

307.7 CAREER CRIMINALS:

- I. **PURPOSE:** To establish a procedure for targeting those individuals who meet the criteria for enhanced prosecution under the Federal Armed Career Criminal Code or Florida State Statutes.

- II. **DISCUSSION:** Criminal justice studies have revealed that approximately 6 percent of ~~the~~ criminals (habitual offenders) commit approximately 70 percent of all violent crimes; thus, when habitual offenders are targeted for enhanced prosecution techniques and receive long-term prison confinement, a significant reduction in crime will be the result. Successful prosecution with a tough sentencing of career criminals requires a well-coordinated and conscientious effort on behalf of all law enforcement and prosecuting agencies. The law enforcement officer represents the first vital link in the successful prosecution of habitual offenders.

This procedure will provide the Tampa Police Department personnel with the necessary information to establish the required elements for successful prosecution under the Federal Armed Career Criminal Code and the various state habitual offender statutes.

III. DEFINITIONS:

- A. **Federal Armed Career Criminal:** As defined by Federal Criminal Code, Title 18, §924(e)(1), an Armed Career Criminal is an individual who:
 1. Is a convicted felon in manual or constructive possession of a firearm or ammunition.
 2. Has three or more convictions by any court for violent felonies, serious drug offenses, or both, committed on separate occasions from one another.
 - a. The term “violent felony” means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that;
 - b. Has an element, the use, attempted use, or threatened use of physical force against the person of another; or
 - c. Constitutes burglary, arson, or extortion; involves the use of explosives; or otherwise involves conduct that represents a serious potential risk of physical injury to another.
 3. The term “conviction” includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

4. If convicted in Federal Court as an “Armed Career Criminal,” the offender shall be sentenced to imprisonment for not less than 15 years, and a fine of no more than \$25,000.00, with no probation or parole.

B. Violent Career Criminal (F.S. §775.084): Violent Career Criminals includes Habitual Felony Offenders, Habitual Violent Felony Offenders, and Three-Time Violent Felony Offenders.

1. Definitions:

a. Habitual Felony Offender: a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph §775.084 (4)(a), if it finds that:

i. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.

ii. The felony for which the defendant is to be sentenced was committed:

a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or

b. Within five years of the date of the conviction of the defendant’s last prior felony or other qualified offense, or within five years of the defendant’s release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction(s) for a felony or other qualified offense, whichever is later.

iii. The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s.893.13 relating to the purchase or the possession of a controlled substance.

iv. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.

- v. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.
- b. Habitual Violent Felony Offender: a defendant for whom the court may impose an extended term of imprisonment, as provided in paragraph §775.084 (4)(b), if it finds that:
 - i. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:
 - a. Arson;
 - b. Sexual battery;
 - c. Robbery;
 - d. Kidnapping;
 - e. Aggravated child abuse;
 - f. Aggravated abuse of an elderly person or disabled adult;
 - g. Aggravated assault with a deadly weapon;
 - h. Murder;
 - i. Manslaughter;
 - j. Aggravated manslaughter of an elderly person or disabled adult;
 - k. Aggravated manslaughter of a child;
 - l. Unlawful throwing, placing, or discharging of a destructive device or bomb;
 - m. Armed burglary;
 - n. Aggravated battery; or
 - o. Aggravated stalking.
 - ii. The felony for which the defendant is to be sentenced was committed:

- a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or
 - b. Within five years of the date of the conviction of the last prior enumerated felony, or within five years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.
- iii. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.
- iv. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.
- c. Three-Time Violent Felony Offender: a defendant for whom the court must impose a mandatory minimum term of imprisonment, as provided in paragraph §775.084 (4)(c), if it finds that:
- i. The defendant has previously been convicted as an adult two or more times of a felony, or an attempt to commit a felony, and two or more of such convictions were for committing, or attempting to commit, any of the following offenses or combination thereof:
 - a. Arson;
 - b. Sexual battery;
 - c. Robbery;
 - d. Kidnapping;
 - e. Aggravated child abuse;
 - f. Aggravated abuse of an elderly person or disabled adult;
 - g. Aggravated assault with a deadly weapon;

