



Reflecting on the Death of George Floyd

Dear WVU College of Law Community,

For the past month, the brutal killing of George Floyd and the protests it has sparked have catalyzed long overdue public discussion of police violence against people of color and of systemic racism more generally. In our law school community, reaction to George Floyd's death and the protests has been partially entwined with controversy over racially offensive social media posts. I wrote to you about the latter three weeks ago. Since then, I've had many conversations with students, staff, faculty, and University officials about the social media controversy and its connections to broader issues of racism.

The law school faculty and staff take these issues seriously. We commit ourselves to working with students to identify meaningful collective and individual actions we must take in the coming academic year and beyond. We are acutely aware that words must trigger actions and change. Among these planned actions is the faculty's adoption of a comprehensive diversity, equity, and inclusion plan based on a draft developed last year by a committee composed of faculty, staff, and students. The plan will address issues of curriculum, hiring, student recruitment, and programming, along with other issues identified as conversations continue. The faculty is also currently drafting a resolution pledging to combat racism in all its forms.

These collective deliberations and actions are more important than anything I can say individually, but I do want to share my thoughts on how we might talk about the issues raised by George Floyd's death in a productive way. I have some doubts about my authority to speak about racial injustice. Intellectually, I am not a stranger to the problems of racism in policing and in the criminal justice system more generally. But I have not been personally victimized by these problems. I do not regularly see videos of people who look like me being killed or injured by police, and I have never been afraid that such things will happen to my family or me. I recognize that being free from such fears is among the remarkable privileges I enjoy, yet I have too often taken those privileges for granted. I doubt I fully understand the emotional weight borne by parents who feel that having "the talk" with their children could be a matter of life and death, or who watch the video of George Floyd's killing and think, "That could just as easily have been me or my spouse or my child."

I still have a lot to learn. Nevertheless, I will do what I can to encourage and participate in our community's efforts to fight against racism. In that spirit, I have been listening

and thinking about how we can move forward together to work for justice and equality. I'd like to share four points that I hope might play a role in finding common ground for discussion.

First, George Floyd's death is so unspeakably tragic and has been such a galvanizing moment in our history because it perfectly illustrates why many black Americans doubt that their lives fully matter to white society. Obviously, police officers have very difficult and dangerous jobs, and there are situations where even the best-intentioned officers may make tragic errors under great pressure. Yet it is impossible to see how anyone could treat another human being as the officers treated George Floyd while fully appreciating that the other person's life has full value, that he has a family and friends and loves and hopes and fears no less real or important than our own. In this case, the officers' actions said, "Your life is worth less than ours," more clearly than any words could. And that message provides the context for understanding what it means to say that "black lives matter."

Some hear these words as an objectionable claim that *only* black lives matter or that black lives matter *more* than other lives. I hear the words very differently. They are not the opening words in a conversation; they are a response. When words and actions seem to say that black lives do not have equal dignity and value, the response is that black lives matter just as much as other lives. And surely when understood in that context, the claim that "black lives matter" is self-evidently true.

Second, it is far too late in the day to dismiss George Floyd's death as an isolated incident. It's not even an isolated incident for policing in the Twin Cities (Philando Castile), let alone for policing generally (Breonna Taylor, Freddie Gray, Michael Brown, Tamir Rice, and more). Nor do the violent deaths of unarmed black people occur solely at the hands of the police (Ahmaud Arbery, Trayvon Martin). We cannot see these deaths as nothing more than the misdeeds of a few individuals. We face systemic problems of racism in our society, and the death of George Floyd has concentrated our collective attention on these problems.

Third, peaceful protest and activism are vital if we are to meaningfully address racism and other societal ills. Police and other local authorities should respect the First Amendment rights of protestors while peaceably ensuring public safety. In contrast, excessive police force in containing demonstrations should be condemned, and lines between policing and military approaches to demonstrations need to be strictly maintained.

Fourth, while violence, destruction of property, and looting by protestors should be condemned, we should not use the actions of a few to dismiss the protests and the problems of systemic racism to which they point. The only way to have a stable social order *and* freedom is to structure society so that most people most of the time believe the social order is legitimate and that they have a stake in its continued stability. Can it really be surprising that some people would respond to George Floyd's death, in light of its wider context, with doubts about the legitimacy of our social order, particularly in the

areas of policing and criminal justice? The protests are another sign of the fraying of our social contract, and that is something we all need to take very seriously.

I hope these four points – that George Floyd’s death is a tragedy, that it is not isolated, that peaceful protest is a positive good that should be welcomed rather than suppressed, and that the misdeeds of a few protesters do not justify ignoring the broader message behind the protests – might be common ground for many members of our community who hold differing views about many other things.

However broad or narrow our shared starting points may be, we need to look beyond Law School Hill to discuss and promote policy changes in policing, criminal justice, and a host of other areas. Closer to home, we must try to figure out what additional steps we can take, both individually and collectively, to make the College of Law a welcoming community that respects the equal dignity of all people.

We will engage in this hard work. I do not have all the answers about how to lead this work, and I am sure I will make mistakes. I do, however, promise to listen to you and to work to build mutual understanding and respect to the best of my ability.

I look forward to all of us being together again in the fall. Until, then, take care of yourselves and each other.

Sincerely,

John Taylor
Jackson Kelly Professor and Interim Dean
WVU College of Law