Do the Ends Justify the Means?

Racial Profiling in New Jersey

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Chapter One: Racial Profiling, What Is It and Where Did It Come From?

Police officers have throughout history and today continue to play a prominent role in the lives of most Americans; people seldom go a day without glancing across the street and seeing a police officer or viewing a police cruiser speeding by with its flashing lights and sirens, announcing the presence of law enforcement in the vicinity. And while some people at most will have these brief, impersonal encounters with police officers, people of a minority background (especially Hispanic and Black Americans) many times have a different story to tell; recent studies have concluded that “…over half of all citizens age nineteen or older had contact with the police as a result of a traffic stop”, yet these experiences tend to differ when race comes into play.¹ While the majority of white people in America can usually assume they have engaged in a traffic infraction of some sort when they view flashing lights in their rearview mirror, minorities as a group have a whole other spectrum of questions that go through their head during a traffic stop; in New Jersey especially, these ideas are propagated through generations of people and communities who are all too familiar with the practice of racial profiling and for whom, “… the racialized traffic stop is an everyday reminder of a much broader system of racial inequality in society than the mere traffic stop.”² While it cannot be denied that efforts have been made in an attempt to halt the use of racial profiling techniques in the realm of law enforcement in New Jersey, an overemphasis on the decisions of individual officers has resulted in a relatively ineffective antiprofiling campaign by the state. Individual officers decision making is definitely an area that continues to need work and improvement (and probably always will to some degree), but it is the aim of this paper to show that New Jersey’s efforts to combat the use of racial

profiling must be geared towards changing and restructuring the institutional discrimination that persists and guides officers in some cases to use race as a determinant in who they choose to stop on New Jersey’s roads and highways. Media outlets and politicians have undoubtedly influenced this trend to focus on individual officers (as will be shown through an analysis of the media’s criticism of former Tpr. John Hogan’s actions in the 1998 Turnpike Shooting involving four minority men and two white police officers) instead of the broader problems within law enforcement that enable officers to act in ways that disproportionately affect minorities in the state of New Jersey. Only when the focus of antiprofiling policies is placed on the police institution as a whole will the state of New Jersey and the rest of the country begin to fix its tarnished record with race relations and policing, and will real and lasting changes be implemented and prove effective in combating the use of racial profiling.

If asked if racial profiling (a term which was not used by the media and general public as a whole until 1994)\(^3\) was acceptable in today’s day and age, the overwhelming majority of people would respond “Of course not.” Statistics exemplify that, “According to a Gallup Poll released on December 9, 1999, more than half of Americans polled believed that police actively engage in the practice of racial profiling and, more significantly, 81 percent of them said they disapprove of the practice.”\(^4\) Conducted during the peak of the racial profiling crisis in New Jersey, these statistics acknowledge the fact that racial profiling was not an accepted form of policing in the eyes of the general public. And while the majority of Americans today agree that racial profiling is not an acceptable or ethical way for police to perform their jobs, this problem is far from being eradicated. A common thought regarding the persistence of racial profiling


against an overwhelming majority of people who claim it is wrong (and even in many cases illegal) is what many researches and historians coined as the “bad apple” theory; this theory supports the idea that racial profiling is a problem that abounds from individual police officers who choose to use race as a factor in situations like traffic stops. However, I contend that racial profiling is a practice imbedded deep into the infrastructure of policing in general, whether consciously or not. It is hard to combat a practice that “…police view as sound, work-related criminal profiling”\(^5\). Studying the contemporary history of racial profiling and the attempts that have been made to quell the highly contested issue gives insight into racialized policies still in existence today and can offer more productive solutions for the future of policing in regards to ridding the use of racial profiling.

People generally think of racial profiling primarily in the context of traffic stops; while these are just one form of racial profiling practices still implemented today, I intend to focus my research solely on these police officer- civilian occurrences. Due to the abundance of information available concerning these specific incidents coupled with the long history New Jersey has had in relation to race and traffic stops along its major highways, such as the Garden State Parkway and the New Jersey Turnpike, this individual facet of racial profiling affects a higher portion of the population than others and is the one most addressed by media outlets and the general public today. The Department of Justice defines a stop as “any time an officer initiates contact with a vehicle resulting in the detention of an individual and/or vehicle” and because of New Jersey’s proximity to other major port cities and metropolitan areas, racial profiling practices surged here in an effort to suppress the transportation of illegal contraband such as narcotics, drug money,

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and illegally owned firearms from city to city.\textsuperscript{6} And while racial profiling is far from non-existent in other states across the United States, New Jersey would come to play host to the heated and controversial debates concerning racial profiling in the late 1980’s, the peak of the debate in the late 1990’s, and one which rages on today.

While there are varying degrees and modifications when it comes to defining the term racial profiling, the general consensus is that racial profiling is the use of race or ethnic factors as the determinant in whether or not a police officer decides to stop a motorist when there are no other indications of a criminal act having already occurred or possibly about to be committed. The Department of Justice defines the term similarly but adds that it is “any police-initiated action that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads the police to a particular individual…”\textsuperscript{7} It is well within a police officer’s duty to use race as one of several factors to stop or approach a civilian in conjunction with an ongoing case or recent incident of criminal activity (considered criminal profiling), but using race as the sole determinant in a stop is where racial profiling comes into play. Karen Glover, a prominent researcher in the field of racial profiling, notes that the term “racial profiling” is a fairly new one, only coming into popular use in the 1980’s, and is what she and many other historians and criminal justice experts contends to be a “mere manifestation of earlier racial policies” and indicative of “… not a nonracialized society but a society racialized in a different context and practice.”\textsuperscript{8, 9}

\textsuperscript{6} Ramirez, Deborah. p. 43
\textsuperscript{8} Glover, Karen. p. 14
In the wake of the immense attention focused on racial profiling allegations in New Jersey and the subsequent antiprofiling measures put in place, a report issued by the Department of Justice in 2000 concluded that, “Eighty-five percent of White respondents had a favorable response toward local police and 87 percent of White respondents had a favorable response to state police. Black respondents, overall, had a less favorable opinion of both state and local police, with just 58 percent having a favorable opinion of local police and 64 percent having a favorable response to the state police. Fifty-three percent of Black men between ages 18 and 34 said they had been treated unfairly by local police”\(^{10}\). The disparate feelings between minority and majority racial groups in America demonstrate the need for more oversight over policing procedures to curb the inconsistencies that these groups experience in police officer interactions. Because racial profiling is a problem that affects a smaller group of people (people who do not make up the majority of politicians and law enforcement officials currently) this problem is not one that many people can relate to. This idea is seen more clearly in a statement given by a victim of racial profiling who laments that, “The sad thing about it is a lot of people look at it and they don’t realize how much racial profiling or whatever the term may be is more psychological warfare than anything.”\(^{11}\) A seemingly ludicrous, yet eye opening instance pertaining to the problem of racial profiling in New Jersey was that of the experiences of Dr. Elmo Randolph and the New Jersey State Police; Randolph is an African-American dentist whose office is located in Newark, New Jersey and who has been stopped over 50 times by troopers within a ten year span. His gold BMW is apparently enough to trigger police officers to pull him over under the suspicion that he is a drug courier.\(^{12}\) While this isolated incident is far from the ordinary experience most minorities will ever have in conjunction with traffic stops, it

