

Hidden Barriers: Background Checks and Access to Housing

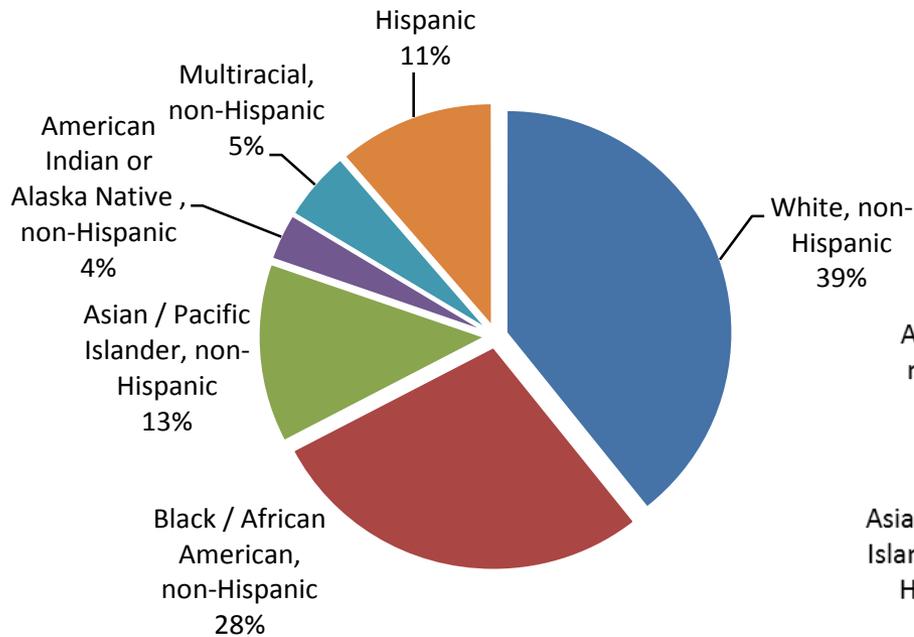
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A Brief History of Fair Housing in Seattle

