U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

November 16, 2022

Alan Butler
Electronic Privacy Information Center
1519 New Hampshire Avenue, NW
Washington, DC 20036

Dear Mr. Butler:

This responds to your letter to the Attorney General dated July 6, 2022, regarding your request to commission a study about biometric information and predictive algorithms in law enforcement by November 21, 2022. Your inquiry was forwarded to the Office of Justice Programs' (OJPs') Bureau of Justice Assistance (BJA) for response. We are sending identical responses to the other signatories who joined in your letter.

We appreciate your concern about the use of biometric information and predictive algorithms in law enforcement and understand the oftentimes complicated nature of such practices. The Department of Justice is considering the issues raised in Executive Order 14074 and the path forward to best address its directives, including the study cited. Below I have outlined some of our recent grants in this area, and the our current efforts to address the concerns raised in your

Law enforcement agencies rely on a range of technological tools and techniques when conducting their important work. The use of artificial intelligence—including but not limited to predictive policing algorithms—has understandably garnered significant recent attention. The use of these tools, and the ways in which artificial intelligence may intersect with civil rights protections, can raise a number of complex questions. As discussed below, the Department has funded, in select situations, law enforcement's use of technology programs, including predictive policing programs. At the same time, the Department remains steadfastly committed to ensuring that policing practices are conducted in a just and fair manner that protect constitutional rights.

For example, BJA has funded technology programs in three jurisdictions—Chicago, Los Angeles, and Baton Rouge—under its competitive Smart Policing Initiative ("SPI," formerly called the "Strategies for Policing Innovation") grant. SPI enables law enforcement agencies to

test promising strategies in partnership with researchers to ensure that the project is achieving the intended results with fidelity and in accordance with best practices. In this way, SPI is a critical research-oriented, open-access, knowledge-generating program that enables law enforcement to thoughtfully and responsibly test different technologies, strategies, and interventions that improve public safety.

Under SPI, each project is evaluated by a researcher to determine if the approach or technology was effective in improving police operations within the confines of best practices and insurance of civil liberties. Additionally, in competitive award decisions, BJA external and internal peer reviewers consider the feasibility and integrity of each project in terms of implementation, data analysis, and adherence to current best practices before making a recommendation to OJP leadership for funding. For the SPI projects discussed in this correspondence, BJA's national SPI training and technical assistance (TTA) provider makes training available on such topics as social network analysis, geospatial analysis, and community engagement.

Grantees who have SPI projects that are focused on implementing technology are required to work closely with BJA and BJA's TTA partner to participate in information-sharing sessions and peer-to-peer exchanges of information, access relevant subject expertise, and contribute to reports on lessons learned from the SPI community. In addition, grantees are required to undergo a post-award analytic capacity assessment and produce a project action plan in collaboration with BJA and its TTA partner that reflects best practices related to oversight, data analysis, and technology implementation. As applicable, this includes training related to the implementation of new technology and data analysis approaches.

Any information-sharing solution supported by SPI is required to leverage the components of the Global Standards Package (GSP), which includes the Global Reference Architecture, the National Information Exchange Model, Global Federated Identity and Privilege Management, and the Global Privacy Technology Framework. In addition, grantees are required to work with the SPI TTA provider to ensure the appropriate justice information-sharing standards and tools, as recommended by GSP or BJA, are effectively applied.

The City of Chicago was awarded $630,593 in 2015 for a crime-reduction project that incorporated the use of predictive analytics as part of a broader crime-reduction strategy implemented with research teams at the University of Chicago and the RAND Corporation. The Chicago SPI site addresses violent crime through implementation and evaluation of the Chicago Police Department's Strategic Decision Support Centers (SDSCs) and a person-based risk model for violent crime victimization. Chicago's SDSCs are equipped with a suite of information technology resources, including gunshot detection monitoring systems, access to a network of surveillance cameras, and predictive policing software that identifies the blocks within each district where gun violence is most likely to occur. More information can be found at https://www.smart-policing.com/spi-sites/chicago-illinois-2015.