\(^{10}\) Ramirez, Deborah. p. 4
\(^{11}\) Glover, Karen. p. 120
\(^{12}\) Ramirez, Deborah. p. 5
does highlight the presence of a problem in police officer conduct in using race, preconceived notions, and racial stereotypes in the name of enforcing the law.

Racial profiling, however, does have its precedents in policing procedures in the decades before the 1980’s and 1990’s; as many researchers acknowledge, racial profiling, how it is defined, and what it means to people today has morphed significantly from the earliest practices and characteristics of “profiling” within the realm of criminal justice. Beginning in the 1940’s and 1950’s the criminal justice field underwent a sort of scientific revolution within its parameters wherein “profiling” was considered a newer way to help solve crimes; the first successful case where profiling was used was the “Mad Bomber” case in New York, wherein psychiatrist Dr. James Brussel used behavioral science to help the police in their efforts to catch the perpetrator of a number of bombings in the area. Over the next several decades, criminologists, psychiatrists, psychologists, and experts in forensic science began to find their niche in the world of policing, and eventually the Behavioral Sciences Unit was created to train others to use profiling and assist police departments around the country with specific cases. In this sense, criminal profiling initially started as a reactive response to solving crimes and was used specifically by elite units in the field of criminal justice.\(^\text{13}\) However, with the creation of new departments like the Drug Enforcement Agency (DEA) in 1973 under President Nixon to support his “American drug problem” platform emerged the broader use of profiling by a wider range of people, including airport security officers and eventually the average patrolmen found on the streets of any city today. Milton Heumann and Lance Cassak attribute the “skyjacker profile” (a profile created to identify the potential characteristics of airplane hijackers in the late 1960’s) and its apparent success evidenced by the decline in airplane hijackings in subsequent

years paved the way for the “drug courier profile”, which plays an active (and a majority of the time, the main) role in racial profiling practices today.\textsuperscript{14}

The beginning of the racial profiling debate in New Jersey, which would later gain national attention with the 1998 Turnpike Shooting, was in 1994 when the Gloucester County public defender’s office (on behalf of Pedro Soto and others who accused police of engaging in racial profiling practices against them) requested that evidence be suppressed in a court case because it was illegally obtained by searches that were based on the use of racial profiling. Lamberth, as a result of this accusation, took traffic stop data from 1988 to 1991 and effectively released the first set of statistics that showed the disparate traffic stop and search rates between whites and blacks. In his report Lamberth concluded that, “…Blacks compromised 13.5 percent of the New Jersey Turnpike population and 15 percent of the drivers speeding. In contrast, Blacks represented 35 percent of those stopped and 73.2 percent of those arrested. In other words, in New Jersey, Black drivers were disproportionately more likely to be stopped and arrested than White drivers.”\textsuperscript{15} This was the first report issued that used empirical evidence to support past claims that New Jersey police officers had a serious problem in using race as the sole factor in whether or not to stop cars throughout the state. Another report, this time issued by the Attorney General of New Jersey almost a decade later in 1999, determined from traffic stops in 1997 and 1998 concluded that, “…people of color constituted 40.6 percent of the stops made on the turnpike. Although few stops resulted in a search, 77.2 percent of those individuals searched were people of color.”\textsuperscript{16} This latter report was influential in getting New Jersey to establish antiprofiling policies; in light of the media and social activist firestorm that had

\textsuperscript{14} Heumann, Milton & Cassak, Lance. p. 29-31.
\textsuperscript{15} Ramirez, Deborah. p. 7
\textsuperscript{16} Ramirez, Deborah. p. 7
emerged in regards to racial profiling, allegations of the use of racial profiling by New Jersey police officers was a problem that politicians and police officials wanted to solve quickly.

The aim of this paper is to show, through the framework of more contemporary events such as the 1998 Turnpike Shooting and through personal interviews with currently active police officers in New Jersey, that racial profiling in New Jersey takes on a much broader meaning and span than most attribute this practice as having. While it may be true in some instances that some police officers view racial profiling as “a media invention, a distorting label used by self-serving antipolice individuals against the hardworking police officers…”, I plan to show that racial profiling involves much more than individual officer decision making and that efforts to eradicate the use of this practice that are not focused on a broader, more infrastructural basis will not effectively solve the problem that still persists today.\(^\text{17}\) As in any other field of work, training is key to performing a job at the best level possible, but it is well known that, “Many police departments have not developed formal, written, standards directing officers on how to use this discretion. Instead, officers often develop ad hoc methods of winnowing suspicion from innocent motorists.”\(^\text{18}\) In a report overseen by the Department of Justice it was stated that, “…the New Jersey experience shows that allegations of racial profiling may be part of larger structural or organizational problems within a police organization. For example, in New Jersey, the state police were trained and rewarded for high numbers of arrests, as opposed to making quality arrests.”\(^\text{19}\) When rewards outweigh the ethics in policing things begin to fall apart, and New Jersey and the New Jersey State Police are a clear example of this inevitability. Instead of individually singling out officers whose arrest rates show more minority than white motorist

\(^{17}\) Glover, Karen. p. 28

\(^{18}\) Ramirez, Deborah. p. 9

\(^{19}\) Ramirez, Deborah. p. 36
stops, efforts to change the policing institution would be of a greater benefit to society in general. Interviews with police officers conducted within the past few years also defend this idea, wherein a group of researchers in 2009 concluded that “…changes in the field of policing appeared to have resulted in an increased intolerance of racism among police officers. Yet officers…had repeatedly defended profiling practices as routine criminal profiling unrelated to racism. This suggests that cognitive bias and stereotyping is a feature of police cultural knowledge that is not easily changed given the nature of police work as currently structured.”

Focusing on the lack of guidelines involving police officer discretion would be a better management of money and time spent on trying to fix this problem. Acknowledgement that “The everydayness of racial profiling is critical to understanding the cumulative racial processes and effects that manifest in social institutions such as the criminal justice system” can act as a window into other injustices that continue to persist today based on race and can help quell the unfortunate experience that a large number of minorities can relate to during the personal experience of a traffic stop.

