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WEBINAR

CAN MOBILE DEVICES HELP TRANSLATE BLACK LIVES MATTER MOVEMENT AND SOCIAL ACTIVISM INTO REAL CHANGE FOR BLACK AMERICANS?

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P R O C E E D I N G S

DR. TURNER LEE: (in progress) folks with regards to what we're actually seeing or whether or not what we're seeing is actually leading to a fair administration of justice.

Just a shameless plug before I start. I do have a book coming out that actually includes one chapter on this, which is on the U.S. digital divide, which will be out by Brookings Press in 2021.

So, for those of you who want to ask any questions as we have this conversation, please email those questions to events@brookings.edu and, of course, let's have this conversation on social media, which is using the hashtag #DigitalJustice.

And so, without further ado, I want to jump right into the conversation. Commissioner Clyburn, I want to start with you because I think before we get into the nuts and bolts of this type of racial disparities that we're seeing in terms of policing and protest surveillance, et cetera, I want to ask you a question to just give us a level setting on how we got here.

You've been at the Commission where the use of mobile technology has increased, has become more prevalent, particularly among communities of color. Walk us through why mobile at this time? And honestly, you know, we can broaden it, why Internet, right? But I'm not going to date you and take you back that far. So, tell us a little bit of how mobile has really become a change agent based on your experiences working at the Commission who has oversight of it.

MS. CLYBURN: I want to thank you first for inviting me to this panel, so I could get real geeky and show my library on mom's side or my historian dad's side and take you back to World War I and say that if you were to look at those pictures, you would see a field telephone out there, our first look at a wireless mode of communications. And I could take you all the way through a history with that brick phone and the like.

But the change on the device side came in 2007. Do you remember what the significance of that year was? I know you know, but for those who don't, that was the introduction of the iPhone, which literally changed the way we use devices with those multimedia functions. And it enabled and opened up several doors of opportunity for us to have this conversation today.

But on the regulatory front, which is more in line with your question, in the 1980s, the FCC launched its first cellphone spectrum band. And through a series of those decisions, you know, based on that, we are now seeing and that marks this global mobile revolution. And, of course, revolutions often happen in different phases and different stages. So, now in terms of our mobile revolution or evolution, we're talking about the fifth phase in some ways -- but not in all communities and that's another topic for another time -- but the fifth wave or evolution when it comes to mobile phones.

And what we saw around the third wave or so is these devices becoming smaller, more nimble, less expensive, and more ubiquitous. So, you have the pop-up, a lot of these very accessible sites to buy these phones, and they became more attached, literally, to us. And the devices through those evolutions, particularly when it comes to recording I like to still say, but videotaping content. It has become the narrative, literally the narrative, for our lives today.

DR. TURNER LEE: I'm stuck on what you said for a variety of reasons because I think a lot of people don't understand, right, that the Federal Communications Commission had a lot to do with sort of introducing us to this mobile ecosystem. And I try to remind myself, also, that this iPhone really was only 12, 13 years. Right? As old as my daughter. But then, too, that even with the other platforms that we use, what you said is actually key. It's actually become able to be put in our purse or our pocket, which is something for people of color or historically disadvantaged groups. We never had that before. Right?

MS. CLYBURN: No.

DR. TURNER LEE: We never had the ability to carry that type of arsenal to be able to share distinctively what is happening to us.

MS. CLYBURN: If we were lucky, we had a landline phone if we could afford the rates. And if you remember, long distance was incredibly expensive. We had to stand around and it was a Sunday afternoon event to make a long-distance call.

DR. TURNER LEE: That's right.

MS. CLYBURN: You know, now if you have the right plan, anytime, anyplace you can

reach anyone.

DR. TURNER LEE: That's right. I'm not going to date myself. You know, I got my new hairdo to look younger, so I'm not even going to tell people how far back I go when it came to like pagers and payphones.

But I want to switch it over to you, Rashawn. Right? Dr. Ray, when we think, as sociologists, what is actually happening in this digital transformation, you know, when we look at Black Lives Matter, for example, they started online. There wasn't -- you know, I love the story of how Black Lives Matter got created, but really it became a movement that actually enabled itself through technology, much like we're talking about with these mobile devices.

Speak to us for a moment about like social causes, social activism, and the role technology has played to sort of advance this message before we get into the nuts and bolts around what we're actually using this for and why it's so important at this moment.

DR. RAY: Well, thank you, Nicol, for having me, Dr. Turner Lee, to say that back to you.

So, I think when we talk about social media, and, of course, as you know, for the past several years I've been part of a group of researchers that have been collecting and curating data on social media and the Black Lives Matter movement. A big thing we have is a large digital archive of Tweets, starting in 2014, when Michael Brown was killed and we've just continued to curate those data, millions and millions of Tweets. Obviously, as you mentioned, Black Lives Matter started by three Black women, primarily interacting on Facebook, communicating with each other, and now it's turned into an international movement.

The way that the movement for Black lives has been able to use social media is something that is unprecedented. And what I mean by that, let's go back five, six years ago. After Michael Brown was killed, after Freddie Gray, Korryn Gaines, Sandra Bland, and so many others who weren't fortunate to have a hashtag is that the level of public support at that time was significantly low. People were trying to figure out Black Lives Matter. It kind of reminds me of what's happening right now around the slogan "Defund the police." I'm very curious to see that movement over the next decade.

But the movement for Black lives, the support for the Black Lives Matter movement, has significantly increased in such a short period of time. And that is because people affiliated with the movement, people who are working organizationally, have figured out how to use social media. They've particularly figured out how to use social media algorithms.

