8.4	6 - 10 years	34.3
31 - 35	3.6	11 - 15 years	16.6
36 and older	1.7	16 or more years	16.8
<u>Age at First Adult Incarceration:</u>		<u>Number of Felony Convictions:</u>	
Under 21	45.4	Two	20.0
21 - 25	38.0	Three	30.2
26 - 30	9.3	Four	22.3
31 - 35	4.7	Five or more	27.5
36 and older	2.6		

The incarcerated persistent felons had fairly lengthy criminal careers, that is, the number of years between their first adult felony conviction and their most recent felony conviction. The range in years for criminal career was from under one year to forty-six years. The average length of this career was 9.6 years and the modal category was 4 years. Most had careers spanning 6 to 10 years (34%) or 2 to 5 years (28%). During their careers, these offenders amassed an average of 3.85 convictions. Most offenders accumulated three convictions (30%) during their careers.

While the number of prior felony convictions and length of criminal career are important, the nature of these convictions is also significant in appraising the criminal careers of these offenders. Table 4 on page 12 contains data on the criminal career patterns of these incarcerated persistent felons.

For this portion of the analysis, the current and prior convictions were classified as either person or nonperson crimes. The legal label for the most serious charge in a set of counts resulting in conviction was used to identify those crimes which were offenses against the person and those which were not. Those offenses (i.e., robbery, rape, homicide) traditionally identified as violent crimes constituted the person category. All other offenses accounted for the nonperson crimes. Five potential career patterns involving these two types of crimes were identified. These were: All NonPerson; All Person; Mixed--Person Crimes Dominant; Mixed--Non-Person Crimes Dominant; and Mixed--No Dominant Type. For the mixed type careers, dominant type was established if more than 50 percent of the most serious charges of conviction were of a type, person or non-person. If the split was 50-50, then the career was Mixed--No Dominant Type.

Table 4 contains the distribution of these criminal career types for the persistent felony offenders. The data show that, based on most serious charge of conviction, more than a third (36%) of these persistent felons are property career criminals. An additional 29 percent are career criminals with mixed involvements but whose careers exhibit a greater involvement in property rather than person offenses. The data also suggest that the career involvement of most offenders is almost as likely to be consistently of a "pure type"--person or nonperson (45%) as it is to be varied (55%).

While a substantial number of these felons have a career exhibiting exclusive involvement in nonperson crimes, as measured by most serious charge

Table 4

Criminal Career Pattern for Incarcerated
Persistent Felony Offenders

Item

Pattern of Most Serious Charge
of Conviction for All Adult
Felony Convictions:

All NonPerson	36.2%
All Person	9.1
Mixed - NonPerson Dominant	29.0
Mixed - Person Dominant	12.6
Mixed - No Dominant Type	13.1

of conviction, the earlier data from Table 2 would suggest that the legal designation of most serious charge of conviction as property may mask violence or threatened violence in the actual crime event. If this has occurred for the current conviction, it has probably also occurred for prior convictions. Whether the rate is the same for current and prior convictions is not known. Nonetheless, 9 percent of the legally designated nonperson crimes for the most serious charge of the current conviction are actually crimes against the person. Consequently, 9 percent of those individuals with a current nonperson career and those whose current conviction is a nonperson crime but whose careers are of a mixed type have, in reality, at least one which is falsely identified as nonperson. If we calculate the proportions in the career categories and make the required adjustments, the pure nonperson offenders are reduced to 34 percent. Whether this would increase those in the pure person career category and whether it would affect the distribution in the remaining mixed-type career categories is uncertain. What is clear is that dependence on legal labels may overstate the nonviolent nature of the criminal conviction careers of these persistent felony offenders.

Table 5 on page 14 contains selected items from the National Institute of Corrections Classification Form. This form is used initially to assess security and program requirements of inmates at the time of entry into the Kentucky Corrections System. These scale items are also used at each six month classification review of each inmate. These percentages represent those figures from the most recent classification or classification review for each persistent felony offender.

The items which assess institutional violence and disciplinary violations suggest that persistent felony offenders do not pose a serious threat to control and/or security in the institution. Most have had no reported incidents of institutional violence in the last five years (77%). Likewise, most have either no serious disciplinary infraction (37%) or a low moderate (22%) or moderate (23%) disciplinary infraction as their most serious violation in the last 24 months.

