

## **C.O.M.P.A.S.**

### Corrective Offender Management Profiling for Alternative Sanctions

(Created by Northpointe, Inc.)

C.O.M.P.A.S. is an artificial intelligence-driven algorithm used to influence sentences for courts.

The algorithm returns a sentence range based upon some future behavior plausibility. Research has shown that hidden bias can be inadvertently (or intentionally) coded into an algorithm. Illegal bias can also result from the selection of input data, type of questions asked, and gender bias, all illegal and unconstitutional at sentencing.

Algorithms are consistent, predictable and reliable. Algorithms will say what they are told to say. A.I. systems are inhuman, even inhumane. A.I. systems cannot comprehend the human world experience (the totality of circumstances). Humans are pre-built to learn on-the-fly. A.I. systems can never achieve that because an algorithm is static. A.I. algorithms use data classifications to make predictions, all hard-wired in their code. A.I. systems can only work on narrowly defined sets of data with pre-defined objectives. A.I. systems will never be able to handle changing scenarios the way humans can. A.I. systems cannot handle cause and effect because algorithms must have preset limits. Any limit set to analyze data is a bias, thus unconstitutional. When we limit ourselves to A.I. machines, we lose our creativity, judgment, compassion, and critical thinking assessments that make us human. A famous quote: “A blind faith in authority is the worse enemy of the truth.” (Albert Einstein) could be updated to: “A blind faith in an A.I. algorithm is the worse enemy of justice.”

“Algorithms are far less adept at incorporating intelligibility, even as an artificial intelligence, with impartially, neutrality, and objectivity. Many algorithms are written to reach the “correct” results desired.” (David & Daniel Barnhizer)

Simply “Presenting the facts” to an A.I. algorithm is not an effective means of communicating scientific findings of evidence, as the methods used to obtain these facts (precision and error rates, for example), must be proven to be free of bias and the desired result type is a bias of its own.

A consensus of selective, subjective opinions will never add up to an objective fact. A great deal of what is presented as “expert” judgment is very often still just one person’s opinion. That the person has a PhD or some other fancy qualification does not immunize them against cognitive biases.

Having a bunch of “experts” on your side is worthless if you have no independently verified evidence for them to use. When evidence is incomplete or inconclusive, then real “experts” would demand and look for more evidence. Anecdotal evidence can be very misleading. Too many “experts” take a shortcut and the cheapest “close enough” solution to keep within a budget: truth, justice and inalienable constitutional rights have no use for budgets. C.O.M.P.A.S. is based on an opinion, not a fact. Even an A.I. algorithm will say anything it is told to say, no matter what the input may be.

“Predicting the future is a fool’s errand, a cop-out from doing some critical thinking.” (old axiom). “Social forecasting is risky, especially, it has been said, when it is about the future.” (Cass R. Sunstein, pg. 261, “Can It Happen Here?”) Nobody can predict the future, no matter how fancy their crystal ball may be. Lazy humans will franchise the work out to an A.I. machine, after telling the machine what to say.

Intuition is a surprisingly poor predictor of individual behavior, especially when that behavior concerns people who are different from us or whose circumstances differ from ours. This is where a “jury of peers” becomes a constitutional issue. Individual actions aggregate in counterintuitive ways through social networks of dependences (as in a jury), a “going-along-with-the-crowd” mindset, and the path of least resistance. “We are disconnected from our future selves, as if we were two different people.” (Derek Parfit). “We can’t even ever truly know if the world looks the same from the perspective of another human mind.” (Nye Lewis-Davies). A.I. cannot fully incorporate reality. Humans will never be able to outsource critical thinking.

“The problem of extrapolating the vagaries of human behavior will be totally idiosyncratic and unquantifiable because the field is always open to subjective interpretations hindered by the epistemological limits imposed unconsciously by the methodology used.” (Noah Feldman) Every A.I. algorithm has an epistemological limit, thus unconstitutional.

The combination of neglecting biases, background circumstances (That “totality of circumstances, again), and network social dynamics makes “common sense” surprisingly bad at understanding, and more importantly – predicting – individual human behavior which becomes chaotic over time.

Every legal system is limited to human judgment, using plausible arguments. This is where an impartial court must demand that a conviction needs more than a “plausibility”, but must be supported by proper evidence, witnesses, corroboration, and proof of criminal intent. Neither confidence nor a consensus equates to a certainty.

**State v. Loomis**, 371 Wis. 2d. 235 (No. 2015AP157-CR), eventually raised the use of the “black box” algorithm in the criminal justice system to a constitutional skepticism in 2013.

**United States v. Coonce**, 961 F. 2d. 1268 (7<sup>th</sup> Cir) (1992). A criminal defendant has a due process right to have the court consider only accurate information.

Therefore, if the only input to C.O.M.P.A.S. comes from the state, and no input from the defense is allowed, nor knowledge of what the state is inputting, how can that data be verified for accuracy? That bias is unconstitutional. Too many state-appointed public defenders do not fight for sentencing rights for their clients which becomes an ineffective assistance of counsel violation. “It is no assurance that a state-appointed public defender will fight for the poor when the counsel is more worried about their place on the appointment list.” (Martin Yant)

**United States v. Davenport**, 151 F. 3d. 1325 (1998). Defendant denied access to the presentence report before sentencing.

**United States v. Salerno**, 481 U.S. 739 (1987). Persons are accountable for past actions, not anticipated future actions.

C.O.M.P.A.S. attempts to punish people for “plausible” future actions, which is unconstitutional.

“We can no longer assume that just because a person has been convicted that they are factually guilty.” (Stanley Cohen, Cardozo School of Law, NYC, N.Y.)

**Crawford v. Washington**, 514 U.S. 36 (2004). Judges, like other government agents, could not always be trusted to safeguard the rights of the people.”

“Under a government which imprisons any unjustly, the true place for a just man is also in prison.” (Henry David Thoreau, 1817 – 1862)

“An avidity to punish is always dangerous to liberty. It leads men to stretch, to misinterpret, and to misapply even the best of laws.” (Thomas Paine)

“A punitive society soon becomes an unjust society; and an unjust society soon becomes an unstable society.” (Attributed to French Philosopher Michael Foucault)

Every A.I. algorithm-driven computer program should be examined, proven, and tested for bias by science, not politics. Allowing a proprietary claim by a for-profit company to determine the future sentence of a person (while making campaign donations to politicians so that they accept that company’s claims without any proof) is a prejudice. Allowing C.O.M.P.A.S. to trump out the Due Process and the Equal Protection Clauses in the Fourteenth Amendment is unconstitutional. The only sure verifiable A.I. driven algorithm would be created by “Open Source” criteria.

C.O.M.P.A.S. returns a plausibility, not a valid constitutional fact. “We must be guided by real-world data, not by computer models.” (Washington Examiner). C.O.M.P.A.S. has many serious constitutional issues.

C.O.M.P.A.S. does not return a constitutional objective fact. C.O.M.P.A.S. is a political agenda, not science.

Again, neither confidence nor a consensus equates to a certainty.

The courts are a part of government. Therefore, the courts must submit to and follow the United States Constitution, and not be led astray by an A.I. algorithm.

C.O.M.P.A.S. will always be a scam until it has been proven beyond a reasonable doubt that it is free of bias. The sentence must fit the defendant, not the crime. Therefore, any sentence that was influenced by C.O.M.P.A.S. should be thrown out.

(Unknown input) + (unknown manipulation) = (preordained output)

Collected ideas and quotes from numerous sources by Donald A. Newell, Jr.