It's important to acknowledge the need for better data collection and sharing within the criminal justice system, particularly in New Mexico. The ACLU of New Mexico frequently points out the need for better data collection and transparency on a variety of criminal justice issues (solitary confinement use, arrest demographics, and data on the efficacy of the Arnold Foundation risk assessment tool come to mind immediately).The real issue though is how this data is used and who has access to it. One of the current trends in policing around the country is to use the massive amounts of data generated in our lives every day to "place law enforcement resources where needed." Sounds innocent on the surface, but when you stop and think about the implications of so-called "predictive policing" there are some incredibly frightening prospects for civil liberties.

Chief among these concerns is that predictive policing as currently deployed will harm rather than help communities of color. If there is one reliable prediction about our criminal justice system, it is that unwarranted racial disparities infect every stage of the criminal law process. Time and again, analysis of stops, frisks, searches, arrests, pretrial detentions, convictions, and sentencing reveal differential treatment of people of color. The effect these disparities will have on predictive policing is, in fact, the most predictable part of predictive policing. Racially biased discretionary decisions will result in data points that the police will feed into predictive tools, which will in turn result in predictions that will have nested within them those original racial disparities. As such, they will likely compound the crisis of unequal and unfair treatment of communities of color under the inveigling imprimatur of empiricism.

The data driving predictive enforcement activities — such as the location and timing of previously reported crimes, or patterns of community- and officer-initiated 911 calls — is profoundly limited and biased. Decades of criminology research have shown that crime reports and other statistics gathered by the police primarily document law enforcement's *response* to the reports they receive and situations they encounter, rather than providing a consistent or complete record of all the crimes that occur. Vendors who sell and departments who embrace these new tools are failing to account for these realities, or to evaluate whether the data is so flawed that it cannot be relied upon at all. As a result, current systems reinforce bias and sanitize injustice.

Automated predictions based on such biased data — although they may seem objective or neutral — will further intensify unwarranted discrepancies in enforcement. Because of the complexity and secrecy of these tools, police and communities currently have limited capacity to assess the risks of biased data or faulty prediction systems. Even within a broken criminal justice system, there are places where data can be a force for good: For example, data can identify people with mental illness for treatment rather than punishment, or provide early warning of harmful patterns of officer behavior. However, today, most "predictive policing" is not used for such constructive interventions. Instead, it concentrates existing law enforcement tactics, and will intensify stringent enforcement in communities of color that already face disproportionate law enforcement scrutiny.

During my comments at the last Committee meeting, I raised ACLU concerns about 1) trade secret/transparency, 2) gang databases/due process, and 3) racial disparities. Each of these concerns is discussed more in depth in the articles I've included her. The first is a statement on civil rights signed by 16 organizations, including the ACLU. The second is a case study from New Orleans on what their experience was with predictive policing. The third is a post that discusses the false promises of predictive policing software generally.

1. https://www.aclu.org/other/statement-concern-about-predictive-policing-aclu-and-16-civil-rights-privacy-racial-justice
2. https://www.aclu.org/blog/privacy-technology/new-orleans-program-offers-lessons-pitfalls-predictive-policing
3. https://www.aclu.org/blog/criminal-law-reform/reforming-police-practices/predictive-policing-software-more-accurate