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21 Glover, Karen. p. 66
Chapter 2: Missed Opportunities and Misguided Policies to End Racial Profiling

While the majority of people today would agree that racial profiling is not an acceptable form of policing outlets still exist today that legally enable these practices to persist, if only in more covert ways. As researcher Wesley MacNeil Oliver has argued, “Because traffic laws are arbitrarily enforced against minorities, most voters, most persons who affect the policies of police departments, do not run the risk of being subjected to a search for a broken taillight.”

22 Because the majority of people in law enforcement and legislative positions in the government most likely never had an experience like the one described in the aforementioned quote, the problem of racial profiling persisted (and was even aided in regards to Supreme Court decisions, as I plan to show) well into the 1980’s before serious attention was given to the problem. Like a myriad of different topics concerning American history, court cases (specifically through the United States Supreme Court) and the precedents established in them have played a significant role in the occurrence and implementation of racial profiling practices in the past and today. To understand racial profiling in a contemporary context, an understanding of the legal precedents and subsequent accomplishments or actions in court cases such as Terry v. Ohio and Whren v. United States is essential. While court cases, especially those involved in the field of criminal justice, tend to be wordy and confusing to those unfamiliar with police and legal jargon, they play a large role in validating (and in many cases defending) police practices like racial profiling. And even though a majority of people today (including prominent legislators and politicians) do not condone or consider to be ethical policies like racial profiling, Supreme Court decisions in the past have given the green light in many instances for these practices to continue being implemented, even in the face of overwhelming disapproval by the general public.

Most people are taught at some point in their elementary or secondary education years that the United States Constitution consists of many amendments which are meant to protect the citizens of this country. Some of these are more popularly known than others and some are constantly used as defense strategies in court cases around the country; the 4th Amendment, which defends a person’s right against unlawful searches and seizures, is one of the most well known amendments in American constitutional history that is used as a defense strategy, especially in the wake and expansion of governmental policies like the War on Drugs and “law and order” or “tough on crime” rhetoric that are constantly espoused and promised by political leaders across the country. However, court cases such as the \textit{Terry v. Ohio} decision have radically redefined the typical foundations of this amendment in relation to the use of pretextual stops by police officers. This case, which was heard by the United States Supreme Court in 1968, ended with the essential creation of what is commonly referred to as “reasonable suspicion”; a standard which is lower than that of “probable cause”, this is the official minimum that a police officer must have that legitimizes the police to frisk and/or detain a person who they suspect as reasonably being involved in a crime or who is about to commit a crime. While probable cause is needed to make an actual arrest or to grant a warrant, reasonable suspicion effectively acts as a loophole for police officers in regards to the Fourth Amendment protections. Before the \textit{Terry} decision, policemen only had two legal options in regards to conducting searches and/or seizures: cops either could search a vehicle if the driver gave consent, or the officer had to have obtained a warrant beforehand to carry out a search. The decision in \textit{Terry} essentially widened the gap of discretion police have and further muddied the waters in regards to what exactly the fourth amendment protections were.\footnote{Heumann, Milton & Cassak, Lance. p. 18}
While giving his opinion on the case, Chief Justice Earl Warren stated in his opinion that:

“One general interest is of course that of effective crime prevention and detection; it is this interest which underlies the recognition that a police officer may in an appropriate manner approach a person for purposes of investigating possibly criminal behavior even though there is no probable cause to make an arrest... He had observed Terry, Chilton, and Katz go through a series of acts, each of them perhaps innocent in itself, but which taken together warranted further investigation.”

In this statement, then, Chief Justice Warren leaves it in the hands of the individual officer to determine what exactly “reasonable” means in the context of performing legitimate searches and seizures. In legitimizing “reasonable suspicion” instead of mandating the sole use of the stricter confines of “probable cause”, situations would (and continue to) abound wherein people are being subjected to more intrusions in their personal lives than ever before; the majority of these people being minorities.

Minority communities have overwhelmingly suffered from this congressional legitimization of reasonable suspicion, wherein their race can be used as a factor for detainment in a crime that may have recently been committed and of which they possibly fit the profile. Detainment is different from being arrested in that being detained constitutes holding someone until it is deemed they can be let go, whereas an arrest means officially charging someone. The pretextual stop (the most commonly associated form of racial profiling and the one most notably discussed within this paper) is a direct, negative result of the *Terry v. Ohio* decision and is credited in countless studies to result in the disparate number of minorities who are pulled over and questioned during stops across the country. This decision is still considered an influential and law altering one, evidenced by the fact that some experts in the criminal justice field refer to pretext stops as “Terry stops”.

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24 Heumann, Milton & Cassak, Lance. p. 21
In another landmark case concerning racial profiling, the 1996 decision in *Whren v. United States* in essence dismissed a police officer’s actual intentions in stopping someone if it was determined that the driver was in possession of illegal contraband or paraphernalia for a prior, present, or future law infraction. The Supreme Court in this instance again validated the use of the pretext stop, which is defined as “a strategy engaged by law enforcement when an officer stops a motorist for what might be a very minor violation of the traffic code under pretext (having another agenda, useful fabrication) in order to have access to the motorist and vehicle that the officer is suspicious of, but about whom the officer cannot establish probable cause or articulate reasonable suspicion.”

Succinctly put, the Whren case acts in “the ends justify the means” fashion, wherein a police officer can use the most minor and usually unenforced traffic violations (such as under inflated tires or a speeding violation as low as 5mph) to aid them in potentially convicting a person of a larger crime such as being in possession of illegal drugs or firearms. As long as the police officer in fact finds drugs, illegal firearms, or evidence of their involvement in a crime their initial motives are seen as unimportant, according to the opinion of the court who ruled in the Whren case. Karen Glover espouses that, “In a clearly color-blind racism fashion, the Whren decision dismissed the salience of race in contemporary times and established greater latitude for police powers that have been used historically and contemporarily to oppress communities of color.”