So, part of what happened recently with George Floyd and Ahmaud Arbery and Breonna Taylor and others is that when people were using hashtags on Twitter, Instagram, SnapChat, TikTok, whatever people are using is that the algorithm now has loaded up additional videos for people to see that shows that what happened to George Floyd is not isolated. That instead, it was part of a broader pattern of systemic racism and police brutality.

Not only that, the videos also show White people behaving in similar ways, but getting treated significantly differently than Black people. And I think that's one of the biggest things. And it's led to this racial awakening.

And, of course, I mean, COVID has contributed to that because people for a period of time and for the most part in a lot of places around the country have been at home or at least working from home, giving them the capacity and ability to look at things during the day, to watch news, to pay attention in ways that their former lives would not have allowed. So, social media has played a big role in what's going on.

And one of the biggest findings that I can share from my work is we looked at a year in Ferguson. So, every single Tweet that had to do with Ferguson from the time Michael Brown was killed until one year later. And what we found is that when the Department of Justice report came down, the consent decree showing that Ferguson Police Department had engaged in egregious forms of racial discrimination against Black motorists and Black people, is that what happened at that point Black Lives Matter started getting so organized that it kind of started going underground a bit. And the Tweets about Black Lives Matter was not necessarily as prominent as it was before.

And then a year after Michael Brown's death, I mean, the spike that we've seen in people using the hashtag #BlackLivesMatter showed that that was a deliberate organizational strategy to be able

to highlight what was going on because Michael Brown was a catalyst in a sense; that Black Lives Matter wasn't extremely popular nationally or internationally before that. But the spike happened, particularly in November, when Darren Wilson was found -- or didn't actually go to trial. The grand jury decided not to pursue charges. But that one year after really showed what the movement for Black lives was about, how quickly they were able to organize, how quickly they learned strategies to use their mobile phones, all the apps that have came up now. Like if you get stopped by the police, hit this button and start recording, here are the things to do. I mean, it is layered up and it has become part of an ecosystem for people in how to interact with the police.

DR. TURNER LEE: Wow. You know, I plan on in our third series having conversations around social movement theory, right, and what that looks like going forward. And I love the way you talk about it because if you combine the tool, which back in the days used to be the telephone tree, right, when it came to organizing, you now combine this collective hashtag that has actually mobilized activity and really put the brakes on the fact that these are no longer hidden phenomena when it comes to police.

Kristen, I want to move to you, right, because part of it is we're seeing it. I mean, we all, I think, with Trayvon Martin we actually saw the representation of the powerful imagery of hoodies and Skittles, but we didn't see it. Right? But it come with Michael Brown and watching that video, which I believe, Rashawn, was on a body cam, right? It came out late, body cam.

But as we began to see citizens actually collect this information, the question I have for you is no one ever talks about the First Amendment, you know, the fact that the legal rights associated with that. Before we go deeper I want you to actually lay for us, Kristen, like what should we be looking at in terms of the enforceability, the admissibility of this type of content.

MS. CLARKE: Yeah. Well, first, thanks so much, Dr. Lee, for bringing us together for this really timely discussion. I really appreciate it.

And, you know, you have the right to record. This is a right that is protected under the First Amendment. And courts have looked at the act of, you know, recording and taking photography as forms of expression that are clearly protected under the First Amendment. And there is a circuit split on

this question. And it is possible that this question makes its way eventually to the Supreme Court, but for the time being, the courts have taken up this question of whether or not this is First Amendment protected activity have found that it is and that there is no qualified immunity for officers in this context.

I wanted to actually take a step back and just talk about the power of visual images of violence and brutality perpetrated against Black people throughout time because, as it turns out, this is not just a new thing. This is something that really kind of dates back to, you know, the darkest days of Jim Crow. The images of lynched Black people, right, the images of people assaulted on the Edmund Pettis Bridge, the images of John Lewis being brutalized by state troopers, those images went viral, too. They went viral on grainy, black-and-white TV screens and ended up being images seen all over the globe that really brought a degree of shame on America, shame on the nation.

And in some respects, those images and that shame that came along with those images are what laid the groundwork for Congress to pass the Voting Rights Act of 1965 and what really propelled Lyndon B. Johnson back against a wall to sign that remarkable act into law.

Fast forward to moments like Rodney King, right, I mean, seeing that brutality. And what were those devices called?

DR. TURNER LEE: I know, right? That was -- actually that wasn't even a digital camera. If you all remember, it was a camcorder.

MS. CLARKE: Camcorder. Yeah, with the big tapes. I mean, you know, seeing the brutality perpetrated against Rodney King is kind of what laid the groundwork for there to actually be a prosecution of those cops who perpetrated that horrendous assault.

Fast forward to, you know, Walter Scott, right, who -- you know, he is a 50-year-old man stopped because of a broken taillight, former military, and a human being. And he's stopped by a cop who claims, right, who claims, as we found out falsely, that Mr. Scott tried to take his taser and that he was forced to shoot. But then the courageous person who happened to record that incident comes forward and we find out that there is a different truth, that Mr. Scott was running away and shot about a dozen times in the back and that the officer planted that taser next to his body.

And then we fast forward to Eric Garner, right, and Mr. Orta, who recorded what happened there. And you think about all of these incidents and the through line is that throughout history images of the brutality have proven a powerful tool in promoting reform and sometimes promoting accountability, but, most often, in shaming the public to see up close the vicious violence perpetrated against Black people and against Black lives.

