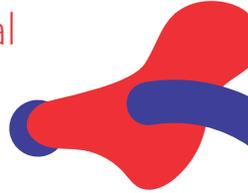




CCI
CUTTING CRIME
IMPACT

Factsheet

Ethical, Legal & Social issues impacting Predictive Policing



This Factsheet is based on CCI research conducted for the Review of Ethical, Legal & Social issues impacting Predictive Policing. It follows on from Factsheet 1 "Review of State of the Art: Predictive Policing".

Cutting Crime Impact (CCI)

CCI is an EU-funded Horizon2020 project that enables Law Enforcement Agencies (LEAs) and relevant local and national authorities (i.e. security policymakers) to reduce the impact of crime and, where possible, prevent crime from occurring in the first place. The CCI project will enable a preventative, evidence-based and sustainable approach to tackling high-impact petty crime.

The CCI project is centred around designing, developing and demonstrating four toolkits, in the areas of:



Predictive Policing



Community Policing



Crime Prevention through Urban Design and Planning (CP-UDP)



Measuring and mitigating citizens' feelings of insecurity

What is Predictive Policing?

Predictive Policing can be described as the "collection and analysis of data about previous crimes, for identification and statistical prediction of individuals or geospatial areas, with an increased probability of criminal activity to help develop policing intervention and prevention strategies and tactics."¹ Predictive Policing systems potentially also use data from other sources, including socio-economic data and traffic networks.

Why do ethics and human rights matter for Predictive Policing?

Digitalisation and related technological developments have created new opportunities for LEAs in preventative action through the mobilisation of vast amounts of data from a wide range of sources. However, research on global surveillance has highlighted **the need for more public and political debate on the use of data in the context of LEAs.**

As recognised by the United Nations in numerous resolutions, **the right to privacy in the digital age applies online as much as offline.** However, it remains often unclear how it should be interpreted in detail — particularly when considering the application of methods such as Predictive Policing. Predictive Policing is based on opportunities provided by modern information technologies, large datasets — so-called

"Big Data" — and automated decision-making.

LEAs are facing increasing scrutiny about their practice in the digital domain, and Predictive Policing has received significant attention in recent years. Aside from questions around bias and the unfair targeting of minorities, ethnic or religious groups, fears of a 'Big Brother' state remain. Decisions on the use of Predictive Policing must **consider bigger societal questions around power, governance and the relationship between the state and individuals.** In the absence of detailed legal frameworks addressing these issues, it is vital to reflect on ethical imperatives as well as human rights and to include the findings of this process early in the development of new toolkits. Such open discussion helps LEAs to understand the

¹ Meijer, A. and Wessels, M. (2019) "Predictive Policing: Review of Benefits and Drawbacks", International Journal of Public Administration, p. 3.



shifting power-relations between government, the private sector, individuals and the communities that policing seeks to protect. Importantly, any technological policing tool must reflect an **understanding of**

public security and the role of LEAs in Europe, which have to consider human dignity and individual freedom. This aspect may sometimes be overlooked and underemphasised in the day-to-day work of LEAs.

Predictive Policing and the larger discussion about automated decision-making in public administration.

Ethical issues concerning Predictive Policing **are grounded in the wider context of digitalisation and related discussions on automated decision-making (artificial intelligence or "AI")**, surveillance and the impact of the use of such technologies on the development opportunities of individuals and groups. This particularly affects the right to information (transparency), freedom of expression and privacy.

The rapid mass-adoption of such autonomous systems seems to **affect all sectors of public administration, particularly the security sector** (e.g. border control, Predictive Policing). However, the popularity of such systems with policy- and decision-makers is in stark contrast to the awareness of the general population of their use, or the perception of usefulness of the underlying technologies.

Ethical concerns

Predictive Policing evokes a wide range of ethical concerns. This overview presents several salient aspects that should be addressed when designing Predictive Policing toolkits:

Data selection and machine bias

- The selection of data that forms the basis of a forecast is essential. The lack of data, irrelevant data, inaccurate data, outdated data or the use of data that is otherwise of **poor-quality, may lead to bad predictions.**
- **Historic crime data raises the question whether the resulting automated decisions are reinforcing potentially inherent bias and discrimination.**

Visualisation and interpretation of forecasts

- Predictive Policing can be understood as a data-driven method for 'looking' at the probability of crime. A specific area will be highlighted where the system predicts crime is more likely to occur. **If too many areas demand attention, the threshold for highlighting areas is too low, or areas are flagged on the wrong basis (e.g. "poor-quality" data), the tool will confuse rather than support LEAs.**
- Furthermore, the design of dashboards and visualisation tools is both a communication design as well as a scientific issue. **The manner in which data is communicated to users directly influences its comprehension, perceived priorities and the actions that will be taken.**