It is important to note, however, that not all courts in the United States were in agreement with the opinions given by the Supreme Court in the *Terry* and *Whren* decisions; there were a number of cases decided in the lower courts that were in opposition to these majority opinions, but as a general rule of thumb lower courts tend to uphold and cite Supreme Court decisions as

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25 Glover, Karen. p. 24
26 Glover, Karen. p. 25
precedents and follow in their footsteps decision-wise. A good example would be that of Judge Weinstein’s opinion in the *United States v. Lopez* case, where the Federal Aviation Administration’s (FAA) policies regarding the “skyjacker profile” mentioned in the previous chapter were challenged. Weinstein sided with the United States but warned that, “The approved system survives constitutional scrutiny only by its careful adherence to absolute objectivity and neutrality. When elements of discretion and prejudice are interjected, it becomes constitutionally impermissible.”27

Another notable disagreement with the precedents established by the aforementioned court cases can be found in the dissenting opinion of Judge George Pratt (a judge in the United States Court of Appeals) in the *United States v. Mendenhall* case. This case dealt with the legitimacy of police enforcement agencies using a drug courier profile, and while the majority opinion of the court upheld the use of such profiles Judge Pratt remarked that:

“The “drug courier profile” is similarly laughable; because it is so fluid that it can be used to justify designating anyone a potential drug courier if the DEA agents so choose…Moreover, a canvass of numerous cases reveals the drug courier profile’s “chameleon-like way of adapting to any particular set of observations.”28

The majority opinions in *Terry* and *Whren* have, in hindsight, created newer avenues for racial profiling to continue in more covert ways. And while some people had serious questions regarding the use of skyjacker and drug courier profiles, federal decisions would come to play a large role in the reason that the use of racial profiling persists today through loopholes in legislation, even if the law says racial profiling per se is illegal. Put rather bluntly, “Lots of what the police do has remained (and much of must) remain discretionary. More disturbingly, the

27 Heumann, Milton & Cassak, Lance. p. 32
28 Heumann, Milton. p. 45
police can still be a flashpoint for interracial conflict, partly because the Court has failed, in some notorious ways, to follow through on its commitment to make law enforcement evenhanded”

Noah Kupferberg’s work “Transparency: A New Role for Police Consent Decrees” gives a good insight into the atmosphere surrounding the political and social sentiments regarding racial profiling during the peak of this debate in the late 1990’s and early 2000’s in the United States. In what he refers to as “the remarkable bipartisan consensus against racial profiling” and the fact that “by September 10, 2001, virtually everyone, from Jesse Jackson to Al Gore to George W. Bush to John Ashcroft, agreed that racial profiling was very bad”, Kupfenberg acknowledges that racial profiling was attacked from all sides during the early 2000’s, and was a major factor in New Jersey joining the consent decree in the first place.

Prior incidents such as the 1990 State vs. Soto case which used a broad array of statistics (one of the first of this trend) to show racial disparities in police enforcement and the 1998 Turnpike Shooting created an environment that brought the persistent occurrence of racial profiling practices onto the news stations, on the computer screens, and into the homes of everyday American citizens, many of whom had never personally experienced or discussed racial profiling in depth before.

The aforementioned Supreme Court cases have provided the grounds for racial profiling tactics that still abound today, yet these precedents have been thwarted in some ways by contemporary advocates against racial profiling practices and events which brought the problem of racial profiling practices to light; a notable example would be that of the consent decree which involved the State of New Jersey and, more specifically, the New Jersey State Police (signed in accordance with the Department of Justice) in 1999 in light of a slew of racial profiling charges

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against police officers in the state. As a response to increasing uneasiness with the relative amount of discretion police have and the history of perceived police misconduct (in New Jersey especially) the Violent Crime Control and Law Enforcement Act was passed in 1994; this piece of legislation gave the United States Attorney General the power to investigate and bring a case against police departments who were considered to have engaged in “unconstitutional patterns or practices of conduct.”

While it was initially enforced only in conjunction with the NJSP, a policy of accordance with the decree was adopted by local police departments across New Jersey. Some of the provisions of the decree include things such as the requirement of reasonable suspicion to request (but not actually carry out) a search, the legitimate use of race as a factor in motorist stops only when in pursuit of a suspect where the race or place of origin is known, and most importantly the recording by police officers of the motorist’s race, reason for being pulled over, and an account of the events that took place after the motorist was stopped. Other notable procedures put in place to combat racial profiling practices include the mandate of a creation of a police computer system and program to record and track police officer’s individual stops, which the Department of Justice believed would help in determining which officers were using race as a factor in their stops in negative or disparate ways. Citizens were also given avenues to explore if they believed they were discriminated against by a police officer based solely on their race; police officers were required to make complaint forms available for motorists to fill out if they felt violated or

31 Kupfenberg, Noah. p. 130
unjustly stopped by law enforcement and a hotline was to be created for people who wanted to remain anonymous and still report police misconduct that they had been a victim of.\textsuperscript{32}

What some may consider to be a blemish on behalf of the New Jersey State Police, others considered to be a major step forward in the efforts to rid the practice of racial profiling by police officers from use. As a result of the consent decree, NJSP officers were required to collect the following information from traffic stops and enter it into the computer aided dispatch (CAD) system: the name and badge number of any officers who took part in the stop, facts like the time, date, and location of the stop, description of the vehicle pulled over, the gender and race/ethnicity of the driver of the vehicle and any passengers inside the vehicle when stopped, what kind of violation or warning the driver was given, and the reason for the stop in the first place\textsuperscript{33}. It is interesting, however, when one takes into account the fact that New Jersey troopers do not ask drivers the race or ethnicity they associate with, rather they judge for themselves what designation (off a list containing the following choices: White, Black, Hispanic/Latino, Asian Indian, Other Asian, or American Indian/Native American) is most appropriate.\textsuperscript{34} This in and of itself is a problem because police officers could inaccurately report the race of drivers they pull over, resulting in skewed results and statistics taken from the CAD system.

As discussed earlier in the chapter, court cases have indelibly played a role in providing outlets for racial profiling to exist and continue being implemented, with legal justifications to back up the decision of the police officers who engage in this practice. While none of these cases overtly sanction the use of racial profiling, the courts in many of these instances failed in

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\[\textsuperscript{33}\text{ Ramirez, Deborah. p. 33}
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\[\textsuperscript{34}\text{ Ramirez, Deborah. p. 34}\]
instances where implementing decisions that could have halted the legitimization of racial profiling could have been solidified. The degree to which these court decisions impact the lives of everyday Americans is supported in the notion that, “Fairly read, Whren [that is, adoption of the “could have” test] says that any traffic violation can support a stop, no matter what the real reason for it is; this makes any citizen fair game for a stop, almost anytime, anywhere, virtually at the whim of the police”.  

In the concluding chapter, I plan to evaluate the actual effectiveness of the aforementioned consent decree that New Jersey signed in conjunction with the Department of Justice to combat the use of racial profiling. In the following chapter, however, I will address one of the most important and attention grabbing incidents in regards to the racial profiling debate in New Jersey through the eyes of a trooper who was personally involved in the now infamous 1998 Turnpike Shooting.