DR. TURNER LEE: Yeah. I mean, you're so right. I mean, Emmett Till, if you ever go to the National Museum of African American History and Culture, you know, if you watch the video there, Mamie Till made the decision to keep Emmett's casket open to do exactly what you said, Kristen, in terms of the shameful history that really was a spark of the modern-day civil rights movement.

And when I was at MMTC, Feidin Santana was one of the people that we honored for taking that video, having the courageousness, as David Honig would say, to actually record what had happened to Walter Scott, you know. But since that time, there's been so many. Right? And I think if we sat here and said the name of every person who has been the victim of police brutality unarmed, Sandra Bland, right, other people that have done that, Ahmaud Arbery, even not shot by police. The fact that we saw it, it's traumatic.

But, Mignon, that trauma that we're actually experiencing as we talk about the use of modern-day technology to help us do exactly what Kristen and Rashawn have said, that has a history. Right? I mean, Everett Parker talked about that with the civil rights movement when there were broadcast stations that wanted to turn off what was happening in places like Selma. Speak to us a little bit about the history in terms of media policy of actually eliminating our ability to be authentic in those images.

And before you do, if you have questions, events@brookings.edu and continue the conversation on the hashtag #DigitalJustice.

MS. CLYBURN: Well, thank you, Nicol. What a lot of people suspected, but may not know, that especially across the South in the '40s, '50s, and early '60s, there was something real, it was a thing called a "news blackout." Governors got together with broadcasters. Police officials got together

with newspaper publishers. And when things were happening across this nation that would -- under any other circumstance is newsworthy, deserved to be covered, they were not.

And so we're particularly sensitive about it in South Carolina, where there were a number of incidents. How many people know about the Orangeburg massacre? I've got a picture that I might share later. Have you ever heard of Sarah Mae Fleming?

Sarah Mae Fleming was a 20-year-old African-American female from Eastover, South Carolina -- yes, it's as rural as it sounds -- who got on the bus 17 months before Rosa Parks. But because of the lack of covering what became two trials, you don't hear about her. But that particular case in Columbia, South Carolina, sparked and formed and enabled the success of the Montgomery bus movement.

And so what happens is not only you don't have dominion, which we do now with these devices, we don't have possession or the ability to get the -- did not have the ability to get the information out, but because of that there were gatekeepers that purposefully ensured that those movements, those acts of rebellion, those injustices were not broadcast or printed. And it gave a false impression to the world that we were okay, everything was all right, you know, that there was no problem here.

We know that's not the case and what we see now are ubiquitous tools to more level that playing field for visual, audible, and other forms of justice.

DR. TURNER LEE: Yeah. I mean, I have to be honest, this is a really tough webinar for me to do, folks, because I just -- they're so close to home and the videos are so telling about what that looks like.

But I would assume, Rashawn, in the work that you do, the working with police officers, that that also brings a different angle to their work, as well. And, of course, I want to be sensitive to what you're seeing by what we're talking about so far, which is this availability of content that just brings the lived experiences of Black people closer to home, ones that were blacked out for periods of time.

What is the strain on the police? I mean, you know, without taking any sides because we're nonpartisan and we try to be open, but where do the police find themselves with this plethora of

content that is so telling about their behaviors?

DR. RAY: Yeah. I mean, I appreciate that question, you know. And even to your point about having to give a caveat about which side we're on, you know, it's unfortunate that we live in an era where it's perceived that police and people are on different sides, when supposedly they're supposed to protect and serve.

I mean, Nicol, as you know, I come from a law enforcement family, a military family, and now I study and work with police, which isn't even the reason why I study law enforcement. It directly kind of stemmed out of some of the research I was doing on health. And it speaks to your question about what impact it has on police. I'll try to break this down quickly.

I think the first big thing is that it has a huge toll on their mental health and their emotional wellbeing. Now, law enforcement is an extremely difficult profession. I would argue quite probably the most difficult that we have in our country. With that being said, they already don't get the proper resources they need when it comes to psychological services. So, there's a recent study highlighting that 80 percent of officers report chronic stress. So, that's depression, anxiety, they get angered easily, they have familial problems, 80 percent. One out of six report substance abuse. One out of six report suicidal thoughts. But 90 percent of them never seek help.

And then you couple that with the destruction of a hero complex, because part of what happens when kids grow up in the United States, we are socialized that the police are there to protect us, that they are the good people. Right? We say "good guys," which kind of, depending on where you are in the country, directly signals gender on top of that even for people who just use "guys" to mean everyone.

But the point of that is, as people get older, that image starts to erode. And for people trying to psychologically process that, it has a huge impact on what they're doing.

Now, this is the kicker, though. Even though it impacts their mental and emotional health, and their emotional and mental health is already problematic to begin with, it doesn't necessarily mean that it impacts their outcomes. There's a theory that is being put out there about the "Ferguson effect"

that came about from Ferguson, Missouri, more or less saying that, oh, because of the continuous strain and stress of law enforcement and the attention on them that it's going to impact how they do their job. There is no empirical research to support that whatsoever. If anything, it's the exact opposite.

Let's take this moment. Have police killings decreased during 2020? Has use of force decreased? No. You know what? It's actually increased. If the Ferguson effect was correct, what happened to George Floyd, well, now, you know what? What happened to Jacob Blake right down the road wouldn't have happened. And, of course, there are other incidents that we could highlight.

So, part of what happens is that people get pushed back into a corner and they kind of react to that. One of the biggest things that I could tell people -- and, of course, I conducted implicit bias trainings with thousands of police officers. My team at the Lab for Applied Social Science Research has done ride-alongs. I mean, so many different ride-alongs.