The items on health suggest that the PFO's do not have serious health problems (86% had sound health). However, more than half had some problem with alcohol abuse (56%) or substance abuse (60%). Finally, most had no sexual behavioral problem (83%) or emotional problem (72%).

Table 5

Selected Variables from National Institute
of Corrections Classification Scale for
Incarcerated Persistent Felons

<u>Item</u>		<u>Item</u>	
<u>History of Institutional Violence in Last 5 Years:</u>		<u>Vocational Skills:</u>	
None	77.4%	Sufficient	23.0%
No Weapon or Serious Injury	17.0	Minimal	48.0
Weapon, Serious Injury, Death	5.6	Needs Training	29.0
<u>Most Serious Disciplinary Infraction in Last 24 Months:</u>		<u>Job Related Skills:</u>	
None	36.7	Good Work Habits	23.3
Low Moderate	22.2	Some Deficits	48.3
Moderate	22.6	Needs Strong Work Program	28.4
High	14.4		
Highest	4.1	<u>Education:</u>	
<u>Health:</u>		High School or GED	48.4
Sound	86.2	Some Deficits	38.0
Handicap or Illness	12.4	Major Deficits	13.6
Serious Problem	1.4	<u>Living Skills:</u>	
<u>Alcohol Abuse:</u>		Presents Self Appropriately	36.1
None	43.6	Basic Survival Skills	59.0
Occasional	28.7	Lacks Living Skills	4.9
Frequent	27.7	<u>Intelligence:</u>	
<u>Substance Abuse:</u>		Normal: Can Function	
None	39.8	Independently	57.8
Occasional	30.1	Some Need for Assistance	35.7
Frequent	30.1	Independent Functioning	
<u>Sexual Behavior:</u>		Severely Limited	6.5
No Problem	82.5	<u>Marital-Family Relations:</u>	
Minor Problem	7.3	Stable	35.7
Severe Problem	10.2	Needs Improvement	49.1
<u>Emotional-Behavior Problems:</u>		Stress	15.2
None	71.5	<u>Companions:</u>	
Symptoms	26.3	No Adverse	32.1
Problems	2.2	Some Negative	50.1
		Most Negative	17.8

The items on vocational and job related skills point to some deficiencies among these offenders. Approximately three-fourths had moderate or strong deficiencies in vocational skills (77%) and job related skills (77%). Likewise, more than half (64%) had only basic living skills or lacked living skills, and half (52%) had at least some deficiency in educational skills. Almost 60 percent (58%) had a normal intelligence and could function independently. However, 36 percent had some need for assistance and 7 percent were severely limited in their ability to function independently.

While more than a third (36%) had stable marital-family relations, a substantial number (49%) needed to improve these relations and 15 percent had relationships which were under stress. Similarly, association with adverse companions was identified as a problem for more than half of the persistent felony offenders.

Comparison of Characteristics for the Two Persistent Felon Types

Table 6 on page 16 contains comparative distributions of individual and offense characteristics for the two categories of persistent felony offenders. The gender and race distributions did not differ significantly. Nonetheless, it is interesting to note that fewer female offenders are incarcerated as PFO I's.

As a group, the persistent felony offenders in the first degree were older than those of the second degree (mean = 36 years for PFO I's and 32 years for PFO II's). While most offenders in each category were from 25 to 34 years of age, proportionately more of the persistent felons in the first degree were 35 years of age or older.

The two PFO distributions for number of counts charges in a conviction are similar. Likewise, the mean for counts is only slightly different between the two groups (PFO I, mean = 3.8; PFO II, mean = 3.9).

Length of sentence varies. On the average, persistent felony offenders in the first degree received sentences six years longer (mean = 20.6 years) than those ordered for persistent felony offenders in the second degree (mean = 14.3 years). Most PFO's in the first degree received 10 to 19.9 years (55%), while most PFO's in the second degree received either 5 to 9.9 years (32%) or 10 to 19.9 years (34%). Nonetheless, almost equal proportions of both groups received 20 to 29.9 years (PFO I's = 22%; PFO II's = 25%).

