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Criminal History:

Impact of Prison Life vs Not Serving Prison Time

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What do we really know about criminal behaviour?

- Applications with criminal history are often received with an agent cover letter indicating:
  - That the agent can vouch for the character (yet some barely know the person)
  - He/she was innocent but were caught up in a scam (popular with the 2008 housing scandal)
  - The client has turned his/her life around by:
    - Finding religion
    - Finding a spouse
    - Parental intervention
    - Maturing

Objectives

- Industry Resources
- Definition of Terms
- Discuss Recidivism
- White Collar Crime vs Violent Crime
- Mortality Risk
- Morbidity Risk
- Case Clinics

Disclaimer

Fair Credit Reporting Act

- The Fair Credit Reporting Act protects information collected by various services (i.e. credit bureaus, medical companies, tenant screening services, etc.)

- This presentation is intended to share information on criminal history. Each attendee must abide by their company guidelines when it comes to obtaining, using, and reporting information.

Industry Resources

- Sherlock
- Choice Screening
- First Financial Underwriting Services
- LexisNexis (Risk Classifier and Electronic Inspection Report)
- ExamOne
- Company specific internal reports

Definitions

- **Felony:**
  - An offense, such as murder or burglary, of graver character than those called misdemeanors, especially those commonly punished in the U.S. by imprisonment for more than a year.

- **Misdemeanor:**
  - A crime that may be punishable by confinement to a county jail, generally for one year or less.

https://www.bjs.gov/index.cfm?ty=tda
https://www.doj.state.wi.us/ocvs/specialized-resources/cold-case/criminal-justice-glossary

Definitions

- **Probation:**
  - Refers to adult offenders whom courts place on supervision in the community through a probation agency, generally in lieu of incarceration. However, some jurisdictions do sentence probationers to a combined short-term incarceration sentence immediately followed by probation, which is referred to as a split sentence.

- **Parole:**
  - Refers to criminal offenders who are conditionally released from prison to serve the remaining portion of their sentence in the community.

https://www.bjs.gov/index.cfm?ty=tp&tid=151#terms
https://www.bjs.gov/index.cfm?ty=tp&tid=15#terms_def

Definitions

- **Suspended Sentences:**
  - Are used in lieu of incarceration to provide the defendant with an opportunity to meet obligations such as probation or a treatment program. Generally, upon completion, the sentence is dismissed. However, if violating any of the conditions set, the sentence may be imposed.

Definitions

- **Recidivism:**
  - One of the most fundamental concepts in criminal justice. It refers to a person's relapse into criminal behavior, often after the person receives sanctions or undergoes intervention for a previous crime.

- **Desistance:**
  - Refers to the process by which a person arrives at a permanent state of nonoffending. In effect, an offender released from prison will either recidivate or desist.

https://nij.ojp.gov/topics/corrections/recidivism#:~:text=Recidivism%20is%20one%20of%20the,intervention%20for%20a%20previous%20crime

Definitions

- **White Collar Crime:**
  - Synonymous with the full range of frauds committed by business and government professionals. These crimes are characterized by deceit, concealment, or violation of trust and are not dependent on the application or threat of physical force or violence. The motivation behind these crimes is financial—to obtain or avoid losing money, property, or services or to secure a personal or business advantage.

https://www.fbi.gov/investigate/white-collar-crime

Federal vs State Prisons

- **Federal Prisons**
  - House individuals who commit Federal Crimes
    - Crimes committed across state boarders
    - Crimes committed against government officials, institutions and agents.
    - White collar crimes like money laundering, racketeering and fraud.

- **State Prisons**
  - House individuals who have violated State laws
    - Single state crimes, for example:
      - Murder
      - Rape
      - Gun-related offenses

https://vivadifferences.com/federal-prison-vs-state-prison/

DUI Felony Laws

- Driving laws vary by state
- DUI is not a felony on first offense
- Resource available for information by state:
  - https://www.madd.org/wp-content/uploads/2017/08/DUI_Felony_Overview.pdf

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How Does Recidivism Affect the Insurance Industry?