We've interviewed hundreds of police officers. There's one main finding about Black Lives Matter. We asked them, what do you think about the Black Lives Matter movement? Now, this was I think like three years ago when we asked them this, but I don't necessarily think that it's changed a whole lot. I think maybe their nuances have changed it slightly. But we asked them, you know, what are your views on Black Lives Matter? Do you view them as positive or negative?

Here we go: 75 percent of officers who have over 8 years of experience have negative views of Black Lives Matter. Eighty percent.

Now, what's interesting about that is there really aren't any racial differences there. Black officers are just as likely to have negative views. Now, younger officers, their views are a bit more nuanced. And, of course, in policing oftentimes experience is highly correlated with age, not always, but generally if you have an officer who's only been on for three years, they're more likely to be younger. And if they have, you know, 10 years, they're more likely to be older.

But here is one of the slight separations: while Black officers have negative views, White officers, 75 percent of White officers, with high levels of experience view Black Lives Matter as a terrorist organization, even explicitly comparing Black Lives Matter to the KKK. So, we have to be very clear

about the perceptions.

And then we have to think about what does it mean for just a Black person to be walking down the street with a Black Lives Matter shirt or hat on or even a White person? Because, I mean, part of what's happened in 2020 with this racial awakening, if we look at Portland and Seattle, it's mostly White people in the streets still protesting and continuing those protests days on end. So, that perception instantly fuels a negative view.

And then, of course, the other side of it is that officers who feel differently, officers who do want to speak up and speak out against officers like Derek Chauvin and others. They are stigmatized internally. They are more likely to be disciplined. They are less likely to be promoted. They are more likely to be put on certain types of routes and duties that other officers don't want to do.

So, part of it is a broader continuum that's structural in nature that leads to a culture of policing that can have detrimental effects not only on police officers' mental and emotional health, but also in the way that they treat us.

DR. TURNER LEE: Yeah. I mean, that's interesting. It's so interesting that you said that. I bought a Black Lives Matter mask the other day, as you talk about it. And I was getting ready to walk into my store, and I live in Northern Virginia, I wasn't thinking anything of it. And my daughter said to me, you sure you want to put that on? We got to go in the store, Mommy.

And it wasn't because she's less political, but because of what you said, I think, the perception in this racial time. Of course I wore it anyway.

But, Kristen, I want to go back to you, right, because I think what Rashawn is talking about is one of the reasons why we may have missed administration of justice. Because underneath this code exists that actually says something about the militarization of these movements that may -- even with the video showing a Black man being shot, showing a Black woman being shot, we still are at this space where there's a failure to actually get these into any level of prosecution. Speak to that. Speak to us on that particular aspect.

MS. CLARKE: Well, I did bring up the Walter Scott example because that ended up

being one powerful instance in which the bystander video is what was used to bring the officer to justice, which proved that he falsified a report, which proved that he planted evidence on Mr. Scott, which proved that he shot him in the back as he was fleeing. So, you know, I do think that we need to continue to be courageous and record these incidents. We won't always see justice, but they're a critical tool, a critical weapon in holding officers accountable.

And there's another piece to this that I want to bring up and that is reporting protests as they are taking place and carried out. Protests are kind of a remarkable moment, right, because you have the public protesting the very institution that is surrounding them and surveilling them and often using force as a tool to constrain their activity. And we have seen in the ensuring weeks that peaceful protesters have been assaulted, that members of the press have been assaulted, and that's in large part because the cameras are rolling.

My organization, Lawyers' Committee for Civil Rights Under Law, along with the ACLU of D.C. and the D.C. Lawyers' Committee recently filed a federal lawsuit against the Trump administration -- the Trump administration -- for the vicious assault on peaceful demonstrators carried out in Lafayette Square right in the shadow of the White House. And many of you may recall this moment where President Trump comes out flanked by Attorney General Barr and other senior administration officials, and there is a group of demonstrators assembled that included a mother and a nine-year-old child, a set of our clients, a pastor, a veteran, and this is a multiracial, multigenerational group. And without provocation -- without provocation -- Attorney General Barr ordered the use of violence against that group. You had the U.S. Park Police, you had the Secret Police, you had all kinds of federal law enforcement flanked in riot gear that fired pepper bullets, that fired -- used their batons to disperse this peacefully assembled crowd.

And the Trump administration will come up with its own version of events that day, but one of the reasons why we were able to pursue this suit was not just because of the very compelling, truthful, and powerful accounts of our clients, but we have it backed up on video. We have it all backed up on video and feel very confident as this case moves forward in Federal Court that we have a pretty

ironclad case that makes clear exactly what transpired that day because so many cameras are rolling.

So, you know, it's not just about the horrendous police shootings. It's also about the protests activity and that to me is critical to preserving this racial justice movement that is underway right now.

DR. TURNER LEE: Yes. I mean, I think that you're so right that the ability to actually use these technologies in a way that is degrading to surveillance, right, and the fact that, you know -- I want to go back to you, Mignon. I mean, the last time we heard about this type of surveillance was in the '60s, right, when --

MS. CLYBURN: Right.

DR. TURNER LEE: -- (inaudible) were surveilled. In your opinion, as you think about this, has the technology also become so strong that it actually can work on both sides of the coin when it comes to helping and also hindering us?

MS. CLYBURN: You know, I often talk about technology as being agnostic. I mean, it really is. It is a means, it is a platform, it's a conduit. It is used to reflect and to capture what is going on during that particular time.

I read a commentary by Jane Hu, who put this in a way, when we talk about these platforms, in a way that I could not. She said, "Every historic event has its ideal medium of documentation." I mean, just think about it. That sounds simple. You know, at first it was the oral history, then we had printed, be it books or newspaper, and then we had still pictures and then radio and television, and now you've got the video component.