The City of Los Angeles was awarded $499,959 in 2009 for a crime-reduction project that worked with law enforcement and community members to use hotspot analysis to address violent crime in the particular areas of the city that were experiencing extraordinary rates of gun violence. The Los Angeles SPI project sought to reduce gun-related violence in specific neighborhoods through application of the scanning, analysis, response, and assessment (SARA) problem-solving model. Working with researchers out of Justice and Security Strategies, the team implemented location-based strategies in five hotspot areas for violent crime, as well as person-based strategies through the creation of a Crime Intelligence Detail (CID). The CID's primary mission was to produce police intelligence bulletins on individuals with a high likelihood of involvement in chronic crime so that the department could work with the community to prevent further violence. These bulletins assisted officers, detectives, and other personnel in identifying crime trends, addressing at-risk individuals, and solving ongoing investigations. Results showed a statistically significant decrease in Part I violent crimes, homicides, and robberies in the Newton Division (one of the Los Angeles Police Department's (LAPD) most chronic, high violent crime areas). More information can be found at https://www.smart-policing.com/spi-sites/los-angeles-california-2009.

Subsequently, in 2018, the City of Los Angeles was awarded $700,000 for a crime-reduction project that incorporated the use of predictive analytics as defined by your letter. The Los Angeles SPI project uses an extensive homicide database created by the Federal Bureau of Investigation and LAPD called the Bureau of Investigation Document and Management Analysis System, which includes information from more than 6,000 "Murder Books" from cases in Los Angeles from 1990 to 2010. In this project, Los Angeles sought a way to thoughtfully review decades' worth of open homicide case paper files to determine if there were any connections or links that could be made regarding these cases, their victims, and associated information. As such, the Los Angeles SPI project employs innovative machine-learning techniques and advanced statistical methods to review this information and help the police department determine predictors of clearance and conviction rates for homicides and shootings, as well as measure the degree to which predictors of gun homicide and shooting incidents are similar and different. More information can be found at https://www.smart-policing.com/spi-sites/los-angeles-california-2018.

The Baton Rouge Police Department (BRPD) was awarded $699,831 in SPI funding through the fiscal year (FY) 2019 grant solicitation. Those funds were provided to support the agency's real-time crime center and risk terrain modeling activities. This project was developed in partnership with BRPD's research team at Envisage Research and Analytics, LLC. As is the case with other SPI projects, this project will result in a public document and report that explains the theory of the project, its implementation plans, a thorough data analysis, and results. More information can be found at https://www.smart-policing.com/spi-sites/baton-rouge-louisiana-2019.

BJA requires that these tools are implemented with consideration of the privacy and civil rights issues they introduce. Concerns regarding the nationwide impact of predictive policing on people in protected classes are at the forefront of BJA's TTA engagements on these

issues. At the direction of BJA, its TTA provider covers these issues extensively in the education and guidance provided to SPI grantees.

BJA does not have specific records that confirm the exact number of grantees and subgrantees within the Edward Byrne Memorial Justice Assistance Grant (JAG) Formula Program that use predictive policing. However, BJA has identified the following programs funded by the JAG Program since 2015:

- In FY 2015, the City of Bellingham (Washington) was awarded $21,213 to purchase predictive policing software, online crime mapping technology, workstation software, and technical support.

- In FY 2015, the City of Ocala (Florida) was awarded $24,376, which included $9,900 for the purchase of predictive policing software and $1,980 for account setup fees.

- In FY 2016, the City of Alhambra (California) was awarded $12,805 to support that jurisdiction's PredPol Crime Prediction Services.

- In FY 2017, the Fremont Police Department (California) was awarded $774,808, with at least a portion dedicated to the purchase of PEN Registers, a predictive analytics software solution.