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The Bureau of Justice Statistics released the “2018 Update On Prisoner Recidivism: A 9-Year Follow-Up Period (2005-2014)”

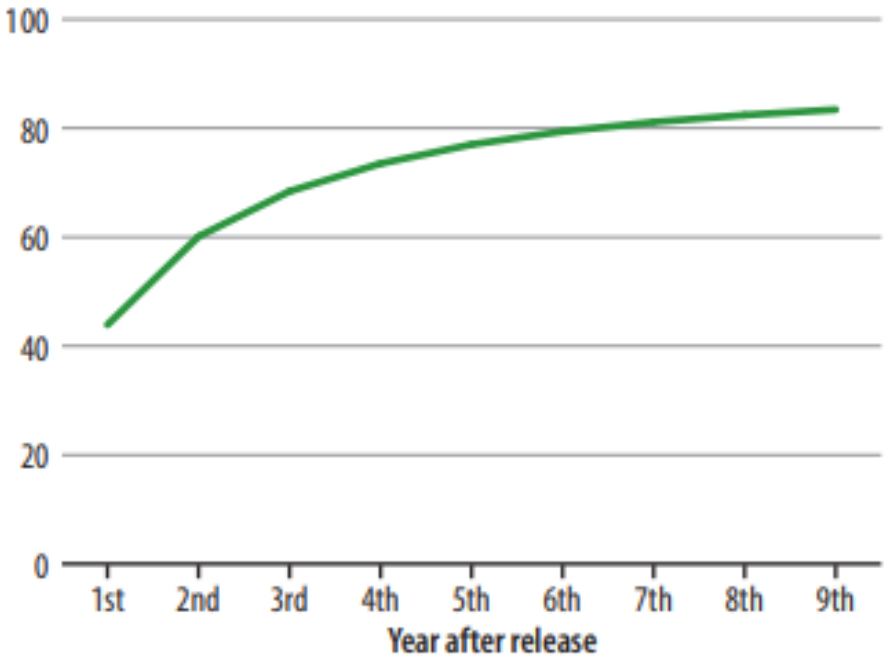
- The 401,288 state prisoners released in 2005 had 1,994,000 arrests during the 9-year period, an average of 5 arrests per released prisoner.
- An estimated 68% of released prisoners were arrested within 3 years, 79% within 6 years, and 83% within 9 years.
- Almost half (47%) of prisoners who did not have an arrest within 3 years of release were arrested during years 4 through 9.
- Forty-four percent of released prisoners were arrested during the first year following release, while 24% were arrested during year-9.

https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6266

The Bureau of Justice Statistics released the “2018 Update On Prisoner Recidivism: A 9-Year Follow-Up Period (2005-2014)”

FIGURE 2

Percent of prisoners released in 30 states in 2005 who were arrested since release, by year after release



Note: See table 2 for estimates and appendix table 3 for standard errors.
Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6266

Other Key Findings

- Released property and drug offenders were more likely to be arrested than released violent offenders.
- Released violent offenders were more likely to be arrested for a violent crime.
- Prisoners arrested in another state increased each year during the follow up period.
- In the first year after release, 45% of the male prisoners were arrested, where as only 35% of the female prisoners were arrested. After 1 year, males and female arrests were similar.
- During the first year after release, 40% of white prisoners were arrested compared to 47% Hispanic and 46% black prisoners. During year 2, 16% white, 17% black and 14% Hispanic prisoners were arrested.

https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6266

What about White Collar Crime?

- White Collar Crime is **NOT** a victimless crime
  - A single scam can:
    - Destroy a company
    - Devastate families by wiping out their life savings
    - Cost investors billions of dollars
    - Or even all three!