Transparency and accountability

- In terms of trust: **When using such systems, are LEAs able to clearly explain sending officers to monitor a specific location or to target a potential victim or offender of crime?**
- Regarding transparency and accountability: **Is the relationship between developers of software algorithms, managers of databases and the police officers on the streets in neighbourhoods clearly considered and transparent?**
- In terms of data protection: LEAs generally use Predictive Policing tools that they buy from private corporations. **Does ownership of data and system-generated insights remain with the state? Or will such private corporations gain the ability to create superior insights on safety and security by pooling the data from multiple LEA customers?**

Stigmatisation of individuals, environments and community areas

- **Individual stigmatisation** can occur when, for the purpose of assessment of individual likelihood of recidivism, individuals are assessed and subsequently subjected by LEAs to different targeted approaches than they would have been without that knowledge.
- Stigmatisation of individuals in at risk communities can also occur when data analytics suggest police interventions in certain neighbourhoods. Visualisation methods that emphasise the connection between crime and **specific locations may be of concern if the use of Predictive Policing results in stigmatisation of community areas.** While LEAs and the general population might already be associating certain areas of a community with more crime, the use of data to strengthen this may reinforce prejudices.

Legal Concerns

The introduction of Predictive Policing raises concerns about increased government-led monitoring and surveillance. This can be linked to debates about privacy in the digital age, the ability to enjoy freedom of expression, and rights to information access.

Privacy is typically seen as an individual right, focusing on the implications of arbitrary, unnecessary and disproportionate state behaviour to limit the integrity of physical personal space and deliberation. However, more recently the discussion of scholars has shifted

towards considering the protection for groups in the context of individual and group autonomy.

A 2017 report on 'Big Data and security policies'² highlights the three main aspects of the legal and procedural challenges. Firstly, the need to establish a duty of care when it comes to the selection of data. Secondly, additional regulation covering the creation of profiles is advisable. Thirdly, the possibility for judicial review of data-driven security decisions is crucial to stimulate the development of case law in this area.

²Dennis Broeders et al., "Big Data and security policies: Towards a framework for regulating the phases of analytics and use of Big Data". *Computer Law and Security Law Review* 33 (2017) 309-323. from: <http://dx.doi.org/10.1016/j.clsr.2017.03.002>

EU, Council of Europe and UN Instruments:

1. Treaty on the European Union (TEU)
2. The Charter of Fundamental Rights of the EU (CFEU)
3. EU Directive 2016/680 on processing of personal data by LEAs
4. EU General Data Protection Regulation (GDPR)
5. European Convention of Human Rights (ECHR)
6. Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe (Convention 108)
7. Resolution(s) on the right to privacy in the digital age (UN)
8. Universal Declaration of Human Rights (UNDHR)
9. International Covenant on Civil and Political Rights (UN ICCPR)



Social challenges



Both the ethical and legal domain intersect with social challenges. As Predictive Policing is introduced, real-world implications for citizens emerge. Predictive Policing raises questions about trust in government, the social contract between state and citizens, democracy and the rule of law. If ethical and legal issues are not addressed in the design of

these systems and technologies, then its implementation can and will lead to considerable societal disruption. Furthermore, if certain groups or communities are unfairly targeted, or perceive this to be the case, trust in the police will suffer — potentially resulting in reputational damage for state authorities.

Lessons learned from CCI

Predictive Policing is becoming an established practice in Europe. By engaging with the many complex questions that digitalisation brings to policing, an opportunity emerges to re-evaluate LEA tasks and processes. However, the increasing importance of data-enabled interfaces to forecast and prevent crime comes with the risk that the tools themselves become more important than the objectives they are meant to achieve.

It is necessary to address several inter-connected ethical, legal and social issues as outlined above. These are centred around the themes of data selection and machine bias, visualisation and interpretation of forecasts, transparency and accountability, time and effectiveness as well as the problem of stigmatisation of individuals, environments and community areas.

If the culture around the collection and use of data is valid and the decision-making processes, as well as their interpretations, are well-understood by LEAs, then Predictive Policing can become a tool to create a better internal understanding of processes. In this sense, Predictive Policing could support the creation of public legitimacy and trust. If the focus on the benefits for the human individual and the good for society are maintained, Predictive Policing has the potential to improve the work of LEAs.



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