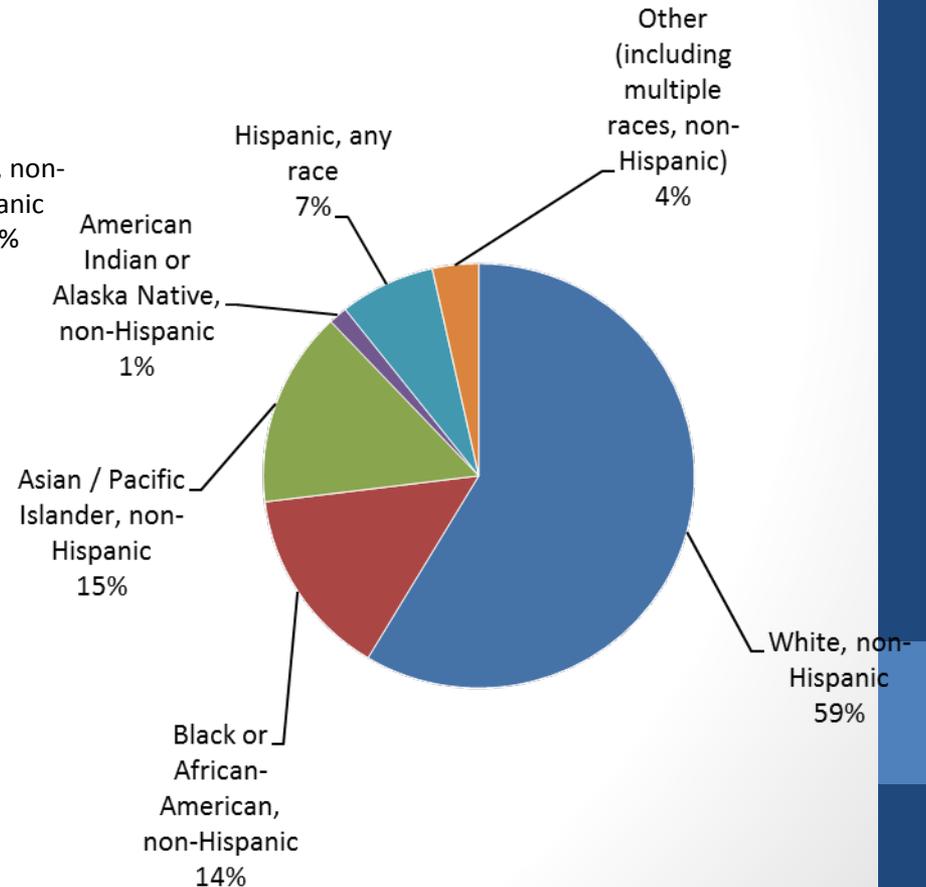
FAIR HOUSING BARRIERS

Race/Ethnicity- OH portfolio & Seattle Low Income Renters

OH Multifamily Rental Program 2011



0-80% AMI Seattle Renters, 2005-2009 CHAS Data



Pre 1960s

- Restrictive Covenants
- Few people of color lived north of Ship Canal
- 78% of African Americans live in the Central District

1963 - 1964

- Seattle Human Rights Commission formed
- Council puts fair housing to voters
- Voters defeat it- 115,627 opposed to 54,448 in favor

1968

- Attitudes begin to change
- Federal Fair Housing Act passed
- OHO passed unanimously – no referendum needed

De-segregating Seattle

In 1968, the federal government passed a law banning housing discrimination. Under pressure, the city council passed a similar Fair Housing ordinance.

Changes occurred slowly. It was not until 1980 that desegregation began to be evident in North Seattle, West Seattle, and Queen Anne.

Nonwhite Percentage of each neighborhood

Neighborhood	1960	1970	1980	1990	2000
Broadview-Carkeek	0.6%	1.5%	6.5%	14.1%	22.7%
Lake City-Haller Lake	0.6%	2.5%	9.7%	18.8%	27.6%
Ballard	0.4%	2.1%	7.0%	9.3%	12.4%
Greenlake	1.1%	3.9%	8.7%	11.3%	14.6%
University-Ravenna	1.7%	4.2%	12.1%	16.5%	20.1%
Magnolia	1.9%	3.2%	7.6%	10.8%	14.4%
Queen Anne	1.0%	3.4%	6.5%	8.5%	12.3%
Capitol Hill-Madison	5.0%	9.6%	11.4%	11.1%	12.6%
Downtown	15.7%	18.2%	27.3%	32.7%	36.9%
Garfield-Madrona	46.8%	52.0%	49.5%	45.5%	40.8%
Alki-Admiral	0.8%	2.0%	7.9%	9.9%	15.2%
Beacon Hill-Rainier Valley	15.1%	36.0%	58.4%	67.2%	69.1%
Fauntleroy-Highland Park	0.3%	5.9%	15.0%	26.2%	37.3%
Rainier Beach	7.9%	23.5%	54.5%	69.3%	78.9%

Table from Kate Davis, "Housing Segregation in Seattle"

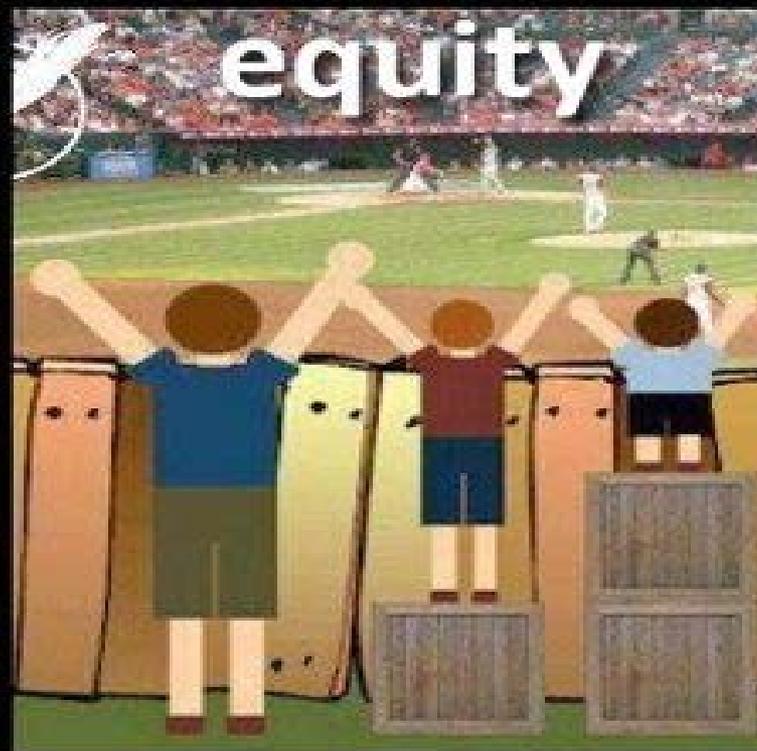
DISPARATE IMPACT
OR
DISPARATE TREATMENT?



