I affirm the resolution Resolved: Predictive policing is unjust.

To clarify today’s debate, I offer the following definition by the ACLU.

Predictive policing is a system that “relies on using advanced technological tools and data analysis to take proactive measures to ‘pre-empt’ crime”

With this definition in mind, I value justice, defined by Phillip Montague of the Philosophical Quarterly as giving each their due. To uphold a value of justice I propose a value criterion of minimizing structural violence, defined by Adam Burtle, United States Citizen Ambassador to the United Nations, as “systematic ways in which social structures harm or otherwise disadvantage individuals.”

C1: Predictive Policing promotes racial profiling

A: The system is based on dirty data

At the end of the day, predictive policing is only as good as the data it is fed, and the reality is that the algorithms are being fed extremely bad data. In fact, Rashida Richardson and others of the NYU Law Review in 2019 find that …

RASHIDA RICHARDSON, JASON M. SCHULTZ & KATE CRAWFORD, New York University, "DIRTY DATA, BAD PREDICTIONS: HOW CIVIL RIGHTS VIOLATIONS IMPACT POLICE DATA, PREDICTIVE POLICING SYSTEMS, AND JUSTICE ", 2019, <https://www.nyulawreview.org/wp-content/uploads/2019/04/NYULawReview-94-Richardson-Schultz-Crawford.pdf>

“Law enforcement agencies are increasingly using predictive policing systems to forecast criminal activity and allocate police resources. Yet **in numerous jurisdictions, these systems are built on data produced during documented periods of flawed, racially biased, and sometimes unlawful practices and policies (“dirty policing”).** These policing practicesand policies shape the environment and the methodology by which data is created, **which raises the risk of creating inaccurate, skewed, or systemically biased data** (“dirty data”). If predictive policing systems are informed by such data, they cannot escape the legacies of the unlawful or biased policing practices that they are built on. Nor do current claims by predictive policing vendors provide sufficient assurances that their systems adequately mitigate or segregate this data. In our research, we analyze thirteen jurisdictions that have used or developed predictive policing tools while under government commission investigations or federal court monitored settlements, consent decrees, or memoranda of agreement stemming from corrupt, racially biased, or otherwise illegal policing practices. In particular, we examine the link between unlawful and biased police practices and the data available to train or implement these systems. We highlight three case studies: **(1) Chicago, an example of where dirty data was ingested directly into the city’s predictive system; (2) New Orleans, an example where the extensive evidence of dirty policing practices and recent litigation suggests an extremely high risk that dirty data was or could be used in predictive policing**; and (3) Maricopa County, where despite extensive evidence of dirty policing practices, a lack of public transparency about the details of various predictive policing systems restricts a proper assessment of the risks.”

Tristan Greene of The Next Web demonstrates the scope of this problem on February 21, 2019 when he reported that …

Tristan Greene, The Next Web, "Predictive policing is a scam that perpetuates systemic bias", February 21, 2019, <https://thenextweb.com/artificial-intelligence/2019/02/21/predictive-policing-is-a-scam-that-perpetuates-systemic-bias/>

**A team of researchers from the** [**AI Now Institute**](https://ainowinstitute.org/) **recently** investigated thirteen police jurisdictions in the US that were utilizing predictive policing technology. At least nine of them “appear to have used police data generated during periods when the department was found to have engaged in various forms of unlawful and biased police practices” according to their findings. Think about that for a second. **Nine out of thirteen cop shops using AI to predict crime are likely using data biased by illegal police practices. That’s the very definition of “inherent systemic bias.”**

It is quite clear that dirty data that fuels numerous police jurisdictions’ predictive policing software creates systems that only perpetuate systemic bias, placing minorities under unfair scrutiny by the police.

B: The algorithms wrongly flag African Americans more often

The structural violence inflicted upon minorities is only furthered by predictive policing algorithms when they create “risk scores.” Julia Angwin and her colleagues found for ProPublica on May 23, 2016 that

Julia Angwin, Jeff Larson, Lauren Kirchner, Surya Mattu, ProPublica, "Machine Bias — ProPublica", May 23, 2016, <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>

Predictive models incorrectly flag black defendants who will not re-offend more often than they do for white defendants. In what is the most widely cited piece on bias in predictive policing, ProPublica reports **the nationally used COMPAS model** (Correctional Offender Management Profiling for Alternative Sanctions) **falsely flags white defendants at a rate of 23.5 percent and black defendants at 44.9 percent.** In other words, black defendants who don’t deserve it are erroneously flagged almost twice as much as undeserving whites.