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35 Heumann, Milton. p. 78
Chapter 3: Trouble on the “Black Dragon”

The New Jersey State Police have a long standing reputation in policing communities across the United States for being a competitively selected and rigorously trained police agency; with this reputation, however, also comes that of their highly controversial history involving the use of racial profiling. The most notorious incident of the darker side of the NJSP’s history is that of the 1998 Turnpike Shooting wherein two state troopers, the focus of this chapter being former Trooper John Hogan, open fired into a van of four minority teenagers during an attempted traffic stop when the minivan occupied by the civilians began rolling backwards at the officer; this incident added fuel to the fire of the somewhat recent racial profiling debate at the time, received national media attention, and was not completely settled until almost five years later. In a transcript of Officer Hogan’s 1998 police activity issued by his immediate supervisor it is noted that:

“A total of one hundred thirty two criminal charges were filed by Tpr. Hogan during this period and resulted in the arrest of sixty six persons. Confiscated during these investigations was an estimated two hundred twelve pounds of marijuana valued at $424,000.00. Also seized was an estimated twenty three pounds of cocaine valued at $320,000.00, approximately two pounds of heroin valued at $128,000.00, US Currency in the amount of $95,000.00, and one hundred seventy pirated videos valued at $17,600.00. The total confiscated amount for these investigations is in excess of $984,000.00” 36

Even these accomplishments were not enough to save him from the onslaught of critics who villianized him as a racist and an unethical police officer. John Hogan is the poster child for what can happen when a public agency (one entrusted with securing the safety of any and all persons) is in the pursuit of trying to “save face” in the light of a media firestorm; Hogan went from being named as Trooper of the Year in 1998 to being one of the most condemned people in the country within a matter of months, much of which had to do with how the infamous 1998

Turnpike Shooting was handled and portrayed by politicians, figureheads within the NJSP, and media outlets across the country. While Hogan’s true intentions and whether or not he used racial profiling in this specific instance may never fully come to light, this chapter sheds a light on how police officers (whether innocent or not) can be used as scapegoats in an effort to guide through larger political or social agendas of the time and that controversial events like this cannot always be taken at face value.

Working on the “Black Dragon” (as the New Jersey Turnpike is commonly referred to) is nothing short of an adventurous yet dangerous line of work to become involved in simply because of New Jersey’s close proximity to popular cities and ports like New York City, Washington D.C., and Philadelphia. The Turnpike is still considered to be one of the most highly traveled roads in the country and for this reason alone it can be considered a DEA agent’s (or any police officer in general) dream to work here, with drugs and other illegal contraband flowing through this roadway in ever-increasing numbers. Drug seizures occur here in large quantities and New Jersey state troopers and police officers in local departments are trained to monitor suspected drug couriers on major highways like the Turnpike in an effort to quell the rising rate of drug and illegal weapon distribution and sales in America. Through Hogan’s account of the 1998 Turnpike shooting people outside of the policing profession are given a glimpse into what it is like (psychologically, physically, emotionally, etc.) to be a member of the police force and are provided with an inside look into the inner-workings, and seldom acknowledged informal guideline, that dictate a large part of how police officers perform their jobs; Hogan’s story is especially interesting because he outlines his experiences throughout his time in training, during his normal, routine shifts on the Turnpike, and his experiences during the

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37 Hogan, John. p. 102
trial period. Understanding the mindset of a police officer is hard to do when the reader has not experienced high-pressure situations like Hogan’s first hand, but the personal writings by people like John Hogan help bridge that gap to better understanding exactly what goes into police officer decision making.

On April 23, 1998 New Jersey State Troopers John Hogan and James Kenna pulled over a Dodge minivan for allegedly speeding on the New Jersey Turnpike around 11 pm. The occupants of the minivan included Keshan Moore, Leroy Grant, Rayshawn Brown, and Danny Reyes; the four boys were traveling to an open tryout for the basketball team at North Carolina Central University when they were pulled over by Hogan and Kenna. While the officers were approaching the vehicle the minivan started rolling backwards towards the police officers and their car, and subsequently Tpr. Hogan was struck in the leg by the vehicle; this was the incident (according to Hogan) that caused him and Tpr. Kenna to open fire and shoot approximately eleven shots into the vehicle for fear of their personal safety at the time. The minivan’s path also was the impetus for a car accident which occurred while trying to dodge the minivan into oncoming traffic, and resulted in the crash and explosion of this third civilian vehicle. The occupants stand firm in their resolutions that they were not trying to flee the scene or injure the officers, but that the minivan malfunctioned and was unable to be kept in parking mode. Three of the four occupants inside were injured by the policemen’s shots and were transported to the hospital by medics immediately following the incident.38

While an officer shooting is bound to make headlines regardless, this case had several facets to it that sent media outlets and social activists into a frenzy; the fact that all of the occupants were of a minority background in the midst of tense racial profiling allegations and

38 *The Newark Star Ledger. April 25, 1998.*
debates in New Jersey and the fact that several of the trooper’s accounts of the event were concluded as false or scientifically improbable once investigated made this incident front page news. An example of conflicting facts that came under scrutiny was how fast the minivan was actually going when it reversed backwards into the police cruiser; while Hogan testified that it traveled backwards and struck him at a relatively fast speed, the lack of damage to both cars indicates that the van was moving at no faster than 2 mph. Another media attention lightning rod in this case was the lawyers and civil rights activists who become involved with the case, most notably Rev. Al Sharpton and the O.J. Simpson “Dream Team” attorneys Johnnie Cochran and Barry Scheck who represented three out of the four occupants of the vehicle. Coupled with the fact that Attorney General Peter Verniero decided to place the investigation and trial under the New Jersey state grand jury, instead of using a county jury as is usually the case, this event and it’s aftermath was bound to attract headlines and incite many to voice their opinions on the matter.

The case was first reviewed (as it is supposed to be by law in situations where police use potential deadly force against civilians) by a twenty three member state grand jury panel of randomly selected civilians, was then reviewed by the NJSP Internal Affairs Bureau, and then passed along to a board of high ranking police officials (including the NJSP superintendent). After years of investigations, testimonies, and other legislative red-tape, the case was dismissed in 2000 by the presiding judge. Governor Christie Whitman and others, however, demanded federal intervention and oversight into the investigation and case against Kenna and Hogan on charges of racial profiling; with the events that occurred on September 11, 2001 however, this

42 Hogan, John. p. 165
case was essentially pushed to the backburner and the federal government ultimately agreed not
to prosecute both officers. It is curious (and opportune timing for the two officers essentially)
that their case would be dismissed at a time when racial profiling would be considered
justifiable, but in a slightly different manner; after September 11, 2001 racial profiling in airports
and in most places involving security checks received little to no backlash and media attention
until quite some time afterward, all in the name of “national security”. At the same time that
these trials were going on, an investigation into other NJSP officers who had allegedly
performed racial profiling practices was going on, yet Hogan was angered and confused due to
the fact that, “…being labeled as a criminal, knowing full well that 159 of 162 troopers had the
same mistakes on their patrol charts, was the unnerving part of this farce.”