Equality = SAMENESS

Equality is about **SAMENESS**, it promotes fairness and justice by giving everyone the same thing.

BUT it can **only work IF everyone starts from the SAME place**, in this example equality only works if everyone is the same height.



Equity = FAIRNESS

EQUITY is about **FAIRNESS**, it's about making sure people get access to the same opportunities.

Sometimes our differences and/or history, can create barriers to participation, so we must **FIRST ensure EQUITY** before we can enjoy equality.

Disparate Treatment or Impact?

Treatment

- Refusing to sell, rent or lease housing to an interested tenant based on a protected class
- Applying different sale, rental or occupancy terms for different people based on protected class

Impact

- Neutral policy
- Discriminatory effect
- No sufficient business justification
- Less discriminatory alternative available

HUD Rule, 24 CFR 100.500

- “A practice has a **discriminatory effect** where it actually or predictably results in a disparate impact on a group of persons . . . because of race, color, religion, sex, handicap, familial status, or national origin.”

HUD Rule Continued

- “A legally sufficient justification exists where the challenged practice
 - Is necessary to achieve **substantial, legitimate and non-discriminatory interest** and
 - Those interests could not be served by another practice that has a **less discriminatory effect**

Unintended consequences

Neutral Policy

- No dogs allowed
- Must be capable of living independently
- Only three persons allowed in two bedroom units

Considerations

- Goal of policy?
- Who is impacted?
- Possible discriminatory effect?
- Another way to accomplish goals?

BACKGROUND CHECKS

Legitimate Business Needs

Housing providers want tenants who:

- Pay bills on time
- Maintain property
- Respect other residents and staff
- Can comply with any programmatic requirements and further community safety.

Examples of screening criteria

- “Blanket bans”
- Crime + time categorical exclusions
- Catch-all provisions (any offense which...)
- Individual Circumstances

Unintended consequences?

Neutral Policy

- No felons

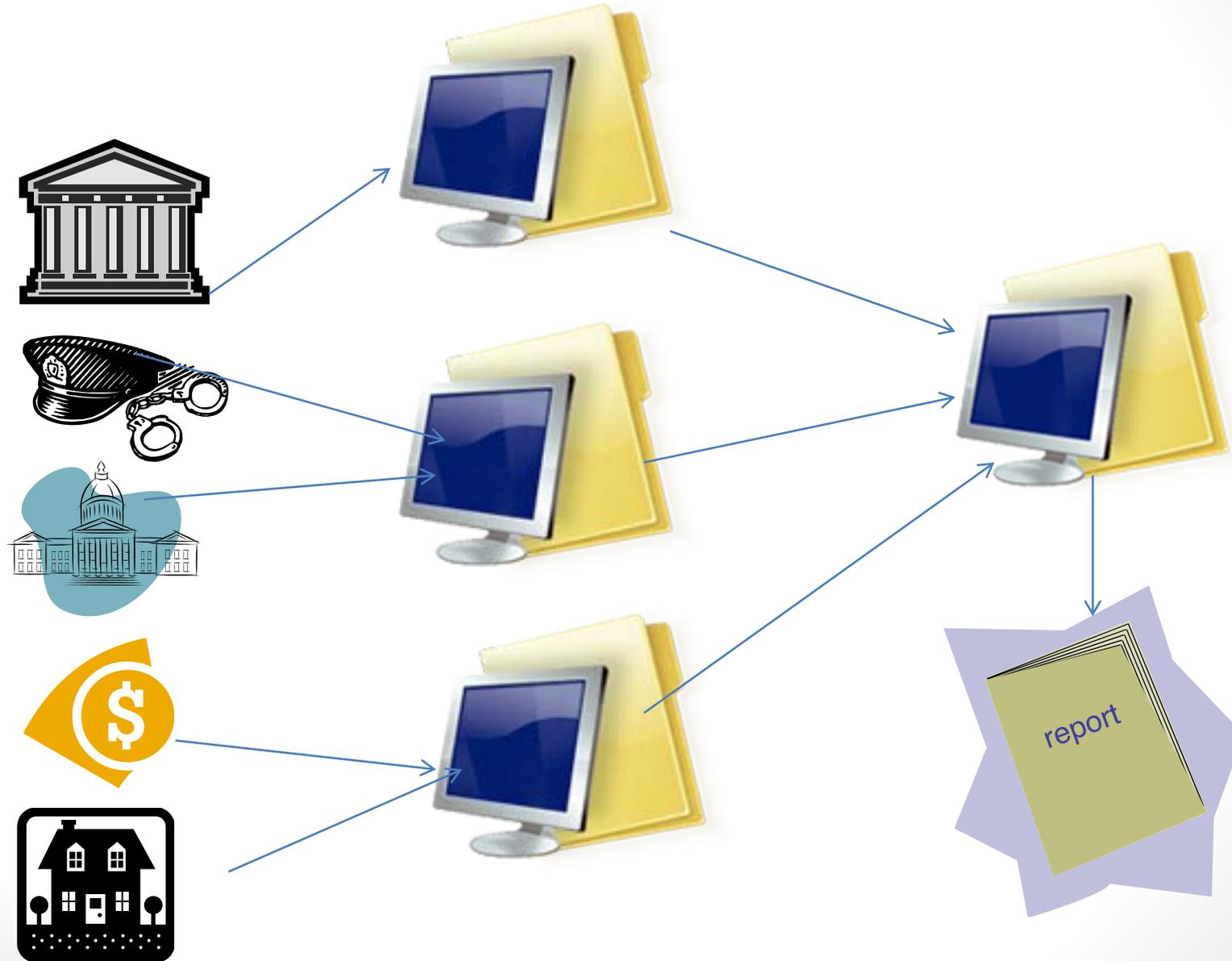
Considerations?

