CRIME, COMMUNITY, AND THE SHADOW OF THE VIRTUAL

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As reformers and abolitionists spar over the future of law enforcement, both camps urge giving the "community" a weightier say in defining public safety priorities. Regardless of whether police departments should be further revamped or instead defunded, a key task will be determining how to grapple with the complicated, heterogeneous nature of communities. The Internet and social media have provided new possibilities, but also new challenges, in confronting that task. The virtual world has provided novel ways for people to connect with each other—new kinds of "communities"—but it has also fed polarization and division, threatening to widen the gulfs between groups with different concerns and different assumptions about the world, and fueling inter-group suspicion and hostility.

Three distinct online conversations about public safety have emerged. "Neighborhood Watch" brings together people in a particular geographical area who are concerned about crime and disorder; it is an online continuation, in a way, of the meetings in church basements and community centers that police departments hosted in the 1980s and 1990s, when community policing had its heyday. "Community Resistance" brings together people concerned about abusive law enforcement, especially police racism and police violence. The paradigm here is the Black Lives Matter movement, which successfully highlighted and organized resistance to the shockingly high rates at which American police kill people of color. A striking fact about Neighborhood Watch and Community Resistance is how separate these two discourses are from each other and how little the two conversations overlap. Both of these online conversations are separate from "Cop Talk," the use of social media by police officers to share their thoughts about their work and interactions with the public. A series of scandals around the United States over the past decade have repeatedly uncovered examples of officers engaging in online conversations rife with racism, sexism, and a cynical disdain for much of the public they are pledged to

serve. Online discussions of policing and public safety thus have exemplified the broad tendency of the virtual world to heighten the dual nature of community: the way that communities serve both to link people together and to divide them.

The internet offers tantalizing opportunities to address the complexity of communities and help reconcile opposing values in public safety rather than paper them over. For the virtual world to assist in this enterprise, though, its weaknesses, as well as its attractions, need to be taken into account. That means, in part, optimizing the internet's potential to bring people together while minimizing the alienation, fragmentation, and mistrust that online discussions can breed. It means encouraging and facilitating productive dialog—whether or not led by the police—between people with different assumptions and concerns about policing and public safety and working to incorporate the views of people who may not be active participants in any of the existing online discourses we have described. There may be ways to pursue these goals through a range of online interventions, some aimed at platforms and others at users. But the most important responses to online polarization—whether with regard to policing and public safety or with regard to other lines of cleavage in the virtual world—may not themselves have anything to do with the internet but rather with conditions in the real world that the internet draws on, replicates, and in some cases amplifies.

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I. INTRODUCTION

The internet and social media raise two different challenges for criminal justice. The first is the problem of criminal justice in online communities: how to develop norms, institutions, and procedures of criminal justice for the virtual world. The second challenge is to understand the ways in which the advent of the virtual world changes longstanding problems of criminal justice in the actual, physical world: the new opportunities, and new obstacles, that the modern technologies of communication and interconnection create for public safety, police accountability, and the pursuit of justice.[1] This Article addresses a particularly pressing aspect of the second challenge. It examines the implications of the internet and social media for a central and enduring difficulty in debates about public safety: the understanding of—and construction of—"community." It asks how "community safety" in the real world is altered, or should be altered, by the shadow of the virtual.

Part II of this Article describes the problem of the community in debates about public safety. For the past four decades, efforts to transform the pursuit of public safety in the United States have revolved around, and foundered on, the idea of community. From the early 1980s through the early 2000s, discussions of public safety were dominated by the "community policing" movement, which aimed to have the police work hand in hand with the community on issues of concern to the community instead of viewing officers as a semi-autonomous group of crime fighters—a "thin blue line" protecting the public against illegality and disorder. At least at the level of aspiration, community policing was highly successful. By the close of the twentieth century, almost every police department in the country claimed to practice community policing, and while there were debates about how meaningful these commitments were in practice, the core idea of the community policing movement—that the police should partner with the community rather than set themselves apart from it—had become something of an orthodoxy. There was a broad consensus among academics and community reformers as well as among police executives that American policing had been fundamentally remade, for the better, by the ideal of community policing and should continue moving forward along the same path. There were even frequent suggestions that other fields of American governance could profitably learn from the success of community policing in transforming the domain of public safety.

The community policing movement was critically undermined, though, by simplistic thinking about communities. It was widely assumed that communities had clear, organic boundaries and consistent, coherent, and largely uniform ideas about public safety. Highly unrepresentative groups of local residents were allowed to speak for "the community," the concerns of other groups were often

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1. *Cf., e.g.*, Gustavo S. Mesch & Ilan Talmud, *Internet Connectivity, Community Participation, and Place Attachment: A Longitudinal Study*, 53 AM. BEHAV. SCI. 1095, 1096 (2010) (distinguishing "online communities . . . based entirely on computer-mediated communications," from "community networks . . . embedded in proximate geographic relations.").

ignored, and the conflicting values of different parts of the community were left unresolved. Partly as a result, the community policing movement failed badly at confronting key issues in law enforcement, especially the issue of police violence.

The federal government remains committed to community policing, and so do many police executives. But many activists today view community policing—and, in fact, the entire project of "reforming" the police—as a dead end. Instead of reforming the police and further entrenching them, many activists now argue that police departments should be defunded and shrunk and that responsibility for public safety should be shifted to the community. But these efforts, like the community policing movement they seek to supplant, often struggle to take seriously the complexity of actual communities and the diversity of conflicting views that residents typically have about public safety. Regardless of whether police departments should be further reformed or instead defunded, a key challenge will be determining how to grapple with the complicated, heterogeneous nature of real-world communities.

Part III of this Article explores how that challenge has been altered over the past few decades by the lengthening shadow that virtual communities cast over real ones. At first glance, this is a story of plusses and minuses. The internet and social media have provided new ways for people to connect with each other—new kinds of "communities"—but it has also fed polarization and division. In the early years of the internet—the 1990s and early 2000s—it was common for scholars and journalists to focus on the plusses, the new forms of connection. There was a good deal of techno-optimism about the potential of the internet to strengthen democracy and rebuild civil society. In the last decade, in contrast, increasing attention has been paid to the ways in which the internet, especially social media, has fueled polarization and social fragmentation.

In reality, though, the positive and negative effects of the internet on politics are different ways of describing the same thing. The internet, and especially social media, are powerful engines for drawing together people with shared interests and outlooks. That very process, though, sorts people into camps, widening the gulfs between groups with different concerns and different assumptions about the world and fueling inter-group suspicion and hostility. The virtual world thus sharpens, and makes more apparent, the fundamental duality of all communities, including those in the real world. Communities are simultaneously about unity and division; they draw people together in part by drawing a boundary and excluding everyone who falls outside.[2]

The internet and social media throw this duality into heightened relief precisely because of the ways in which online communities differ from communities in the physical world. Online communities are, for the most part, voluntary associations. They are like clubs. You join the ones you like and quit the ones you

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2. *See, e.g.*, MIRANDA JOSEPH, AGAINST THE ROMANCE OF COMMUNITY vii–xxvi (2002); Richard C. Schragger, *The Limits of Localism*, 100 MICH. L. REV. 371, 375 (2001); Robert Weisberg, *Restorative Justice and the Danger of "Community,"* 2003 UTAH L. REV. 343, 348 (2003).

don't. Online communities, therefore, tend to be much more homogeneous in outlook than physical "communities" like neighborhoods and towns. Physical communities inevitably bring together people of opposing viewpoints. This happens in every locality, at least to some extent, although some places obviously are more diverse than others. There is a very long history of real-world communities devoting great effort to excluding "outsiders" through zoning restrictions, property covenants, and physical boundaries. Nonetheless, there is an inherent messiness, a randomness, to communities in the real world, generally not replicated in the virtual world. It is because online communities can avoid that messiness and randomness that they have proven so effective at sorting people into silos of the like-minded and creating ideological echo chambers.

Part IV of this Article describes how this has played out in the domain of public safety. Three distinct online conversations have emerged; we can call them "Neighborhood Watch," "Community Resistance," and "Cop Talk." Neighborhood Watch brings together people in a particular geographical area who are concerned about crime and disorder. This is the discourse that tends to be found, for example, on Nextdoor.com or on discussion groups set up by police departments. It is an online continuation, in a way, of the meetings in church basements and community centers that police departments hosted in the 1980s and 1990s, when community policing had its heyday. Community Resistance, on the other hand, brings together people concerned about abusive law enforcement, especially police racism and police violence. The paradigm here is the movement associated with the slogan Black Lives Matter, which successfully highlighted, and organized resistance to, the shockingly high rates at which American police kill young people of color. A striking fact about Neighborhood Watch and Community Resistance is how separate these two discourses are from each other, how little the two conversations overlap. And both of these online conversations are separate from Cop Talk, the use of social media by police officers to share their thoughts about their work and their interactions with the public. A series of scandals around the United States over the past decade have repeatedly highlighted the ways in which online conversations among officers can veer toward racism, sexism, and a cynical disdain for many of the concerns raised by participants in the other two online conversations about crime and policing, Neighborhood Watch and Community Resistance.

Online discussions of policing and public safety thus have exemplified the broad tendency of the virtual world to heighten the dual nature of community: the way that communities serve both to link people together and to divide them. Part V of the Article will offer some thoughts about confronting this duality. How can discussions of community in the context of public safety take advantage of the upside of the virtual world while minimizing its downside? Are there ways to bridge the divides between the three siloed discourses about public safety currently found online? Are there ways to use the internet and social media to foster constructive exchanges between people with conflicting views about law enforcement and public safety? There are limited but intriguing examples of

community policing programs that functioned in this way.[3] Can the virtual world build productively on those models?

Much of this Article will be about the complexity of communities, but it is worth flagging, at the outset, the complexity of the very *word* "community." The term is notoriously ambiguous, signifying—as Robert Weisberg points out—"a value, a goal, a condition, or a phenomenon that is sometimes embodied in a real social or political entity but also floats above or just beyond it as an ideal state."[4] References to "the community" can be purely descriptive, referring to a particular locality, but, even with the definite article, the term inevitably comes with a "normative halo."[5] As a result, Weisberg concludes, "'community' is a very dangerous concept," often meaning either "very little, or nothing very coherent," or, alternatively, meaning "so many things as to become useless in legal or social discourse."[6] Even when "community" is understood to refer, unambiguously, to a political ideal rather than to an actual set of social relationships or an actual physical place, the nature of the political ideal is itself uncertain.[7] It is common to distinguish a "thin" or "liberal" ideal of community, consisting of a voluntary association, with a "thick" or "deep" understanding of community, which sees individuals as organically situated within and formed by their community.[8] And the thicker understanding can be further subdivided, depending on whether community is seen as something preexisting, although possibly in need of recovery, and something that needs to be actively constructed.[9]

Despite these dangers, this Article makes frequent use of the term "community," in part because criminal justice reformers employ the term so often, and in part because it is a convenient way to refer both to the populations that a police department serves and to the connections among those populations. It can also be a convenient way to refer to a group of people who congregate online. But references to "the community" here should not be understood to imply that the people in a particular area, or using a particular internet platform, have a particularly deep or particularly thick set of social relationships, or that their connections are in some sense organic or pre-political. These are precisely the assumptions that we will often be critiquing. We will also be challenging the idea that members of a physical community generally share similar values and opinions. Online communities often differ from real-world communities in this last respect, for the reasons we have mentioned. This isn't true, obviously, of wide-open platforms like Twitter or the comments section of a mainstream news

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3. David Alan Sklansky, *Police Reform in Divided Times*, 2 AM. J.L. & EQUAL. 3, 26–27 (2022); David Thacher, *Conflicting Values in Community Policing*, 35 L. & SOC'Y REV. 765, 765 (2001).

4. *See* Weisberg, *supra* note 2, at 343.

5. *Id.* at 348.

6. *Id.* at 343, 347.

7. *Id.* at 343.

8. *E.g.*, Schragger, *supra* note 2, at 387–97; STEVE HERBERT, CITIZENS, COPS, AND POWER: RECOGNIZING THE LIMITS OF COMMUNITY 22–29 (2006).

9. HERBERT, *supra* note 8, at 22–27.

source, but those forums are rarely described as "communities," and we will not be applying the term to them, either.

A neighborhood is more than a physical area, and more than the sum total of the individuals who live and work there: it is all of that, plus the web of interactions and relationships that link residents together and sometimes drive them apart. "Community" is a convenient and conventional way to refer to all of this, and that is how we will employ it: as a descriptive term, not an evaluative one, and as a reference to something that people create and draw boundaries around, not something that just arises as a fact of nature. Communities can be constructed in better ways and in worse ways. They can be inclusive or exclusionary, egalitarian or hierarchical, liberating or repressive. And they are never homogeneous; they always include people with different and conflicting aspirations. It makes sense that efforts to reimagine public safety lean heavily on the idea of community because any decent system of public safety will both rely on communities and help to sustain them. The question at the heart of this Article is how best to do that in the age of the internet.

II. THE PROBLEM OF THE COMMUNITY IN PUBLIC SAFETY

For the past four decades, efforts to reform public safety and to address the pathologies of policing in the United States have leaned heavily on the idea of community. This was obviously true of "community policing," the enormously popular reform movement of the late twentieth century, which put the word "community" in its very title. But it is true as well of recent calls to abolish or defund the police, although in this case, the ideas about community need somewhat more teasing out.

A. The Problem of the Community in Community Policing

From the 1980s through the early 2000s, discussions of policing and public safety in the United States were dominated by the program of "community policing." It was a matter of debate whether community policing was actually a coherent set of ideas or simply a slogan, a label that got placed on whatever it was that police departments were doing or wanted to do.[10] Law enforcement agencies had strong incentives to embrace the language of community policing, even if their practices never changed, not only because the idea was broadly popular with the public[11] but also because adopting community policing became a prerequisite for federal grants.[12] The label "community policing" was therefore applied to practices that ranged from bicycle patrols and structured meetings

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10. Amna A. Akbar, *An Abolitionist Horizon for (Police) Reform*, 108 CALIF. L. REV. 1781, 1804–05 (2020).

11. Sklansky, *supra* note 3, at 12.

12. *Id.*

between officers and residents to "zero tolerance" crackdowns on public order offenses.[13]

At the heart of all the talk about community policing, though, there was, in fact, an idea. The idea was that a police department should partner with the community it was charged with protecting, instead of holding itself aloof as an autonomous force of paramilitary crimefighters. Community policing was, in large part, a reaction against "police professionalism," the idea that guided efforts at police reform from the middle of the twentieth century through the 1970s.[14] Like "community policing," the phrase "police professionalism" was often applied indiscriminately to whatever practices police departments had adopted or wanted to adopt. But "police professionalism," too, had a core meaning; it sought to turn police departments into politically insulated hierarchies of trained "professionals" who would rely on specialized knowledge, organizational sophistication, and new technologies of mobility and communication to keep crime under control.[15] By the late 1960s and early 1970s, the philosophy of police professionalism was thoroughly discredited.[16] It was blamed for helping to turn the police into occupying armies: alienated from, distrusted by, and often overtly hostile to the people they were supposed to be protecting.[17] Community policing aimed to undo the excesses of police professionalism. It sought to turn the police from "warriors" back into "guardians," to flatten the hierarchy of law enforcement agencies, to get officers out of their cars and into conversation with members of the public, to restore trust, to have police work cooperatively with other agencies and with the public, and to root policing in local values and concerns—the views of "the community."[18]

A critical weakness of community policing—perhaps *the* critical weakness—was the movement's tendency to think in simplistic ways about community. There were community policing programs that took seriously the complexity of communities; these programs worked to arrive at strategies for public safety that took into account the conflicting views of different parts of the public.[19] But these programs were exceptions. Typically, proponents of community policing talked as though communities had clear, natural boundaries and coherent, consistent, largely homogeneous views about law enforcement and public safety.[20] Young or old, transient or stationary, law-abiding or rebellious, members of a community were assumed to share the same values, to see their fates as linked, and to largely agree about how the police should operate. As a result,

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13. *See, e.g.*, DAVID ALAN SKLANSKY, DEMOCRACY AND THE POLICE 82–84 (2008).

14. David Alan Sklansky, *The Persistent Pull of Police Professionalism*, NEW PERSP. POLICING, Mar. 2011, at 1.

15. *Id.* at 2.

16. *Id.* at 5.

17. *Id.*

18. *E.g.*, James Forman, Jr., *Community Policing and Youth as Assets*, 95 J. CRIM. L. & CRIMINOLOGY 1, 4–9 (2004); Sklansky, *supra* note 14, at 1–2.

19. *See* Sklansky, *supra* note 3; Thacher, *supra* note 3.

20. Sklansky, *supra* note 3, at 25.

little effort was made to ensure that the residents who came to community polic-ing meetings reflected a cross-section of the public or that all important views were represented.[21] Even worse, the kinds of people to which officers reached out were often the ones who could be counted on to be most sympathetic to, and least critical of, the police. Homeowners, business owners, and older residents were overrepresented; renters, young people, and "troublemakers" tended to be left out of the conversation.[22]

Partly as a consequence of this truncated conversation, certain issues got short shrift—including, tragically, police violence.[23] Police violence tends to be experienced by the kinds of people who *don't* come to beat meetings in church basements: young people (particularly young people of color), people with men-tal health issues (especially people of color with mental health issues), people without housing (particularly people of color without housing).[24] These kinds of people, though, were largely written out of the "community" the police sought to partner with. They were part of the *problems* that community policing sought to address, not part of the constituency that community policing aimed to serve or among the resources on which it drew.[25]

The failure of community policing to reduce police violence, or even to address police violence in any sustained and serious way, played a large role in discrediting the movement.[26] It took a mass movement making skillful use of smartphones and social media, marching under the slogan Black Lives Matter, to bring widespread attention to the ongoing scandal of police killings of people of color.[27] By the time these protests reached their crescendo in the summer of 2020, many activists and scholars had given up on community policing and on the entire idea of "reforming" the police.[28] Reform seemed to them a dead end. Instead, they called for abolishing the police altogether or at least radically shrinking law enforcement's footprint by "defunding" police departments. In-stead of tinkering with the details of policing, proponents of abolition or defund-ing sought to end policing altogether, or at least to radically curtail it, and to shift responsibilities for public safety to the community.[29]

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21.   Sklansky, *supra* note 3, at 22–23.

