

Executive Summary

This document represents a general summary of the discussions that took place at the 2nd annual Data & Civil Rights conference. Not all attendees were involved in every part of the conversation, nor does this document necessarily reflect the views and beliefs of individual attendees.

On October 27, 2015, Data & Society, The Leadership Conference, and Upturn teamed up to host the second annual Data & Civil Rights Conference. This year's conference, "Data & Civil Rights: A New Era of Policing and Justice" aimed to focus on the ways in which new forms of data-driven technology currently – or are about to – alter different parts of the criminal justice system.

At this conference, we brought together people working at the intersection of technology and criminal justice who are committed to creating a more fair and just society. We assembled 149 thought leaders from various backgrounds, including law enforcement officers, lawyers and legal scholars, government workers, civil rights and advocacy groups, technologists, and researchers to drill down on what is happening, what should be happening, and what is unaccounted for. The goal of this conference was to provide a forum for stakeholders from a range of backgrounds to discuss the stakes of technological interventions in policing specifically and criminal justice more broadly. The topics the conference highlighted and devoted specific workshops to were: predictive policing; open data; predictive algorithms and courts; police body-worn cameras; biometrics; and social media surveillance and law enforcement.

In response to the highly publicized fatalities of people of color in interactions with both policing authorities and civilians, such as the deaths of Michael Brown and Trayvon Martin, policy mandates are rapidly developing around the rubrics of accountability and transparency. To fulfill these mandates, new technologies are being proposed and adopted to remedy systemic challenges, such as bias. While concerns about criminal justice are not new, they have come to occupy a sustained discourse in mainstream media, such as through the rise of #BlackLivesMatter, and as the subject of government interventions in policing, as well as judicial processes. Police-worn body cameras have received widespread attention as the "solution" to police accountability. The White House has proposed the Police Data Initiative to bring together federal government agencies, local police departments, community organizers, and private industry to make police practices more transparent. Overall, data-centric technologies, such as predictive algorithms, are shifting the ways that decisions are made in a range of contexts, such as about who or where police are concentrated, or how risk assessments are conducted on criminal offenders. However, little is known about how these technological interventions will amplify or remedy existing problems in the criminal justice space.

Given the wide-ranging backgrounds of the people in attendance, we sought to develop a common language among a group of people broadly interested in issues of civil rights, equity, and data-driven technologies. Participants included those who were unfamiliar with the ways in which technology is transforming the criminal justice landscape but who have strong civil rights roots and advocacy efforts, as well as those who are primarily familiar with the technologies, but who lack a clear picture of how they intersect with civil rights concerns. In order to bridge these gaps, we began the day with opening talks, called fire starters, from both the civil rights and technology fields. Spanning the spectrum of the criminal justice system, these five-minute presentations set the groundwork for the afternoon's workshop sessions. Speakers began by talking about structural bias in the criminal justice system and the school to prison pipeline and the technology behind TASER's body cameras. Then next wave of topics covered the practices of law enforcement, with speakers discussing the structural reforms necessary for 21st century policing, Palantir and PredPol's predictive policing technology, and the basics of machine learning. Presenters then explored mandatory sentencing minimums and risk assessment tools within the court system and finished with discussions on how open data could be used to provide much-requested transparency and accountability.

For the second part of the day, attendees were divided up into six previously assigned workshop sessions, organized around different technologies and areas of the criminal justice system. In groups of 20-30 people, all from a mix of backgrounds, the workshop participants used the advance reading to ground a conversation and

then drilled into the subject matter as a group. Guided by two moderators, attendees were able to discuss their expertise, ask questions, challenge assumptions, and thoroughly flesh out the various issues at stake.

These presentations laid the foundation for several themes that would emerge throughout the day. One ongoing theme from the fire starter presentations was the question of where the onus of responsibility for addressing civil rights, discrimination, and bias issues lies, or at least how those responsibilities are distributed across actors from law enforcement and tech vendors—what responsibility do companies have to mitigate social justice issues and where is the boundary between expecting too much or too little from them? While many argued that technologists should ensure that they minimize bias in algorithms, when do we place too much expectation on technology to solve existing structural problems? The gap in know-how between tech developers and users was also heavily highlighted. While those developing the tools are highly skilled, people in the positions of using or implementing new data tools (judges, police, other public officials) often do not have the training to interpret statistical findings or relevance.

Throughout the workshops, the need for community input when developing and implementing new tools was stressed time and again. There was an emphasis on the idea that unilaterally implementing new technologies without getting feedback from the local community (e.g., hosting focus groups) usually ends badly, especially because communities are often not informed or even aware of what gets deployed by police departments. This cycle

contributes to the underlying issues of distrust between citizens and police.

Participants also dug deeper into the promises of transparency and openness that have come with new technology and data-driven tools. After intense discussions, it remained unclear whether systems relying on algorithms will be more or less transparent than current practices. Many argued that data and algorithmic tools are not automatically either more or less transparent. Rather, the way they are developed, applied, and legislated are what produce, or do not produce, the transparency. The same concept was raised in the discussions surrounding openness and availability of data. Some stressed that affected communities needed to have both the skills and tools necessary to analyze open data and use it for purposes of mobilization. However, open data only plays a small part of a bigger picture, and its role may be too small to consider it as integral to broader reforms.

By and large, participants focused on asking difficult questions rather than proposing concrete solutions. However, attendees did begin to grapple with the solutions presented in the legal domain. Issues of free speech and First Amendment protections were consistently brought up. A main issue discussed was the chilling effect and unfair burden that surveillance, and disproportionate surveillance especially, puts on marginalized populations, who often self-censor and develop tactics for avoiding law enforcement. Disparate impact claims have historically been the most promising legal course of action to combat racial bias, given the asymmetric impact of so many standing aspects of law enforcement. However, there was concern that data and algorithms could make

explicit racial biases that are implicit now. Highlighting the tensions at play, some participants argued that algorithms might be both the greatest hope for undoing racial bias and the greatest threat to continuing to challenge the state of affairs using these claims.

The day wound down with an informal discussion between the Center for Policing Equity's President Phillip A. Goff and the Roosevelt Institute's Fellow Dorian Warren. These two summarized the discussions that occurred during the day and also focused on the necessity for those in the room to find a place between extremes. They stressed the urgency and importance of broadening and deepening conversations and developing leadership among the mixed group of stakeholders who can represent and engage the public as well as corporate and industrial actors. Finally, participants were encouraged to use the experience they had at the conference to educate not just the people in the room, but to take the conversations they had had to the public.

As we continue to reflect on the discussions that took place during and around this event, we will continue to work across sectors to envision a path forward. To help enable that, we have made all of the advance materials and session write-ups available to the public, written in a manner that respects the Chatham House Rules nature of the event. As you read the materials from the event, please feel free to contact us. We are open to feedback and would love to hear suggestions about additional next steps.