- In FY 2018, the Hillsborough County Board of Commissioners (Florida) was awarded $144,330, which was used to purchase and implement a predictive policing application for the City of Temple Police Department. This funding supported a web-based predictive policing program and predictive application of analytical techniques to identify targets for police intervention.

The aforementioned BJA-funded projects were funded up to a period of 36 months. These projects included the use of various internal systems and software tools.

OJP's National Institute of Justice (NIJ) has an ongoing program of research evaluating the effectiveness of crime-forecasting tools and strategies, including but not limited to, predictive policing. Part of NIJ's research agenda has been focused on exploring and understanding the extent to which "predictive policing" approaches and methods are truly predictive. NIJ convened two symposiums to discuss predictive policing and its impact on crime and justice, one in 2009 and one in 2010. A summary of those symposiums may be found at https://nij.ojp.gov/library/publications/predictive-policing-symposium-june-2-3-2010. Following the symposia, NIJ funded the Chicago Police Department (https://nij.ojp.gov/funding/awards/2011-ij-cx-k014) and the Shreveport Police Department, (https://nij.ojp.gov/topics/articles/evaluation-shreveport-predictive-policing-experiment) to develop, demonstrate, and evaluate predictive technologies. NIJ funded the RAND Corporation to provide technical assistance and act as an independent evaluator for the research studies in Chicago and Shreveport (https://nij.ojp.gov/funding/awards/2009-ij-cx-k114).

In 2017 NIJ hosted the Real-time Crime Forecasting Challenge. This Challenge sought to harness the advances in data science to address the challenges of crime and justice. It encouraged data scientists across all scientific disciplines to foster innovation in forecasting methods. The

goal was to develop algorithms that advance place-based crime forecasting through the use of data from one police jurisdiction. More information on the Challenge can be found here: https://nij.ojp.gov/funding/real-time-crime-forecasting-challenge.

NIJ funded research that explored relative risk models that sought to understand the role of the environmental backcloth in the concentration of crime patterns. This backcloth provided police departments with practical leads as to why the crime may be concentrating in certain types of locations (e.g., 24-hour laundromats, bars, restaurants). This work specifically sought ways to provide leads to the police that did not target the individuals living or going through those areas (https://nij.ojp.gov/library/publications/risk-terrain-modeling-spatial-risk-assessment).

NIJ also funded the RAND Corporation to develop a reference guide for law enforcement agencies interested in predictive policing. It assessed the most promising technical tools at the time for making predictions, as well as the most promising tactical approaches for acting on predictions. This guide, which was published in 2013, may be found at https://www.ojp.gov/pdffiles1/nij/grants/243830.pdf. The report includes an NIJ-funded case study of a predictive policing pilot in Shreveport, Louisiana noted above.

Finally, NIJ has published articles to inform on prediction in criminal justice, including the *Pitfalls of Prediction* (https://nij.ojp.gov/topics/articles/pitfalls-prediction). To inform the criminal justice community on technologies that are integral to computational systems with predictive capabilities, NIJ developed a series of briefs on Artificial Intelligence (AI) through its Criminal Justice Testing and Evaluation Consortium, (https://cjtec.org/technology-foraging/artificial-intelligence/). The first brief frames AI, defines common AI terms, and offers a mental model for identifying AI use cases within the criminal justice system. It provides examples of how AI might bring significant benefit to the criminal justice system, but also highlights risks that decision makers should consider when developing or deploying AI tools. Additional briefs provide greater consideration of AI in law enforcement, the criminal courts system, and corrections.

As discussed above, we will continue to carefully review technology programs that are receiving Department funding to assess whether they are being implemented in a manner that enhances public safety while also respecting constitutional rights. Any individual who has civil rights concerns regarding any technology program funded by the Department should feel free to contact either the Civil Rights Division and/or the Office of Justice Programs' Office of Civil Rights.

We hope this information is helpful.

Sincerely,

Karhlton F. Moore
Director