- Goals of policy?
- Who is impacted by policy?
- Possible discriminatory effect?
- Less discriminatory alternative?

Tenant Screeners



How does it work?



Background Checks are Often Inaccurate or Misleading

- Mismatch the subject of report with another person
- Omit information about how the case was resolved
- Report inaccurate charges
- Mischaracterize the seriousness of the charges (felony v. misdemeanor)
- Repeat the same charge multiple times
- Incorrect dates (conviction date v. closing date)

Even when correct, background checks don't tell the whole story about the conduct

ARREST 1

DATE OF ARREST: 03/28/1992

NAME USED: [REDACTED]

CONTRIBUTING AGENCY: WA0170700 KENT POLICE DEPARTMENT

LOCAL ID: 11167 PCN: N/A TCN: N/A

ARREST OFFENSES

DISPOSITION

CONTRIBUTOR OR RESPONSIBLE AGENCY:

WA017033J AUKEEN DISTRICT COURT

COURT CASE NO: [REDACTED]

STATUS: GUILTY

08459 MUNICIPALITIES CODE VIOLATION

RCW: 35.00.000

MISDEMEANOR

STATUS DATE: 08/18/1992

COMMENT: SALE OR POSSESSION OF
DANGEROUS DRUGS

SENTENCE: FINE: \$250.00

What do you think when you read this?

9.12.20 **Sale, possession or use of dangerous drugs**

It is unlawful to **sell, offer to sell, purchase, offer to purchase, give away, barter, exchange, distribute, possess or use any dangerous drug** except as now or hereafter authorized or permitted by the laws of the state or except upon the written or oral order or prescription of a physician, surgeon, dentist, or veterinary surgeon, licensed to practice in the state, which order or prescription shall not be refilled without the written or oral order of the prescriber.