But, you know, I have this quirky thing often where I pick the word of the day. All of this and when we talk about the platforms which this exchange is resting, all of this offers validation. You know, to me that's my word of day when we talk about this panel, validation. And the things that we have been saying, the things that in our communities were so self-evident, the video component offers validation.

What it does not offer, unfortunately, is justice. It does not guarantee that. And so the

rest of society needs to heal and fix itself, but it is very clear, it's very visual. We've got the documentation, the validation for the concerns. We've got a lot of other healing to do in order for that to match up and to deliver justice.

DR. TURNER LEE: That's right. And that's why I ask people to put #DigitalJustice. It's a concept that I've been working on as part of my book, which is around what do you do next? When you give people the power of technology or you exclude them from the power of technology, like those who are digital divided, at the end of the day this all centers around justice, justice for people to have access and justice, Commissioner Clyburn, to your point, that people could follow through on that access. Right? There are no tradeoffs here.

And, Rashawn, I want to talk to you, too, because you and I are doing this project that takes this technology to the next level around facial recognition technology. That also facilitates this type of bondage, this oppression that actually happens when people are equipped with these kinds of tools.

Speak for a moment around what happens when you then take it to the next level, right, and you start talking about artificial intelligence and facial recognition, particular around what Kristen talked about in terms of surveillance.

DR. RAY: Yeah. I mean, I think on the surface oftentimes we assume that technology has no biases. And overall, when people have the ability to control it, that's true. We can see technology from their own perspective.

Take body-worn cameras for example. It gives you a particular viewpoint. If it's on a police officer, it shows what happened to them or actually it shows what they might have done to someone else or who they're interacting with and vice versa. And that evidence gets brought into court and, interestingly, body-worn camera evidence is just as likely, if not more likely, to oftentimes help validate police officers' views of things as it is for the general public, depending on what's going on.

And we started talking about algorithms. The perception is that machines do something and these machines are objective. But I think oftentimes we forget that people create those machines. People create those algorithms and their biases inform what's happening there. So, we know from a host

of programs that we could highlight is that the bias is embedded in the algorithm.

So, when we talk about facial recognition, it is a high likelihood that people's faces are going to be misclassified. Black people's faces get misclassified more because our faces are less likely to be part of the algorithm that informed the decision-making process. We also know that Black women in particular are even more likely to be misclassified.

DR. TURNER LEE: Especially when we change our hair.

DR. RAY: Yeah. I mean, especially with hair. So, I mean, we can think about the implications of that when we start talking about whether or not facial recognition technology should be able to be used in court proceedings to make decisions.

One thing I know about policing, it hasn't stopped police officers from using facial recognition technology and the like in the way that they go about their work. The problem, however -- and there are two really prominent studies that highlight this. One is in Boston that I'd like to highlight, one is in California.

The one in Boston, since football just started, it used a group of Boston athletes from the Patriots, from the Red Sox, from the Celtics, and completely misclassified their faces and mixed them up, confused them as being criminals. So, we can think about the implications of that.

In California, they actually used members of the state legislature to look at facial recognition. And again, mixed them up with potential criminals.

So, part of it, and, Nicol, hopefully you will speak to this as well, I don't want to say this part for you, around the legislation that is being passed federally around how to hold some of these things in check. Because the technology is moving so fast that part of what's important for people to realize when we talk about law enforcement is that law enforcement wants the new, shiny toys just like anyone else does. And if a tech company is coming in and a police department doesn't have to pay for that, the police department will use it as a pilot. But they are also then using it to make decisions about who they stop, who they arrest, the decisions that they make. And I know this because I do some of this stuff, that they will use the technology even though the laws haven't caught up with it.

So, policymakers are lightyears behind. And I use that terminology deliberately, lightyears behind. Because, to Mignon's point, when we had the iPhone in the last 2000s, I mean, over the past 13, 14 years, the speed at which technical has advanced is astronomical. And our decision-making processes at the local, state, and particularly at the federal level has not been able to keep up with that.

DR. TURNER LEE: That's right, that's right. So, Kristen, I want to go to you, though, because I think that goes to -- Rashawn has sort of talked about the shiny devices, as he likes to always reference them, that law enforcement get. The shiny device that we only have is this phone, right, or some form of medium to actually record these instances.

We're now hearing, and somebody just put it on Twitter, so I'm referencing before we go to Q&A, police officers tell us turn off your video. The young 17-year-old girl that taped the George Floyd incident has been harassed. So, what do you do? What do we have as citizens to be able to further the use of new technology to advance civil rights and social justice?

MS. CLARKE: Yeah. This is tough because we see officers making kind of just judgments on the fly, but in 2020, every police department should have a policy and officers who are trained about respecting the First Amendment rights of the public to record their actions. And should have policies that speak to the very narrow set of circumstances in which it might be appropriate for an officer to seize a camera.

If there's a serious assault or a violent crime that happened and an officer sees somebody who may have a recording of that violent crime and feels that, you know, that evidence may be destroyed, there's some narrow instances where it may be appropriate for an officer to seize that evidence. But 99 percent of the time, and the Justice Department interestingly enough has some policy on this, there is no justification under the First Amendment for an officer to seize someone's camera. You got to get a warrant. You got to get a warrant like anyone else. You can't interfere with somebody as they're recording.