- h. Murder;
 - i. Manslaughter;
 - j. Aggravated manslaughter of an elderly person or disabled adult;
 - k. Aggravated manslaughter of a child;
 - l. Unlawful throwing, placing, or discharging of a destructive device or bomb;
 - m. Armed burglary;
 - n. Aggravated battery;
 - o. Aggravated stalking;
 - p. Home invasion/robbery;
 - q. Carjacking; or
 - r. An offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in sub-subparagraphs a. – q.; or an attempt to commit any such felony offense.
- ii. The felony for which the defendant is to be sentenced is one of the felonies enumerated in sub-subparagraphs 1.a – q. and was committed:
- a. While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a. – r.; or
 - b. Within five years after the date of the conviction of the last prior offense enumerated in sub-subparagraphs 1.a. - r., or within 5 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a. - r., whichever is later.

- iii. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.
- iv. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.
- d. Violent Career Criminal: a defendant for whom the court must impose imprisonment pursuant to paragraph §775.084 (4)(d), if it finds that:
 - i. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:
 - a. Any forcible felony, as described in s.776.08;
 - b. Aggravated stalking, as described in s.784.048(3) and (4);
 - c. Aggravated child abuse, as described in s.827.03(2);
 - d. Aggravated abuse of an elderly person or disabled adult, as described in s.825.102(2);
 - e. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as described in s.800.04 or s.847.0135(5);
 - f. Escape, as described in s.944.40; or
 - g. A felony violation of chapter 790 involving the use or possession of a firearm.
 - ii. The defendant has been incarcerated in a state prison or a federal prison.
 - iii. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:
 - a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or

- b. Within 5 years after the conviction of the last prior enumerated felony, or within five years after the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.
- iv. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.
- v. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any post-conviction proceeding.
- e. Qualified Offense: any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.
 - i. For the purposes of this section, the placing of a person on probation or community control without an adjudication of guilt shall be treated as a prior conviction.

IV. PROCEDURES:

- A. Whenever an officer is investigating any type of offense involving a firearm, ammunition, or weapon, which does not meet referral guidelines, the investigating officer will submit the evidence utilizing proper handling techniques.
 - 1. If necessary, the investigating officer will submit a request to the Forensic Investigations Unit to have the firearm, ammunition, or weapon processed for latent fingerprints and comparison of identifiable fingerprint(s) to any known suspect(s).
 - 2. If the investigation meets referral guidelines, it will be the responsibility of the assigned detective to have the weapon processed by the Forensic Investigations Unit for latent fingerprints and comparison of identifiable fingerprint(s) to any known suspect(s).

- B. Any time contact is made with an individual who has been designated a Career Criminal, the officer will complete the required report or a field interview.
- C. As time permits, street units will conduct checks on Career Criminals living within their assigned work zones to ensure the offenders are in compliance.
- D. Case Tracking and Inter-Agency Coordination: The Criminal Tracking Unit shall be responsible for:
 - 1. Maintenance of a file and current list of Career Criminals who reside within the City of Tampa limits.
 - 2. A commitment to assist the prosecuting attorney in all phases of case preparation and prosecution, including:
 - a. Locating witnesses and victims;
 - b. Notifying officers of short notice appearances;
 - c. Assessing crime scenes and evidence processing;
 - d. Attending court proceedings when requested by the state attorney or by subpoena; and
 - e. Providing the prosecutor with any reasonable requests to ensure a successful prosecution and a maximum penalty upon conviction.
 - 3. The Criminal Tracking Unit will ensure that the prosecutor is not forced into a plea bargaining agreement due to a deficiency in the case, which was caused by or could have been corrected by the Tampa Police Department.
 - 4. The Criminal Tracking Unit will hold regular meetings with a representative from the Hillsborough County State Attorney's Office. New cases involving Career Criminals will be discussed.
 - 5. The Criminal Tracking Unit will create a "flag" for each Career Criminal in the Tampa Police Department Versadex system which will alert officers or dispatchers when they run the name of a Career Criminal through the system.

Supersedes SOP 307.7, dated 11/20.