22.   *See* Forman, *supra* note 18, at 17.

23.   *Id.* at 28.

24.   *See* FRANKLIN E. ZIMRING, WHEN POLICE KILL 46–48, 53–56 (2017); Jamelia Morgan, *Disability's Fourth Amendment*, 122 COLUM. L. REV. 489, 501–09 (2022); Camille A. Nelson, *Frontlines: Policing at the Nexus of Race and Mental Health*, 43 FORDHAM URB. L.J. 615, 656–60 (2016); Amam Z. Zaleh, Paul S. Appel-baum, Xiaoyu Liu, T. Scott Stroup & Melanie Wall, *Deaths of People with Mental Illness During Interactions with Law Enforcement*, 58 INT'L J.L. & PSYCH. 110, 110 (2018).

25.   *See* Forman, *supra* note 18, at 2.

26.   *See* Sklansky, *supra* note 3, at 14–15.

27.   *See, e.g.*, ZIMRING, *supra* note 24, at 3–16; Curtis Bunn, *Why Black Lives Matter Matters*, *in* SAY THEIR NAMES: HOW BLACK LIVES CAME TO MATTER IN AMERICA 1, 6–62 (2021); Amna A. Akbar, *Toward a Radical Imagination of Law*, 93 N.Y.U. L. REV. 405, 415 (2018).

28.   *See, e.g.*, ZIMRING, *supra* note 24, at 3–16.

29.   *See, e.g.*, ALEX VITALE, THE END OF POLICING 30 (2017); Akbar, *supra* note 10, at 1814–15; Alexis Hoag, *Abolition as the Solution: Redress for Victims of Excessive Police Force*, 48 FORDHAM URB. L.J. 721, 735–43 (2021); Mariame Kaba, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020),

Support for defunding the police has waned since the summer of 2020, and the idea never drew the support of a majority of Americans of any race or political party, let alone of the Biden Administration.[30] By the summer of 2022, even some writers sympathetic to the movement had concluded that it was dead.[31] Many scholars and activists, though, remain committed to the idea of abolishing or defunding the police.[32] The movement to abolish or defund the police has an important point of continuity with community policing. Like that earlier movement, calls to end policing or to slash its funding place heavy reliance on the idea of the community—and often seem to take insufficient account of the complexity and diversity of real communities.

B.   The Problem of the Community in Police Abolition

Most advocates of abolishing or defunding the police stress that they are calling not just for policing to end or shrink but for resources and power to be shifted away from the police and toward communities. They are advocating *re*-investment and *re*-empowerment, not just *dis*-investment and *dis*-empowerment. But exactly what should be funded and who should be empowered has typically been addressed only in very general terms. Part of the idea is to take money from police departments and reinvest it in schools, employment programs, and social services.[33] These programs, it is argued, can do more to reduce crime than the police, because they attack its root causes. Most advocates of abolishing or defunding the police nonetheless agree that addressing the root causes of crime is not enough;[34] we need systems to address the lawbreaking and breaches of public order that still occur. But they argue that these functions, too, are best carried out by the community, by its "representatives," or by organizations and leaders "based" in the community," rather than by the police.[35]

There are two ambiguities here: the meaning of "community" and the meaning of "police."[36] As to the first, advocates of defunding or abolishing the police often repeat the key mistake made by proponents of community policing: they talk as though there is a clearly bounded "community" with clear, consistent, and largely homogeneous views about policing and public safety. Real-

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https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html [https://perma.cc/8Y PM-JJ8G]; Denzel Tongue, *The Case for Defunding the Police*, CAL. HEALTH REP. (June 18, 2021), https://www. calhealthreport.org/2021/06/18/analysis-the-case-for-defunding-the-police/ [https://perma.cc/8G5G-X7ET].

30.   *See* Sklansky, *supra* note 3, at 17.

31.   *See, e.g.*, Charles M. Blow, *"Defund the Police" Is Dead. Now What?*, N.Y. TIMES (Aug. 31, 2022), https://www.nytimes.com/2022/08/31/opinion/defund-the-police.html [https://perma.cc/HZG6-LWCL].

32.   *See, e.g.*, MARIAME KABA & ANDREA J. RITCHIE, NO MORE POLICE: A CASE FOR ABOLITION 10 (2022).

33.   *See, e.g.*, Tongue, *supra* note 29.

34.   *Id.*

35.   *See, e.g.*, *id.*; Ryan W. Miller, *What Does "Defund the Police" Mean and Why Some Say "Reform" Is Not Enough*, USA TODAY (June 8, 2020, 9:51 AM), https://www.usatoday.com/story/news/nation/2020/ 06/08/what-does-defund-police-mean-george-floyd-black-lives-matter/5317240002/   [https://perma.cc/S3UN-KN9U].

36.   These ambiguities, along with other grounds for skepticism about defunding the police, are discussed in Sklansky, *supra* 3, at 18–23.

world communities—actual communities in the physical world—are not like that, though. Real-world communities include people of diverse views, aspirations, and concerns, and much of the challenge in the fields of criminal justice and public safety is balancing and accommodating conflicting values. Saying that a decision or responsibility should be placed in the hands of the "community" begs the critical questions of who should be considered part of the community and how differences and disagreements among different members of the community should be handled.

This isn't just a theoretical problem, an issue of conceptual tidiness. Entrusting a responsibility to the "community" without addressing these questions of inclusion and decision-making risks—among other things—having the responsibility ignored altogether. In the 1960s and 1970s, for example, a concerted campaign of public pressure sought to close mental hospitals and replace them with community-based mental health clinics.[37] As with the community policing movement and current calls to abolish or defund the police, there was not a lot of thinking about how actual communities in the real world would or should handle their new responsibilities: how community mental health clinics would be established and overseen, and how their funding would be safeguarded. The result was that mental hospitals were closed, but the networks of community support that were supposed to replace them never emerged.[38]

The ambiguity surrounding the idea of community in many discussions of abolishing or defunding the police is compounded by ambiguity about exactly what is to be abolished or defunded: ambiguity, that is to say, about what makes something part of "the police." Is it the uniforms? The weapons? The arrest powers? The military-style ranks? Do private security guards hired by wealthy communities count as police? If a new government agency is created or a new nonprofit organization, and its employees are given the power and responsibility to conduct patrols, or investigate crimes, or institute legal proceedings against people who break the law, is that transferring public responsibilities to the community, or replicating the police? The problem is that communities act through representatives and organizations, including police departments. To flesh out the idea of transferring funds and responsibilities for public safety from the police to the community, we need to know what we mean by "the police," as well as what we mean by "the community."

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37.   *Id.* at 20–21.

38.   *See, e.g.*, Weisberg, *supra* note 2, at 363–68; Máximo Langer, *Penal Abolitionism and Criminal Law Minimalism: Here and There, Then and Now*, 134 HARV. L. REV. F. 42, 66–67 (2020); Rachel E. Barkow, *Promise or Peril? The Political Path of Prison Abolition in America*, 58 WAKE FOREST L. REV., 54–65 (forthcoming), https://ssrn.com/abstract=4232267 [https://perma.cc/M248-CHBS].

III. REAL-WORLD COMMUNITIES IN THE SHADOW OF THE VIRTUAL

It has been clear for decades that the internet is transforming communities: not just how communities actually form and operate but also our ideas about what communities are and what they should be. But the precise nature of the transformation, and whether it should be welcomed or feared, is far less clear. To assess the opportunities and challenges that the virtual world poses for ongoing struggles over policing and public safety, it helps to rewind the clock to when the internet was just emerging, and its social implications were still being assessed by people whose lives were not yet shaped by it.

The modern internet took form in the 1990s, just as community policing's popularity reached new heights. Nascent versions of the internet existed as early as the mid-twentieth century,[39] but they were long the province of academics, corporations, and government agencies.[40] By the turn of the millennium, the internet had become a digital commons, launching its transformation into the hub for entertainment, journalism, and politics that users enjoy today. The internet now boasts over five billion users worldwide, with individuals spending an average of nearly seven hours online daily.[41] People live a meaningful portion of their lives online, from the news they read to the relationships they forge and maintain.[42]

To a public beginning to reckon with what the virtual world could offer, the internet promised to revolutionize society and usher in a new era of connectivity. No longer would physical distance pose the barrier it once did to creating relationships and groups. To a striking extent, a spirit of optimism and excitement accompanied the internet's advent. The virtual world tantalized its future users with the possibility of a more egalitarian and democratic sphere of interaction. From the start, though, critics worried that the internet could be a force of social division.[43] Many of their warnings have proven prophetic: the virtual world has excluded people without the resources to access it and has generated concerns over ideological segregation and misinformation.[44]

The promise and the perils of the virtual world have a good deal to teach us not only about the possibilities and dangers of social interaction online but about the very concept of "community" in the twenty-first century. To think clearly about what "community" can and should mean today, we need to understand

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39.   Christopher S. Yoo, *Protocol Layering and Internet Policy*, 161 U. PA. L. REV. 1707, 1730–42 (2013) (describing the history of ARAPNET, a network operated by the Department of Defense and "the precursor of the modern Internet").

40.   John Markoff, *The Executive Computer; A Web of Networks, an Abundance of Services*, N.Y. TIMES (Feb. 28, 1993), https://www.nytimes.com/1993/02/28/business/the-executive-computer-a-web-of-networks-an-abundance-of-services.html [https://perma.cc/4XD9-A7E3].

41.   Simon Kemp, *Digital 2022: April Global Statshot Report*, DATAREPORTAL (Apr. 21, 2022), https://datareportal.com/reports/digital-2022-april-global-statshot [https://perma.cc/NPR7-QSF9].

42.   *Id.*

43.   *See infra* Sections III.A–C.

44.   *See infra* Sections III.A–C.

both the early promise of the internet and the ways in which that promise began to sour.

A. Techno-Optimism and the Upside of the Virtual

As late as 1993, the internet was a costly service, and its very novelty alienated many aspiring users.[45] Companies were only beginning to avail themselves of "electronic mailboxes," with business consultants raving about their newfound ability to close deals without making a single phone call.[46] The internet's user base was expanding by around fifteen percent monthly,[47] but the virtual world's "core constituents [remained] universities and high-tech companies";[48] around sixty percent of web traffic at the time was commercial in nature.[49] Only fourteen percent of U.S. adults had internet access by 1995.[50] Most people looked to the internet as a "taste of the future,"[51] a source of potential still unrealized.[52]

As the years passed, the virtual world quickly grew more user-friendly. Internet access became less costly, advances in modem technology made browsing much quicker, and the range of content available online continued expanding.[53] The nation's most prominent news outlets—including the *New York Times*, *CNN*, and the *Washington Post*—established websites, putting the nation's most cutting-edge journalism at users' fingertips.[54] MySpace debuted in 2003 and attracted the most traffic of any website in the United States by 2006.[55] Then came Facebook, Twitter, Snapchat, Instagram, and their progeny. Social media's popularity surged throughout the early aughts, with one-quarter of U.S. adults using

45. *See* Markoff, *supra* note 40.

46. *Id.*

47. Mary Lu Carnevale, *World-Wide Web*, WALL ST. J., Nov. 15, 1993, at R7.

48. *Id.*

49. *Id.*

50. Susannah Fox & Lee Rainie, *Part 1: How the Internet Has Woven Itself into American Life*, PEW RSCH. CTR. (Feb. 27, 2014), https://www.pewresearch.org/internet/2014/02/27/part-1-how-the-internet-has-woven-itself-into-american-life/ [https://perma.cc/3Z9N-RKMX].

51. Markoff, *supra* note 58.

52. Carnevale, *supra* note 47.

53. Mike Murphy, *From Dial-Up to 5G: A Complete Guide to Logging on to the Internet*, QUARTZ (Oct. 29, 2019), https://qz.com/1705375/a-complete-guide-to-the-evolution-of-the-internet/ [https://perma.cc/V2EU-TR32].

54. Josh Sanburn, *A Brief History of Digital News*, TIME (Feb. 1, 2011), http://content.time.com/time/business/article/0,8599,2045682,00.html [https://perma.cc/5V2L-CWB2]; Washington Post Staff, *Washington Post Company History*, WASH. POST (Jan. 1, 2021, 12:00 PM), https://www.washingtonpost.com/company-history/ [https://perma.cc/L3KP-BL6H]; *History*, N.Y. TIMES, https://www.nytco.com/company/history/our-history/ (last visited July 9, 2023) [https://perma.cc/M7LR-VC76].

55. Christine Lagorio, *MySpace Pulls Ahead in Page View Race*, CBS NEWS (July 12, 2006, 2:39 PM), https://www.cbsnews.com/news/myspace-pulls-ahead-in-page-view-race/ [https://perma.cc/Y7Y5-PXB9]; Nicholas Jackson & Alexis C. Madrigal, *The Rise and Fall of Myspace*, ATLANTIC (Jan. 12, 2011), https://www.theatlantic.com/technology/archive/2011/01/the-rise-and-fall-of-myspace/69444/ [https://perma.cc/C235-ERLH].

at least one social media site by 2008.[56] Online social networks integrated audio, video, and other media; users' ability to livestream their surroundings gave the internet a renewed feeling of immediacy. The virtual world, once a futuristic pipedream, now seemed all-encompassing.

Scholars and journalists greeted these dizzying advances by celebrating the internet's potential to transform how people consumed, produced, and shared information.[57] Early commentators dreamed of a world where anyone with an internet connection could instantaneously access a universe of content and engage with a global audience.[58] The result, they believed, would be a more decentralized and democratic exchange of information.[59] As one techno-optimist expressed, the virtual world promised "a golden age in activism and involvement . . . ."[60] Seizing on this enthusiasm, the *Economist* proclaimed in 2006 that "society is in the early phases of what appears to be a media revolution on the scale of that launched by Gutenberg in 1448."[61]

In retrospect, much of the techno-optimism of the 1990s and early 2000s seems tragically naïve, but it is important to recognize that the internet did, in fact, deliver on many of its promises. Many people who felt isolated in the physical world, for example, were able to find supportive communities online.[62] Furthermore, online organizing sparked political movements for equality and freedom both in the United States and overseas—including, as we will discuss below,

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56. *Social Media Fact Sheet*, PEW RSCH. CTR. (Apr. 7, 2021), https://www.pewresearch.org/internet/fact-sheet/social-media/ [https://perma.cc/ZKX3-9BPX].

57. VINCENT MOCSO, THE DIGITAL SUBLIME: MYTH, POWER, AND CYBERSPACE 18 (2005) (describing how it became a "common refrain" for scholars to laud the internet's revolutionary potential).

58. *See* CLAY SHIRKY, HERE COMES EVERYBODY: THE POWER OF ORGANIZING WITHOUT ORGANIZATIONS 9 (2008); TOM WATSON, CAUSEWIRED: PLUGGING IN, GETTING INVOLVED, CHANGING THE WORLD 57 (2009); Reid Kanaley, *Caught in the World Wide Web it's an Exploding Part of the Internet. In Less than two Years, the Places that Millions can Electronically Visit have shot from 50 to about 70,000*, PHILA. INQUIRER, Feb. 27, 1995, at G1 (marveling over the ten million users online and noting that, in just two years, the number of websites had skyrocketed from fifty to 70,000).

59. *See, e.g.*, Felicity Barringer, *Coming to Grips with the Web: News Media; Old Dogs See Opportunities in New Tricks*, N.Y. TIMES (Dec. 11, 2000), https://www.nytimes.com/2000/12/11/business/coming-to-grips-with-the-web-news-media-old-dogs-see-opportunities-in-new-tricks.html [https://perma.cc/33UL-STN8]; Petros Iosifidis, *The Public Sphere, Social Networks and Public Service Media*, 14 INFO., COMMC'N & SOC'Y 619, 622 (2011) (quoting Maria F. Murru, *New Media—New Public Spheres? An Analysis of Online Shared Spaces Becoming Public Agoras*, *in* COMMUNICATIVE APPROACHES TO POLITICS AND ETHICS IN EUROPE 143 (Nico Carpentier, T. Olsson & E. Sundin eds., 2009).

60. WATSON, *supra* note 58, at 19; *see also* David M. Anderson, *Cautious Optimism About Online Politics and Citizenship*, *in* THE CIVIC WEB: ONLINE POLITICS AND DEMOCRATIC VALUES 19, 32 (David M. Anderson & Michael Cornfield eds., 2003) (celebrating the internet's potential to "energize offline politics by creating a new offline-online connection"). Even the Supreme Court observed that on the internet "any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox." Reno v. ACLU, 521 U.S. 844, 870 (1997).

61. *What Sort of Revolution?*, ECONOMIST (Apr. 22, 2016), https://www.economist.com/special-report/2006/04/22/what-sort-of-revolution [https://perma.cc/VN96-F5RL].

62. *See, e.g.*, DANAH BOYD, IT'S COMPLICATED: THE SOCIAL LIVES OF NETWORKED TEENS 19, 52 (2014); DAVID HEMPTON, EVANGELICAL DISENCHANTMENT: NINE PORTRAITS OF FAITH AND DOUBT 197–08, 201 n.21 (2008).

Black Lives Matter.[63] But there were worries from the outset that the virtual world was rife with pitfalls, and not just because the internet could help to subvert the same protest movements it jumpstarted.[64]

B. How It Turned Out: The Downside of the Virtual

Even in the early days of the internet, of course, not everyone was a techno-optimist. There were worries that the internet would drain people of their appetite for human connection and desire to engage with opposing viewpoints.[65] And insofar as they doubted the internet's utopian potential, those concerns proved prescient. Whether or not the virtual world has been more boon than bane, it has fallen short of its early promise by leaving behind people without the means to access it, reproducing offline racial and ideological segmentation, and facilitating the toxic spread of misinformation.

