

Criminal Records: Risk Assessment and Discrimination

Presented to NAIC SCORI Life Workstream
August 5, 2024



Overview

- My background and work on criminal records
- Top•



My Background and Practice

- Legal aid employment lawyer in Philadelphia since 1987
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CLS's Policy Work on Criminal Records

- Title VII/racially disparate impact
 - EEOC's 2012 enforcement guidance
 - EEOC's making criminal records an enforcement and litigation priority
- PA's Clean Slate automated sealing law (2018)
 - We designed and advocated for it; now enacted in 12 states
 - 45 million+ cases sealed by automation in PA

Top-Line Points

- **Racially disparate impact of considering criminal records in civil matters** because of overrepresentation of Blacks and Hispanics in the criminal justice system.
- **Complexity of drawing valid conclusions** from criminal records requires expertise.

Knowledgeable and Nuanced Consideration of



Issues raised by ACLI presentation

- Do studies/sources properly establish a correlation between criminal records and mortality/morbidity?
 - If sources are tied to incarceration, disqualifying people solely for having a criminal record?



Recommendations

Prepared in consultation with NLADA Mutual Insurance Co.'s Karen Lash and Jo-Ann Wallace.

- Conduct a **survey** of life insurers to gather information about practices in the field.
- Develop a **model bulletin** for all stakeholders (regulators, insurance companies, agents, consumers) providing guidance on appropriate use of criminal record information.



Recommendations (cont.)