Table 6

Individual and Offense Characteristics by Type
of Incarcerated Persistent Felony Offenders

<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>
<u>Race:</u>		
Black	39.4%	42.1%
White	60.6	57.9
<u>Sex:</u>		
Male	99.4	95.8
Female	0.6	4.2
<u>Age:</u>		
Under 25	2.5	9.4
25 - 34	46.1	63.3
35 - 44	36.9	20.3
45 - 49	6.5	3.7
50 and older	8.0	3.3
<u>Number of Counts:</u>		
Two	52.8	48.2
Three	13.7	19.2
Four	14.5	13.6
Five or more	19.0	19.0
<u>Length of Sentence:</u>		
Under 5 years	0.0	1.2
5 to 9.9 years	1.6	31.9
10 to 19.9 years	54.9	34.2
20 to 29.9 years	22.2	25.4
30 or more years	13.5	3.1
Life	7.8	4.2
<u>Average Length of Sentence:</u>	20.6 years	14.3 years

Figure 2 on page 18 compares the distributions for most serious charge of conviction for the two PFO groups. The rank orderings for the two groups were essentially the same. Burglary was the most frequent charge followed by robbery, other property crimes, violent crime (other than robbery), other offenses, and sex offenses. However, persistent felons in the second degree were somewhat less likely to engage in burglary and more apt to engage in other forms of criminality (with the exception of violent offenses) than those in the first degree. All differences in the distributions are slight, equaling at best only a 4 percent difference as was the case for burglary.

Table 7 on page 19 contains data on county of conviction. These data show that for both types of persistent felony offenders, two counties, Jefferson and Fayette, account for the bulk of all convictions. However, when type of persistent felony conviction within each jurisdiction is determined, Jefferson County and the "other" counties produced convictions for proportionately more persistent felony offenders in the second degree. Fayette County produced slightly more convictions of persistent felony offenders in the first degree.

Table 8 on page 20 contains data on the detailed offense characteristics. The variable which determines type of crime from the presentence narrative rather than official label, crime type, exhibits similar distributions for the two groups.

Likewise, the specific forms of violence or intimidation used in all current convictions show only slight variations. In fact, the item exhibiting the greatest difference is use of a weapon to intimidate. More persistent felons in the first degree used this form of intimidation (34%) than persistent felons in the second degree (29%). However, the difference is only five percent.

It would appear that neither group of persistent felons is more likely to be involved in a crime resulting in a property crime as the most serious charge of conviction than the other. The percentage of nonviolent convictions (as indicated by most serious charge of conviction) which involve some form of violence is small for both groups. When the proportions involving specific forms of violence and intimidation are compared between the groups, no extreme differences appear.

The criminal careers of persistent felony offenders in the first degree and the second degree reflect some differences in the specific proportions

