

**Comments on ACLI's Jan Graeber April 25 SCORI Life Workstream
Presentation on Use of Criminal Records in Life Insurance**

because of incarceration why isn't knowing whether a person has HBP enough in the actuarial model? That way, you don't consider medical conditions that might have improved or ended after confinement.

- Ms. Graber indicated that applications generally ask whether a person has been convicted of a felony. A felony conviction does not mean that a person has been incarcerated; in a significant number of cases there is no incarceration. So a felony conviction is not an appropriate proxy for incarceration. Do the industry distinguish felonies that did not involve incarceration in its analysis?
- Moreover, states vary widely in their classification of certain conduct as a felony or misdemeanor. For instance, in Pennsylvania, simple assault is a misdemeanor, while in other states the same conduct can be a felony. As a result, the focus on felonies can lead to disparate results for insurance applicants, depending entirely on the state in which they were convicted. It is hard to imagine that such classification bears a real relationship to M/M.

2. How does time passed since criminal justice involvement factor into underwriting analysis? Passage of time is a particularly important factor for evaluating the appropriateness of collateral consequences as shown, for instance, in [EEOC guidance](#) on employer evaluation of arrest and conviction records.

- Does the research/data indicate that any increased M/M persists after the person is several years removed from incarceration? ~~no~~, then the passage of time after incarceration should be factored in. However, in my experience, it is quite difficult to get information on release from incarceration; it does not show up in commercial background checks.
- "Desistence" research

4. What methodologies are used to conduct the analysis in the underwriting process?

- Do actuaries have any training in the different crimes and data relevant to whether they are correlated with these risks?
- We recently worked with an industrial/occupational psychologist to determine what crimes are directly related to licensed occupations. She told us that a supportable methodology includes not just the views of people in the licensed professions, but consideration of information from criminal justice experts like criminologists who study desistance from recidivism and criminal lawyers who understand the elements of crimes. Does the insurance industry's evaluation of criminal history include criminal justice experts like these?

5. What records do you use when evaluating an individual's criminal history?

- It was said that the insurance industry relies on the US court system for objective assessment of a person's background and risks. But the court system is not doing your work; they are adjudicating criminal offenses. Criminal records were not created for civil purposes, and certainly never intended for the evaluation of insurance risk.
- Moreover, what exactly is the "risk" that the courts' data is deemed to address? It's hard to imagine that conviction data is relevant to risk of M/M. It is relevant to risk of recidivism, but as noted above, that risk exists solely 70 years after conviction.
- What is the source of the records? Commercial background screeners? T(s)-4.revalued

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People with Criminal Records Are “Redeemed” after Short Waiting Periods

While our society treats people with past criminal records as if they will always be at a higher risk for future contact with the criminal system, research tells a different story. After between 3 and 7 years without a subsequent offense, people with records are **no more likely** than the general population to be rearrested.

A landmark 2009 study ([Alfred Blumstein & Kiminori Nakamura, *Criminology* 2009, Volume 47 Number 2](#)), updated by the authors in 2012 ([Alfred Blumstein & Kiminori Nakamura, *Final Report Submitted to the National Institute of Justice*](#)) used data to empirically estimate the point of “redemption” for people with records, or the number of years in which the risk of rearrest intersects with the risk of arrest for the general population of the same age.

The study found the point of “redemption,” depending on the type of offense, to be:

- 4 years for drug offenses.
- 3 – 4 years for property offenses.
- 4 – 7 years for violent offenses.

Thus, these offenses should no longer be considered for civil purposes after the passage of such periods. Certainly, they should not operate as though people’s risk continues throughout their entire lifetimes.