This chaotic and racially based case was an influential stepping stone in New Jersey’s future efforts to combat
racial profiling, and sources like Hogan’s book highlight just how large a role politics and the
media play in matters such as these; when Hogan laments that, “…bureaucracy was just a fancy
word for the callous, backstabbing, and manipulative actions of our elected officials”, he
effectively conveys his point that the system (which history shows as favoring the police a
majority of the time in similar situations) was used to fulfill other agendas and did not
necessarily have the incident at hand as the most important part of the investigation and trial
process.

While several of Hogan’s claims and statements were deemed false or improbable by
investigations into the matter, through his writings one is able to get a glimpse into the psyche of
a New Jersey police officer and the constant struggles therein to perform their job without
putting themselves in unnecessarily risky situations. While Hogan gives a lot of the attention in

43 Hogan, John. p. 184-185
44 Hogan, John. p. 31
his book to the actual events preceding and following the turnpike shooting, he peppers his book with the thoughts and uncertainties he was plagued with throughout his career as a state trooper. From the outside looking in it is relatively easy to judge police against their actions by “what I would do” in a similar situation and peg them as acting irrationally or (as is the main theme of this work) using race unethically in traffic stops; it is not until one takes a look into the decision making of a police officer that light can be shed on how complicated and fast paced decisions are forced upon cops every day and how further evaluation is needed in many cases before judgment is passed on their decisions.

Starting off describing his experiences during training Hogan notes that, “Mentally, they were shaping us into hard and callous individuals that despised weakness, even if the weaker person was your bunkmate.”45 Most people disregard the psychological toll that the policing profession has on a person, and even in training camp potential officers undergo events and activities that can never fully prepare them from the actual occurrences of the job they signed up for. All is good and well until a gun is drawn and everything an officer learned is forgotten in a moment of fear or panic; this claim is made over and over by Hogan throughout his book.

Most people enter the workforce in jobs with low probabilities of ever being put in dangerous or life-threatening situations; cops, however, realize that every day they go to work could be their last and that even the most innocent situations can turn deadly in an instant. Hogan acknowledges feelings of uneasiness when beginning his job when he wrote that:

“As my graduation day approached, the only problem was that I didn’t know the first damn thing about being a cop. I could shine shoes, polish brass, whisk toilets, and make a floor look like glass using a mop; but I had no concept of what being a police officer was all about. At the most, we had a few hours of actual hands-on police training such as handcuffing or making

45 Hogan, John. p. 55
motor-vehicle stops. I was in great shape, was confident about not getting my ass kicked, had all my leather uniform gear highly polished; but I didn’t know the first thing about being a trooper.”

One would assume that in a job as important as that of a police officer substantial training would be provided so that mistakes (especially those that can relatively easily become fatal ones) would be scarce, but everyday police officers enter their jobs for their first days and play the “guessing game” until they become comfortable; for a cashier at a convenience store this seems relatively insignificant in the larger span of things, but for cops it should not be considered so. Herein, Hogan points out a flaw in training procedures that affects newly instated police officers everywhere, those being feelings of uneasiness regarding job performance and ill-preparedness. And while it is understandable that real-life situations cannot be simulated beforehand with exact precision, better efforts must be made to ensure that new officers feel confident in their abilities to ensure law and order in today’s society.

Name any career or job title, and chances are that these institutions have employees that “cut corners” or follow informal guidelines in their job performance that aren’t necessarily acknowledged or taught by their superiors; Hogan links this idea in the realm of policing throughout his book when he notes several different kinds of informal police practices that he and his fellow officers used every day at work. Hogan acknowledged that, “As a trooper, the “system” stated locking up drunks was just something we had to do (on the average, one a month), but to separate yourself and be considered a “squared away” trooper, you had to make drug arrests…” Most people also fail to realize that police officers receive a good amount of the pressure placed on them from inside their respective departments, not just the media and politicians. Living up to expectations within their departments leads police officers to do things
which can actually be counterproductive to their duties in the first place. When the focus is on gaining acclaim and not performing the job to the best of one’s abilities, mistakes and injustices happen; some of these mistakes turn out to be irreversible and life altering, as police officers like Hogan can attest to. Throughout his book, Hogan acknowledges that he wanted to make arrests to prove himself; in situations like this that occur countless times a day in countless police departments across the country, justice is sidelined in favor of an individual officer’s reputation and potential future accolades.

Race also comes into play in these unofficial police guidelines, as Hogan outlines in his statement that:

“It was an unwritten rule that you never arrest a “2B” (black male) unless you had at least an ounce of coke; bullet of heroin; loaded weapon; or, at the minimal, a pound of marijuana…Pathetically, it was a numbers game we were all aware of, and as unfair as it was, we had to play along to keep the states even-keeled. These unwritten policies were never explained to me, nor did I understand or question them; it was all just a part of being a turnpike trooper!”

Unwritten policies play a large part in police officer actions and arrests, yet are understandably seldom known or acknowledged by the public and people outside individual police departments. While most professions have unwritten rules or “shortcuts” to getting around the red tape they face on a daily basis, most professions unwritten policies cannot result in severely altering people’s lives, be it through incarceration or even death. Hogan mentions the commonly performed practice known to cops as “lighting up” cars; here, police officers flash their high beams on a motorists car to try an ascertain things like the number, age, race, or sex of the occupants and to determine if the probability of them having already or possibly in the future committing a crime without actually stopping the vehicle. Practices such as these may seem like helpful tools to police officers, but in retrospect can be a cause for the major inequalities between

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48 Hogan, John. p. 75
the numbers of people within certain races (most notably those of Hispanic and/or African-American ancestry) who are stopped by police. Hogan also mentions that it was an unwritten guideline that an entry into their personal police activity logs should be made every hour, which undoubtedly encourages cops to seek out and sometimes create scenarios where crime may potentially be or is occurring instead of simply enforcing the laws that they deem as having been broken. He also mentions that geography plays a large role in the arrest rates in New Jersey; Hogan notes in his book that Mercer County’s arrest procedures require a higher amount of paperwork than do other counties in New Jersey, so cops were reluctant to make arrests here. The rate of paperwork, therefore, has an effect on who is being prosecuted where and leads police officers to perform their jobs in different qualities and magnitudes in different areas. Justice, therefore, is apparently dependent on geography and the amount of paperwork they would have to complete in the eyes of some police officers.