1. Unequal Access

Participating in the virtual world requires a stable internet connection, a device with internet capabilities, and the digital literacy skills to navigate the web and engage with other users. Early commentators recognized that these resources were not evenly distributed across society, identifying an emerging rift between the information "haves" and "have nots."[66] The more the virtual world became a focal point of social and civic life, the greater the risk that people who could not get online would be left behind. Scholars and journalists dubbed this growing inequality the "digital divide."[67]

Today, although there has been some success in closing the digital divide, the virtual world remains inaccessible to many people. According to the Pew Research Center, nearly one in ten U.S. adults do not own a smartphone or have broadband internet access.[68] Of those with access to either a smartphone or home broadband, thirty percent "often or sometimes experience problems connecting to the internet at home . . . ."[69] Older adults, people of color, people with lower

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63. Curtis Bunn, *Why Black Lives Matter Matters*, *in* SAY THEIR NAMES: HOW BLACK LIVES CAME TO MATTER IN AMERICA 1, 6–62 (Curtis Bunn et al. eds., 2021); Vivian Yee, *Despite Iran's Efforts to Block Internet, Technology Has Helped Fuel Outrage*, N.Y. TIMES, (Sept. 29, 2022), https://www.nytimes.com/2022/09/29/world/middleeast/iran-internet-censorship.html [https://perma.cc/66PH-RT37].

64. Max Fisher, *Even as Iranians Rise Up, Protests Worldwide Are Failing at Record Rates*, N.Y. TIMES (Sept. 30, 2022), https://www.nytimes.com/2022/09/30/world/middleeast/iran-protests-haiti-russia-china.html [https://perma.cc/2JT6-9FC2].

65. *See infra* Section III.C.

66. U.S. DEPT. OF COMMERCE, FALLING THROUGH THE NET: A SURVEY OF THE "HAVE NOTS" IN RURAL AND URBAN AMERICA 2 (1995).

67. *E.g.*, U.S. DEPT. OF COM., FALLING THROUGH THE NET II: NEW DATA ON THE DIGITAL DIVIDE 2 (1998).

68. Andrew Perrin, *Mobile Technology and Home Broadband 2021*, PEW RSCH. CTR. (June 3, 2021), https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/ [https://perma.cc/3WX4-V9ZE].

69. *Id.*

incomes, people with less financial means, and rural residents all report greater difficulties accessing the internet.[70]

The digital divide is largely a function of unequal financial resources. Nearly a quarter of low-income U.S. adults do not own a smartphone, and over forty percent of low-income adults do not have a broadband connection at home,[71] although these technologies are "nearly ubiquitous among adults in households earning $100,000 or more a year."[72] Libraries and nonprofits now provide public spaces where individuals can get online, but longstanding issues of transportation and childcare needs can prevent people from availing themselves of these resources.[73]

Digital literacy is also a skill that requires education and upkeep. Even if everyone had internet access, some users would be more proficient at navigating the virtual world than others. Eszter Hargittai has dubbed this dilemma the "second-level digital divide."[74] Ensuring widespread internet access, she explains, may not erase disparities in people's "ability to efficiently and effectively find information on the Web."[75] She finds that people who report spending less than one hour online weekly have greater difficulty finding information and "take considerably longer on tasks" that individuals with more frequent online exposure can accomplish with relative ease.[76] Additionally, universal internet *access* would not necessarily mean all users have comparable connection *speeds*. Research suggests that users with lower-quality connection speeds spend less time online and do not develop digital literacy skills to the same extent as people with higher-quality connections.[77]

The grand vision of the internet as a source of boundless information has been realized unevenly, benefiting some people and groups while excluding others. The virtual world is still beyond reach throughout the United States and much of the world—especially, as we have noted, for historically marginalized groups. Without an internet connection, students can fall behind in school, and adults can face obstacles finding and holding onto employment.[78] Equally

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70. *Id.*

71. Emily A. Vogels, *Digital Divide Persists Even as Americans with Lower Incomes Make Gains in Tech Adoption*, Pew Rsch. Ctr. (June 22, 2021), https://www.pewresearch.org/fact-tank/2021/06/22/digital-divide-persists-even-as-americans-with-lower-incomes-make-gains-in-tech-adoption/ [https://perma.cc/W6VH-55KS].

72. *Id.*

73. *See* Jeff Allen, *Mapping Differences in Access to Public Libraries by Travel Mode and Time of Day*, 41 Libr. & Info. Sci. Rsch. 11, 11 (2019).

74. Eszter Hargittai, *Second-Level Digital Divide: Differences in People's Online Skills*, 7 First Monday 1, 2 (2002).

75. *Id.* (italics omitted).

76. *Id.* at 14.

77. Yphtach Lelkes, *A Bigger Pie: The Effects of High-Speed Internet on Political Behavior*, 25 J. Comput.-Mediated Commc'n 199, 212 (2020).

78. Traditional job-seeking resources like newspapers are increasingly shifting to digital platforms. Gökçe Karaoglu, Eszter Hargittai & Minh Hao Nguyen, *Inequality in Online Job Searching in the Age of Social Media*, Info., Commc'n & Soc'y 1, 2 (2021). The share of U.S. jobs requiring significant digital literacy skills has soared since the internet's advent: as of 2016, more than 70% of U.S. jobs required workers to have "high" or "medium" digital skills. Mark Muro, Sifan Liu, Jacob Whiton & Siddharth Kulkarni, *Digitalization and the American*

important, for present purposes, the digital divide limits the inclusivity of virtual communities and means that online discussions systematically slight the voices and perspectives of marginalized populations.

2.   Segmentation

Wholly aside from issues of selective access, it was clear from the early days of the internet that making it easier for people to connect with one another was a double-edged sword. On the one hand, the virtual world could facilitate the formation of relationships and associations that transcended space and time, introducing users to people they would not ordinarily meet in their daily lives. On the other hand, people could easily opt into enclaves of like-minded individuals and out of physical and virtual spaces that challenged their beliefs. There were predictions from the outset that the virtual world would devolve into a state of "cyberbalkinization."[79]

Cass Sunstein, for example, warned in 2001 that "the growing power of consumers to filter what they see" was one of the virtual world's most noteworthy features.[80] The virtual world promised such unparalleled personalization, Sunstein explained, that two users could experience two different internets.[81] Confronted with so many options of websites to frequent, content to view, and groups to join, users would gravitate toward the corners of the virtual world that resonated with their beliefs. Surrounded by "louder echoes of their own voices[,]"[82] users would feel emboldened in their views and might even adopt more radical positions.[83] By pushing people toward the political margins, the virtual world could serve "as a breeding ground for extremism . . . ."[84]

This form of pessimism proved pervasive and enduring, with journalists, scholars, and politicians voicing concerns about ideological fragmentation online.[85] Like Sunstein, commentators feared the proliferation of "echo chambers," or "bounded, enclosed media space[s] that ha[ve] the potential to both magnify the messages delivered within it and insulate them from rebuttal . . . ."[86]

Workforce, BROOKINGS INST. (Nov. 2017), https://www.brookings.edu/research/digitalization-and-the-american-workforce/ [https://perma.cc/M8EE-F6DL].

79.   ROBERT D. PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY 177 (2000).

80.   CASS SUNSTEIN, REPUBLIC.COM 8 (2001) (italics omitted).

81.   *Id.* at 54–55.

82.   *Id.* at 16.

83.   *Id.* at 67.

84.   *Id.* at 71.

85.   William Saletan, *Bubble Think: How to Escape a Partisan Echo Chamber*, SLATE (May 3, 2010, 8:45 AM), https://slate.com/news-and-politics/2010/05/how-to-escape-a-partisan-echo-chamber.html [https://perma.cc/DQ8J-WXS8].

86.   Amy Ross Arguedas, Craig T. Robertson, Richard Fletcher & Rasmus Kleis Nielsen, *Echo Chambers, Filter Bubbles, and Polarisation: A Literature Review*, REUTERS INST. (Jan. 19, 2022), https://reutersinstitute.politics.ox.ac.uk/echo-chambers-filter-bubbles-and-polarisation-literature-review [https://perma.cc/SJB3-UMUH] (quoting KATHLEEN HALL JAMIESON & JOSEPH N. CAPPELLA, ECHO CHAMBER: RUSH LIMBAUGH AND THE CONSERVATIVE MEDIA ESTABLISHMENT 76 (2008)).

Beyond self-selection into echo chambers, concerns also mounted over the possibility that algorithms could catalyze ideological fragmentation.[87] These "filter bubbles," as commentators called them, would tailor users' social media feeds to their political and aesthetic preferences, resulting in "a unique universe of information" that systematically excluded dissident viewpoints.[88]

Whether or not experience has borne out these fears remains a matter of empirical debate.[89] The balance of scholarship indicates that public outcry over echo chambers and filter bubbles has overstated the extent of self-segregation online.[90] Several scholars conclude that "online news audience is less segregated ideologically than in-person interactions with family, friends, coworkers, and political discussants . . . ."[91] Some evidence even suggests that contrary to the filter bubble hypothesis, social media and search engine algorithms have helped diversify the news content users consume.[92] Certain aspects of the virtual world and media consumption also reduce the likelihood of echo chambers forming, at least on a broad scale. Most significantly, only a minority of users frequently look to social media to stay updated on current events,[93] and entertainment-related content is far more popular online than news stories are.[94] Users are unlikely to coalesce into ideological echo chambers because their entertainment preferences, not their political ones, largely dictate their browsing habits.[95]

None of this is to say, however, that echo chambers and filter bubbles are purely internet lore. There is empirical evidence that, at least in some respects, users who access information through social media and search engines are particularly likely to find and access content that validates their viewpoints.[96]

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87. *Id.*

88. *Id.* (quoting ELI PARISER, THE FILTER BUBBLE: WHAT THE INTERNET IS HIDING FROM YOU 10 (2011)).

89. *See id.*

90. *See id.*; ANDREW GUESS, BRENDAN NYHAN, BENJAMIN LYONS & JASON REIFLER, AVOIDING THE ECHO CHAMBER ABOUT ECHO CHAMBERS: WHY SELECTIVE EXPOSURE TO LIKE-MINDED POLITICAL NEWS IS LESS PREVALENT THAN YOU THINK 15 (2018); *see also* Gideon Lewis-Kraus, *How Harmful is Social Media?*, NEW YORKER (June 3, 2022), https://www.newyorker.com/culture/annals-of-inquiry/we-know-less-about-social-media-than-we-think [https://perma.cc/QPG5-6VV2]; Axel Bruns, *Echo Chamber? What Echo Chamber?*, CONVERSATION (Nov. 23, 2016, 12:49 AM), https://theconversation.com/echo-chamber-what-echo-chamber-69293 [https://perma.cc/F88N-TN32]; David Robson, *The Myth of the Online Echo Chamber*, BBC (Apr. 16, 2018), https://www.bbc.com/future/article/20180416-the-myth-of-the-online-echo-chamber (drawing on Sunstein's insights sixteen years later) [https://perma.cc/FA27-NZ7C].

91. GUESS, NYHAN, LYONS & REIFLER, *supra* note 90, at 13; Seth Flaxman, Sharad Goel & Justin M. Rao, *Filter Bubbles, Echo Chambers, and Online News Consumption*, 80 PUB. OP. Q. 298, 318 (2016); Matteo Cinelli, Gianmarco De Francisci Morales, Alessandro Galeazzi, Walter Quattrociocchi & Michele Starnini, *The Echo Chamber Effect on Social Media*, 118 PROC. NAT'L ACAD. SCIS., Feb. 23, 2021, at 1, 7.

92. Arguedas, Fletcher, Robertson & Nielsen, *supra* note 86; GUESS, NYHAN, LYONS & REIFLER, *supra* note 90, at 13.

93. Mason Walker & Katerina E. Matsa, *News Consumption Across Social Media in 2021*, PEW RSCH. CTR. (Sept. 20, 2021), https://www.pewresearch.org/journalism/2021/09/20/news-consumption-across-social-media-in-2021/[https://perma.cc/RBC4-SEZK].

94. Flaxman, Goel & Rao, *supra* note 91, at 312.

95. *See id.* at 318.

96. *Id.*; Cinelli, Morales, Galeazzi, Quattrociocchi & Starnini, *supra* note 91, at 5 ("Our results show that the aggregation in homophilic clusters of users dominates online dynamics.").

Indeed, the commentators who criticize the outsized attention to these phenomena are quick to note that echo chambers and filter bubbles do exist—even if they are not as prevalent as some might believe.[97] Different platforms present different levels of vulnerability to fragmentation, with Twitter cited as one of the most hospitable sites for partisan groups to form.[98] And self-segregation need not be common to have a profound effect on political discourse. Even a few highly partisan users emboldened by a viewpoint-reaffirming echo chamber can and do play a significant role in disseminating content, distributing misinformation, and distorting political debate.[99] In other words, "the danger is not that all of us are living in echo chambers but that a subset of the most politically engaged and vocal among us are."[100]

Regardless of whether fears of echo chambers and filter bubbles fully came to pass, the virtual world has not offered the escape from ideological fragmentation that the techno-optimists believed it promised.[101] Our online realities have largely mirrored segregation offline.[102] Although social media can help diversify users' content consumption, it is not guaranteed to do so, and a small but by no means negligible minority of users have experienced the virtual world as the "breeding ground for extremism" that early commentators like Sunstein so dreadfully feared.[103] Research into the virtual world is ongoing and has the unenviable task of keeping pace with technological advances. But one theme seems consistent across existing scholarship and commentary: the virtual world has the potential to bring people together across time and space, but it can also solidify social divisions.

3. Misinformation

Beyond problems of unequal access and cyberbalkanization, the virtual world has been a hotbed for misinformation. To the techno-optimists of the 1990s and early 2000s, the internet seemed democratic and egalitarian precisely because it gave everyone a podium. They trusted the marketplace of ideas to sort worthwhile claims from those that were meritless. But when everyone speaks at once, when claims do not need to pass any threshold of credibility to appear online, and when the loudest ideas often attract the most attention, it can be difficult for users to distinguish truth from falsehood.

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97. *See, e.g.*, GUESS, NYHAN, LYONS & REIFLER, *supra* note 90, at 16; Arguedas, Fletcher, Robertson & Nielsen, *supra* note 86.

98. GUESS, NYHAN, LYONS & REIFLER, *supra* note 90, at 11; *see also* Lewis-Kraus, *supra* note 90; Arguedas, Fletcher, Robertson & Nielsen, *supra* note 86.

99. GUESS, NYHAN, LYONS & REIFLER, *supra* note 90, at 16.

100. *Id.*

101. *See id.*

102. *Id.* at 4; Arguedas, Fletcher, Robertson & Nielsen, *supra* note 86.

103. SUNSTEIN, *supra* note 80, at 69.

As long as the internet has been live, scholars have worried about the accuracy of information online.[104] Much of the early warnings focused on medical misinformation. By one estimate, in 1996, only 47% of internet sites that provided health guidance were reliable.[105] A 2002 study found that the accuracy on any given site ranged from 15-85%.[106] The scarcity of accurate information online was particularly concerning because the internet was quickly eclipsing physicians and other providers as people's primary source of medical knowledge.[107]

Nearly two decades later, the advent of COVID-19 showcased the allure of misinformation and its power to devastate people's lives and livelihoods. As reports of rising infection rates increased, conspiracy theories and quack remedies saturated news headlines and social media feeds. An "infodemic" ensued, with pundits trivializing the threat the virus posed.[108] Misinformation had very real and very disturbing consequences.[109] Reports of accidental poisonings spiked during the pandemic as users attempted to consume and inject themselves with chlorine dioxide, a household cleaner that medical skeptics heralded as a cure for COVID-19.[110] Once vaccines were available, online misinformation led to widespread hesitancy and refusal. Conspiracy theories claimed that the vaccines would implant patients with a microchip or alter their genetic makeup.[111] As new subvariants continue to emerge, combatting misinformation has become a matter of life and death.

The growing sophistication of virtual networks and technologies has made it even easier for misinformation to spread. Users can now artificially inflate their audience by unleashing "bots," computer programs that mimic human behavior, into the virtual world.[112] A single user can control thousands of bots,[113] which

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104.   PAUL S. PIPER, BETTER READ THAT AGAIN: WEB HOAXES & MISINFORMATION 6 (2001); Mary Ann Fitzgerald, *Misinformation on the Internet: Applying Evaluation Skills to Online Information*, 24 EMERGENCY LIBR. 9 (1997).

105.   Lothar Spang & Lynda M. Baker, *Healthcare Information Delivery in Public Libraries: Implications for Academic Reference Librarians*, 28 REFERENCE SERVS. REV. 81, 90 (2000).

106.   *Physicians vs. the Internet*, HARV. GAZETTE: SCI. & TECH. (Feb. 8, 2002), https://news.harvard.edu/gazette/story/2002/02/physicians-vs-the-internet/ [https://perma.cc/Y7L2-7QLH].

107.   Spang & Baker, *supra* note 105, at 81.

108.   Riccardo Gallotti, Francesco Valle, Nicola Castaldo, Pierluigi Sacco & Manlio De Domenico, *Assessing the Risks of 'Infodemics' in Response to COVID-19 Epidemics*, 4 NATURE HUM. BEHAV. 1285, 1285 (2020).

109.   *See id.*

110.   Gaurav Verma, Ankur Bhardwaj, Talayeh Aledavood, Munmun De Choudhury & Srijan Kumar, *Examining the Impact of Sharing COVID-19 Misinformation Online on Mental Health*, 12 SCI. REPS. no. 8045, 2022, at 1.