I saw one of the questions that came in over social media, it kind of says, well, what do

you do if a cop says turn it off or step away? And, you know, this is kind of one of those moments where, again, it really requires us knowing our rights and being courageous -- being courageous -- and having that courage because we have seen time and time again how but for that video we would not be talking about these police shootings, we would not be talking about these deaths. We would not be in this moment that we're in right now where we've got one of the nation's largest racial justice movements ever, fueled in part by people who are courageously stepping out and showing the brutality that's always been there and putting it up front, close and personal for everyone to see in ways that have made the public very uncomfortable. We have now made it impossible for them to look away.

So, my hope is that people will continue to exhibit that courage and that part of the work that we do on the reform side is we work to push forward the reforms needed to overhaul policing in our country to make sure police departments have clear policies that they train their officers on by which they are respecting the First Amendment rights of the public to record what they do.

DR. TURNER LEE: That's right, that's right. When I was at MMTC, we talked about making sure the civil rights organizations, right, were able to actually -- felt comfortable recording these types of incidents. I know Maurita Coley is watching out there. I do give you shouts for that because that was the first time that Feidin Santana was recognized for this effort.

So, before we go into Q&A I do want to ask you all, hey, look, we're at an opportune time. As Kristen has said, this is one of the first times when we have seen this continuous, I mean six months, as people have called it the multiple pandemics of COVID and racism all operating at one time. And again, with Black Lives Matter, seeing this synergy that's actually existing where people are now saying, yes, Black lives must matter, right, and we will tell you why. Look at the tape.

So, I want to ask you all, because we're on the eve of, again, another 48, 50 days before an election, what would you think are some of the policy takeaways that we need from this? I know that Congress recently has passed things like the Anti-Lynching Bill, right, which allows us to really condemn modern-day lynchings. I know that there's also a bill right now that is before the House, which is around the racial disparities in healthcare, and Ayanna Pressley is one of the co-sponsors of that, which is all

around making sure that there is anti-racism research when it comes to health.

I don't know, Mignon Clyburn, I think that Rashawn, Mignon, Kristen, there needs to be some type of takeaway around the explicit use of these types of video devices for the administration of justice. So, I'd like to hear from each of you what you think are some of the policy takeaways, so that we're not just having these conversations around having something in your pocket to record something bad. What can we do to actually be a real change, a real takeaway in terms of the policymakers?

MS. CLYBURN: So, I'm going to need Rashawn to help me with this, but here's something that is bold by way of how I feel, but it might not be precise in terms of how I share it.

When we talk about AI, when we talk about these platforms, these algorithms that are used to dispense justice, I believe they should pass a certain test before they get purchased. I believe they should adopt some of the characteristics of the California law that demands diversity when it comes to the boards. I think we should demand diversity inclusion in oversight as well as an evaluation. Before the first penny is spent, before the first RFP is delivered, that there is some type of review board that would look at that to make sure there's not unjust -- or bias built into the system.

So, I would say, you know, tackle it head on. Be unapologetic and forward-thinking about things at inception as opposed to us going like, oh, my gosh, 30 percent of the time my face is even not recognized or I'm misidentified again. You know, African-American females have the worst outcomes when it comes to facial recognition.

But we need to make sure that it's built in, so laws and applications and practices need to be built in at inception.

DR. TURNER LEE: That's right. So, I'm going to give you, I was on a panel the other day with some very distinguished academics from all over the country and they did this: snap, snap, snap in agreement for what you're actually talking about.

Rashawn -- actually I'm going to break it up. Let me hear from Kristen and then I'll come to you. Policy takeaways, we've heard that we have to have a better review of inclusivity and representation of these types of technologies that are being deployed. Kristin, in terms of you, what

would be some policy takeaways so these videos are not done in naught?

MS. CLARKE: Well, I think this needs to be a part of the overall conversation that we're having about how we reform policing. The House passed the George Floyd Justice in Policing Act under the leadership of Congresswoman Bass. And sadly, that bill is collecting dust on the desk of Mitch McConnell.

But on the local level, as we continue to drive and push and press our demand for policing reform, this needs to be an issue on the table, making sure that police departments understand that they've got to respect the First Amendment rights of the public to record their activity. It's interesting because this conversation plays out at a moment when we're seeing increasing and troubling use of drones surveilling Black communities. So, there is a tension there that I want to acknowledge.

But I think that this needs to be, you know, again, a part of a real conversation about how we overhaul policing. It's not just banning the chokeholds and banning racial profiling and creating databases to track bad cops to prevent them from moving from one department to another and ending qualified immunity. Those are incredibly important issues. And this equally occupies a central role in that conversation.

DR. TURNER LEE: Right. I love that. I think that that actually becomes like a takeaway within the legislation, which some have not talked about. So, I'm very glad that you brought that up, is we're going after criminal justice reform in terms of sort of tackling the precedents that we have. Perhaps we need to enable these types of technology uses in a positive way to ensure that they can be admissible and captured without any type of recourse.

Rashawn, before we go to questions, what would you have as a policy takeaway?

DR. RAY: That's all I've got. (Laughter) I mean, I think Mignon and Kristen, they hit the nail on the head.

I mean, on the George Floyd Justice in Policing Act, it is the most transformative piece of police reform we've had. And if people want that to not collect dust, because I obviously have a problem with that, as well, then people need to think about November. Because more broadly, when we think

about the political landscape is if various people win in November across the board from kind of the presidency through the Senate and House of Representatives, particularly the Senate, then all of a sudden the George Floyd Justice in Policing Act becomes law.

I think specifically on AI, yes, we need proof of concept. Yes, we need evidence-based research. Yes, we need randomized controlled trials for these. And yes, we need proof that equity and diversity has been included from top to bottom, including the faces used to inform the AI, as well as the people who are making decisions to actually fund the AI algorithm and the technology. I think these sort of things will be really transformative moving forward.