FIGURE 2

MOST SERIOUS CHARGE BY TYPE OF PFO

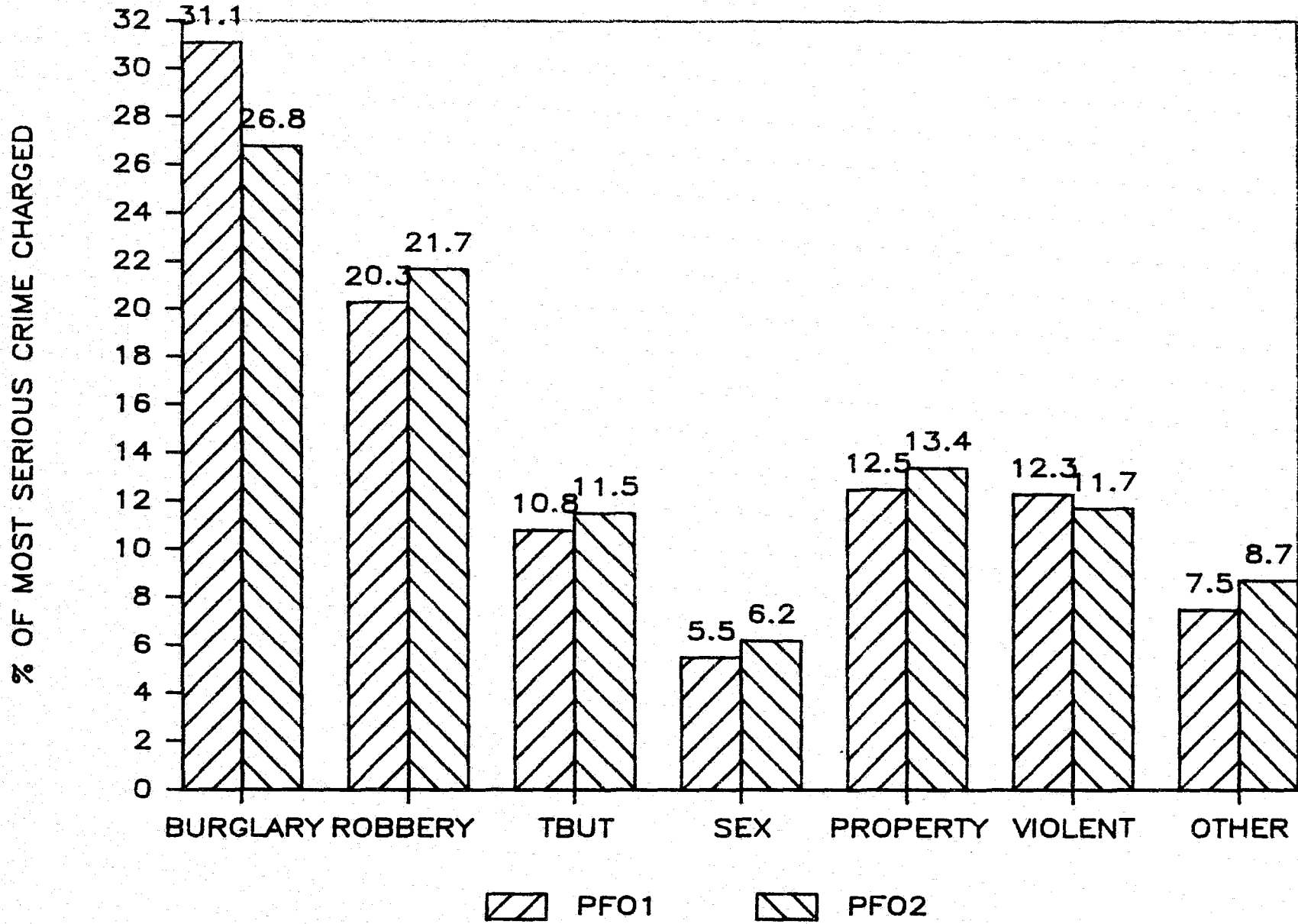


Table 7
 Distribution of Incarcerated Persistent
 Felony Offenders Across Kentucky Counties

Source of Incarcerated Persistent
 Felony Offenders Within Kentucky

	<u>PFO I</u>	<u>PFO II</u>
Jefferson	42.6%	52.6%
Fayette	17.6	9.5
Other	39.8	37.9
Total	<u>100.0</u>	<u>100.0</u>

Type of Incarcerated Persistent
 Felony Offenders Within Kentucky

	<u>PFO I</u>	<u>PFO II</u>	<u>TOTAL</u>
Jefferson	34.0%	66.0%	100.0%
Fayette	52.0	48.0	100.0
Other	40.0	60.0	100.0

Table 8

Detailed Current Offense Characteristics for
Incarcerated Persistent Felony Offenders

<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>		
<u>Crime Type:</u>				
Person	44.3%	43.0%		
Property	48.6	49.7		
Other	7.1	7.3		
	<u>Current Conviction Involved:</u>		<u>Nonviolent Convictions Involved:</u>	
	<u>PFO I</u>	<u>PFO II</u>	<u>PFO I</u>	<u>PFO II</u>
	Yes	Yes	Yes	Yes
Injury	8.8%	6.1%	2.0%	1.4%
Victim Treated	4.5	3.2	1.3	0.7
Victim Hospitalized	5.2	5.8	0.0	0.7
Victim Killed	4.9	4.0	0.0	0.2
Victim of Forced Sexual Act(s)	4.7	4.6	0.3	0.7
Victim of Forced Sexual Act(s) Using Weapon	3.5	1.8	0.3	0.2
Verbal or Physical Intimidation	30.3	31.4	5.3	5.3
Weapon to Intimidate	33.7	28.7	5.0	3.2

within distributions for criminal career characteristics. The distributions, however, exhibit very similar trends. This can be seen in the data contained in Table 9 on page 22.

