Predictive Policing
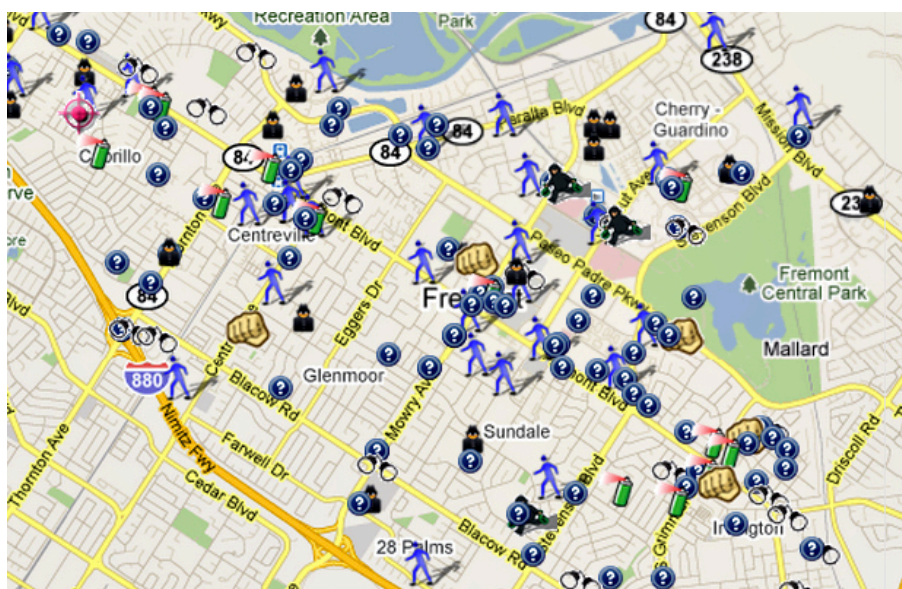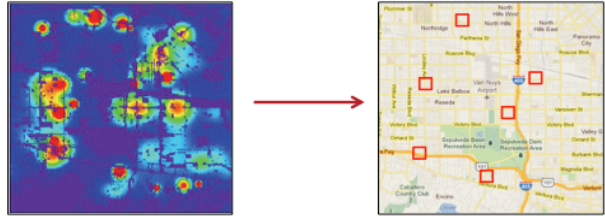
A Guide for Criminal Defense Attorneys

1. What is predictive policing and how does it work?

    a. Predictive policing is the use of mathematical analytics by law enforcement to identify and deter potential criminal activity. Police apply statistical or machine learning algorithms to data from police records on the times, locations, and nature of past crimes, with the goal of looking for potential patterns in order to predict when, where or what crime may be committed in the future.
    b. Predictive policing methods generally fall into 4 categories:
        i.   methods for predicting crimes,
        ii. methods for predicting offenders,
        iii. methods for predicting potential perpetrators' identities, and
        iv. methods for predicting victims of crime.

2. What are the problems with predictive policing?
    a. It amplifies racial disparities in policing - telling us more about patterns in police records, not patterns in actual crime.
        i. Not every crime that is committed has an equal chance of being recorded by police. Locations that are heavily patrolled by police are over-represented in the police data.

ii. Because low-income communities of color are disproportionately targeted, patrolled, and recorded by police, they are over-represented in police data and analytics, leading to higher predictions of criminality for these over-policed communities.

b. It creates a technologically obscured tautology. The newly observed crimes are then fed back into the algorithm to repeat the process of reinforcing the biases inherent in police practices. This creates a vicious cycle where police are sent to certain locations because the program predicts these locations to have the most crime, and the police begin to believe these same locations have the most crime because these were the locations to which they were sent.

3. How do I know if police are using a predictive policing program?
   a. Specifically request discovery on the use of predictive policing software.
   b. Popular predictive policing programs to be on the lookout for:
      i. Predpol - http://www.predpol.com/
      ii. Hunchlab - https://www.hunchlab.com/
      iii. Civicscape - https://www.civicscape.com/

TACTICAL AMBIGUITY
rear-view mirror heat map

TACTICAL CLARITY
forward-looking PredPol boxes

From Predpol's promotional materials

4. How do I challenge predictive policing evidence?
   a. Subpoena contract between the police dept and predictive policing software developers to review limits in programming capabilities
   b. Move to compel error rates and false positives.
   c. Consider filing a motion to compel the program source code to search for flaws that may affect search results.
   d. Move to suppress evidence resulting from police use of biased data.

5. How do I learn more?
   a. Visit Human Rights Data Analysis Group: https://hrdag.org/policing/
   b. HRDAG article on bias: https://eff.org/PPHRDAG
   c. ACLU article on bias: https://eff.org/PPbias
   d. RAND research report advocating for PP: https://eff.org/PPRAND [contains rubrics for how law enforcement justifies and brands PP]

Stephanie Lacambra, Criminal Defense Staff Attorney
415-436-9333 x130, stephanie@eff.org