And there's one big thing on policing that I always push after studying this for about a decade. If we really want to make big -- the biggest impact we could have on policing, the biggest thing I've learned, is that police officers lack accountability with the communities they serve. Now, they have a lot of internal accountability. I could talk about that, but that's not externally. If we really want to do something about that, a way to circumvent qualified immunity is to ensure that civilian payouts for police misconduct shift away from tax money to police department insurance policies. All of a sudden, that not only puts the financial burden on police departments, even if the municipality is paying for it, and, of course, there had to be legislation to make sure that comes out of their budgets, but it's also about giving police chiefs and other people in the police department a market-driven, evidence-based record that certain officers, like Derek Chauvin and so many others I know, are costing municipalities a lot of money.

Just to highlight one city -- well, actually I'll do two cities quickly. In Chicago, they spent $650 million over the past two decades on civilian payouts for police misconduct. That money does not come out of a police department budget. It comes out of the general funds. As much as people like to talk about crime on the West and South sides of Chicago, imagine if that money went to education equity, went to work infrastructure, including training people for tech jobs, which is where the market is going.

And then in New York City, they spend about $70 million almost annually on civilian payouts for police misconduct. That is money being wasted because police officers are mistreating people, oftentimes mistreating Black people, but not always. Oftentimes also mistreating White people,

Latinos, Asians, as well.

And I think we can make these changes and, of course, technology is a big part of it. But the perception that technology is going to be the solution to these types of things, an equitable solution, is the wrong way to approach it.

DR. TURNER LEE: Well, I want to go into it. I'll open it up to all of you and then I definitely have to get to a couple of questions. They keep coming in. They're really good questions, too.

But are you telling me, Rashawn, that, yes, we've got to deal with the structural foundations of these civilian payouts and the lack of accountability among the police officers? I just want to know what happens to these videos, right? I mean, is there something that can a police officer that has these kind of videos attached to his name, her name, record? You know, I mean, how many sacrificial lambs do we have to have that are recorded on tape before a police officer is held accountable, particularly when the view is good? We're not talking about, like, grainy videos.

So, I see Kristen is -- I mean, I would like some response to that. Because I think that, to your point, we've got to figure out a way to bring in these outcomes of technology into the business.

DR. RAY: Yeah.

MS. CLYBURN: Before the experts to, let me weigh in. Because, you know, I'm from Charleston and we had an opportunity, sad and painful, to meet with some of the members of the Scott family. If you look at the background of the officer, this was not his first negative encounter nor was his first --

DR. RAY: Exactly.

MS. CLYBURN: -- encounter that resulted in death. And so when you talk about accountability, it has to work both ways. If you're asking for the community to be accountable for itself, you need to look in the mirror, also, in terms of law enforcement and to be accountable to the community, you know, what Rashawn said.

And it has to -- we have to walk and chew gum at the same time. It cannot be you go first and then me. It has got to happen simultaneously. It has to be intentional. And if we want the

communities and the perceptions to improve, everybody has to give simultaneously.

DR. TURNER LEE: That's right. Kristen, did you want to jump in?

MS. CLARKE: Well, I just wanted to say a word about police union contracts, which I think are a real barrier to reform. And, you know, even in the instance where you may have a powerful video documenting use of excessive force or deadly force by a cop, often the terms of collective bargaining agreements will give that officer the opportunity to see all of the written statements, all of the photographs, all of the video recordings first before they come up with their iteration of what transpired.

And so as we just think about the world that we need to move towards, I do think that keeping police union contracts and how they stand as a barrier to reform is an important thing to just put a pin in and keep on the table.

DR. TURNER LEE: That's right. Okay. So, I have a couple of questions. Thank you so much for all of this. My heart, again, is so full every time I do these conversations at Brookings. It's so full to actually begin this dialogue and I think we're on to something, so let's keep talking about this.

So, a couple of questions I do want to share before we go. I mean, we assume, and this is from Ann, that everyone has broadband access, too. I mean, how many killings or shootings are happening with people who do not have the access to record it?

Would love to hear more from Ann has a question on how do you get, she said Brookings -- Ann, we're having this event; we're starting the conversation -- but she said and Black Lives Matter to expand upon getting Internet to everyone in our country around these racial disparities, especially in things like education, access to technology? Any conversation on -- you know, I'll kind of swing Ann's question a little way on people who are disempowered and disconnected and how they actually are able to tell and narrate their own stories?

DR. RAY: I mean, Nicol, this seems like can you answer that question for us?

DR. TURNER LEE: I could, but I'm hosting you in my living room, so you've got to answer it. (Laughter)

DR. RAY: Well, I'll say a part of what Nicol would say because I think she is the premier

expert on this issue.

One of the big transformations that Nicol is pushing, and I've seen being implemented across the country, one big innovative idea, particularly now with not just people capturing what's happening to them and their communities, but also kids trying to get access to technology in the midst of a pandemic where you see police show up to arrest kids because they're sitting outside of a restaurant trying to get WiFi access. I mean, that is the world we are living in in the United States. And one big thing Nicol has said is what happens when we outfit school buses that aren't moving right now with WiFi and set them up as hotspots on their routes in their neighborhoods? I think that is one of the most innovative ideas that could happen. And it actually doesn't seem like it should cost a whole lot or require a whole lot of resources and you've instantly covered people now.

Then you've got to deal with the devices. One big thing Nicol has also done is helping to make connections with tech companies that make equipment to funnel these devices, tablets and what have you, to underserved communities in urban and rural America.