Both types of incarcerated persistent felony offenders began their adult felony criminal career at an early age. In both groups, a substantial majority were arrested for their first adult felony while they were under 21 years of age. The mean age for first adult felony arrest for both groups was over 20 years of age but under 21. Persistent felons in the first degree were slightly younger, mean = 20.3 years, mode = 18 years. Persistent felons in the second degree had a mean age at first arrest of 20.9 years and a mode of 19 years. The range in age at first arrest had the same lower limits for both groups, 16 years of age. However, the upper limit for persistent felons in the first degree was less (42 years of age) than that for persistent felons in the second degree (60 years of age).

The age at first conviction for the two groups logically follows the pattern for age at first arrest. While both groups contain proportionately more individuals convicted prior to 21 years of age, more persistent felons in the first degree were convicted in this age category than persistent felons in the second degree. The modal age at first conviction for both groups was 19. The mean age at first conviction was similar. However, the persistent felons in the first degree were slightly younger (mean = 21.3 years) overall than the persistent felons in the second degree (mean = 22 years).

The age at first incarceration reflects similar patterns. Again, both groups of persistent felons experienced involvement with the criminal justice system--in this case incarceration--at an early age. The largest age category for each group is under 21 years of age. The modal age for each group was 19, the mean age for persistent felons in the first degree (21.7 years) was slightly younger than that for persistent felons in the second degree (22.6 years).

The use of incarceration as a sanction for first adult felony conviction was the dominant sentencing response for both felon groups. Persistent felons in the first degree were somewhat more likely to experience this sanctioning option for their first adult felony conviction than persistent felons in the second degree.

The length of the criminal careers of these felons (number of years between first and most current conviction) reflects the lengthier criminal

Table 9

Criminal Career Characteristics by Type of
Incarcerated Persistent Felony Offenders

<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>	<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>
<u>Age at First Arrest:</u>			<u>Incarcerated for First Adult Conviction:</u>		
Under 21	71.2%	65.5%	Yes	79.9%	72.7%
21 - 25	20.8	22.9	No	20.1	27.3
26 - 30	4.0	8.1			
31 - 35	2.0	1.7			
36 and older	2.0	1.8			
<u>Age at First Conviction:</u>			<u>Length of Criminal Career:</u>		
Under 21	57.1	50.1	0 - 1 year	0.0	7.1
21 - 25	31.6	34.6	2 - 5 years	16.4	37.7
26 - 30	8.4	9.1	6 - 10 years	35.0	33.4
31 - 35	2.5	4.2	11 - 15 years	24.0	11.6
36 and older	0.4	2.0	16 or more years	24.6	10.2
<u>Age at First Incarceration:</u>			<u>Number of Felony Convictions:</u>		
Under 21	52.0	45.5	Two	0.0	29.2
21 - 25	34.0	36.3	Three	31.0	34.3
26 - 30	10.0	9.2	Four	27.5	18.4
31 - 35	2.7	6.2	Five or more	41.5	18.1
36 and older	1.3	2.8			

involvement of persistent felons in the first degree. The average length of criminal career for persistent felons in the first degree was 12 years. For persistent felons in the second degree, this same average was 7.5 years. The modal length of criminal career for the two groups shows a similar tendency. The mode for length of career for persistent felons in the first degree was seven years, and for persistent felons in the second degree, it was three years. Most persistent felons in the first degree had careers ranging from six to ten years. This group also had proportionately more members with careers ranging from 11 to 15, or 16 or more years.

The persistent felons in the first degree appear to have an earlier involvement in the adult criminal justice system and a lengthier involvement in criminality that was detected and resulted in a conviction. This is a product of their numbers of convictions. It takes time to amass three or more felony convictions. All persistent felons in the first degree had at least three convictions. Over half (59%) had three or four, and the largest percentage (42%) had five or more. In fact, the mode for the distribution of felony convictions for persistent felons in the first degree was five. The range for this group was from three to eleven convictions. The persistent felons in the second degree had, in contrast, more than half (64%) with no more than three felony convictions. The mode of the distribution for this group was three, the range from two to ten convictions.

Table 10 on page 24 contains criminal career data. The pattern of most serious conviction for the two groups of persistent felony offenders reflects some comparative trends. For both groups, those with a history of nonperson offenses (i.e., property offenses, drug offenses) constitute the largest proportion of offenders (PFO I's = 35%, PFO II's = 44%). Conversely, for both categories of persistent felony offenders, more individuals have at least one conviction which includes as its most serious count some crime against the person, 65 percent of the first degree persistent felons and 56 percent of the second degree persistent felons.