111.   *Id.*

112.   *Social Bots—The Technology Behind Fake News*, IONOS: DIGIT. GUIDE (Mar. 31, 2022), https://www.ionos.com/digitalguide/online-marketing/social-media/social-bots/ [https://perma.cc/2BJ7-7GV8].

113.   Filippo Menczer & Thomas Hills, *Information Overload Helps Fake News Spread, and Social Media Knows It*, SCI. AM. (Dec. 1, 2020), https://www.scientificamerican.com/article/information-overload-helps-fake-news-spread-and-social-media-knows-it/ [https://perma.cc/7UHR-W6DR].

can like, upvote, repost, and even comment on online content.[114] Social media powerhouses like Facebook and Twitter estimate that as many as five percent of their users are bots, representing millions of profiles, and researchers estimate the proportion of bots to be even higher.[115] Another technology that has received substantial coverage is "deepfakes," in which users use public figures' images and voices to create what is essentially a virtual puppet.[116] Bots and deepfakes have been used to spread misinformation about elections, politicians, and activists, making the egalitarian system of informational exchange that the techno-optimists envisioned for the virtual world seem more and more remote.[117]

To be clear, we do not posit that social media have necessarily increased the amount of misinformation circulating online—only that the virtual world has played a meaningful role in helping misinformation spread. Some of the most devastating misinformation campaigns originate in the mass media, with social media playing "a secondary and supportive role."[118] Social media may not always be the drivers of misinformation that commentators fear, but a few influential partisans can leverage their social media accounts to mislead the masses.[119]

And even if social media does not always increase the amount or consumption of misleading content in circulation, the *threat* of misinformation has always haunted the virtual world. It did not take long for commentators to seize on fears of online deception and captivate their readers with tales of "subversive activities involving computer worms, political operatives, and charlatans of all stripes and colors."[120] Social media, once a beacon of hope for users looking to connect

114. *Social Media Bots Overview*, DEP'T HOMELAND SEC.: OFF. CYBER & INFRASTRUCTURE ANALYSIS (May 2018), https://niccs.cisa.gov/sites/default/files/documents/pdf/ncsam_socialmediabotsoverview_508.pdf? trackDocs=ncsam_socialmediabotsoverview_508.pdf [https://perma.cc/9C47-S748]; *see also* MEHDI GOLZADEH, ALEXANDRE DECAN, DAMIEN LEGAY & TOM MENS, BOT OR NOT? DETECTING BOTS IN GITHUB PULL REQUEST ACTIVITY BASED ON COMMENT SIMILARITY 31 (2020), https://dl.acm.org/doi/pdf/10.1145/3387940.3391503 [https://perma.cc/N2MW-ZH6H].

115. Sheila Dang, Katie Paul & Dawn Chmielewski, *Do Spam Bots Really Comprise Under 5% of Twitter Users? Elon Musk Wants to Know*, REUTERS, https://www.reuters.com/technology/do-spam-bots-really-comprise-under-5-twitter-users-elon-musk-wants-know-2022-05-13/ (May 13, 2022, 9:29 PM) [https://perma.cc/JW2S-G4VR].

116. Ian Sample, *What Are Deepfakes—And How Can You Spot Them?*, GUARDIAN (Jan. 13, 2020, 5:00 AM), https://www.theguardian.com/technology/2020/jan/13/what-are-deepfakes-and-how-can-you-spot-them [https://perma.cc/77BP-4NQN].

117. McKay Coppins, *The Billion-Dollar Disinformation Campaign to Reelect the President*, ATLANTIC, https://www.theatlantic.com/magazine/archive/2020/03/the-2020-disinformation-war/605530/ (Feb. 10, 2020, 2:30 PM) [https://perma.cc/5B9M-LPVD]; Maya Shwayder, *Researchers: Bots Are Spreading Conspiracy Theories About #blacklivesmatter*, DIGITAL TRENDS (June 3, 2020), https://www.digitaltrends.com/news/far-right-bots-tweets-blm-protests/ [https://perma.cc/7WE4-TGRU]; *Social Bots—The Technology Behind Fake News*, *supra* note 112; Peter Suciu, *Spotting Misinformation on Social Media Is Increasingly Challenging*, FORBES (Aug. 2, 2021, 3:56 PM), https://www.forbes.com/sites/petersuciu/2021/08/02/spotting-misinformation-on-social-media-is-increasingly-challenging/?sh=690f05fd2771 [https://perma.cc/L9UR-2F9B].

118. YOCHAI BENKLER ET AL., MAIL-IN VOTER FRAUD: ANATOMY OF A DISINFORMATION CAMPAIGN 47 (Berkman Klein Ctr., No. 2020-6, 2020).

119. *See, e.g.*, *id.* at 4–6.

120. ANNE P. MINTZ, *If It's on the Internet, It Must Be True*, *in* WEB OF DECEIT: MISINFORMATION AND MANIPULATION IN THE AGE OF SOCIAL MEDIA ix, xix–xx (Anne P. Mintz ed., 2012).

across distances, now finds a cold reception from most Americans.[121] Only one in ten U.S. adults believe that social media has a positive effect on the nation, while nearly two-thirds of Americans see social media as having a negative effect.[122] Misinformation is among the reasons most chiefly cited for why U.S. adults harbor ambivalence toward social media.[123] Nearly half of U.S. adults report experiencing difficulty determining whether the information they encounter on social media is true.[124] Social media has fulfilled the techno-optimists' vision of making more content available, but users are inundated with so much information and misinformation that their ability to navigate the virtual world with confidence has been severely compromised.[125]

C.   The Duality of Community

The virtual world, therefore, is fraught with contradictions. The characteristics of the internet that the techno-optimists most relished were also engines of alienation, fragmentation, and mistrust.[126] The virtual world created a new plane of interaction while exacerbating the marginality of people without internet access, high-speed connectivity, or digital literacy skills; facilitated connections between people across time and space but also helped them avoid interacting with people with different perspectives; and put content at users' fingertips while leaving them vulnerable to misinformation.[127] The dangers of the virtual world flow directly from what made the internet so revolutionary.

This duality between inclusion and exclusion echoes and exaggerates how communities are formed in the physical world. Offline, finding like-minded peers takes more than the click of a button. Our social lives are significantly mediated by where we live, whom we interact with regularly, and what we do for a living. Those factors, in turn, are mediated by a range of structural forces. Zoning and redlining are among the many tools powerful institutions have used to insulate their "communities" from outsiders.[128] Self-segregation also occurs as a function of personal preference: U.S. adults have increasingly chosen where

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121.   Brooke Auxier, *64% of Americans Say Social Media Have a Mostly Negative Effect on the Way Things Are Going in the U.S. Today*, PEW RSCH. CTR. (Oct. 15, 2020), https://www.pewresearch.org/fact-tank/2020/10/15/64-of-americans-say-social-media-have-a-mostly-negative-effect-on-the-way-things-are-going-in-the-u-s-today/ [https://perma.cc/XJ2D-ZKSQ].

122.   *Id.*

123.   *Id.*

124.   Lee Rainie, Scott Keeter & Andrew Perrin, *Trust and Distrust in America*, PEW RSCH. CTR. (July 22, 2019), https://www.pewresearch.org/politics/2019/07/22/trust-and-distrust-in-america/ [https://perma.cc/32VG-MF7B].

125.   Menczer & Hills, *supra* note 113.

126.   *See supra* note 124 and accompanying text.

127.   *See id.*

128.   *See generally* RICHARD ROTHSTEIN, THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA (2017).

to live based on where they could find neighborhoods with residents who share their religions, ideologies, and even demographic characteristics.[129]

The internet untethered social life from geography, presenting an opportunity to see how people would bring the concept of "community" to life once they were no longer encumbered by physical distance and other real-world constraints. The past three decades have witnessed a proliferation of chat rooms, message boards, blogs, social networks, and other platforms. Users self-organized to form niche corners of the virtual world. Yet at every level of the internet—members of a specific online group, users of a webpage or service, people with access to the internet itself—forming communities online has frequently meant excluding other people and perspectives.

In this respect, as in others, the virtual world has exaggerated, and thrown into sharp relief, aspects of social interaction already present in the physical world. The concept of "community" has always been double-edged: communities are associated with mutual support, interdependence, and inclusivity, but the flipside of socially cohesive in-groups is the creation of out-groups. Community "is formed by the retreat or by the subtraction of something."[130] Richard C. Schragger describes "community" as "an act of demarcation, involving the complex social, legal, political, and psychological activities of joining, leaving, belonging, exiling, excommunicating, embracing, defining—the whole range of social practices of inclusion and exclusion."[131] Robert Weisberg summarizes the point nicely: "[C]ommunity identification has to have an outside in order to define the inside."[132]

Community, online and offline, is a filter. Social groups achieve cohesiveness through a mutual understanding of who is included and excluded. The ease with which the internet has allowed people to form and leave communities has thrown these dynamics into heightened relief. In the physical world, community is, in many ways, anchored to geography, largely dictated by people's residence and profession. Changing one's "community" in the physical world can require a significant investment in time, money, and effort. Not so in the virtual world, where users can enter and leave online groups at their convenience. The internet provides an opportunity to map the process of self-segregation as it unfolds in real-time, with users filtering themselves into groups of like-minded peers while filtering out dissenting voices. But the virtual world interests us for more than its mimesis. How people engage with others online can shape the perspectives they bring to political debates in the real world. What implications does the virtual world have for discussions about public safety? Can the potential for group

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129. *See generally* BILL BISHOP, THE BIG SORT: WHY THE CLUSTERING OF LIKE-MINDED AMERICA IS TEARING US APART (2009) (describing these demographic changes).

130. JOSEPH, *supra* note 2, at xxix (quoting JEAN-LUC NANCY & GIORGIO AGAMBEN, THE INOPERATIVE COMMUNITY xxxix (Peter Connor eds., 1991)).

131. Schragger, *supra* note 2, at 404.

132. Weisberg, *supra* note 2, at 348.

formation online be used to change, and not just trace, the vectors of inclusion and exclusion? We turn now to those questions.

IV. VIRTUAL COMMUNITIES AND REAL-WORLD PUBLIC SAFETY

The virtual world's power to bring people together while simultaneously hardening social boundaries has touched countless facets of the human condition, including how people exchange ideas and form opinions about crime, policing, and public safety. Three distinct discourses have taken shape around these topics. We call them Neighborhood Watch, Community Resistance, and Cop Talk.

In Neighborhood Watch, users come together to identify and respond to crimes in their area. A niche market of platforms has emerged to facilitate these discussions and encourage users to bring their concerns to law enforcement.[133] In Community Resistance, activists and their allies use the virtual world to enhance political organizing and lobby for social change. Finally, there is Cop Talk, in which officers share stories from their work and criticize those who question their profession's integrity—often in highly derogatory and racialized terms.[134] These three discourses are not hermetically sealed off from each other, but neither do they regularly intersect: they are largely but not entirely separate. Within each discourse, the internet is bringing people together to discuss crime, policing, and public safety, demonstrating the potential of the internet to help "communities" chart new approaches to public safety. But the larger pattern is one of segmentation, which means that the internet replicates the pitfalls as well as the promise of centering the "community" in debates about policing.

A. Neighborhood Watch

Neighborhood watch groups in the United States are decades old. They proliferated in the 1980s and 1990s, often as a component of community policing.[135] The idea of residents banding together to assist the police in protecting public safety fits well with the central vision of community policing, which was that the police and the community should be "partners" in pursuing public safety.[136] Using the neighborhood as their organizing principle, residents facilitated meetings and created resident-run patrol units, often but not always with the encouragement of the police.[137] Neighborhood watch groups in this period were not just, or even primarily, "support your local police" groups. Many residents had grown

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133.   Rani Molla, *The Rise of Fear-Based Social Media Like Nextdoor, Citizen, and Now Amazon's Neighbors*, VOX (May 7, 2019, 12:30 PM), https://www.vox.com/recode/2019/5/7/18528014/fear-social-media-nextdoor-citizen-amazon-ring-neighbors [https://perma.cc/RS7R-9UVQ].

134.   *See supra* Part I.

135.   Adeoye Johnson, *Neighborhood Watch: Invading the Community, Evading Constitutional Limits*, 18 U. PA. J. L. & SOC. CHANGE 459, 461 (2016).

136.   *Id.* at 462.

137.   Dennis P. Rosenbaum, *The Theory and Research Behind Neighborhood Watch: Is It a Sound Fear and Crime Reduction Strategy?*, 33 CRIME & DELINQ. 103, 104 (1986).

weary of the elite, expert-driven approaches to public safety that had come to be associated with police professionalization, and their ambivalence lingered in the era of community policing. These residents perceived officers as unresponsive to their needs and unempathetic to crime victims' plight.[138] As more and more residents began taking responsibility for neighborhood safety into their own hands, one contemporary scholar proclaimed that the United States was "entering the heyday of community crime prevention."[139]

With the advent of the internet, crime-concerned residents looked to leverage the virtual world's innovations to organize alongside those living around them. Many discussions that once took place during in-person neighborhood watch meetings migrated to the web.[140] We borrow the language of "Neighborhood Watch" to describe resident-driven discourse about crime and safety. Like the concept of "community," a neighborhood is not a natural entity but rather a "socially constructed unit[] of ideology, action, and analysis."[141] We use the term to recognize the historical continuity between the resident-driven groups of the 1980s and their more modern counterparts. In-person neighborhood patrol groups still exist,[142] but the virtual world has led to an explosion in resident-driven crime control efforts unlike anything a block captain might have imagined in the 1980s.

The early platforms that hosted the online Neighborhood Watch discourse were not sophisticated by today's standards, but that did not prevent them from attracting a substantial following. Yahoo! discussion groups, a hybrid between an email listserv and a chat room, proved tremendously popular in Washington, D.C.[143] Tens of thousands of D.C. residents had subscribed to their neighborhood's discussion group before Yahoo! phased out the service in 2019.[144] In 2004, the Washington, D.C., Metropolitan Police Department created its own discussion groups to foster "dialogue between the Police and DC residents, activists, DC Government agency representatives, and elected leaders."[145] Chicago residents also formed Yahoo! groups to discuss questions of crime and safety.[146]

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138. Sharon Finegan, *Watching the Watchers: The Growing Privatization of Criminal Law Enforcement and the Need for Limits on Neighborhood Watch Associations*, 8 U. MASS. L. REV. 88, 94–96 (2013).

139. Rosenbaum, *supra* note 137, at 103.

140. *See* Elizabeth Joh, *The Rise of Networked Vigilante Surveillance*, SLATE (Sept. 24, 2019, 5:45 AM), https://slate.com/technology/2019/09/flock-automatic-license-plate-readers-neighborhood-surveillance.html [https://perma.cc/SJH9-CLST].

141. Stefano Bloch, *Aversive Racism and Community-Instigated Policing: The Spatial Politics of Nextdoor*, 40 ENV'T & PLAN. C: POL. & SPACE 260, 263 (2022).

142. *See, e.g.*, *Welcome to the National Neighborhood Watch*, NAT'L NEIGHBORHOOD WATCH, https://www.nnw.org/ (last visited July 9, 2023) [https://perma.cc/N4LX-SHFT].

143. Martin Austermuhle, *Where Will D.C. Neighbors Argue Now That Yahoo Is Scaling Back Listservs?*, WAMU 88.5 (Oct. 17, 2019), https://wamu.org/story/19/10/17/where-will-d-c-neighbors-argue-now-that-yahoo-is-scaling-back-listservs/ [https://perma.cc/UE9H-F8U3].

144. *Id.*

145. Lori A. Brainard & John G. McNutt, *Virtual Government-Citizen Relations: Informational, Transactional, or Collaborative?*, 42 ADMIN. & SOC'Y 836, 842 (2010).

146. Sheena Lewis & Dan A. Lewis, *Examining Technology that Supports Community Policing*, NW. INST. POL'Y RSCH. 1371, 1374 (2012).

These groups drew more participation than the official websites maintained by law enforcement, which allowed residents to access information about local crime, provide tips, and submit comments about officers' behavior.[147]

Yahoo! groups were only the beginning. New platforms have emerged to support residents' discussions of crime. These platforms have seen their popularity surge over the past few years, as fear of crime has increased nationwide, driven in part by spikes in homicides—and, in some places, property offenses—during the COVID-19 pandemic.[148] Three platforms and their supporting apps have received particular attention: Nextdoor, Citizen, and Neighbors. These have become some of the most widely downloaded apps in the United States,[149] as well as among the most controversial.[150]

Launched in 2011,[151] Nextdoor markets itself as "the world's largest private network for neighbors"[152] and claims to have an average of 37 million users each week.[153] Its founders did not develop the app with crime control as their mission.[154] Instead, they envisioned their platform as "a next-gen Craigslist," a way for people to get to know and request help from their neighbors.[155] A "founding member" registers the neighborhood on Nextdoor and invites nearby residents to join.[156] Users can post to the interface and engage in a back-and-forth discussion. The content on Nextdoor is varied; it includes calls to find lost pets, offers to buy and sell goods and services, and discussions of local goings-on.[157] But within two years of Nextdoor's release, crime and safety accounted

147.   *Id.* at 1374–75.

148.   Megan Brenan, *Worry About Crime in U.S. at Highest Level Since 2016*, GALLUP (Apr. 7, 2022), https://news.gallup.com/poll/391610/worry-crime-highest-level-2016.aspx [https://perma.cc/B9WY-459A].

149.   Molla, *supra* note 133.

150.   *E.g.*, Caroline Haskins, *Amazon's Home Security Company Is Turning Everyone into Cops*, VICE: MOTHERBOARD (Feb. 7, 2019, 2:29 PM), https://www.vice.com/en/article/qvyvzd/amazons-home-security-company-is-turning-everyone-into-cops [https://perma.cc/W8DW-RPWX]; Gretchen Brown, *Citizen and Nextdoor Are Making Us All Vigilantes. Is That a Good Thing?*, FLATLAND (May 25, 2021, 11:00 AM), https://flatlandkc.org/news-issues/citizen-and-nextdoor-are-making-us-all-vigilantes-is-that-a-good-thing/ [https://perma.cc/AQM4-EQWA].