S**https://**www.fbi.gov/investigate/white-collar-crime

White Collar Crime vs. Violent Crime- Imprisonment

Table 1 White collar crime imprisonment 2010 (U.S. District Court)

	Average sentence length (Months)	Median sentence length (Months)	Total cases
Money laundering	30.6	15	806
Fraud	23.2	10	8,065
Bribery	19.7	12	224
Tax	16.3	12	665
Forgery/counterfeiting	14.4	12	880
Embezzlement	7.8	3	434

Table 2 Violent crime imprisonment 2010 (U.S. District Court)

	Average sentence length (Months)	Median sentence length (Months)	Total cases
Murder	276.1	251	66
Kidnapping/hostage taking	162.7	144	39
Sexual abuse	108.6	96	384
Arson	78.6	60	75
Manslaughter	72.6	44	64
Assault	37.6	24	631

http://medcraveonline.com/FRCIJ/FRCIJ-02-00039.pdf

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White Collar Crime vs. Violent Crime- Sentences

Table 3 Type of sentence 2010 (White collar)

	% Receiving imprisonment	% Receiving only imprisonment	% Receiving community service & prison	% Receiving probation & prison
Money laundering	76.9	72.5	4.5	6.6
Fraud	77.6	71.8	5.8	7.8
Bribery	73.1	66.4	6.7	11.7
Tax	62.9	53.7	9.2	17.4
Forgery/ counterfeiting	72.1	66.1	6	9.1
Embezzlement	44.9	35.2	9.7	12.3

Table 4 Type of sentence 2010 (Violent crime)

	% Receiving imprisonment	% Receiving only imprisonment	% Receiving community service & prison	% Receiving probation & prison
Murder	98.5	97	1.5	0
Kidnapping/hostage taking	100	100	0	0
Sexual abuse	96.9	95	1.8	1.8
Arson	96	90.7	5.3	1.3
Manslaughter	98.4	95.3	3.1	1.6
Assault	83.3	79.1	4.2	3.7

S**http://**medcraveonline.com/FRCIJ/FRCIJ-02-00039.pdf

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Recidivism Comparison Between Violent and White Collar Criminals

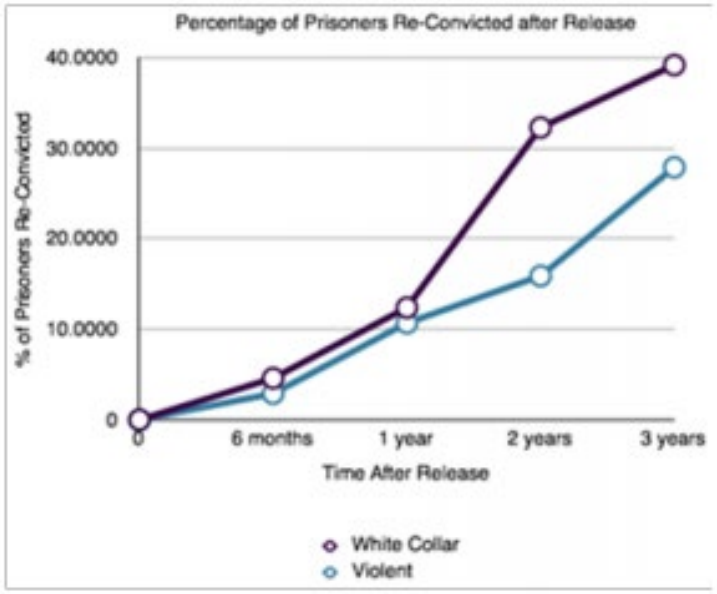


Figure 3 Recidivism percentage of prisoners released.