1/24

MASTER CASE REPORT FORM		 KENT POLICE DEPARTMENT 220 4th Avenue South Kent, Washington 98032 (206) 859-3315		CROSS-REF 1 CROSS-REF 2 CROSS-REF 3 CROSS-REF 4				
MASTER INCLUDES: <input checked="" type="checkbox"/> SUSPECT FORMS <input type="checkbox"/> ADD'L PERSONS/VEH <input type="checkbox"/> PROPERTY REPORT		<input checked="" type="checkbox"/> EVIDENCE LOG <input type="checkbox"/> VEHICLE FORM						
CASE SUMMARY	<input type="checkbox"/> RCW <input checked="" type="checkbox"/> KCC	<input type="checkbox"/> NO CRIME <input type="checkbox"/> _____	PRIMARY STATUTE 9.17.22	CRIME/INCIDENT TYPE POSS. OF MARIJUANA	PRIMARY/COUNTS 180109 11	2ND 7	3RD 1	
	ADDRESS [REDACTED]		APT/SUIT BUSINESS NAME NEW BEST MOTEL	LOCATION IF NO ADDRESS KENT		CITY KENT		
	OCCURENCE DATE/TIME 03-28-92/0055			DATE/TIME 03-28-92/0055		REPORTED DATE/TIME 03-28-92/0055	HOW TRK <input checked="" type="checkbox"/>	
	REPT. OFFICER ID # [REDACTED]	LAST NAME, INITIALS THOMAS, K.E.		REVIEWER ID # [REDACTED]	LAST NAME, INITIALS TOWNE, J.D.		CASE STATUS K	
	CLOSED BY OFFICER ID #	LAST NAME, INITIALS		IF CLEARED CODE E	OFFICERS INJURED? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES NUMBER		OFFICERS KILLED? <input type="checkbox"/> NO <input type="checkbox"/> YES NUMBER	
INVOLVE <input type="checkbox"/> RP	NAME (Last, First, Middle) <input checked="" type="checkbox"/> PERSON <input type="checkbox"/> BUSINESS			SEX <input type="checkbox"/> M <input type="checkbox"/> F	RACE	DOB (Age)	OCCUPATION/EMPLOYER	

arrested [REDACTED] in the past for VUCSA and have received information from a street source as well as a Confidential Reliable Informant, that [REDACTED] is living at the NEW BEST MOTEL and is dealing cocaine on a regular basis.

The driver, [REDACTED], then exited the vehicle. While Officer DENNIS ran a computer check on the subjects, I spoke with [REDACTED]. I asked her if she was aware that [REDACTED] may be involved in drug dealing. She said no, that she was just giving him a ride. I asked her if the vehicle was hers and she said yes. I then asked [REDACTED] if there were any drugs in the car and she said no, do you want to search it, go ahead. [REDACTED] said that she works for an attorney and is not involved in drugs.

[REDACTED] was holding a purse. I asked her if I could take a look in her purse first. She said okay and opened the purse. While holding the purse, she moved the items around so I could see. While filing through the purse, I noticed a cigarette package containing suspected marijuana. I seized the suspected marijuana.

[REDACTED] parking lot is a well lighted lot with several lights. I

Example 2

Case #10 -----
Case: ██████████
Court: MUNICIPAL COURT OF SEATTLE
Code: 12A060100
Violation: ASSAULT
Date: 07/21/2007
Status: GUILTY

What does assault involve?

Assault =

Attempt with unlawful force to inflict bodily injury

Intentional unlawful touching

Putting another in apprehension of harm whether or not the actor intends to inflict harm or is capable of inflicting harm

Other Examples

Theft 1: Not reporting attempted reconciliation with spouse while receiving public assistance

Malicious Mischief: Breaking a CD in an argument

Manufacturing, sale, delivery or possession of a controlled substance: Possession of less than $\frac{1}{2}$ g of cocaine

Obstructing a law enforcement officer: Running away from a police officer pointing a Taser at defendant