The psychological aspect of a police officer’s line of work is a facet that is hard to understand from the outside looking in. While the majority of people who make workplace mistakes never have to worry about extremely altering the life of another, cops are not afforded that luxury. Hogan outlines some of the thoughts that cops are faced to come to terms with even during a routine traffic stop; some of which include, “Could I really shoot someone if I had to? Was it the right thing to do? What if the driver was truly a good guy and just panicked? Does he have children, a wife, and parents? What are the repercussions if I fire? Can I lose my job? Will I go to jail if I am wrong? What if he gains control of my weapon? Does the passenger have a gun? Is there a gun under the driver’s seat? Would these guys be able to shoot me, a police

49 Hogan, John. p. 113
officer in full uniform? Why is he attempting to flee?" And while police officers tend to get the brunt of criticism in media attention (especially if an incident involves victims of a minority background and white police officers) the questions they ask themselves beforehand tend to go unnoticed when police interactions take a turn for the worst. He also notes the expectations of officers in situations where they feel in danger and when civilians are harmed as well when he laments, “One second you are fighting for your own life; the next, you are trying to save someone else’s-this is just one example of the immense and traumatic adrenaline swings a police officer must endure.” He also addresses the “life-long psychological scars” that are an inescapable part of being a police officer and which are usually sidelined by those outside police departments.

Using works from people within the police force opens up newer analysis of racially charged incidents such as the aforementioned and help offer another perspective when relegating the ethics of policing. John Hogan’s Turnpike Trooper gave a sincere look into the inner-most thoughts of one of the most condemned police officers in New Jersey history. In the following chapter, I plan to use the 1998 Turnpike Shooting as a frame in which to study just how influential the media can be in regards to police portrayal, predominantly using newspaper articles from The Newark Star Ledger that immediately covered the incident and the subsequent trials that ensued. Being one of the largest and most widely read newspapers in New Jersey, the Star Ledger gives an accurate insight into how residents of New Jersey may have been influenced and swayed in regards to which side they supported in the case against John Hogan and his partner. I plan to show how the media played a large role in villianinizng Former Tpr.

50 Hogan, John. p. 77
51 Hogan, John. p. 78
52 Hogan, John. p. 80
John Hogan, which in turn led to the political backhandedness by New Jersey politicians and high ranking police officials to try and solve New Jersey’s alleged racial profiling problem using this one incident and trying to condemn John Hogan and his partner to assuage the public in general. The political actions that go along with incidents like this are seldom acknowledged from people on the inside, yet Hogan’s book is able to do just that and provide a more equitable picture that gives an insight into what actually goes on (and is seldom seen by the public) regarding the actions and events leading to the positive, or in this case overwhelmingly negative, depictions of police officers in society today.

Trooper Hogan was officially indicted on misconduct charges, for falsifying documents as pertaining to the race of people he had pulled over and/or for conducting illegal searches without consent. He pointed out however that, “The indictment was based on the hundreds of motor vehicle stops we had made in the four months leading up to the night of the shooting, which basically covered a sixteen-week period. Though no reporter had the common sense or intelligence to ask this question, the indictment was based on me averaging one mistake per week.” This fact was never mentioned within media reports, and could have helped the trooper from the onslaught he was about to face once indicted. Hogan also consistently mentions the fact that New Jersey Attorney General Peter Verniero was constantly acting in ways that would benefit his nomination (by Governor Christie Whitman herself) to the New Jersey Supreme Court; in essence, two police officers were scapegoated in an effort to assuage the public and those who were responsible for voting for the seat Verniero so deeply coveted.

This incident specifically outlines just how complicated the policing profession can be, especially when officer decisions and actions are criticized and dissected after the fact. Hogan’s

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51 Hogan, John. p. 140
book also is an important source in that it highlights the side of the police officer in decision making and what it means to take on the role of ensuring justice; being that not many police officers write books that explain the parts of the job impossible to discern from the outside looking in, Hogan’s book helps dissuade only viewing this event from the side of the victims and those who denounced this event as a serious injustice.
Chapter 4 : Media Influence in the Realm of Racial Profiling: Helpful or Hurtful?

The *Newark Star Ledger* is the largest and one of the most read newspapers in New Jersey and has had a large role in covering important regional, state, and national topics and news through their articles and columns. The 1998 Turnpike Shooting garnered national attention and was covered in depth during the aftermath and trial of the troopers involved in this memorable and often criticized event. While the stories pertaining to the shooting are found throughout several sections of the newspaper (News, New Jersey, County News, etc.) the way the story was approached and written in article form played a key role in the public perception of this incident, which was almost entirely negatively fueled against the police officers involved. This generally negative opinion by the public in turn played a role in influencing policy makers and politicians in New Jersey on how to correct the “racial profiling problem” that the entire country was begin to believe New Jersey had. Evaluating articles from the *Newark Star Ledger* that covered the turnpike shooting, its aftermath, and, years later, the passage and effects of the New Jersey Consent Decree signed in conjunction with the Department of Justice, gives insight into the extent to which the media played and continues to play in shaping public opinion and, in this case especially, determining how the State will act in response to said opinion. Using personal sources by Tpr. John Hogan (one of the officers involved in the shooting) will also implement how he was largely unaware of what was going on in regards to the investigation and how several facts that supported the police officer’s actions in this case were left out of the newspaper articles. Hogan laments in his book that, “Most information I learned came from the ever-increasing media coverage that dominated the front pages as momentum in the anti-racial-profiling campaign mounted.”  

54 The media was definitely instrumental in influencing public

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54 Hogan, John. p. 128
opinion and political decisions in this case, and analysis of news articles published during this time will show just that.