Those current convictions with a nonperson crime as the most serious count were adjusted for each group using the data from the crime narrative of the presentence investigation to determine any change in career category. Persistent felony offenders in the first degree had proportionately more convictions with a nonperson as the most serious count which involved some incident of violence or threatened violence (9%) than persistent felony

Table 10

Criminal Career Pattern of Incarcerated Persistent
Felony Offenders by Type of Persistent Felon

<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>
Pattern of Most Serious Charge of Conviction for All Adult Felony Convictions:		
All NonPerson	35.2%	44.2%
All Person	5.1	13.6
Mixed - NonPerson Dominant	32.8	11.7
Mixed - Person Dominant	15.0	11.8
Mixed - No Dominant Type	11.9	18.7

offenders in the second degree (7%). Therefore, when these percentages were used to adjust the criminal career types of these offenders, the proportion of serial nonperson offenders is reduced to 34 percent for first degree persistent felons and to 42 percent for second degree persistent felons.

While both groups contain a majority of offenders with a mixed-criminal career (person and nonperson), proportionately more persistent felony offenders in the second degree (14%) have a criminal career of exclusively violent convictions than persistent felony offenders in the first degree. Persistent felons in the second degree as a group also had more "pure" nonperson careers (44%).

The selected variables from the National Institute of Corrections Classification Scale for each group of persistent felony offenders are contained in Table 11 on pages 26-27. The items which assess history of institutional violence and most serious disciplinary infraction suggest that members of both groups are not a serious problem for control and discipline in the facility. Most offenders in both groups have no history of institutional violence in the last five years (PFO I = 75%, PFO II = 79%). Similarly, over half the offenders in both groups (PFO I = 58%, PFO II = 60%) have either no disciplinary infractions or a low moderate disciplinary infraction in the last 24 months. While most offenders in each group do not constitute a management problem, it appears that if members of either group are likely to do so, they are somewhat more likely to be persistent felony offenders in the first degree. More offenders in this persistent felon group (25% vs. 21%) were involved in institutional violence in the last five years. Likewise, more first degree persistent felons have committed a moderate to highest severity disciplinary infraction in the last 24 months (43% vs. 40%). The differences are slight but still evident.

The item assessing health indicates that most offenders in each group are healthy. However, more than half the felons in both groups had some degree of alcohol or substance abuse. The difference between the proportion of persistent felony offenders in the first degree who were identified as occasional or frequent alcohol abusers and persistent felony offenders in the second degree who were identified as such is minimal (PFO I = 55%, PFO II = 57%). The distributions for substance abuse reflect greater differences though they are still slight. Approximately 57 percent of the persistent felony offenders in the first degree were identified as frequent or occasional

Table 11

Selected Variables from National Institute of Corrections
Classification Scale by Type of Incarcerated Persistent Felons

<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>
<u>History of Institutional Violence in Last 5 Years:</u>		
None	74.6%	79.3%
No Weapon or Serious Injury	18.7	15.9
Weapon, Serious Injury, Death	6.7	4.8
<u>Most Serious Disciplinary Infraction in Last 24 Months:</u>		
None	35.4	37.6
Low Moderate	22.1	22.2
Moderate	22.5	22.7
High	15.2	13.9
Highest	4.8	3.6
<u>Health:</u>		
Sound	88.2	84.8
Handicap or Illness	9.9	14.1
Serious Problem	1.9	1.1
<u>Alcohol Abuse:</u>		
None	45.2	42.7
Occasional	31.7	26.1
Frequent	23.1	31.2
<u>Substance Abuse:</u>		
None	42.6	37.9
Occasional	30.2	30.1
Frequent	27.2	32.0
<u>Sexual Behavior:</u>		
No Problem	79.7	84.4
Minor Problem	8.1	6.7
Severe Problem	12.2	8.9
<u>Emotional-Behavior Problems:</u>		
None	70.8	72.0
Symptoms	27.4	25.5
Problems	1.8	2.5

Table 11 (Continued)

Selected Variables from National Institute of Corrections
 Classification Scale by Type of Incarcerated Persistent Felons