Table 5 Recidivism percentage of prisoners released

	6 months	1 year	2 years	3 years
Rearrested	15.1	22.2	31.4	38.9
Re-convicted	2.9	10.7	15.9	27.9
Re-incarcerated	2.6	6.7	12	16.7
Re-imprisoned	1.9	4.7	8.5	11.5

Recidivism data

Violent crime:

Table 6 Recidivism percentage of released prisoners

	6 months	1 year	2 years	3 years
Rearrested	18.6	30.7	50	58.8
Re-convicted	4.6	12.4	32.3	39.2
Re-incarcerated	4.4	10.6	26	31.9
Re-imprisoned	4.2	8.7	20.7	24.1

White collar criteria

http://medcraveonline.com/FRCIJ/FRCIJ-02-00039.pdf

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Mortality Risks After Prison Life

- A study done in Washington State sought to find the clinical risk factors for death after prison release.
- The leading cause of death after release is unintentional poisoning (overdose) often occurring early after release.
- The Prison Policy Initiative noted that each year of time served in prison takes two years off an individual's life expectancy. This is due to "accelerated physiological aging".
- This makes prisoners more likely to have chronic health conditions like cancer, heart disease, liver disease, and respiratory disease.

https://www.prisonpolicy.org/blog/2020/02/13/prisondeaths/#:~:text=A%20new%20Bureau%20of%20Justice,to%20303%20per%20100%2C000%20people

https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4834273/

Mortality Risks After Prison Life

- Why is prison life so hard on the prisoners?
  - Varying degrees of health literacy and capital among incarcerated people.
  - Constraints on transportation to necessary appointments outside the prison.
  - Inadequate healthcare in prisons due to insufficient resources.

- …the lack of treatment and follow-up for drug use and abuse during and after incarceration is likely associated with increased recidivism,[11] as well as an increased rate of death due to overdose.

- studies have documented a twelvefold increase in all-cause mortality in the first two weeks after individuals were released from prison when compared to all other populations.

https://www.prisonpolicy.org/blog/2020/02/13/prisondeaths/#:~:text=A%20new%20Bureau%20of%20Justice,to%20303%20per%20100%2C000%20people
https://www.aafp.org/about/policies/all/incarceration.html
https://www.aafp.org/about/policies/all/incarceration.html

Morbidity Risks After Prison Life

- Infectious disease is more prevalent among incarcerated populations than in the general population.[1] Compared to the general population, individuals living in correctional facilities are approximately three times more likely to have HIV or AIDS[17] and are more likely to have hepatitis C[18] and tuberculosis.[16]

- It is estimated that greater than 65% of individuals who are incarcerated meet the Diagnostic and Statistical Manual (DSM)-IV criteria for alcohol or other drug dependence or abuse.[20]

- As a population, people in prison exhibit a high burden of chronic and noncommunicable diseases (e.g., hypertension, diabetes, and asthma),[65] as well as communicable diseases (e.g., hepatitis, HIV, tuberculosis),[18, 65] mental health problems, and substance abuse disorders.[65]

https://www.aafp.org/about/policies/all/incarceration.html

Case Clinic #1

- M41 convicted of 2nd degree murder - 3/1995 sentenced to 23 years(per application).
- No Probation/Parole, Occupation: Barber, TOB: Smoker
- MVR: 10/18 accident
- No cover letter, no explanation
- Internet search found **(Caution follow your FCRA Guidelines)**:
  - The defendant was convicted of second-degree murder and aggravated assault. The trial court sentenced him to twenty-three years confinement for second- degree murder and five years confinement for aggravated assault, to run concurrently.
  - Defendant had frequently smoked marijuana and “huffed paint”
  - Dispute with friends over the sale of a drum set
  - Further information indicated stabbing of two friends and tossing one over a bridge.

Case Clinic #1 – What do we know?

- What about recidivism?
  - Appears released in 2018 so still in the early stages when recidivism is higher
  - Already had an accident
  - Lower recidivism rate for violent crimes, but if commits another crime, likely to be violent

- What about mortality risk?
  - If each year in prison truly takes 2 years off of life expectancy, this individual would have 46 years off his life expectancy! Client is 41 years old.

