**Rikki Pelta**
AVP & Associate General Counsel
(202) 624-2355 t
rikkipelta@acli.com

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Special (EX) Committee on Race and Insurance
Life Workstream
Sent via email: jcook@naic.org

RE:   Draft Survey of Life Insurer Underwriting Guidelines as Applied to Justice Impacted
      Individuals

Dear Commissioners Fowler & Humphreys,

Thank you for the opportunity to provide feedback on the draft Survey of Life Insurer Underwriting
Guidelines as Applied to Justice Impacted Individuals. The feedback and suggestions below are
included so that the survey will elicit more consistent, meaningful data. ACLI member companies
are hopeful that this voluntary survey will shed additional light on the life insurance underwriting
process as it pertains to justice impacted individuals.

Generally, we suggest the following amendment for clarity: We are interested in information about
products currently being sold in ~~your~~ <u>the state(s) issuing the survey</u>.

**Question #1**
This question includes the term "life insurance criminal history," which is not a defined term and is
likely to be confusing. For clarification purposes we suggest: Please provide questions from your
company's <u>life insurance</u> application that ask about ~~life insurance~~ criminal history.

**Questions #2 & #3**
We recommend requesting a summary of the underwriting guidelines, mortality/morbidity
data/studies, and methodologies used. As indicated by ACLI previously, many life insurers
(especially those smaller in size) rely on underwriting manuals published by third parties. These
third parties tend to perform background research for creating and updating these manuals and
have a schedule for updating the evaluation of a particular risk, and the most prevalent risks are the
ones most often updated.

Additionally, life insurers base their underwriting criteria on many factors and there is not typically a
specific study or data set for each underwriting criterion. Life insurers, whether relying on third-

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party manuals or not, typically do not base their analysis on one factor. Most often, the decision to approve or deny an applicant is based on multiple factors that are considered in the appropriate context accounting for the applicant's particular circumstances. As a result, asking for a summary would help draw out the information that the regulators are looking for, while allowing companies to ensure the confidentiality that is required, since this product is a voluntary product sold in a competitive marketplace.

### Questions #4 & #5

Instead of using the terms "misdemeanor" and "gross misdemeanor," we suggest using "non-felonies" to elicit consistent responses. There is no standard definition for "misdemeanor" or "gross misdemeanor" across the states, so carriers could interpret these terms differently. Using the term "non-felonies" will be clearer and preserve the distinction we believe the Workstream is trying to make here.

We also suggest amending #4b. and #5b. because it is unlikely to provide meaningful data to the Workstream: If yes, which convictions are considered? The question, as written, is difficult to answer because, in many cases, rate classes are not determined by one factor. As discussed above, factors are not typically evaluated in silos, so it is most often a combination of factors that determines the rate class. Our suggested amendment will elicit the information we believe the Workstream is trying to capture with this question in a more consistent, accurate manner.

Many applications that contain a felony conviction do not result in a denial, so answering #5c would likely require a manual review, which would necessitate a longer timeline to respond, if companies are able to respond at all.

We suggest adding #5ciii.: How many applications resulted in a decision to approve or deny? In many cases, applications are received but policies are not issued due to factors other than underwriting. For example, some applicants never complete the application, and some applicants withdraw their application or decide not to go through with coverage prior to a decision being made. Without accounting for applications that do not result in a decision, the data elicited from this question will be incomplete.

We also suggest, for both questions #4 and #5, to request the amount of time companies use in their applications when asking about criminal history: Does the application specify a timeframe when asking about criminal history? If so, how long is that timeframe? Whether the amount of time since the conviction is considered came up frequently in discussion on this topic and it will be helpful context for the Workstream.

### Question #6

We recommend removing the references to drug use in this question. For underwriting purposes, drug use is looked at differently than criminal history. Although the two may be related in some cases, drug use in application questions is used to evaluate the impact of the drug on the applicant. Including references to drug use strays from the purpose of the survey. Drug use information may not necessarily be criminal, and like all other factors, is evaluated in combination with other underwriting criteria.

### Question #7

We recommend that this question include how companies consider individuals on parole, probation, or in a diversion program for the purposes of underwriting.

## Fraud Prevention/Anti-Money Laundering Consideration

Federal laws and guidelines require insurers to evaluate applicants' criminal history to prevent money laundering and other financial crimes. Therefore, we encourage the Workstream to consider life insurers' obligations and efforts to prevent financial crimes in their analysis of survey responses. It is important to note that mortality and morbidity are not the only risk factors considered when evaluating criminal history in underwriting. These evaluations are critical to the overall underwriting process and the protection of policyholders and are valuable information for the Life Workstream.

Thank you for your time and consideration of our comments. We would be glad to discuss further and look forward to our continuing work with the Life Workstream.

Sincerely,