By continuing the use of predictive policing we see that African Americans are going to be unfairly incarcerated for longer, lose the chance for parole, and experience other detrimental impacts at twice the rate undeserving white defendants are. This is blatant structural violence and we need to affirm to uphold the legitimacy of our systems of justice.

C: Justification for racial profiling

When predictive policing is in effect, many cops across the nation are able to hide behind the algorithms of predictive policing to justify their biases. Andrew G. Ferguson reported for the Washington University Law Review in 2017 that …

Andrew G. Ferguson, Washington University Law Review, "Policing Predictive Policing", 2017, <https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=6306&context=law_lawreview>

More bluntly, the initial predictive policing projects have raised the question of whether this data-driven focus serves merely to enable, or even justify, a high-tech version of racial profiling.242 If the underlying data is biased, then how can a data-driven system based on that data not also be biased?243 As civil liberties advocate, Hanni Fakhoury, has warned: **It ends up being a self-fulfilling prophecy**. . . . **The algorithm is telling you exactly what you programmed it to tell you. “Young black kids in the south side of Chicago are more likely to commit crimes,” and the algorithm lets the police launder this belief.** It’s not racism, they can say.They are making the decision based on what the algorithm is, even though the algorithm is going to spit back what you put into it. And if the data is biased to begin with and based on human judgment, then the results the algorithm is going to spit out will reflect those biases.

It is evident that predictive policing only disadvantages communities of color by increasing incarceration rates in those communities as well as the number of felons all because bad cops are predisposed to treat minorities worse, and now we can’t even expose individuals’ racist practices as they can hide behind an algorithm. Robert D. Crutchfield and Gregory A. Weeks discuss the profound effects of these practices for the journal ISSUES in Fall of 2015.

Robert D. Crutchfield and Gregory A. Weeks, ISSUES, "The Effects of Mass Incarceration on Communities of Color | Issues in Science and Technology", Fall 2015, <https://issues.org/the-effects-of-mass-incarceration-on-communities-of-color/>

So, although the committee could not affirm that high levels of incarceration increases crime in disadvantaged minority neighborhoods, it did find that the quantitative evidence is suggestive of that pattern. And a number of ethnographers—who have been spending time in these communities and watching how families, friendship networks, and communities are faring—are adding additional evidence that indicates that **high levels of imprisonment, concentrated in disadvantaged communities of color, are** indeed **criminogenic**. Researchers are increasingly finding that both the collateral consequences of imprisonment, and living in communities from which many of the imprisoned come from and return to, do have detrimental effects. And these effects are visited upon the reentering individual, on their families, and on the communities at large. Reentering former inmates’ chances of success and reduced probability of recidivism are enhanced if they are returning to healthy families and can find decent employment. It has been well established that men, whether or not they have been to prison, are less likely to be involved in crime if they are in stable intimate relationships, employed gainfully, and living in decent housing. And for those returning from prison, those who establish these life patterns are more likely to have successful reentry to their communities. Importantly, a large proportion of men being released from prison hopes to and expects to live with their children. But **families and children are negatively affected when parents go into prison, as well as when they return.** Unfortunately, in places characterized by high levels of incarceration, there are additional challenges. Studies of the effects ofhigh incarceration rates in neighborhoods in Oakland have found that important institutions—families and schools, as well as businesses and criminal justice personnel, such as police and parole officers—have become reconfigured to focus on marginalized young boys, increasing the chances that they become more marginalized and involved in crime. Other **studies in** similar places in **Philadelphia have also found that high levels of imprisonment undermined familial, employment, and community relationships, increasing the likelihood of criminal involvement. Additionally, researchers in San Francisco, St. Louis, Seattle, and Washington, D.C., have found that housing,** family **relationships,** marriage, **and successful reentry after prison appear to be negatively influenced by high neighborhood levels of incarceration.** Substantial policy changes that create more robust state efforts to support individuals during reentry will not only help them, but their families and the places they return to as well. More ominously, evidence indicates that these patterns likely have a vicious intergenerational cycle. **Children of individuals who have been imprisoned have reduced educational attainment,** which obviously bodes ill for their future economic competitiveness. This means that in places with high levels of incarceration, this practice is contributing to another generation that has a heightened likelihood of living in disadvantaged communities. Additionally, researchers have found that judges are more likely to sentence children who come before the juvenile court more harshly if they come from disadvantaged neighborhoods than from more stable communities—yet again continuing the cycle of people moving from disadvantaged places to prison, which makes those neighborhoods more marginalized, which then increases the likelihood of the state removing more people, both juveniles and adults, into the corrections system.