But, I mean, to the point of Ann's question, look, we already know that there is a huge technology gap, particularly in rural America. And for some reason, we act like the rural America doesn't have a whole lot of White people as well as, oftentimes, a whole bunch of low-income people across racial groups who should be on the same page as it comes to their attitudes, their social and political attitudes. But oftentimes, media and social media becomes a vessel by which to separate them and create the vision.

DR. TURNER LEE: That's right. And Commissioner Clyburn, you know, we've been talking about this for, what, as long as we've known each other?

MS. CLYBURN: Yes.

DR. TURNER LEE: Twenty-plus years, right?

MS. CLYBURN: We met in the middle of this conversation, you're absolutely right.

DR. TURNER LEE: That's right. In terms of the last question, I'll actually put it out there for anybody, Autumn wrote -- and rightfully so, but she's actually bringing up a point that I often bring up.

These videos -- and let me just do this right, so I don't summarize it and we'll maybe end right on this question, what harm do we think has been done by these video recordings of graphic instances of police brutality being shared so often and so widely? And how can we decrease the trauma Black people face by seeing these so often on social media every day from citizen activists? And how can we teach people not to glamorize or glorify the deaths of Black people by resharing them?

So, without I guess taking away from the action that we're talking about. Kristen?

MS. CLARKE: So, when I share these videos, and I usually do so with a trigger warning just because I think that it is -- one of the reasons why we're having this conversation right now and across the country is because of the videos that have made people so uncomfortable that it's given them a front-row seat to issues that have been happening for decades to Black people. Some of you may be in a different spot, but that is -- I feel like these videos show our humanity and show it being destroyed, undermined, and obstructed by law enforcement.

The thing that breaks my heart is thinking about the children, thinking about the little girl in the backseat while Philando Castile was shot right before her very eyes and listening to her trying to calm her own mother down through that horrendous incident. There was another incident this weekend that many of you may have seen. A car that was stopped, the cop insisted on asking the passengers for a driver's license. A father questioned why did he need to produce ID, and there is a little child, his son, looking out while his father's head is being bashed into the ground and saying Daddy, Daddy.

There is no doubt a generation of children that will be traumatized by these videos and images, but I still believe that they are an important weapon in a fight that we have been battling for decades.

If I might give a selfish plug, Nicol, as we wrap up, we're building out our criminal justice team and looking for people who care deeply about these issues. So, I encourage people to check out the job vacancies on our website, stepping up our fight against mass incarceration and stepping up our fight against police brutality are front and center for us at the Lawyers' Committee for Civil Rights Under Law right now.

DR. TURNER LEE: Thank you.

MS. CLARKE: Thanks for having me.

DR. TURNER LEE: Thank you, Kristen. And I know you've got to jump off this.

Rashawn, Mignon, any other comments? And we're going to wrap up.

MS. CLYBURN: Well, you know, Nicol, I think about two things. Number one, in the middle of the most painful part of the Minneapolis experience, guess what was being reviewed? Those contracts for police officers. So, I say with that, change of law means change of applications. And so we need to look at any jurisdiction where we call home, we need to go to the City Council, Town Council, whoever negotiates those contracts and have better terms.

Also, when it comes to the young people and the trauma, and some of us that are not so young, one of the things about connectivity and having ubiquitous broadband, if we were to ever get to that point, is the ability for me to use my personal device to have a helpful discussion with a therapist. So, connectivity is not just educating people between -- children between 8 and 3. It's addressing their other needs, including mental health needs through technology that we could -- the boundaries make not difference. It doesn't matter if there's not a child psychiatrist there if I can zoom in, not Zoom the product, but zoom in, then I have an opportunity to be healed.

So, we need to think about connectivity not just by education, not just, although this panel is on that, criminal justice or social justice or awareness, but healing our communities because it allows for that to happen.

DR. TURNER LEE: That's right. Rashawn, you know it's 3:01 and it's time for us to move on. But I think you could do the -- for everybody else, unless you want to deal with trauma in less than 20 seconds.

DR. RAY: Go ahead and close this out.

DR. TURNER LEE: Yeah. You know, racism is traumatic, folks. I mean, I think that question from Autumn is quite real, but I'll also say that what Kristen ended with is that we cannot actually pull back from what we're seeing. If it wasn't for people like John Lewis and rest in his health and rest in

his peace right now of being able to show his face battered and brutalized based on his walk for freedom; if it wasn't for the fight to actually televise the civil rights movement that was happening in Alabama, where firehoses and people were being brutalized, we would not have progress.

And so as we move forward, we must be sensitive to what everybody has said is, as I see these events, I always talk to my own children and make sure they're aware of what's actually going on around them. But this is not a safe space for Black people right now and I think that's the purpose of this conversation. And the more that we try to make it safer from what we actually see, it appears that we have more dialogue to have to make sure we actually get it to justice.

Again, thank you so much for watching today. This will be posted. Let other people know about this conversation if they were not here today. This is an important dialogue that I think brings technology into the mix of social justice.

If you want to hear more from the Center for Technology Innovation, we also have a podcast. And I ask you to go to our podcasts and listen to those episodes, one which is on racial bias and tech.

Kristen had to drop off for another event. I know the two of you are busy. I thank you, thank you, thank you for your participation. And this is not over. We have one more of these actually coming up on racial equity and technology, which will happen in the next couple of weeks. I ask you to also join that, as well.

Thank you so much, everybody, for giving us an hour of your time today and we appreciate it. Keep the conversation going, #DigitalJustice. Thank you.

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