151.   Christopher Smith, *Neighborhood Watch Goes Rogue: The Trouble with Nextdoor and Citizen*, PCMAG (July 8, 2021), https://www.pcmag.com/news/neighborhood-watch-goes-rogue-the-trouble-with-nextdoor-and-citizen [https://perma.cc/U8VR-L4UW].

152.   *E.g.*, *Nextdoor, the World's Largest Private Network for Neighbors, Officially Launches in Canada*, NEXTDOOR (Sept. 23, 2019), https://about.nextdoor.com/press-releases/nextdoor-the-worlds-largest-private-network-for-neighbours-officially-launches-in-canada/ [https://perma.cc/XVP9-QXWZ].

153.   John Leland, *How a Dog's Killing Turned Brooklyn Progressives Against One Another*, N.Y. TIMES (Oct. 12, 2022), https://www.nytimes.com/2022/10/07/nyregion/dog-attack-park-slope-brooklyn.html [https://perma.cc/4MPD-N326]; *see also* Sarah Holder & Fola Akinnibi, *Nextdoor's Quest to Beat Toxic Content and Make Money*, BLOOMBERG (June 9, 2022, 5:00 AM), https://www.bloomberg.com/news/features/2022-06-09/nextdoor-s-quest-to-beat-toxic-content-and-make-money [https://perma.cc/3EWA-RKDZ].

154.   *See* Jessi Hempel, *For Nextdoor, Eliminating Racism Is No Quick Fix*, WIRED (Feb. 16, 2017, 12:00 AM), https://www.wired.com/2017/02/for-nextdoor-eliminating-racism-is-no-quick-fix/ [https://perma.cc/QJ7B-3A9Y].

155.   *Id.*

156.   Bloch, *supra* note 141, at 263.

157.   *See* Hempel, *supra* note 154.

for about one-fifth of all content on the platform—becoming a major, if not *the* major, draw for new users.[158]

Nextdoor has struggled for years to combat racism. There are longstanding concerns about racial profiling on the app—about users seeing a person of color in their neighborhood and concluding that something "suspicious" is afoot.[159] Nextdoor has attempted to combat bias; the company claims that safety-related posts now comprise only 4% of content on its platform and that only 0.34% of content is "harmful and hurtful."[160] Still, the scope of racial profiling remains unknown on Nextdoor, as the company only reviews posts that users flag for moderators.[161] Nextdoor's reputation as a "hotbed for racial stereotyping" persists.[162]

Unlike Nextdoor, the Citizen app launched with crime control as its primary objective. Citizen debuted in 2016 as "Vigilante," a service that alerted users to incident reports and encouraged everyone to "do their part to reduce crime."[163] The app was removed from the market within forty-eight hours of its arrival due to concerns that it was a naked call for vigilantism.[164] Even the New York Police Department objected to Vigilante, insisting that "[c]rimes in progress should be handled by [officers] and not a vigilante with a cellphone."[165] "Vigilante" was relaunched as "Citizen" the following year with much the same functionality.[166] Users can listen in on emergency transmission radio while supplementing the feed by uploading videos and photographs of alleged crimes.[167] Users receive notifications when crimes allegedly transpire in their area.[168]

A disturbing amount of the discussion on Citizen appears to be racialized; users frequently speculate, for example, about the race of people mentioned in 911 calls.[169] In addition, there are concerns that, despite its name change, Citizen still encourages vigilantism. The service encourages users to visit live crime scenes and document incidents for the app.[170] In one widely-reported incident, Citizen posted the photo of a man suspected of arson in California and offered a $30,000 reward for information about his whereabouts.[171] Users vowed to heed

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158. Rahim Kurwa, *Building the Digitally Gated Community: The Case of Nextdoor*, 17 SURVEILLANCE & SOC'Y 111, 112 (2019); Hempel, *supra* note 154.

159. Hempel, *supra* note 154; Leland, *supra* note 153.

160. Holder & Akinnibi, *supra* note 153; Leland, *supra* note 153.

161. *See* Holder & Akinnibi, *supra* note 153.

162. Molla, *supra* note 133.

163. John Herrman, *All the Crime, All the Time: How Citizen Works*, N.Y. TIMES (Mar. 17, 2019), https://www.nytimes.com/2019/03/17/style/citizen-neighborhood-crime-app.html [https://perma.cc/27G3-AP8X].

164. *Id.*; Smith, *supra* note 151.

165. Herrman, *supra* note 163.

166. *Id.*

167. Smith, *supra* note 151.

168. Herrman, *supra* note 163.

169. Molla, *supra* note 133.

170. Sara Morrison, *How Citizen Sparked a $30,000 Manhunt for the Wrong Guy*, VOX (May 18, 2021, 4:35 PM), https://www.vox.com/recode/2021/5/18/22442024/citizen-app-manhunt-california-fires-arson [https://perma.cc/GE3T-EVJR].

171. *Id.*

Citizen's calls to "get out there and bring this guy to justice," only to discover days later that the app had put a target on the wrong man's back.[172]

The third major player in digitized Neighborhood Watch is Neighbors, a platform operated by Amazon. Amazon acquired Ring, a home security company, in 2018 for $1 billion.[173] Among Ring's most popular products is its line of video-equipped doorbells,[174] which begin recording upon detecting motion; users can communicate with whoever is at their doorstep using their smartphones.[175] Three months after the acquisition, Amazon launched the Neighbors app, where Ring doorbell owners can upload footage from their doorbells to a local social media feed.[176] Although the app revolves around Ring's doorbells, anyone can create an account on Neighbors; owning a Ring device is not required.[177] People can comment on users' uploads; common themes include encouraging one another to call the police or expressing hope that someone caught on the doorbell camera will get arrested.[178] The fact that users tend to post about petty crimes—like vandalism, package theft, and public intoxication—has caused concern that Neighbors invites over-policing of minor offenses.[179] Here, too, there appears to be a good deal of racial profiling. People of color appear particularly likely to be deemed "suspicious" on the app, and there are reports that users "often use racist language or make racist assumptions about the people shown" in doorbell videos.[180] These concerns have not slowed the platform's growth: Neighbors has around ten million users nationwide.[181]

Despite the ways in which Nextdoor, Citizen, and Neighbors differ from each other, the discussions they facilitate are sufficiently similar to be viewed as parts of a unified field of social interaction, the online discourse we are calling Neighborhood Watch. A few distinctive features of this discourse are worth highlighting. The participants in this discourse tend to share a strong concern about controlling crime and disorder, including—perhaps especially—property and quality-of-life offenses.[182] Petty theft, public intoxication, and vandalism are frequently reported incidents on these platforms.[183] The discourse of Neighborhood Watch is also, broadly speaking, friendly to the police. Participants tend to be

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172. *Id.*
173. Haskins, *supra* note 150.
174. Julian Clark, Barry Friedman, Farhang Heydari & Max Isaacs, *Policing Project, Ring Neighbors & Neighbors Public Safety Service: A Civil Rights & Civil Liberties Audit*, N.Y.U. POLICING PROJECT 12 (2021).
175. *See Ring's Best-Selling Doorbell*, RING, https://ring.com/doorbell-cameras (last visited July 9, 2023) [https://perma.cc/CHN2-FZVL].
176. Haskins, *supra* note 150.
177. *Joining Ring Neighbors without a Ring Device*, RING, https://support.ring.com/hc/en-us/articles/115005447323-Joining-Ring-Neighbors-without-a-Ring-Device (last visited July 9, 2023) [https://perma.cc/PET6-KHMW].
178. *See* Haskins, *supra* note 150; Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 28.
179. Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 8.
180. Haskins, *supra* note 150.
181. Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 13.
182. *See, e.g.*, *supra* note 150 and accompanying text.
183. *See, e.g.*, Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 8.

highly sympathetic to the overall mission of the police, and they frequently encourage each other either to call 911, or, especially in the case of Citizen, to act in place of the police.[184] The apps themselves, as we will discuss below, have features designed to allow users to assist law enforcement.[185] Finally, much of the discourse within Neighborhood Watch sharply distinguishes insiders and outsiders—the law-abiding "us" versus the threatening "them."[186] And, with disturbing if unsurprising frequency, the line between insiders and outsiders is racialized.[187] Users come together as a "community" in part by defining themselves against an "other" that, distressingly often, is constructed in part with the conceptual apparatus of race.

B.   *Community Resistance*

The online discourse we have called Neighborhood Watch is not the only way the internet has facilitated discussion of policing and public safety. Alongside Neighborhood Watch, and largely separate from it, there is an online discourse we can call Community Resistance. Unlike Neighborhood Watch, which focuses on crime and disorder and is largely friendly to police officers, or at least to their mission, Community Resistance focuses on the harms of law enforcement, including but not limited to police violence against people of color and other historically marginalized groups. The online discourse of Community Resistance can be understood as an amplifier for grassroots activism against the harms of the criminal legal system, analogous to the way that television coverage was strategically mobilized in an earlier era by leaders of the civil rights movement.[188]

Community Resistance amplifies grassroots activism against abusive forms of policing in two different ways. First, some users turn to social media to complement organizing activity in the physical world.[189] In this context, the internet is a tool to enhance coordination or spread curated content. Second, social media can facilitate collective action among people who do not know each other by allowing them to broadcast similar sentiments in parallel, often in moments of political unrest.[190] The internet helps channel their decentralized political agitation into a legible social movement.

Community Resistance functions in the first way when the virtual world helps like-minded individuals come together in the real world to protest,

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184.   *E.g.*, Liam Kennedy & Madelaine Coelho, *Security, Suspicion, and Surveillance? There's an App for That*, 20 SURVEILLANCE & SOC'Y 127, 136 (2022) (highlighting one review of Nextdoor that read: "We must ALL help…. Even be the extra eyes & ears for our local law enforcement" [sic]); Haskins, *supra* note 150; Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 28; Holder & Akinnibi, supra note 153.

185.   *See infra* notes 246–57 and accompanying text.

186.   *See* sources cited *supra* note 184.

187.   Holder & Akinnibi, *supra* note 153.

188.   *See* Yarimar Bonilla & Jonathan Rosa, *#Ferguson: Digital Protest, Hashtag Ethnography, and the Racial Politics of Social Media in the United States*, 42 AM. ETHNOLOGIST 4, 7 (2015).

189.   *See infra* notes 191–201.

190.   See *infra* notes 202–10 and accompanying text.

organize, and express a shared message. Grassroots organizations often have an online presence, especially on social media, which they use to draw new members into their movement and communicate more effectively.[191] Following George Floyd's murder in 2020, for example, social media helped organizers turn widespread outrage into a series of demonstrations nationwide. Many people looked to social media to find protests in their areas.[192] As protesters clashed with law enforcement, activists posted footage of demonstrators being beaten and teargassed.[193] They also used social media to solicit charitable donations to bail funds, which refer to coalitions of activists and attorneys that work to free demonstrators from the state's custody.[194] In Minneapolis, the Minnesota Freedom Fund collected $31 million from 800,000 donors in a single week during the protests.[195] Organizers helped direct the momentum on social media toward fundraising for bail funds.[196]

Another form of resistance where offline and online efforts converge is "copwatching," in which residents follow on-duty police officers and record their interactions with civilians.[197] In a way, copwatching is the flipside of the neighborhood watch groups of the late twentieth century. Participants, sometimes uniformed, "carry visible recording devices, patrol neighborhoods, and film police-citizen interactions in an effort to hold police departments accountable to the populations they police."[198] Copwatchers believe officers cannot be trusted to act responsibly because police misconduct often goes unpunished.[199] Civilian surveillance, they hope, will pressure officers to conform their behavior to the law, as officers behave differently in the presence of spectators.[200] Social media are critical to copwatching: the visible presence of a smartphone signals that the person holding the device is not an isolated spectator but a node in a much wider

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191. Shira Ovide, *How Social Media Has Changed Civil Rights Protests*, N.Y. TIMES (Dec. 17, 2020), https://www.nytimes.com/2020/06/18/technology/social-media-protests.html [https://perma.cc/T9JU-R3AT]; Michelle I. Seelig, *Social Activism: Engaging Millennials in Online Causes*, 23 FIRST MONDAYS 1 (2017).

192. *See* Aisha Powell, *Two-Step Flow and Protesters: Understanding What Influenced Participation in a George Floyd Protests*, 70 COMMC'N Q. 407, 419 (2022).

193. *E.g.*, *NYPD Used Excessive Force During George Floyd Protests, City Investigation Finds*, NBC NEWS (Dec. 18, 2020, 7:02 AM), https://www.nbcnews.com/news/us-news/nypd-used-excessive-force-during-george-floyd-protests-city-investigation-n1251688 [https://perma.cc/LD7Q-97T3] (highlighting how a "deluge[] [of] cellphone videos show[ed] police officers dousing protesters, elected officials and journalists with chemical irritants, shoving and hitting them while they struggled on the ground and, in one instance, driving police vehicles into them.").

194. Alyssa Bereznak, *"It Changes Who Has the Power": How Bail Funds Across the Country Are Responding to Protests*, RINGER (June 8, 2020, 8:07 AM), https://www.theringer.com/2020/6/8/21283604/protests-bail-funds-organizing-social-media [https://perma.cc/5SW3-XVQ3].

195. Andrew R. Chow, *Inside Bail Funds' 'Nonstop' Efforts to Free the Thousands of Protesters Being Detained Across the U.S.*, TIME (June 4, 2020, 11:03 AM), https://time.com/5847555/bail-reform-funds-george-floyd-protests/ [https://perma.cc/V3D9-9ULK].

196. Bereznak, *supra* note 194.

197. Muna Mire, *Here's How to Cop Watch*, NATION (Sept. 23, 2015), https://www.thenation.com/article/archive/heres-how-to-cop-watch/ [https://perma.cc/2XR5-FEAG].

198. Jocelyn Simonson, *Copwatching*, 104 CALIF. L. REV. 391, 393 (2016).

199. Mire, *supra* note 197.

200. Simonson, *supra* note 198, at 408, 413–17.

social network. Officers know that footage of their misconduct can follow the virtual paths that videos of George Floyd, Philando Castile, and Eric Garner once traveled.[201]

Beyond serving as a tool for real-world organizing, the online discourse of Community Resistance can complement that organizing by facilitating a convergence of decentralized, overlapping expressions of discontent. This happens when users simultaneously take to the virtual world to express their solidarity with marginalized groups and challenge their oppression. The consummate example is the early history of #BlackLivesMatter. In 2013, fury surged nationwide after George Zimmerman was acquitted of murdering Trayvon Martin, a seventeen-year-old unarmed Black boy.[202] Three activists—Alicia Garza, Patrisse Cullors, and Opal Tometi—created the "#BlackLivesMatter" hashtag, which became a fixture in online conversations about racial justice, appearing 30 million times in the five years following the 2013 Zimmerman acquittal.[203] Although Black Lives Matter is now an actual organization,[204] the movement remains decentralized.[205] The people who use the hashtag on social media are often strangers to one another, yet #BlackLivesMatter allows them to rally their political energies under a common banner. People who use the hashtag can and do engage in real-world activism, but the movement on social media has taken on a life of its own.

Ironically, police departments and mainstream media organizations sometimes unintentionally provide a platform for decentralized, convergent expressions of outrage about abusive forms of law enforcement. For example, in 2014, CNN issued a tweet encouraging users to ask police officers questions using the hashtag "#AskACop." Users flooded the hashtag with pointed questions that criticized law enforcement and its history of racial violence.[206] That same year, the New York City Police Department called on the public to share photographs with officers on Twitter, using the hashtag "#myNYPD." Thousands of people responded with images of police brutality.[207] Social media thus allows "counternarratives" to disrupt or even "hijack" discussions of law enforcement intended

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201. *Id.*

202. *Alicia Garza, Patrisse Cullors, Opal Tometi*, POLITICO (2015), https://www.politico.com/magazine/politico50/2015/alicia-garza-patrisse-cullors-opal-tometi/ [https://perma.cc/9EJ4-QYZB].

203. *Id.*; Monica Anderson, Skye Toor, Kenneth Olmstead, Lee Rainie, & Aaron Smith, *An Analysis of #BlackLivesMatter and Other Twitter Hashtags Related to Political or Social Issues*, PEW RSCH. CTR. (July 11, 2018), https://www.pewresearch.org/internet/2018/07/11/an-analysis-of-blacklivesmatter-and-other-twitter-hashtags-related-to-political-or-social-issues/ [https://perma.cc/AT2N-AYAA].

204. *See About*, BLACK LIVES MATTER, https://blacklivesmatter.com/about/ [https://perma.cc/DA56-LK7X].

205. Laura Barrón-López, *Why the Black Lives Matter Movement Doesn't Want a Singular Leader*, POLITICO (July 22, 2020, 4:30 AM), https://www.politico.com/states/california/story/2020/07/22/why-the-black-lives-matter-movement-doesnt-want-a-singular-leader-1302934 [https://perma.cc/9W2S-8YEJ].

206. Greg Botelho, *#AskACop Becomes Trending for Vents About Police*, CNN (Dec. 17, 2014, 12:06 PM), https://www.cnn.com/2014/12/17/us/ask-a-cop-questions [https://perma.cc/S57N-YRSQ].

207. Sarah J. Jackson & Brooke Foucault Welles, *Hijacking #myNYPD: Social Media Dissent and Networked Counterpublics*, 65 J. COMMC'N 932, 932 (2015).

as exercises in public relations or police-friendly outreach.[208] Activist accounts can play a pivotal role in initiating the hijacking and providing a model for posts users can emulate, but most participants in "hijacking" are everyday strangers who lend their voices to a chorus of indignation.[209] As the communications scholars Sarah J. Jackson and Brooke Foucault Welles have observed, "Twitter's architecture allows conceptually related but otherwise disconnected messages to be stitched together in a networked narrative that becomes newsworthy."[210] Social media, thus, can transform disparate posts into collective political action.