<u>Item</u>	<u>PFO I</u>	<u>PFO II</u>
<u>Vocational Skills:</u>		
Sufficient	19.5%	22.7%
Minimal	51.5	47.2
Needs Training	29.0	30.1
<u>Job Related Skills:</u>		
Good Work Habits	23.7	23.0
Some Deficits	48.1	48.4
Needs Strong Work Program	28.2	28.6
<u>Education:</u>		
High School or GED	50.9	46.6
Some Deficits	35.9	39.4
Major Deficits	13.2	14.0
<u>Living Skills:</u>		
Presents Self Appropriately	36.9	35.6
Basic Survival Skills	58.2	59.5
Lacks Living Skills	4.9	4.9
<u>Intelligence:</u>		
Normal: Can Function		
Independently	56.8	58.5
Some Need for Assistance	35.7	35.7
Independent Functioning		
Severely Limited	7.5	5.8
<u>Marital-Family Relations:</u>		
Stable	31.0	38.0
Needs Improvement	54.8	45.1
Stress	14.2	16.9
<u>Companions:</u>		
No Adverse	30.0	33.6
Some Negative	50.3	50.0
Most Negative	19.7	16.4

substance abusers while approximately 62 percent of the persistent felony offenders were identified as this type of abuser.

The distributions for the assessment of sexual behavior and emotional behavior problems show some differences between the two groups, but the degree of similarity exceeds the differences. The majority of offenders in both groups were assessed as having no sexual behavior problem and/or emotional behavior problem. However, persistent felony offenders in the first degree more often exhibited minor or severe sexual behavior problems than persistent felony offenders in the second degree (20% vs. 16%). The groups were comparable in the proportion of individuals exhibiting symptoms on problems related to emotional behavior adjustment (PFO I = 29%, PFO II = 28%).

The majority of offenders in both persistent felon groups were rated as deficient in some degree in vocational skills, job related skills and living skills. The greatest deficiencies for both groups were in the area of vocational and job related skills. In both instances, almost one-third of the offenders in each persistent felon group fell into the lowest skill category. The two groups of persistent felony offenders did not differ appreciably in their proportionate distributions for these skill-related items.

In contrast to those scale items which appraise skill level, approximately one-half of the offenders in each persistent felon group had a high school education or GED equivalent and slightly more than half (PFO I = 57%, PFO II = 59%) had normal intelligence and so could function independently. Again, the differences between the two groups are minimal; only the distribution for education reflects a difference in proportions at 4.3 percent. In this instance, 53 percent of the persistent felony offenders in the second degree had less than a high school education or its equivalent while the proportion of persistent felony offenders in the first degree who fell into this category equalled 49 percent.

The quality of marital-family relations and companions for these offenders was overall in need of improvement for both groups of felony offenders. Sixty-nine percent of the first degree persistent felony offenders had marital-family relations in need of improvement or under stress while 70 percent of these offenders had at least some negative companions. Similarly, 62 percent of the second degree persistent felons had marital-family relations which needed improvement or were under stress and 76 percent had at least some negative companions.

The differences between the two groups suggest more problematic marital-family relations for first degree persistent felons (69% vs. 62%) and more negative companions for the persistent felony offenders in the first degree.

DISCUSSION AND CONCLUSIONS

Most persistent felony offenders are white, male, 25 to 34 years of age, and second-degree persistent felony offenders. There are more female offenders in the second degree, but the proportion of females is still minimal. Persistent felony offenders in the first degree are, on the average, older than persistent felony offenders in the second degree.

The rank order for the frequency of most serious charge of conviction for all persistent felony offenders was as follows: burglary, robbery, theft by unlawful taking, other property crimes, other violent offenses, sex offenses, and other offenses (i.e., drug-related crimes, tampering with a jury). When the groups of persistent felony offenders (first and second degree) were compared to one another, the same rank order in offenses was evident for each. Persistent felons in the first degree were slightly more often convicted of a burglary charge.

The convictions for all persistent felons always involved at least two counts (one PFO and one underlying charge). The average sentence for the persistent felons was almost 17 years. Most sentences ranged from 10 to 20 years (41%). Persistent felony offenders in the first degree received longer sentences (mean = 20.6 years) than persistent felony offenders in the second degree (mean = 14.3 years).

Most of the persistent felony offenders were convicted in two counties, Jefferson and Fayette. However, when types of persistent felony offender convictions within these counties were compared, persistent felony offenders in the first degree constituted a greater proportion of convictions in Fayette and "other" counties while most of the persistent felony convictions in Jefferson County were for persistent felons in the second degree.

