Jonathan Swotinsky

Ethics & Computer Science

Summary of "Imagine Being on Trial. With Exonerating Evidence Trapped on Your Phone." by Kashmir Hill

In the article, "Imagine Being on Trial. With Exonerating Evidence Trapped on Your Phone." Kashmir Hill explores the inequities that exist in the application of Computer Science to the criminal justice system. In particular, Hill highlights several examples of tools and software that police and prosecutors use to build cases against defendants, noting that defendants do not have the same level of access to such tools and software to build a defense case. "This tech gap has two basic forms. First, law enforcement agencies can use warrants and court orders to compel companies to turn over emails, photos, and other communications, but defense lawyers have no such power. And second, the government has access to forensic technology that makes digital investigations easier." (Hill, 2019). Hill also notes that there is a cost barrier due to the tight budgets of public defenders' offices.

When accessible to both prosecutors and defendants, the technological resources Hill describes have a significant influence on both prosecutors' and defendants' ability to build strong cases. For example, "Touch2 [manufactured by Cellebrite] is able to pull data from almost any gadget and preserve it in a format that courts will accept as evidence." (Hill, 2019). The same company also manufactures software, CloudAnalyzer, that can access data on Google's servers. Hill describes one case in which "Google's minute-by-minute accounting of [the defendant's] whereabouts proved beneficial" eventually leading to the dismissal of his case. (Hill, 2019). However, not all defendants have the means to pay for such technology. The combined costs for the technology described above exceeds twenty thousand dollars. Other companies, such as Grayshift, which manufactures a device known as "GrayKey that has allowed law enforcement agencies to break into and extract data even from encrypted iPhones" (Hill, 2019), will not even sell its software to defendants, their attorneys, or public defenders. Hill also notes that "public defenders are also at a disadvantage to prosecutors when

it comes to interacting with big tech companies… Facebook, Google, and Twitter have special online portals for law enforcement agencies, which makes it easier for them to request information from users' accounts. But there are no equivalent portals for public defenders." (Hill, 2019)

This article is particularly relevant given the backdrop of recent social and political events. The "Black Lives Matter" movement, "Defund the Police" movement, and recent protests have highlighted now, more than ever, the importance of addressing equity issues within the criminal justice system. This article highlights the role Computer Science plays in either exacerbating or remedying such issues. Barring privacy concerns (which are not significantly addressed in this article, but should be considered as well), the use of technology in law enforcement has many benefits. Technological devices, such as those described in this article, and sophisticated software not only help law enforcement agencies solve crimes. They also help prosecutors build cases. In this sense, the use of technology in the criminal justice system protects our communities. However, it is equally important to protect the rights of those members of our communities who are on trial. It is scary to think that the outcome of a trial could rely on which side has access to better technology. In realty, for most cases, it is likely that several different factors contribute to the outcome. However, given that defendants are presumed innocent until proven guilty, a system in which defendants do not have access to the same technology to defend themselves as prosecutors have to prosecute them does not seem like a truly just system. This article left me asking the question, "If the criminal justice system is designed to serve the public (including defendants), why isn't there legislation that mandates equitable access to the technology and software that are used to build cases?"

REFERENCE:

Hill, K. (2019, November 22). Imagine being on trial. With exonerating evidence trapped on your phone. *New York Times*. https://www.nytimes.com/2019/11/22/business/law-enforcement-public-defender-technology-gap.html