Given the problems of racial profiling that have plagued the online discourse of Neighborhood Watch, it is notable that the discourse of Community Resistance draws heavily on the voices of people of color, particularly young people of color. Hispanic and Black users are more likely than their white counterparts to use social media to find information about protests in their area.[211] Black users are particularly likely to share pictures on social media about the causes they care about or use hashtags related to social issues.[212] They are also likelier to report feeling that political messages on social media can be effective and that activism on social media is "personally important to them."[213] This faith in the internet as a tool for social change is particularly pronounced among young people, especially young people of color.[214] Community Resistance thus draws disproportionately from a demographic group largely excluded by the community policing movement of the 1980s and 1990s.[215]

C.   Cop Talk

The online discourses we have called Neighborhood Watch and Community Resistance are largely comprised of civilians talking about policing and public safety, albeit from different perspectives. But police themselves also use social media, and their discussions form yet a third, distinct online discourse about

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208.   *Id.* at 932–33, 940.

209.   *Id.* at 948.

210*.   Id.*

211.   Brooke Auxier, *Activism on Social Media Varies by Race and Ethnicity, Age, Political Party*, PEW RSCH. CTR. (July 13, 2020), https://www.pewresearch.org/fact-tank/2020/07/13/activism-on-social-media-varies-by-race-and-ethnicity-age-political-party/ [https://perma.cc/7JYC-JT4G].

212.   Brooke Auxier, *Social Media Continue to Be Important Political Outlets for Black Americans*, PEW RSCH. CTR. (Dec. 11, 2020), https://www.pewresearch.org/fact-tank/2020/12/11/social-media-continue-to-be-important-political-outlets-for-black-americans/ [https://perma.cc/7JYC-JT4G].

213.   *Id.*

214.   *Id.*

215.   It is also worth noting that social media has been a double-edged sword for activists, allowing them to organize on a large scale but also helping the government to surveil them. *See, e.g.*, Sahar F. Aziz & Khaled A. Beydoun, *Fear of a Black and Brown Internet: Policing Online Activism*, 100 B.U. L. REV. 1151, 1167–83 (2020); Rachel Levinson-Waldman, Harsha Panduranga & Faiza Patel, *Social Media Surveillance by the U.S. Government*, BRENNAN CTR. FOR JUST. (Jan. 7, 2022), https://www.brennancenter.org/our-work/research-reports/social-media-surveillance-us-government [https://perma.cc/D97C-GLCN]. The same has happened overseas, which is one reason why mass protest movements may be declining in effectiveness at the global level. *See* Fisher, *supra* note 64.

law enforcement and its relationship with the public.[216] We will call this third discourse Cop Talk.

Much of Cop Talk remains hidden from the public. It occurs in private social media groups, especially on Facebook and on messaging apps.[217] Nonetheless, a steady stream of disclosures and a series of investigative reports over the past decade have documented an alarming volume of messages disparaging the people officers are sworn to protect.[218] Common themes include racial epithets, transphobic slurs, displays of heavy weaponry, calls for officers to use greater force, celebrations of violence and civilians' suffering, degrading comments about protestors, and declarations that certain public officials deserve death or serious injury.[219]

Many of these posts are now archived in the Plain View Project, an online platform dedicated to identifying troubling posts on police officers' personal social media accounts.[220] The Project combs through social media and collects any "posts and comments [that] could undermine public trust and confidence in police."[221] Users can filter the posts by city, officer name, officer rank, whether the officer was on active duty, badge number, and even salary range.[222] The Project found that nearly 20% of current officers and 40% of retired officers with verified profiles made posts or comments that met this standard.[223] A police commissioner who reviewed some of the posts called them "not only incongruent with our standards and policies, but also troubling on a human level."[224]

Recognizing the damage that can be caused by officers' posts, police departments nationwide have instituted policies guiding and often limiting officers'

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216. *See, e.g.*, Levinson-Waldman, Panduranga & Patel, *supra* note 215.

217. *See, e.g.*, *id.*

218. *See, e.g.*, *id.*

219. *See, e.g.*, Brakkton Booker, *4 San Jose Police Officers Put on Leave After Racist Social Media Posts Surface*, KQED (June 29, 2020), https://www.kqed.org/news/11826756/4-san-jose-police-officers-put-on-leave-after-racist-social-media-posts-surface [https://perma.cc/25NQ-GNHV]; Sheila Dewan, *When Police Officers Vent on Facebook*, N.Y. TIMES (June 3, 2019), https://www.nytimes.com/2019/06/03/us/politics/police-officers-facebook.html [https://perma.cc/HC6X-BCKX]; Duncan Sinfield, *SJPD Employee on Leave After Publishing Right-Wing Extremist Social Media Posts*, KTVU (Oct. 22. 2021, 6:02 PM), https://www.ktvu.com/news/sjpd-employee-on-leave-after-publishing-right-wing-extremist-social-media-posts [https://perma.cc/5GWG-3Q2Z]; James Queally, *Torrence Police Traded Racist, Homophobic Texts. It Could Jeopardize Hundreds of Cases*, L.A. TIMES (Dec. 8, 2021, 5:00 AM), https://www.latimes.com/california/story/2021-12-08/torrance-police-traded-racist-homophobic-texts-it-could-jeopardize-hundreds-of-cases [https://perma.cc/DM8C-VCYQ]; *Police Officers' Posts to Private Facebook Group Show Hostility and Hate*, PBS NEWS HOUR (Mar. 22, 2021, 9:41 AM), https://www.pbs.org/newshour/nation/police-officers-posts-to-private-facebook-group-show-hostility-and-hate [https://perma.cc/796S-Y4QS] [hereinafter *Hostility and Hate*].

220. *See Hostility and Hate, supra* note 219.

221. *Methodology*, PLAIN VIEW PROJECT, https://www.plainviewproject.org/about#methodology (last visited July 9, 2023) [https://perma.cc/V48A].

222. *See Complete Collection*, PLAIN VIEW PROJECT, https://www.plainviewproject.org/data (last visited July 9, 2023) [https://perma.cc/G9B9-2U45].

223. Emily Hoerner & Rick Tulsky, *Cops Around the Country Are Posting Racist and Violent Comments on Facebook*, INJUST. WATCH, https://www.injusticewatch.org/interactives/cops-troubling-facebook-posts-revealed/ (last visited July 9, 2023) [https://perma.cc/2V3L-ZGJA].

224. *Id.* (quoting Philadelphia Police Commissioner Richard Ross).

personal use of social media.[225] Generally, officers are prohibited from posting content that disparages any person or group, divulges information obtained in their official capacities, or brandishes government-owned weaponry or tactical instruments.[226] The International Association of Chiefs of Police has urged departments to consider also banning posts that reveal users' affiliation with law enforcement.[227] But to date, departmental rules have not stemmed the tide of social media abuse. Instances of officers posting offensive and racist content continue to surface.[228]

Many officers, obviously, use social media for much more benign purposes.[229] But given the sheer number of disturbing posts in Cop Talk, the problem cannot be dismissed as involving only a small group of errant officers.[230] Moreover, there is anecdotal evidence that officers who take positions against police unions or political groups that support law enforcement can experience cyberbullying and ostracism.[231] And when racist and offensive social media posts by police officers come to light, they validate skeptics' fears of law enforcement, decimate any trust officers have built among their constituents, and sully entire departments' reputations.

The discourse we have called Cop Talk is largely internal to police departments. It takes place among officers, and the public is not invited to participate. But police departments do use social media to communicate with the public. Law enforcement agencies joined in the techno-optimism of the 1990s and early 2000s, hoping that social media could humanize the people behind the uniforms and help them communicate with the public.[232] Many continue to have this hope. Reflecting on her department's use of social media, a veteran officer writes, "Every like, view, share, comment, and follow on social media is an opportunity to change perception, engage, and educate. Now that's powerful."[233] There was

225. PAUL ASHTON, MORGAN KANE, BOBBI STRANG, JEFFREY TIGNOR & KURT VORNDRAN, POLICE COMPLAINTS BOARD, PERSONAL USE OF SOCIAL MEDIA: REPORT AND RECOMMENDATIONS OF THE POLICE COMPLAINTS BOARD TO MAYOR MURIEL BOWSER, THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND CHIEF OF POLICE PETER NEWSHAM 3 (2020).

226. *See id.* at 6–7 (providing examples of departments' policies).

227. *See* IACP LAW ENFORCEMENT POLICY CENTER, CONCEPTS & ISSUE PAPER: SOCIAL MEDIA 5 (2019).

228. *See id.*

229. Katie Rogers, *The New Officer Friendly, Armed with Instagram, Tweets and Emojis*, N.Y. TIMES (July 13, 2016), https://www.nytimes.com/2016/07/13/us/the-new-officer-friendly-armed-with-instagram-tweets-and-emojis.html [https://perma.cc/4UA3-7HTV]; *Chicago Police Officer Carlos Yanez Jr. Shares Message to Fellow Officers as Department Sees Spike in Suicides*, FOX 32 CHI. (Sept. 14, 2022), https://www.fox32chicago.com/news/chicago-police-officer-carlos-yanez-jr-shares-message-to-fellow-officers-as-department-sees-spike-in-suicides [https://perma.cc/7UD8-EF9V].

230. The criminologist Nikki Jones notes that the messages compiled by the Plain View Project explode "the myth of bad apples, by the sheer number of images and numbers of individuals who are implicated." Hoerner & Tulsky, *supra* note 223.

231. *Hostility and Hate*, *supra* note 219.

232. *See, e.g.*, Dan Alexander, *Using Technology to Take Community Policing to the Next Level*, POLICE CHIEF (Sept. 27, 2016), https://www.policechiefmagazine.org/using-technology-to-take-community-policing-to-the-next-level/ [https://perma.cc/ZRJ7-3XFV].

233. Stephanie H. Slater, *Social Media and the Boynton Beach, Florida Police Department, in* SOCIAL MEDIA FOR GOVERNMENT: THEORY AND PRACTICE 135, 139 (Staci Zavattaro & Thomas Bryer eds., 2016).

even proof of concept. During the Boston Marathon bombing of 2013, the city's police force used social media to solicit information from the public, inform people about road closures, correct the media's reporting errors, provide updates about the casualties, and keep spectators apprised of the Boston Police Department's response.[234] The steady stream of reliable information helped calm the terrified masses while furthering officers' investigative efforts.[235] Once the dust settled, commentators lauded the Department "for leading an honest conversation with the public during a time of crisis in a way that no police department has done before."[236]

Scholarship on the use of social media by law enforcement remains "incipient and fragmentary,"[237] but it seems clear that most departments use social media first and foremost as a tool for disseminating information and presenting themselves to the public and secondarily as a channel for receiving information from the public but rarely as a means of engaging in anything resembling a true dialogue.[238] To borrow the terms of the public administration scholar Ines Mergel, law enforcement agencies use social media mostly to "push" information and sometimes to "pull" it but seldom to "network"—for example, by responding to messages or hosting online events.[239]

The information that police departments disseminate through social media can have important consequences, and not all of them are benign. It turns out, for example, that police departments are significantly more likely to post information about Black suspects, which likely reinforces racial stereotypes by giving an exaggerated impression of the share of local crimes perpetrated by Black offenders.[240] In addition, social scientists have criticized departments for not

234.   EDWARD F. DAVIS III, ALEJANDRO A. ALVES & DAVID ALAN SKLANSKY, SOCIAL MEDIA AND POLICE LEADERSHIP: LESSONS FROM BOSTON 3 (2014).

235.   *Id.* at 1.

236.   *Id.* at 5.

237.   James P. Walsh & Christopher O'Connor, *Social Media and Policing: A Review of Recent Research*, 13 SOCIO. COMPASS, Oct. 9, 2018, at 1, 1.

238.   *See id.*

239.   Ines Mergel, *A Framework for Interpreting Social Media Interactions in the Public Sector*, 30 GOV'T INFO. Q. 327, 332 (2013); XIAOCHEN HU & NICHOLAS P. LOVRICH, ELECTRONIC COMMUNITY-ORIENTED POLICING: THEORIES, CONTEMPORARY EFFORTS, AND FUTURE DIRECTIONS 25, 76, 158 (2020); Mengyan Dai, Wu He, Xin Tian, Ashley Giraldi & Feng Gu, *Working with Communities on Social Media: Varieties in the Use of Facebook and Twitter by Local Police*, 41 ONLINE INFO. REV. 782, 793 (2017); Karen Mossberger, Yonghong Wu & Jared Crawford, *Connecting Citizens and Local Governments? Social Media and Interactivity in Major U.S. Cities*, 30 GOV'T INFO. Q. 351, 355–56 (2013); Jayce L. Farmer & William A. Costello Jr., *Social Media as an Innovative Policy Tool: Lessons and Recommendations from the City of Austin*, 26 J. PUB. MGMT. & SOC. POL'Y 79, 86 (2019); Yun Huang, Qunfang Wu, Xing Huang & Jennifer Bort, *A Multiplatform Investigation of Law Enforcement Agencies on Social Media*, 22 INFO. POLITY 179, 186 (2017) (finding that departments use "push" strategies on Facebook and "networking" strategies on Twitter); *see also* Walsh & O'Connor, *supra* note 237, at 5 (noting that "[i]mage work on social media typically involves one-way communication and represents an extension of settled communication practices").

240.   Ben Grunwald, Julian Nyarko & John Rappaport, *Police Agencies on Facebook Overreport on Black Suspects*, 119 PROC. NAT'L ACAD. SCI., Nov. 2, 2022, at 1, 3.

pursuing more dialogic exchanges with residents.[241] Scholars note that officers' nonresponsiveness, defensiveness to critical comments, and recourse to technical jargon can all compromise the effectiveness of social media as tools for community policing.[242] Despite the ubiquity of social media in contemporary policing, departments looking to engage productively with the public plainly have yet to harness the internet's full potential.

D.   Segmentation and the Limits of Engagement

The three online discourses we have described—Neighborhood Watch, Community Resistance, and Cop Talk—demonstrate both the upside and the downside of the virtual world for the construction of "community." On the one hand, the internet makes it easy for people to come together to discuss matters of shared concern, and vast numbers of Americans, with widely different views, have used this opportunity to engage with issues of crime and policing. On the other hand, the internet also makes it easy, and often the path of least resistance, for people to engage mostly with people who agree with them. Neighborhood Watch, Community Resistance, and Cop Talk are all vibrant spaces of online discourse, but they appear to be largely walled off from each other. What does not seem to have emerged on the internet, for the most part, is genuine and productive engagement by local residents with conflicting aspirations and assumptions about law enforcement and public safety.

The discourses of Neighborhood Watch and Community Resistance draw people with sharply opposing starting points with regard to issues of crime and policing; they tend to reinforce the values that users bring with them: high concern about public disorder and general sympathy for the mission of law enforcement, or outrage over officers' abuses of power.[243] Cop Talk appears to draw heavy involvement from officers alienated from the community and to bolster their alienation.[244] Casual racism, tacit or explicit, is distressingly common in Neighborhood Watch and Cop Talk, whereas Community Resistance draws disproportionately from young, minority users of social media, and its participants often emphasize the importance of challenging racism and racial subordination.[245]

These three virtual spaces do have points of intersection, but they are limited. The areas of overlap are greatest between Neighborhood Watch and Cop Talk, with their shared emphasis on strengthening law enforcement and

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241.   *See, e.g.*, HU & LOVRICH, *supra* note 239, at 158. *But see* Huang, Xu, Huang & Bort, *supra* note 239, at 186 (observing that networking strategies are prominent on Twitter).

242.   *See* Lori Brainard & Mariglynn Edlins, *Top 10 U.S. Municipal Police Departments and Their Social Media Usage*, 45 AM. REV. PUB. ADMIN. 728, 740–41 (2015); Lori A. Brainard & Teresa Derrick-Mills, *Electronic Commons, Community Policing, and Communication: Online Police-Citizen Discussion Groups in Washington, DC*, 33 ADMIN. THEORY & PRAXIS 383, 399–401 (2011).

243.   *See* Brainard & Edlins, *supra* note 242.

244.   *See id.*

245.   *See id.*

maintaining public order. Several of the Neighborhood Watch apps, for example, have forged institutional partnerships with law enforcement.[246] Amazon has developed an extension of the Neighbors app for law enforcement: "Neighbors Public Safety Service" (NPSS).[247] About 2,000 agencies—including the police departments in New York, Los Angeles, and Chicago—are on NPSS, which allows them to view content posted on Neighbors and request that Ring users voluntarily release doorbell footage to the police.[248] Departments can also post publicly, and their content reaches entire regions, whereas regular Neighbors users can only post to their neighborhoods.[249] Nextdoor has a similar program that lets police departments post content to wider audiences than ordinary users can.[250] (The app used to include a "Forward to Police" feature, which enabled users to send their posts directly to law enforcement,[251] but Nextdoor removed the function in 2020 in response to accusations that the bulk of posts brought to law enforcement's attention were the products of racial profiling.[252])

When police departments issue regional notifications on apps like Nextdoor and Neighbors, they distribute information to users but do not engage in any back-and-forth with residents.[253] They sometimes comment on posts,[254] but typically, they do so to request that users provide tips or voluntarily turn over footage captured on their Ring doorbells.[255] In Mergel's terms, officers use Neighborhood Watch apps to *push* and *pull* information, but there is little *networking*.[256] When NYPD Police Commissioner Keechant Sewell announced that her department was joining Neighbors, she stressed the ability the platform

246. *See id.*

247. Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 17.