Predictive policing is uniquely oppressing underrepresented groups by creating these high levels of neighborhood incarceration that lead to many of these impacts, creating a cycle where marginalized communities become more marginalized as more individuals are unfairly removed from the community and children lose the opportunity at a better life. Affirm to end this horrible form of structural violence.

C2: Predictive Policing Violates Privacy

Predictive policing algorithms co-opt big data, promoting surveillance, and also incentivizes police to be more intrusive in “hotspot” areas. In fact, E.L van Kooten of Tilburg Law School found in May 2018 that Amsterdam’s

E.L van Kooten, Tilburg Law School, "Predictive policing; An investigation into the use of the Crime Anticipation System by the Amsterdam police department and the safeguard against discrimination", May 2018, <http://arno.uvt.nl/show.cgi?fid=146478>

Is it possible to use the **Crime Anticipation System** without infringing rights? A framework will be given to see if the use of CAS is possible without infringing rights. The infringements discussed in the previous sub-question will be used for this. A possibility for police to prevent crime is to be present at locations **designated** as **High Impact Crime areas.** This presence will work preventively. When the police are present at those areas, it will probably not violate a citizen’s right per se, but **when they start undertaking action** it might be. **For example, when the police start with body searches, before a crime has occurred, a citizen’s privacy is violated**. Preventive searches can be done in the Netherlands in areas with a security risk and approval of the mayor.12 Will predictive policing make it possible for the police to start using preventive searches to prevent crimes?13 It is difficult to select random people from a flow of people that is larger than the processing capacity. Despite the fact that guidelines are explicitly directed at the random designation of persons, it is still a person who selects someone. This selection is based on the knowledge in his head that automatically starts to look at characteristics that are viewed as an increased risk. 14 A similar thing can occur in traffic controls. Without a suspicion, vehicles can be forced to stop, the driver's driving license may be asked for.15 The so-called rifle judgment16 makes it possible that, if an investigating officer encounters facts and circumstances that involve a reasonable suspicion of a criminal offense, the investigating officer may then apply investigative powers and, for example, can search a vehicle for the suspicion of drug possession. This is not based on an instrument that makes use of objectified knowledge. Furthermore, it is not the intention that biased choices are made, just as with preventive searches. But how random is random? Would it not be much better if the police could use objective criteria in a traffic control that have been tested and determined in advance. Selection based on gut feeling will be avoided.17 This brings a risk of ethnic profiling where skin colour and ethnicity are used as distinctive features to select from a population. It is frequently argued that this is in conflict with the nondiscrimination principle. 18 Unequal treatment based on personal characteristics such as age, religion, race, gender or religion, skin colour or origin is not permitted. The fact that crime is mainly committed by young men does not mean that it is lawful to place the focus on young men in a preventive search. Ethnic minorities, such as non-Western immigrants, are also overrepresented in crime statistics. If you extend this line, you could also question the selective surveillance in deprived neighbourhoods based on information.19 **Furthermore, with the use of big data a lot of data of innocent citizens are also collected.** The privacy of those citizens are less protected because of this under Article 8 of the European Convention of Human Rights (ECHR). There also needs to be looked into the so-called ‘chilling effect’ that predictive policing can have. The chilling effect comes into play when people know that they are watched or think that they might be watched. People will act differently because they are afraid of the potential negative consequences it might have. This chilling effect is mostly connected to the right freedom of speech, but Article 8 ECHR is also applicable in relation to discrimination or stigmatization of certain groups in society.20 Another important issue is the self-fulfilling prophecy. Primarily, the algorithms used for predictions may not take into account the inaccuracies reflected by historical data. In the data that is being used, information can be overrepresented or underrepresented which leads to biased statistics, which can lead to self-fulfilling prophecies. Furthermore, when police is more active at certain areas, there will be more arrests. 21 **Because more and more data is collected about citizens, governments and companies can develop profiles of citizens, divide them into different categories and then treat them differently.** This makes predictive policing mainly a privacy and discrimination issue. “Ethnicity does not play a role in the prediction, because that is ‘a politically incorrect variable’.” Inventor of Crime Anticipation System, Dick Willems As the police states themselves, they cannot profile based on ethnicity and emphasizes, apart from the multiple offenders, not to focus on people, but on tackling specific sorts of crimes.

Clearly, predictive policing actually promotes violations of privacy as mass surveillance is justified by these crime forecasting algorithms, which is reminiscent of an authoritative government and a fundamental breach of a democratic state’s obligation to protecting its people’s rights. Moreover, excessively intrusive and/or unfounded physical inspections are protected by predictive policing, meaning that predictive policing is wholly unjust as it results in violations of our basic rights. Thus I strongly affirm and now stand open for cross-examination.