

Policy Brief: The State of Predictive Policing in Canada

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Executive Summary

- ___ 'Predictive Policing' refers to the technology and policing methods built upon the use of mass data processing to predict potential criminal activity.
- ___ It includes automated surveillance and drawing inferences through processed data by law enforcement agencies.
- ___ The procedure helps police officers decide where to deploy more personnel (location-based policing) and identify individuals who are more likely to commit or be a victim of crime (person-based policing).
- ___ This is a leap in the advancement of the criminal justice system as it leads to informed decision-making and encourages police officers to rely on data rather than their instincts.
- ___ However, the practice is plagued by systemic biases resulting in negative feedback loop systems that classify individuals from historically disadvantaged backgrounds as high-risk.
- ___ It is also criticized because it involves an unjustified intrusion in people's personal lives. This is further exacerbated as law-enforcement agencies hide behind the privilege clause and refuse to disclose information about the adoption of policing algorithms with the general public. (Norga *4 benefits and 4 drawbacks of Predictive Policing*)

Scope of Problem

Predictive policing algorithms encompass a broad range of surveillance mechanisms. This include but are not limited to analysis of historical crime data, automated license plate readers, facial recognition, and social media surveillance algorithms. Naturally, reliance on

strong monitoring practices leads to an unjustified invasion of personal liberty as part of data collection, processing, storage and sharing. This is because policing methods rely on the aggregation and algorithmic analysis of sensitive information. This is further processed to single out individuals and locations that are seemingly high-risk for the police department. The results can paint a detailed picture of individuals they may not expect to exist, let alone be possessed by the government for examination. (Robertson et al. *To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada* Kate Robertson)

It is also crucial to note that data sets inputted into the systems consist of several social and historical biases, which may lead to unreliable conclusions about particular locations and individuals. This is because policing data sets are dominated by information about groups that were historically affected by over-criminalization, like Black and Indigenous communities. Hence, any analysis drawn from a biased dataset like this further exacerbates the issue of systemic targeting of equity deserving groups.

Considering the thematic issues highlighted above, this report aims to answer the following two questions:

1. How can we balance the priorities between enforcing the law and safeguarding citizens while respecting the civil liberties of individuals, like the Right to Privacy?
2. What methods and practices can be utilized to ensure fairness and transparency are considered when predictive policing methods are designed or adopted?

Research Overview: The Current State of Predictive Policing

The use of algorithmic policing is relatively widespread in Canada. A report by Citizen Lab confirms that the Vancouver Police Department and the Saskatoon Police Service have

developed policing methods for criminal interventions. Additionally, police services like Calgary and Toronto are reported to have obtained technologies to build predictive policing systems. Lastly, numerous law enforcement agencies use or are developing surveillance mechanisms like monitoring geolocation and biometrics data to guide the deployment of personnel and lead policing action. (Robertson et al. *To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada* Kate Robertson)

At the same time, the Canadian legal system lacks well-defined and robust safeguards for the use of predictive policing methods. Further, there are inadequate oversight mechanisms to ensure surveillance, if any, is in accordance with constitutionally defined boundaries. These legally entrenched safeguards are crucial to maintaining individuals' privacy and civil liberties, especially ones with disadvantaged backgrounds. For instance, Citizen Lab's analysis on *Algorithmic Policing in Canada* reveals that the Ontario Provincial Police and the Waterloo Regional Police Service intercepted private communications in online chat rooms using 'ICAC Child Online Protection System.' The software enabled police officers to keep chat rooms open so that messages do not automatically disappear and the content is stored in a searchable database. While the Crown Prosecutor concluded that this was unauthorized surveillance and a blatant invasion of privacy, the case was discontinued by the Crown, and hence, no legal action was taken. (Robertson et al. *To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada* Kate Robertson)

The invasion of privacy is compounded by law enforcement agencies' lack of fairness and transparency concerning their usage of policing methods. It is worrisome that a lot of Freedom of Information (FOI) requests related to predictive policing are usually left unanswered by agencies deeming it to be privileged information. There is also an overriding concern that algorithms are a

mere continuation of existing tools that perpetuate and justify systemic violence. In other words, predictive policing is seen as a fancy way to profile BIPOC communities, trans and queer individuals, as well as people living with disabilities or mental health issues.

Policy Recommendations

Given the current state of predictive policing in Canada and the jurisdictional experience of the United States of America and the United Kingdom, we recommend the following policy actions:

1. Municipal, provincial and the federal government must outline conditions for usage of predictive policing systems. These conditions should ensure that police authorities only use these technologies to the necessary extent. The pursuit of these technologies is only justifiable if it significantly reduces crime, considering the costs, risks, and harms ensued by their usage. This must be followed by placing a moratorium on all technologies that fail to meet the defined criteria. (Robertson et al. *To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada* Kate Robertson)
2. Law enforcement agencies should upgrade dataset integrity and management practices, including an option for individuals to verify the personal information stored by police authorities. This includes regular audits, conforming to data standards under the privacy legislation in Canada and establishing maker-checker mechanisms. Only data passing these standard levels should be upheld for criminal justice purposes. (Robertson et al. *To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada* Kate Robertson)
3. Law enforcement agencies must regularly track the potential emergence of bias in the use of predictive policing methods. These trackers should be capable of catching biases

related to socially and historically oppressed communities. Additionally, extreme caution must be exercised to use proxy indicators as they have increasingly been linked with potentially sensitive information like mental health status, ethnicity, and dependence on government services. (Robertson et al. *To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada* Kate Robertson)

In sum, mitigating strategies are imperative to reduce concerns related to privacy and systemic discrimination by the criminal justice system. If not catered to, predictive policing will continually pose a threat to the privacy of Canadian citizens and encourage systemic discrimination and violence in the country.

References

- Kate Robertson, Cynthia Khoo, and Yolanda Song, “To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada” (September 2020), Citizen Lab and International Human Rights Program, University of Toronto.
- Platform, European Liberties. “4 Benefits And 4 Drawbacks Of Predictive Policing | Liberties.Eu.” *Liberties.Eu*, Alice Norga, 21 July 2021, <https://www.liberties.eu/en/stories/predictive-policing/43679>.