

**Subject:**CEJ Comments on SCORI Life Criminal History Survey

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CEJ submits the following comments on the draft survey. We suggest that some of the underwriting process questions should also be addressed by review of documents. For example, a review of actual underwriting guidelines and rating factors is more reliable than a narrative response from insurers to process questions. Insurer responses to process questions will inevitably result in insurers providing information favorable to the insurer while potentially omitting information considered unfavorable. Further, narrative responses are verified by documentation. We suggest the following document requests

1. For what phases of the insurance life cycle does the company employ data, directly or indirectly, on criminal history? Direct use means consideration of raw data on criminal justice system interactions. Indirect use means data sources or algorithms that utilize criminal history interactions in whole or in part. Provide a description of the criminal history data used by product type by state, whether raw data or third-party algorithm, the source of the data, when the data were first used and insurance life-cycle phase (marketing, underwriting, pricing, claim settlement, anti-fraud) in which the data are used in a tabular format. Be precise and specific in describing the criminal history data used, including severity of criminal charge, charge but no conviction.

State / Product / Criminal History Data Description / Raw Data or 3rd Party Algorithm / Source of Data / Date First Used / Phase of Insurance Life Cycle

If the answer is identical across all states, enter "All States." If the answer is the vast majority of states, enter "All States except . . . ." For state exceptions to the general use, enter the information separately for each of those exception states.

2. Provide all policies and procedures for the company's use of criminal history, including underwriting guidelines and rating formulas (i.e., showing whether criminal history is part of a premium calculation formula), including revisions to the policies and procedures since January 1, 2020 with the date of revision. Include all policies and procedures defining and differentiating among criminal justice system interactions. Include all policies and procedures

3. Provide any mortality/morbidity/studies supporting/justifying your use of criminal history information and indicate which study/support is associated with each row of the table in item 1.

4. Provide all questions related to or referring to criminal history on any application in a tabular format:

State / Product / Type of Application (Paper or Digital) / Criminal History Question

Questions:

Expand those questions to include phases of the insurance life cycle other than underwriting. In an era of big data and AI, significant underwriting occurs at the marketing stage in which the insurer determines to which consumers the insurer will market its products. If criminal history information is used in marketing, the insurer may effectively underwrite before any application is received.

For questions that ask if the insurer has something in place, add "Provide relevant documentation." For example, question number 9: Does your company have processes in place to ensure you are not asking about / considering expunged / sealed convictions? If yes, provide the relevant policy and procedures describing this process.

Thank you for your consideration,

Birny Birnbaum