Precisely what these findings mean is unclear. It could be that the greater population size and, consequently, higher crime rates of Jefferson and Fayette counties contribute to larger numbers of convictions. The size of these commonwealth attorneys' offices and more extensive prosecutor resources may result in a more extensive background investigation of offenders and a higher rate of conviction for persistent felony offenders. The proportionate difference of persistent felon types in Jefferson and Fayette counties may be the product of plea negotiations. Basically, no data is available to substantiate these suggested explanations.

Some interesting differences were noted between the legally designated type of crime as based on most serious charge of conviction and the details of the actual crime event as presented in the presentence investigation. When the legal label was utilized, 39 percent of the crimes of persistent felony offenders were identified as violent. When the data from the presentence investigation was taken into account, 43 percent of these crimes were violent.

Persistent felony offenders have early, repetitive, and extensive involvement with various criminal justice agencies. Persistent felony offenders in the first degree were slightly younger at the time of initial adult felony arrest, conviction, and incarceration. This earlier involvement in adult criminality and the older age of these persistent felony offenders in the first degree results in a lengthier criminal career for these felons (PFO I, mean = 12 years; PFO II, mean = 7.5 years), and a more extensive conviction record. It takes time to accumulate felony convictions.

When the legally identified most serious charge of conviction is used to identify type of crime and pattern of criminal career, most persistent felons exhibit exclusive nonviolent crime involvement. This is true for both types of persistent felony offenders. Those with exclusively violent careers constitute the smallest proportion with fewer persistent felons in the first degree with exclusively violent careers. However, for the current conviction, more persistent felons in the first degree (9% vs. 7%) had a legal charge which would be identified as nonperson yet presentence information on the crime event which would identify the crime as violent. When this percentage is taken into account and the distribution for criminal career type adjusted accordingly, the proportion of offenders in both persistent felony offender groups with exclusively nonpersonal crime careers is reduced. However, this category still constitutes the largest crime career category for both groups. Persistent felons in the second degree are still proportionately more often "pure" career types than persistent felons in the first degree.

The greater percentage of pure violent criminal career repeat offenders among second degree persistent felons is not surprising. These offenders are younger and, therefore, more likely to engage in violent crimes. The greater representation of either exclusively violent or exclusively nonpersonal crimes among persistent felons in the second degree may also be related to their age and shorter criminal career length. With time, more of these "pure" career types should develop into "mixed career" types.

The data from the National Institute of Corrections shows that while the persistent felons do not pose a serious risk to institutional control and security, they do have definite and extensive programmatic needs. These offenders are physically healthy but have problems related to alcohol and substance abuse; sexual behavior and emotional problems; deficiencies in vocational, job related, and living skills; marital-family relations; companions; and intellect. If it can be assumed that these problems are related to appropriate societal adjustment and response and so related to criminality, these needs should be addressed. While enhancements may incapacitate these offenders for lengthier periods of time, the fact is they will be released. If these needs and problems are related to criminality and they are not met while these felons are incapacitated, these needs and problems will only cause further criminality once these felons are released. The needs suggest that, if no response is made, the corrections system is accepting individuals whose histories and characteristics indicate poor social adjustment, temporarily incapacitating these offenders, and then releasing individuals with definite indications of poor social adjustment.

The characteristics of the incarcerated persistent felons in Kentucky suggest that the requirements of the PFO Statute are being met. It is a statute which allows only one violation on the part of the offender. In Kentucky, alleged criminal offenders are either first offenders or potential persistent felons. Whether the statute will have a deterrent effect once this fact is clearly recognized is uncertain. Whether it will have an effect through incapacitation is also unclear. Nonetheless, data such as that contained in this profile, will give policymakers a source of information, previously nonexistent, to draw on when making policy decisions.

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Department for Public Advocacy
Commonwealth of Kentucky

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DHB Consulting
Versailles, Kentucky

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Circuit Court Clerk
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Ashland, Kentucky

J. Price Foster
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College of Urban & Public Affairs
University of Louisville

Gentry McCauley, Jr.
Commonwealth Attorney
Fourteenth Judicial District
Commonwealth of Kentucky

Larry Hayes
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Governor's Office
Commonwealth of Kentucky

George W. Wilson
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Corrections Cabinet
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