248. *Id.* at 17–18; Hurubie Meko*, What to Know Now That the N.Y.P.D. Is on Amazon's Neighborhood Watch App*, N.Y. TIMES (Nov. 27, 2022), https://www.nytimes.com/article/nypd-ring-app-surveillance.html [https://perma.cc/2ALY-PYGH].

249. Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 17.

250*. What Is the Nextdoor for Public Agencies Program?*, NEXTDOOR: HELP CENTER, https://help.nextdoor. com/s/article/what-is-the-nextdoor-for-public-agencies-program?language=en_US (last visited July 9, 2023) [https://perma.cc/9W2S-8YEJ].

251. Sarah Holder, *How Nextdoor Courts Police and Public Officials*, BLOOMBERG (May 21, 2020, 6:00 AM), https://www.bloomberg.com/news/articles/2020-05-21/nextdoor-s-delicate-partnership-with-local-police [https://perma.cc/NE75-6J67].

252*. Nextdoor Removes 'Forward to Police' Feature*, NEXTDOOR: BLOG (June 18, 2020), https://blog. nextdoor.com/2020/06/18/nextdoor-removes-forward-to-police-feature/ [https://perma.cc/JKJ8-87SD]; Kim Lyons, *Nextdoor Eliminates Its Forward to Police Program*, VERGE (June 20, 2020, 4:38 PM), https:// www.theverge.com/2020/6/20/21297876/nextdoor-forward-police-racism-messages [https://perma.cc/6Q2T-VBAS].

253. *See, e.g.,* Holder, *supra* note 251 (describing efforts to use Nextdoor as a crime control tool).

254. *E.g.*, Clark, Friedman, Heydari & Isaacs, *supra* note 174, at 17. *But see Frequently Asked Questions About Nextdoor for Public Agencies*, NEXTDOOR: BLOG (July 17, 2020), https://blog.nextdoor.com/ 2020/07/17/frequently-asked-questions-about-nextdoor-for-public-agencies/ [https://perma.cc/5SMD-AQXP] (explaining that "[p]ublic agencies can only view reactions and replies on their posts or private messages that are sent to them," not "any other content on Nextdoor").

255. *See* Sarah Holder, *Nextdoor Wants to Be a One-Stop Shop for Police*, BLOOMBERG (Feb. 12, 2020, 11:48 AM), https://www.bloomberg.com/news/articles/2020-02-12/what-police-departments-get-from-using-nextdoor [https://perma.cc/RU5Q-78TT].

256. *See* Mergel, *supra* note 239.

provided "to interact online with New Yorkers—often in real time."[257] But, departments do not appear to use these apps as platforms to foster sustained dialogue with and among residents.

Participants in Neighborhood Watch and Cop Talk also interact online through pro-police movements like "Blue Lives Matter." Blue Lives Matter arose in response to Black Lives Matter and attracts officers and members of the public who believe that racial justice advocates mischaracterize policing and make it more dangerous by fueling anti-law enforcement sentiment.[258] Like other pro-policing counter-movements, Blue Lives Matter was initiated by and continues to be led by active and retired officers, but it finds supporters among civilians as well.[259] Hashtags like "#BlueLivesMatter" and "#AllLivesMatter" are used thousands of times daily, often to promote stories and arguments that cast policing in a positive light and denigrate social justice protesters.[260] Blue Lives Matter has a Facebook account, a Twitter handle, and an Instagram account; the Facebook account has more than two million followers.[261] Along with other pro-police platforms on these social media sites, Blue Lives Matter regularly posts material mourning fallen officers, sending well-wishes to their families, raising emergency funds for officers in crisis, and highlighting stories of crimes—especially ones allegedly perpetrated by Black individuals against white victims—that purportedly justify the need for policing.[262] Like the material collected by the Plain View Project, the posts on these platforms include content deriding anti-police protesters and trafficking in racist tropes.[263]

Blue Lives Matter, along with the wider universe of pro-police social media platforms and hashtags for which it serves as a kind of flagship, is thus an extension of Cop Talk, merging it in some ways with Neighborhood Watch. These spaces are defined in large part by what they oppose: groups they perceive as being anti-police.[264] Since the murder of George Floyd in May 2020 and the massive, nationwide protests that followed, the Blue Lives Matter movement appears to have migrated to the far right, allying itself with Donald Trump. Some of the participants in the January 6, 2021, assault on the United States Capitol—including, ironically, some of those who attacked officers of the Capitol Police—carried "Thin Blue Line" flags that have become associated with Blue Lives Matter.[265]

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257. Meko, *supra* note 248.

258. *See* Johanna Solomon, David Kaplan & Landon E. Hancock, *Expressions of American White Ethnonationalism in Support for "Blue Lives Matter,"* 26 GEOPOLITICS 946, 951 (2021).

259. *See id.* at 953.

260. *Id.* at 950.

261. Jennifer M. Stevens, Blue Lives Matter: Identity and the Internet 20–21 (May 2021) (Ph.D. dissertation, University of Nevada, Las Vegas) (available at https://digitalscholarship.unlv.edu/thesesdissertations/4207/ [https://perma.cc/QLZ3-UVU6]).

262. *See id.* at 101–19.

263. *See*, *e.g.*, *id.* at 99, 119; Solomon et al., *supra* note 258, at 961.

264. Stevens, *supra* note 261, at 101–22.

265. *Id.* at viii–xi.

Community Resistance is part of the social justice movement disdained by Blue Lives Matter, and the enmity is reciprocated. Participants in Community Resistance tend to be hostile not just to Blue Lives Matter but also to the related discourses of Neighborhood Watch and Cop Talk, decrying apps like Nextdoor that expand police surveillance[266] and balking at officers' online comments.[267] When the virtual space of Community Resistance intersects with online discourses that are pro-police, it generally is only for the kind of "hijacking" that turned "#AskACop" and "#myNYPD" into online rallies against abusive policing."[268]

V. Paths Forward

As reformers and abolitionists clash over the future of policing and public safety, both camps place faith in "community." Reformers tend to urge a return to, and strengthening of, community policing.[269] They hope that stitching police departments more productively and accountably into the populations they are sworn to protect can help break law enforcement's history of racism and violence.[270] Abolitionists—both wholesale abolitionists and those who call simply for "defunding" law enforcement agencies—believe that the problems of policing are deeper than any reforms can reach. Divesting from the police, they contend, would free up resources to be used by and for the benefit of the community.[271]

Communities do not have natural boundaries, though, and they inevitably include people and groups with opposing ideas and aspirations. Placing "the community" at the center of public safety policy requires thinking about whom the community encompasses and how to take meaningful account of its diversity and contradictions. The advent of the virtual world has not eliminated this basic challenge, but it has altered the contours of the problem by reconfiguring how people come together and also how they divide against each other. Users join online groups and separate from their enemies with an ease that the physical world rarely approximates. The virtual world has become pivotal to circulating information efficiently, engaging people where they spend a meaningful portion of their lives, and providing them with opportunities for solidarity, collective

266. *See, e.g.*, Paula Garcia-Salazar, Nina Loshkajian, Albert Fox Cahn & Eleni Manis, *The Spy Next Door: The Danger of Neighborhood Surveillance Apps*, SURVEILLANCE TECH. OVERSIGHT PROJECT (Nov. 30, 2021), https://www.stopspying.org/thespynextdoor [https://perma.cc/3RRN-THQC].

267. *See, e.g.*, Mary Zerkel, *6 Reasons Why It's Time to Defund the Police*, AM. FRIENDS SERVS. COMM. (Oct. 15, 2020), https://www.afsc.org/blogs/news-and-commentary/6-reasons-why-its-time-to-defund-police [https://perma.cc/MR9H-L98A] (emphasizing officers' widespread membership in "racist and anti-government groups on Facebook").

268. *See supra* notes 206–10 and accompanying text.

269. *See supra* Part II.

270. *See, e.g.*, Sklansky, *supra* note 3, at 11.

271. *See, e.g.*, *Divest from the Police. Invest in Black and Brown Communities*, ACLU, https://action.aclu.org/petition/divest-police-invest-black-and-brown-communities (last visited July 9, 2023) [https://perma.cc/4QYZ-7M5P]; *see also supra* notes 29, 32.

action, and a sense of belonging. In doing so, though, the internet has simultaneously helped to widen social divisions.

These dynamics have transformed debates about public safety in ways that must be taken into account regardless of whether police departments are reformed, downsized, or eliminated. Vast numbers of people in the United States now engage passionately and collectively in virtual spaces with issues of real-world policing and public safety. But online discussions of crime and safety have broken down into at least three distinct and isolated discourses, each defined by homogeneity of viewpoint, and each suspicious of and often openly hostile to at least one and possibly both of the others.

It needs to be stressed that ideological segmentation is not all bad. Groups and communities have always formed in part by sharing a sense of who and what they are not. The sense of solidarity and belonging that many people get from Neighborhood Watch, Community Resistance, or Cop Talk, and the possibilities for collective action that these discourses provide, depend in part on the fact that the participants within each discourse share fundamental values and assumptions. They are on the same wavelength. They do not need to worry that they are aiding their enemies or wasting time and energy on people they can never convince.

But the balkanization of online discussions of public safety into three separate echo chambers also has large costs. It allows misinformation about crime and policing to spread without challenge, and it heightens social and political polarization. Perhaps worst of all, it squanders opportunities for productive engagement, including genuine debate, between people with conflicting ideas about policing and public safety. We should not aim to eliminate or restrict spaces on the internet where like-minded people can gather. Spaces of that kind can be and have been emancipatory and empowering. But we should also be open to ways that the internet could be used to create more inclusive discussions of public safety, discussions that could allow policing—or whatever replaces it—to draw more productively on the idea of community and to help create fairer and more equitable communities in the real world.

Although community policing was plagued from the outset by a tendency to see communities too simplistically—to ignore the complexity of a given community and the diversity of viewpoints it contained—there were, and continue to be, less harmful forms of community policing, which strive to include diverse voices and use structured discussions and deliberation to reconcile conflicting views about law enforcement and public safety.[272] In the 1990s, for example, police in Riverside, California, sought out and worked to address the concerns of the neighborhood activists who were their harshest critics;[273] police in Fremont,

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272. The following examples are adapted from Sklansky, *supra* note 3, at 26–27. For the best discussion of this alternative approach to community policing, see Thacher, *supra* note 3.

273. Thacher, *supra* note 3, at 785–89; Jose Adolfo Gomez, Policing Accountability: An Empirical Investigation of State-Sponsored Police Reform in Riverside, California (2008) (doctoral dissertation, University of Southern California, Department of Political Science).

California, introduced residents of a low-income apartment complex to neighbors who believed, erroneously, that the complex was rife with drug dealing and sex work;[274] officers in Chicago used organizers to boost the participation of poor people and people of color and community policing meetings, and employed structured discussions, often with trained facilitators, to reconcile views of residents with conflicting aspirations with regard to public safety;[275] and police in Lowell, Massachusetts, brokered discussions between a largely white neighborhood and a poorer, heavily Cambodian neighborhood about where a new police precinct should be located.[276] More recently, a community policing initiative in Los Angeles has reduced violence and increased satisfaction with the police at a series of housing projects in part through meetings at which police sought out, listened to, and apologized to residents who were highly critical of the police and distrusted them.[277]

The internet offers tantalizing opportunities to build on programs of this kind, programs that explicitly address the complexity of communities and seek to reconcile opposing values in public safety rather than paper them over. For the virtual world to assist in this enterprise, though, its weaknesses as well as its attractions need to be taken into account. That means, in part, optimizing the internet's potential to bring people together while minimizing the alienation, fragmentation, and mistrust that online discussions can breed. It means encouraging and facilitating productive dialog—whether or not led by the police—between people with different assumptions and concerns about policing and public safety and working to incorporate the views of people who may not be active participants in any of the existing online discourses we have described. There may be ways to pursue these goals through a range of online interventions, some aimed at platforms and others at users. But the most important responses to online polarization—whether with regard to policing and public safety or with regard to other lines of cleavage in the virtual world—may not themselves have anything to do with the internet, but rather with conditions in the real world that the internet draws on, replicates, and in some cases amplifies.

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274.   David Thacher, *Equity and Community Policing: A New View of Community Partnerships*, CRIM. JUST. ETHICS 3, 9–11 (2001).

275.   Forman, *supra* note 18, at 40–45.

276.   Thacher, *supra* note 274, at 8–9.

277.   JORJA LEAP ET AL., EVALUATION OF THE LAPD COMMUNITY SAFETY PARTNERSHIP ii–iii, 15, 63–64 (2020).

A.   Reshaping the Digital Terrain

On social media, algorithms mathematically map users' preferences and foreground content that is statistically likely to maximize engagement. Depending on their function, algorithms will examine a user's browser history and various facets of online behavior, such as the time users spend engaging with different types of content, to deliver personalized results.[278] While scholars continue to debate the extent to which these algorithmic mechanisms give rise to "echo chambers" and "filter bubbles," there is little doubt that the virtual world has not escaped the ideological segmentation that plagues our offline realities.

Does algorithmic sorting of this kind help maintain the separation between Neighborhood Watch, Community Resistance, and Cop Talk? The prospect seems plausible. Even if social media algorithms can help diversify users' content feeds, it is unlikely that algorithmic sorting would force users to contend with people who share views diametrically opposed to their own. But our inability to say with certainty how algorithms shape online discussions of public safety illustrates how consequential algorithmic opacity can be.

Notwithstanding the extent of seclusion among these three discourses, there are other aspects of the virtual world that make fostering more inclusive discussions of public safety a daunting task. As we have illustrated, early iterations of community policing floundered precisely because they often deployed a reductive notion of "community" that excluded historically marginalized groups.[279] The virtual world exhibits similar patterns of exclusion and inequality. For example, thanks to algorithms, search engines disproportionately show images of men when users input queries like "C.E.O.," display arrest records more often when users search for historically Black names, and feature online advertisements for high-paying jobs to men more often than women.[280] For the virtual world to play a productive role in generating discussions of public safety, it is critical to avoid not only algorithmic siloing that minimizes encounters with opposing views, but also these algorithmic embodiments of prejudices that flatten the conception of "community."

One step in this direction would be greater algorithmic transparency. For years, scholars and activists have called on tech companies to make their code

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278. Clodagh O'Brien, *How Do Social Media Algorithms Work?*, DIGIT. MKTG. INST. (Jan. 19, 2022), https://digitalmarketinginstitute.com/blog/how-do-social-media-algorithms-work [https://perma.cc/RV6R-DJNU].

279. *See supra* Section II.B.

280. Claire Cain Miller, *When Algorithms Discriminate*, N.Y. TIMES (July 9, 2015), https://www.nytimes.com/2015/07/10/upshot/when-algorithms-discriminate.html [https://perma.cc/PU6F-6BQ9]. Even programs that seem unproblematic in the design phase can discriminate in practice. In one extreme example, Microsoft released a chatbot into Twitter. The plan was for the program to pick up on users' language and develop the capacity to converse on any topic. After only a few hours, the bot began tweeting racist, misogynistic, anti-Semitic, and other highly inflammatory content. Oscar Schwartz, *In 2016, Microsoft's Racist Chatbot Revealed the Dangers of Online Conversation*, IEEE SPECTRUM (Nov. 25, 2019), https://spectrum.ieee.org/in-2016-microsofts-racist-chatbot-revealed-the-dangers-of-online-conversation [https://perma.cc/FYD4-GFDE].

available for external review.[281] Criticisms of algorithmic "black boxes" are hardly unique to discussions of public safety,[282] but they reflect longstanding concerns about technology's complicity in, and potential exacerbation of, social hierarchies. To be clear, transparency does not have to require a company to divulge its trade secrets or inundate its users with details about its technology.[283] Instead, the objective would be to give consultants and researchers a sounder basis to propose actionable recommendations, hopefully with an eye toward minimizing racism, misogyny, and other axes of prejudice in the virtual world.

Transparency is only the beginning. Coders are already developing programs specifically designed to diffuse a diversity of content as broadly as possible.[284] Researchers also speculate that users' appetite for consumption creates an opportunity to expose them to content that relates to their interests but might not align squarely with their worldviews.[285] In other words, users' interests might be more capacious than their political convictions, and algorithms could capitalize on that possibility. This line of research points to the potential for algorithms to play a more positive, deliberate role in enriching and diversifying online "communities." While some scholars doubt the viability of these algorithmic interventions,[286] there is good reason to hope that, if nothing else, discourse could be improved by slowing the online "automation of our worst impulses."[287]

One promising path forward is to foster the development of "algorithmic audits" and "algorithmic impact assessments," in which companies authorize third-party experts to evaluate their machine learning programs.[288] Auditors draw on various types of evidence, including code, interviews with employees, and company policies.[289] Audits are often associated with questions of regulatory compliance,[290] but they are increasingly drawing attention for their potential to assess algorithmic discrimination, and they could be used to promote better

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281. *See, e.g.*, LEE RAINIE & JOANNA ANDERSON, PEW RSCH. CTR., CODE-DEPENDENT: PROS AND CONS OF THE ALGORITHM AGE 15–24 (2017) (canvassing experts on the matter); Lewis-Kraus, *supra* note 90 (describing the proposal "that platforms should share their data with outside researchers" as "uncontroversial").

282. For an overview of algorithms' opacity, see Itay Ravid & Amit Haim, *Progressive Algorithms*, 12 UC IRVINE L. REV. 527, 532 (2022).

283. Transparency to this extreme can even be counterproductive. *See* Kartik Hosanagar & Vivian Jair, *We Need Transparency in Algorithms, But Too Much Can Backfire*, HARV. BUS. REV., https://hbr.org/2018/07/we-need-transparency-in-algorithms-but-too-much-can-backfire (July 25, 2018) [https://perma.cc/5BQC-J9MW].

284. *Id.*

285. Stephanie Tam, *Pop Goes the Filter Bubble?*, SLATE (Apr. 4, 2018, 11:39 AM), https://slate.com/technology/2018/04/personalization-algorithms-could-actually-help-pop-filter-bubbles.html [https://perma.cc/TMD7-QVS8].