Assault: Victim of domestic violence convicted of assaulting her abuser

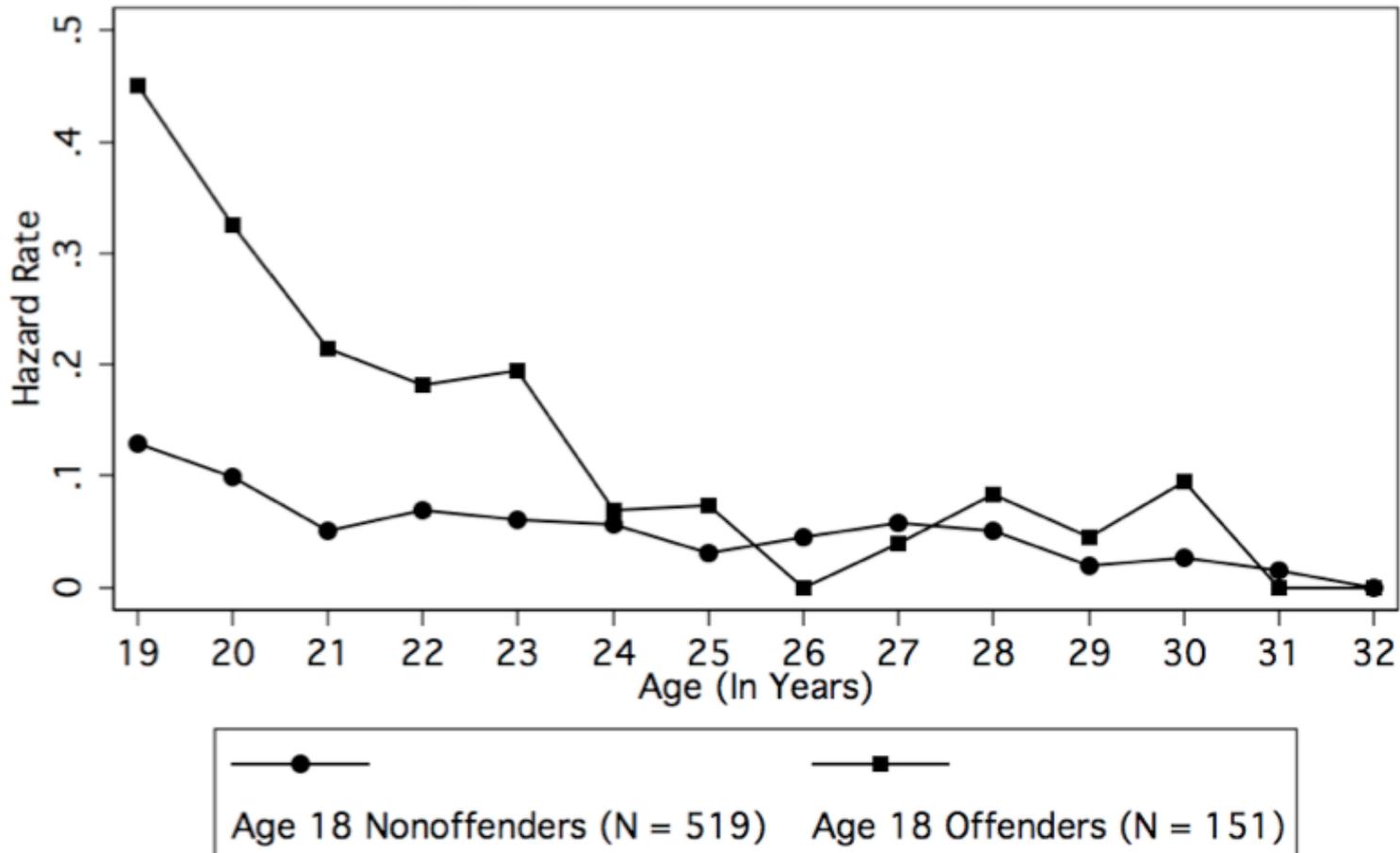
How can you verify the facts?

- Applicant's statement
- Statements from probation/attorney/counselor
- Statutes (search for RCW online)
- Law enforcement records
 - Police reports
 - Incident reports
- Court records
 - Information
 - Statement of defendant on plea of guilty
 - Judgment and sentence
 - Case dockets