- What about morbidity risk?
  - Already had accident, smoker

Case Clinic #2

- M48, admitted on application he was guilty of misdemeanor charge of excessive discipline of daughter 3/18. Satisfied all requirements of his one year probation.
  - What about recidivism?
    - No details to what was the conditions of probation or any time served
  - What about mortality risk?
    - If no prison time, likely no impact
  - What about morbidity risk?
    - Possible psychiatric concerns

Case Clinic #3 – Question for Underwriter

Gender:	Male
Age:	39
Height:	5ft 10in 178cm
Weight:	265lbs 120kg
BMI:	38.02
Tobacco Use:	Current use
Face Amount:	$500,000.00

- Communication from the Client Company:
  - On the application, the client admitted he was convicted of felony breaking and entering with intent to assault and received 5 years of probation. He was released from probation in 2009.
  - He also has a history of a DUI in 2005. His current admitted alcohol habits are that he drinks 1 or 2 drinks 2 - 4 times a month.
  - The client has been employed in his current job as a Manager for personnel in maintenance with an airport terminal for 3 years. Agent states that he also operates a side business to provide additional income to support his family and describes the client as a devoted family man, and states that he is changed from his life in earlier years. He is in the process of building a home and wanted the coverage to cover the costs involved in this. Please advise if you would consider coverage on the client at this time.

Case Clinic #3 – What do we know?

- What about recidivism?
  - Has stable employment now, building a home, devoted family man.
  - Released from probation 12 years ago

- What about mortality risk?
  - Served probation only- likely no long term mortality risk due to criminal history.

- What about morbidity risk?
  - Uses tobacco, remote history of DUI, with minimal consumption currently.

Case Clinic #4

- M31 Admits to ½ can skoal/day, 2008 DWI suspended x 2 years

- Application noted:
  - 6/5/08 – involved in an unavoidable accident. 2 boys crossed in front of him on a 4 wheeler while he was driving. Client had been drinking, hit and killed the 2 boys. Was charged with 2 counts of vehicular homicide. Sentenced to 20 years with 10 years being suspended. Served 4 years in jail and released 2013. Probation was 5 years which ended 2/19 (actually 2018). All restitution has been made. Married x 5 years.
  - Agent noted he knows the client well – change his life from prior mistake

- Vehicular homicide – spent 4 years in jail, out 8 or 9 years. Probation ended 2 years ago (3 years based on timeframe

- Internet search: Two 7 year old children were driving an ATV illegally on a public road

Case Clinic #4 – What do we know?

- What about recidivism?
  - Total of 13 years since conviction, 7 years after release, 3 years after probation ended
  - Statistically, still within the 9 year study showing higher risk of recidivism

- What about mortality risk?
  - 10 years off life expectancy (5 yrs x 2)

- What about morbidity risk?
  - Tobacco, any psychiatric concerns?

Case Clinic #5

- Male 44
- 8/13 felony theft of property – 2 years jail, suspended, 2 years probation. $595 fine. 3/14 amended probation term to 3 years.
- 4/17 Chapter 13 dismissed
- 10/13 Chapter 7 discharged

Case Clinic #5 – Additional information and Concerns

2015 state tax lien - $500

2016 federal tax lien $16,000

2010 state tax lien $340

2020 state tax lien $1,200

- Why was probation amended?
- Is there a persistency issue with the bankruptcies and tax lien?

Case Clinic #6 – Question for the Underwriter

- Criminal questions: How would you folks class animal abuse felony
- Questions to consider or ask……
  - Felony more significant than misdemeanor
  - Was this a federal crime vs state crime – extreme cruelty can be prosecuted as a federal crime
  - What was the punishment and when did it begin/end?

Criminal History Take Aways

- Consider the mortality risk for incarceration.
- Does the history make sense?
- Is the story consistent?
- Use your manual for guidance but remember not every crime or situation can be captured.
- What was the severity of the crime?
  - Felony vs Misdemeanor?
  - Serve prison time vs probation vs suspended sentence?
  - Remember, White Collar Crimes have victims.
  - Violent vs Non-Violent
  - Federal vs State prison system

Thank You for Your Participation – Questions?

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