286. Michela Del Vicario et al., *The Spreading of Misinformation Online*, 113 PROC. NAT'L ACAD. SCI. 554, 558 (2016).

287. SAFIYA UMOJA NOBLE, ALGORITHMS OF OPPRESSION: HOW SEARCH ENGINES REINFORCE RACISM 181 (2018).

288. ADA LOVELACE INST. & DATAKIND UK, EXAMINING THE BLACK BOX: TOOLS FOR ASSESSING ALGORITHMIC SYSTEMS 3–4 (2020).

289. ADA LOVELACE INST., INSPECTING ALGORITHMS IN SOCIAL MEDIA PLATFORMS 8–11 (2020).

290*. Id.* at 3.

discourse, as well.[291] Granted, companies are often reluctant to open themselves for evaluation,[292] and audits can often be nearly as opaque as the algorithms they review. There are few standards governing what counts as a comprehensive audit,[293] which means that "[a] seal of approval from one auditor could mean much more scrutiny than that from another."[294] But existing proposals and reports endorsing the idea of audits all point the way toward the kind of legislative and regulatory interventions that may be necessary to prod the development of an algorithm auditing industry.[295]

External review could also look beyond the code to focus on the companies themselves and the workplaces they foster. The tech industry is disproportionately led and staffed by white men,[296] and there is growing recognition that algorithms often reflect the biases of the software engineers designing them.[297] The professionals charged with designing algorithms and monitoring bias should have a strong foundation in the myriad of ways social prejudice can manifest itself—both in their code and in the workplace. Researchers might assess whether tech companies are making active efforts to reckon with their track records of discriminatory hiring practices and the extent to which they affirmatively facilitate nontraditional candidates' professional advancement.[298] As Safiya Umoja Noble observes, "the possibility of hiring recent graduates and advanced-degree holders in Black studies, ethnic studies, American Indian studies, gender and women's studies, and Asian American studies with deep knowledge of history and critical theory could be a massive boon to [companies] working through the kinds of complex challenges facing society."[299]

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291. Alfred Ng, *Can Auditing Eliminate Bias from Algorithms?*, MARKUP (Feb. 23, 2021, 8:00 AM), https://themarkup.org/the-breakdown/2021/02/23/can-auditing-eliminate-bias-from-algorithms [https://perma.cc/46R3-2NB5].

292. *Id.*

293. Mona Sloane, *The Algorithmic Auditing Trap*, MEDIUM (Mar. 17, 2021), https://onezero.medium.com/the-algorithmic-auditing-trap-9a6f2d4d461d [https://perma.cc/RBS3-7DRH].

294. Ng, *supra* note 291.

295. *See id.* Senators Ron Wyden, Cory Booker, and Yvette Clarke recently unveiled the Algorithmic Accountability Act of 2022, which would "require[] companies to conduct impact assessments for bias, effectiveness and other factors . . . when using automated decision systems to make critical decisions." Press Release, Ron Wyden, Senator, Wyden, Booker and Clarke Introduce Algorithmic Accountability Act of 2022 To Require New Transparency And Accountability For Automated Decision Systems (Feb. 3, 2022), https://www.wyden.senate.gov/news/press-releases/wyden-booker-and-clarke-introduce-algorithmic-accountability-act-of-2022-to-require-new-transparency-and-accountability-for-automated-decision-systems [https://perma.cc/GD8S-K8MB]. The bill is not the first of its kind. *Id.* (noting the 2019 version).

296. Rebecca Heilweil, *Why Algorithms Can Be Racist and Sexist*, VOX (Feb. 18, 2020, 12:20 PM), https://www.vox.com/recode/2020/2/18/21121286/algorithms-bias-discrimination-facial-recognition-transparency [https://perma.cc/PP6E-B4TN]; Sheena Erete, Yolanda A. Rankin & Jakita O. Thomas, *I Can't Breathe: Reflections from Black Women in CSCW and HCI*, 234 PROC. ACM HUM.-COMPUT. INTERACT., Dec. 2020, at 1, 15; *see also* NOBLE, *supra* note 287, at 163.

297. *See, e.g.*, Engin Bozdag & Jeroen van den Hoven, *Breaking the Filter Bubble: Democracy and Design*, 17 ETHICS & INFO. TECH. 249, 254 (2015).

298. *See generally* Erete, Rankin & Thomas, *supra* note 296 (discussing racial oppression in computer science).

299. NOBLE, *supra* note 287, at 163.

Another avenue for progress will center on what types of content foster productive engagement. The challenge on this front is twofold. First, to cultivate a more inclusive "community," there must be some interaction across Neighborhood Watch, Community Resistance, and Cop Talk. The goal is not to force people to engage in conversations they do not want, and certainly not to force people into interactions that could endanger them, but to develop content that challenges people's biases and presuppositions without chasing them into the comfort and safety of an echo chamber. Second, for optimal engagement, creators must also appeal to stakeholders who are not already actively voicing their views about public safety.[300] (At the same time, unequal access to the internet makes it particularly important that online discourses supplement but not replace opportunities for face-to-face dialog. Just as the internet can help reach groups historically excluded from discussions of community safety, there always will be groups who will be easier to reach offline.)

There may be models for this. For example, an intriguing internet content-provider called Jubilee Media produces videos that aim both at entertainment and genuine engagement across lines of background and ideology, nesting conversations about political and social issues within the broader media ecosystem.[301] People from different backgrounds interact in person, and videos of their discussions are posted online. In its "Ask Me Anything" series, Jubilee has participants take turns asking questions of controversial figures. In "Spectrum," a group of five people with something in common each explain whether they agree or disagree with a series of statements read to them. Many of Jubilee's videos have no political overtones, like "Dad Chooses Date for His Daughter" or "Ranking Strangers from Introverted to Extroverted." But subscribers drawn by light fare of this kind can stumble upon, or be led by algorithms to, videos with content on the Arab-Israeli conflict, abortion laws—or policing. Some of the company's

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300. Even if we could bring participants in Neighborhood Watch, Community Resistance, and Cop Talk together, we would not have an inclusive discourse. Only about 13% of U.S. adults use neighborhood-oriented apps like Nextdoor. Brooke Auxier & Monica Anderson, *Social Media Use in 2021*, PEW RSCH. CTR. (Apr. 7, 2021), https://www.pewresearch.org/internet/2021/04/07/social-media-use-in-2021/ [https://perma.cc/7JYC-JT4G]. Similarly, not everyone with impassioned beliefs about social causes will participate in Community Resistance. One study found that during the 2018 midterm elections, 97% of political messages on Twitter came from 10% of its users. *National Politics on Twitter: Small Share of U.S. Adults Produce Majority of Tweets*, PEW RSCH. CTR. (Oct. 23, 2019), https://www.pewresearch.org/politics/2019/10/23/national-politics-on-twitter-small-share-of-u-s-adults-produce-majority-of-tweets/ [https://perma.cc/5V7U-X3V9]. And, of course, only a small minority of U.S. adults have formal ties to law enforcement. As of 2020, fewer than 700,000 Americans worked as full-time law enforcement officers, in a nation with more than 331 million people. Erin Duffin, *Number of Full-Time Law Enforcement Officers in The United States from 2004 to 2020*, STATISTA (Oct. 11, 2022), https://www.statista.com/statistics/191694/number-of-law-enforcement-officers-in-the-us/ [https://perma.cc/A73G-DCHF]; *Quick Facts*, U.S. CENSUS, https://www.census.gov/quickfacts/fact/table/US/PST045221 (last visited July 9, 2023) [https://perma.cc/48R3-B69S].

301. For more on Jubilee's philosophy, see *Vision*, JUBILEE MEDIA, https://www.jubileemedia.com/vision (last visited July 9, 2023) [https://perma.cc/L9Y9-QZRK].

most politically fraught content has amassed millions of views and spawned extended debate among online commenters.[302]

What is striking about platforms like Jubilee is the contrast between the heavily structured in-person interaction and the decentralized virtual channels through which the content circulates. For example, in Jubilee's "Middle Ground" series, a facilitator reads a statement to six people representing two groups that tend either to disagree on social and political issues or come from profoundly different walks of life.[303] Those who agree with the statement must come forward and discuss why, and those who disagree must wait to participate until they are invited by the facilitator to do so.[304] Conventional social media provide no similar mechanism for moderating conversations between people with opposing viewpoints.[305] The advantage of Jubilee's approach, then, lies in the platform's ability to use in-person interaction to model the type of discourse that online users can emulate. The platform's more political videos also have the intrigue of a social experiment, blurring the boundary between politics and entertainment in ways that seem to capture a broader viewership. The presence of representatives from various ideological camps and demographic backgrounds makes it likelier a viewer will identify with at least one participant in the video.

To be sure, the model is far from perfect. Championing dialogue for the sake thereof can easily verge into promoting sanctimonious and self-congratulatory conceit—a line that Jubilee, with its commitment to "radical empathy" for "human good,"[306] does not always walk with grace. Moreover, the premium the site places on dialog and reasoned debate leaves little room for emotional reactions and righteous indignation. Then, too, the "middle ground" in a Jubilee debate is not always meritorious. In videos like "Flat Earthers vs Scientists: Can We Trust Science?",[307] one side is just plain wrong. Seeking to foster mutual empathy across lines of disagreement, Jubilee inevitably gives a platform to some people with bigoted and inaccurate views. Warts and all, though, the platform demonstrates the possibility of using the internet to foster engaged interaction across boundaries of background and ideology on critical questions of public policy.

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302. *See, e.g.*, Jubilee, *Is Abortion Murder? Middle Ground*, YOUTUBE (Nov. 28, 2021), https://www. youtube.com/watch?v=wrQYHeodRio [https://perma.cc/48LM-TMLZ] (receiving over 2.7 million views).

303. *Id.*

304. *Id.*

305. For a discussion of the limits of social media to foster an inclusive dialogue, see Mary Anne Franks, *Beyond the Public Square: Imagining Digital Democracy*, 131 YALE L.J. F. 427, 436–47 (2021). Franks also draws on MetaFilter, a website that charged users a subscription fee and imposed a waiting time after users posted, as a model for how social media might promote more nuanced exchanges. *Id.* at 451–52. Yet MetaFilter's decline, *id.* at 452, also illustrates how challenging it can be for platforms to impose structure on the decentralized flow of ideas within the virtual world.

306. *See* Jubilee Media, *supra* note 301.

307. Jubilee, *Flat Earthers vs Scientists: Can We Trust Science? Middle Ground*, YOUTUBE (Oct. 11, 2019), https://www.youtube.com/watch?v=Q7yvvq-9ytE [https://perma.cc/248R-LVME].

B.   Promoting User Accountability

Individual users, acting on their own, cannot reshape their internet. But they are far from powerless. As concerns have mounted—however grounded in empirical reality—about echo chambers and filter bubbles, software engineers have devised new ways of enabling users to visualize the diversity of content and people they encounter online.[308] Innovations like this can help users do what some commentators have long advocated: take their own steps to diversify their feeds.[309] The author and activist Eli Pariser, who popularized the term "filter-bubble," urges us to surprise our algorithms by changing our browsing habits.[310] He suggests expanding our interests, viewing pages unlike those we usually frequent, and supporting platforms that give users greater control over their algorithms.[311] Even liking a publication or person with an opposing viewpoint can throw algorithms off their mark.[312]

The use of social media by police officers and other public employees warrants special attention. What a public employee chooses to view on the internet when off duty is fully protected by the First Amendment, but when an employee—especially an officer sworn to "protect and serve"—posts, reposts, or endorses content, it implicates his or her official duties and, within limits, is subject to regulation. Under current constitutional doctrine, the ability of a police department to discipline an officer for social media posts depends in part on whether the posts concern matters of public concern and whether the officer is speaking as a private citizen rather than as an officer.[313] As the Ninth Circuit recently recognized, "police departments may permissibly consider the special status officers occupy in the community when deciding what limitations to place on officers' off-duty speech," including speech on social media, and "[s]peech by a police officer that suggests bias against racial or religious minorities can hinder that officer's ability to effectively perform his or her job duties and undermine the department's ability to effectively carry out its mission."[314] Other courts have almost uniformly reached the same conclusion.[315] Many departments

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308.   *See* Emily Dreyfuss, *Coders Think They Can Burst Your Filter Bubble with Tech*, WIRED (Nov. 19, 2016, 7:00 AM), https://www.wired.com/2016/11/coders-think-can-burst-filter-bubble-tech/ [https://perma.cc/LV24-GZHT].

309.   *Id.*

310.   PARISER, *supra* note 88, at 222.

311.   *Id.* at 222–29.

312.   Holly Ober, *How to Burst Your Bubble: Broadening Your Social Media Horizons*, U.C. RIVERSIDE (Feb. 3, 2021), https://news.ucr.edu/articles/2021/02/03/how-burst-your-bubble-broadening-your-social-media-horizons [https://perma.cc/PMQ8-YUHU].

313.   *See* Connick v. Myers, 461 U.S. 138, 154 (1983); Bd. of Educ. v. Doyle, 429 U.S. 274, 284 (1977); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968).

314.   Hernandez v. City of Phoenix, 43 F.4th 966, 979 (2022); *see also, e.g.*, Locurto v. Giuliani, 447 F.3d 159, 182 (2d Cir. 2006) (finding it "obvious" that expressive conduct by police officers and firefighters mocking and denigrating African Americans "might well damage the relationship between the NYPD and FDNY and minority communities," and was therefore a proper basis for dismissal).

315.   Jonathan Abel, *Cop-"Like" (" "): The First Amendment, Criminal Procedure, and the Regulation of Police Social Media Speech*, 74 STAN. L. REV. 1199, 1216–17 n.106 (2022).

have already taken steps to discourage racist and otherwise offensive speech by officers on social media, but other departments have yet to do so.[316] Even departments that *do* take action against officers who post or recirculate racist material often suggest, explicitly or by implication, that officers who disguise their identity on social media will not be disciplined.[317]

Racist and offensive posts by police officers undermine their own ability, and the ability of their departments, to protect and serve members of the public equally, and with fairness and respect. It can also destroy their ability to serve as reliable and effective witnesses in court. All of this can be true even when the officers post under pseudonyms, in part because their identity as police officers can be, and often is, discovered.[318] Furthermore, when noxious posts circulate, officers can have their prejudices reinforced and amplified. Officers may even come to see the hatred embodied in the posts as normal and acceptable responses to the challenges of police work. Cop Talk may play a role in the relatively small but worrisomely disproportionate number of police officers who join violent extremist groups.[319] Departments, therefore, can and should take steps to ensure that Cop Talk does not work at cross-purposes with efforts to make the provision of public safety fairer, more equitable, and more accountable.

The closer someone is to state power, the greater one's responsibility is to do everything possible to defy the echo chamber effect. The employees of any public agency tasked to reduce crime and hold people accountable for any harm they inflict will have a heightened obligation to mind their algorithms. This danger is particularly acute for American law enforcement, given its history of violence and its frequent complicity in systems of racial subordination.[320] But the danger would remain even in a world in which police departments as we currently know them no longer exist. Riding an algorithm's current can make people callous to the people they serve.

C. Intervening in the Physical World

The physical world provides the foundation for the virtual world, even if the former is increasingly being reshaped by the latter. Users are, first and foremost, creatures of flesh and blood. Algorithms are designed by humans and rely, for the most part, on inputs provided by humans. Internet companies are created

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316. *Id.* at 1219.

317. *Id.* at 1229–32.

318. *Id.* at 1221–29. For this reason and others, Professor Abel argues that police departments and prosecutors have a constitutional obligation under *Brady v. Maryland*, 373 U.S. 83 (1963), to ferret out and disclose biased speech on social media by officers who will testify against criminal defendants, including speech made under a pseudonym. In fact, Abel suggests, the disclosure argument is especially strong for speech made under a pseudonym, because it is harder for defendants and their attorneys to discover these posts on their own. *See id.* at 1246–58.

319. The New York Times Editorial Board, *Extremists in Uniform Put the Nation at Risk*, N.Y. TIMES (Nov. 13, 2022), https://www.nytimes.com/2022/11/13/opinion/us-police-military-extremism.html [https://perma.cc/KR5A-HSAV].

320. *See id.*

by and staffed with real world people. And while the internet has worsened political polarization in important ways, polarization did not start on the internet. Changing algorithms, and engineering platforms to pop epistemic bubbles, can only do so much. The techno-optimism of the late twentieth century ran aground in part because it placed too much faith in the ability of the internet to cure longstanding inequalities, systems of oppression, and social divides. If the internet is to become a forum for more inclusive and more productive discourse about public safety, the most important steps may need to be taken in the physical world by confronting the social structures and ideologies that have allowed racism, exclusionary forms of populism, and political polarization to fester and grow. That is a large agenda, of course, and we cannot hope to plot its dimensions here. But we want to acknowledge how critical it is: how deeply a reconstruction of online discourse may depend not on technological fixes but on the familiar but nonetheless critical tasks of political and social reform in the physical world.

VI. CONCLUSION

The indeterminacy of "community" threatens to undermine efforts across the political spectrum to usher in a more inclusive era of public safety. This Article has explored how the virtual world has magnified our ability to "filter" our social lives, maximizing our engagement with content and people we find agreeable while casting out dissent. For public safety, the result has been a self-sorting of users into three isolated discourses: Neighborhood Watch, Community Resistance, and Cop Talk. But the fragmentation of the virtual world and the reductive notions of "community" it fosters are not predetermined. The internet is rich with potential. It is possible to imagine a virtual world that assists rather than hinders efforts to remake systems of public safety that are centered around inclusion and respect. By bringing commitment to fairness and equality to the virtual world, and by leveraging users' intellectual curiosity to create dialogue across echo chambers, we may be able to come closer to a deeper, richer, and more sustaining notion of "community." It is imperative to try.