Selecting a quality screener

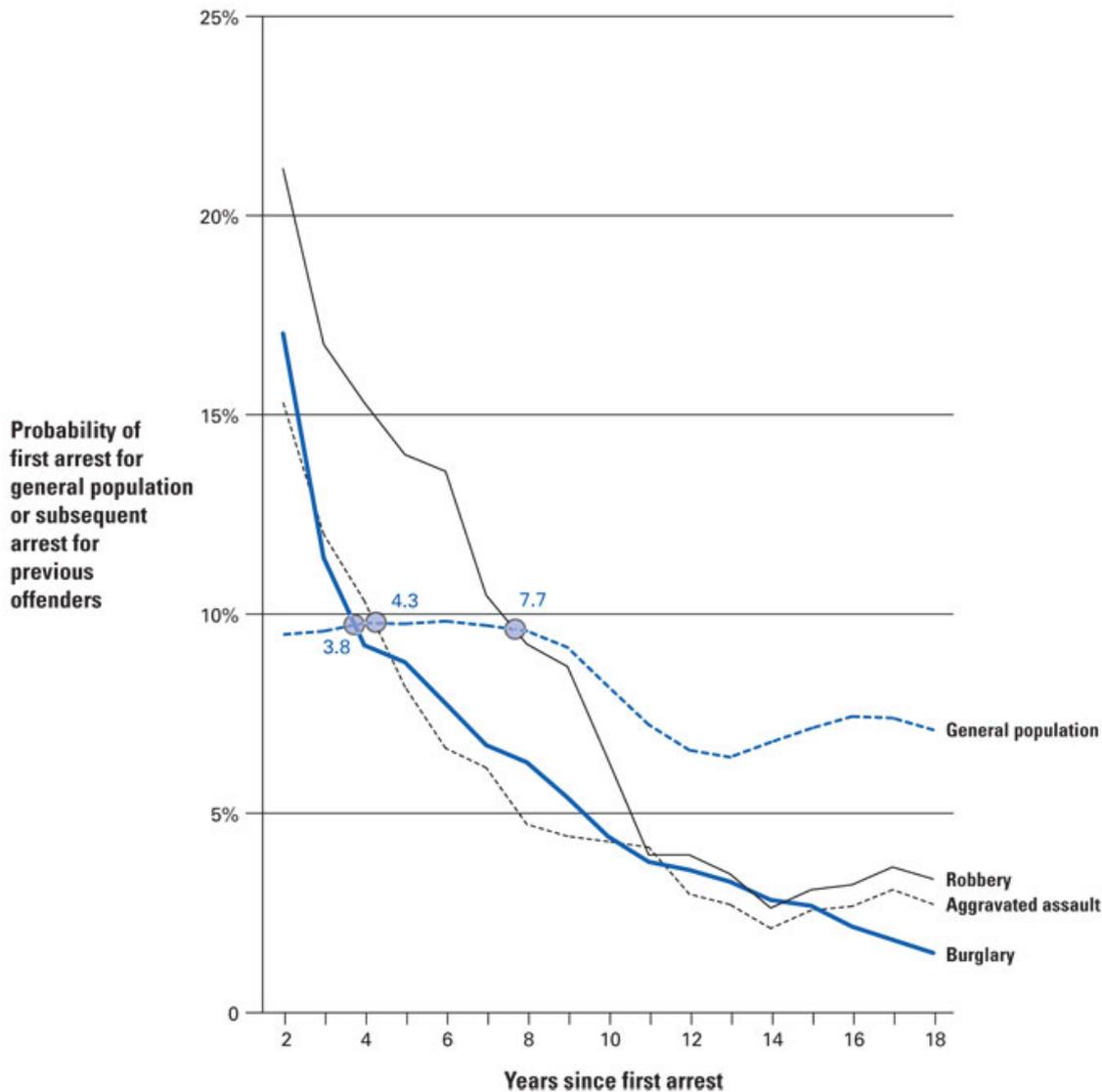
- What **source** information does the screener use?
- How **frequently** does it update its databases? If it relies on another's database, how often is that updated?
- Does the screener **confirm** public record information against the original source?
- What's the **format**? Are all charges related to a single incident reported as a single entry?
- What **criteria** does the screener use to match an applicant with a record (name, date of birth, gender, race, physical description, driver's license number?)

Background checks don't account for how people change



Kurlychek, et al. "Scarlet Letters & Recidivism: Does An Old Criminal Record Predict Future Criminal Behavior?," 2006

The probability of new arrests for offenders declines over the years and eventually becomes as low as the general population.



Years to general risk:

Burglary: 3.8

Assault: 4.4

Robbery: 7.7

Blumsten and Nakamura,
"Redemption in the Presence
of Widespread Criminal
Background Checks

How can you verify changed circumstances?

- Applicant statement
- Recommendations from
 - Employer
 - Coworkers
 - Volunteer Supervisor
 - Teachers/ School Officials
 - Training Programs
- Statements from social service providers
- Statements from court/law enforcement personnel
- Certificates of completion or participation
 - Treatment
 - Training

Questions to consider

- What are the essential housing requirements?
- What supports does housing provide?
- What specific offenses may demonstrate inability to meet those requirements?
- What is the time period for exclusions?
- What other factors matter?
- Who can I consult with and what research can I review to help make these decisions?

Sample policies

- Let applicants know they can provide **information about the case or changed circumstances** and when it will be considered.
 - Example: Vancouver Housing Authority: Considers wide range of evidence of rehabilitation
- Consider only **recent and relevant** criminal history
 - Example: Baltimore City Housing Authority: up to 18 months for misdemeanors, 3 years for felonies.
- Provide applicants with a copy of the screening report reviewed by the housing provider
- Document your decision for each applicant whose criminal history is a factor (checklist).

DISCUSSION