The media plays a substantial role in the everyday lives of most Americans and can (and does, as evidenced throughout history) unknowingly sway reader and viewer opinion on the event being addressed, whether they are cognizant of it or not. American media has a long history of “distorting the reality of crime”, which can be exemplified in accounts like the over-sensationalized “crack epidemic” that dominated print and television media after President Reagan, in a State of the Union address, relegated it as fact in the early 1980’s. It is a substantially known fact that crack, at that point in time, and the rate at which it was being illegally manufactured, used, and sold was extremely overhyped as a result of the televised address by media outlets; yet, at that time most Americans took what they heard at face value and the majority of the country believed that crack was the largest domestic threat to the United States at the time, regardless of whether it was true or not. In relation to the media, experts on the role of media in relation to criminal justice generally outline three waves or approaches to issues of race throughout the history of print and video media; from overt, racist images and sentiments to the “colorblind ideology” to the current time period where racial overtones are still evident but more covert in media reports. Robert Bing’s stages of social constructionism in the media are clearly evident in relation to the 1998 Turnpike Shooting: common perceptions (in this case those of police actively engaging racial profiling) are played out, competitions between organizations and individuals (in this case the troopers involved against personalities like Rev. Al Sharpton) vie for “control of the explanation”, the media’s tendency to filter out non-mainstream viewpoints (sometimes on behalf of influential groups or agencies), and lastly the

55 Bing, Robert. Race, Crime, and the Media. p.4
56 Bing, Robert. p. 35-36
representation of the dominant social construction which eventually comes to control the perspective of the situation. He also outlines throughout his book the impact of what he calls “racial formation” on today’s media; he describes this trend as the creation of impressions about people as individuals along racial lines. Through a closer evaluation of news reports (like those from the *Star Ledger*, which make up the majority of this chapter) on the incident, these theoretical patterns become evident and helped form the dominant public opinions that unfolded in this case concerning the innocence of the troopers involved and the extent of New Jersey’s racial profiling problem.

In the first article covering the shooting published in the *Newark Star Ledger* on April 25th, following the turnpike shooting that occurred on April 23, 1998, the author of the article wastes no time by acknowledging in the first line of the article that troopers Kenna and Hogan have been involved in prior civilian incidents which resulted in a police shooting in their careers as police officers. The rest of this article gives a synopsis of the event and what facts were known at the time, and ends with a passage about the four male occupants of the van and their basketball aspirations which were supposedly thwarted by the shooting. The following article published on April 26th, titled “Lawyer: Van Hit Trooper Accidentally”, may have suggested to some the idea of innocence on the part of the van occupants. The third straight article following the events of the shooting published in the *Star Ledger*, aptly titled “Sharpton to Probe Turnpike Shootings” based on his reputation with garnering a large amount of media attention, was released on April 27th and quoted Sharpton’s personal questions and criticisms about the validity of the policemen’s actions. However, aside from using attention-grabbing headlines the

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57 Bing, Robert. p. 32
aforementioned articles seem to be relatively unbiased towards the situation and merely stipulate what little known facts had been confirmed by investigation efforts at the time.

The tide starts to turn, however, in an article published on April 28th titled “Troopers Are Often Upheld In Shootings”, wherein the articles from this point forward begin to reflect the soon-to-be dominant public opinion in this case that accuses the troopers involved of misconduct and unwarranted actions in this instance; this idea would only snowball and expand as time went on, to the point that the officers involved privately expressed fear for their safety because of public resentment and even hatred aimed towards them. This article primarily deals with the fact that New Jersey courts have a history of acquitting cops of wrongdoing in instances that involve police officer shootings. The article lays out the process of the investigation and notes that, “The process has been criticized as unfairly balanced in favor of the troopers. That criticism was particularly fierce in 1996, after two state troopers were cleared of wrongdoing in the fatal shooting of a carjacking suspect.”

The article concludes with a list of the most recent trooper shootings, where four out of the six were considered justifiable actions by the policemen involved and two of which were still under investigation at the time. Ending the article in this way engrains the seed of doubt into the mind of the readers as to whether or not a fair trial will be undertaken; while the article does outline more recent acquittals of cops, it does not give any attention to instances where cops were charged with acting inappropriately or dangerously in situations with civilians, and is therefore more geared to and focused on displaying information supporting the idea that charges against cops in New Jersey can be relatively easily absolved. An article entitled “Cochran Enters Case of Turnpike Shooting- Man Says He Begged Troopers Not to Fire” from May 1, 1998 introduces Johnnie Cochran Jr. as the newly hired lawyer for some of

the four occupants of the vehicle and also mentions that “indictments are rare” in grand jury cases against police officers.\textsuperscript{59} The ending passage describes the two incidents in more detail from which troopers Kenna and Hogan were involved in prior to the turnpike shooting where they had drawn and fired their weapons at civilians, adding to the mounting negative attention placed on the two police officers.

The May 2\textsuperscript{nd} article also implicitly suggests the New Jersey State Police’s lack of impartiality in the investigation and trial by providing opinions from legal experts who stipulate that, “State Police investigate when one of their own is the shooter, and prosecutors have wide latitude in what they present to a grand jury. Historically, few grand juries vote criminal charges against officers.”\textsuperscript{60} And on May 4\textsuperscript{th} more cynicism in the fair trial process is embedded into the minds of readers when former president of the New Jersey branch of the Criminal Defense Lawyers Association lamented that, “The process is rarely fair, because it’s not designed to be fair. Only the prosecutor is in the grand jury room. He alone decides what questions he will ask witnesses and the tone in which he will ask them”. Again, the history which reflects a negative light on police officer trials is described, yet nowhere is there a statement of the same magnitude which supports or defends police officers and the complicated decisions that come along with the job. This article also outlines the inconsistencies (seen by the lawyer of the defense team) of the incident, such as “…the placement of bullet holes in the van-and only minor collision damage to both vehicles-suggests that the troopers did not have reason to fear for their lives. The inspection

\textsuperscript{59} Hester, Tom. “Cochran Enters Case of Turnpike Shooting-Man Says He Begged Troopers Not to Fire”. \textit{The Newark Star Ledger}. May 1, 1998.

\textsuperscript{60} Murray, Brian. “Pike Prosecutor Tackles The Job-Praise Flows For Man Assigned to Investigate Troopers’ Gunfire”. \textit{The Newark Star Ledger}. May 2, 1998.
also supports his client’s assertion that the officers were never directly in the vans path when they opened fire...”

The most deafening blow in regards to public perception against the troopers involved in this shooting is evident in the article published on May 5th, wherein the article dissects Attorney General Peter Verniero’s decision to place the investigation under a state, as opposed to a county, grand jury and to assign a specially appointed prosecutor in the likes of James Gerrow who was now in charge of the investigation; Hogan notes that “this action would mark the first time in state-police history that an investigation involving an on-duty trooper would be conducted by an outside agency.” Zegas again gives a statement questioning the motives behind this decision by saying, “What he is trying to do is create a public perception that he is taking the process seriously”. Another lawyer also falls into the same mindset of Zegas by scrutinizing Verniero’s “valid attempt at showing the public he’s going forward with a dispassionate eye and showing some objectivity” but ultimately concludes that this act was purely for show and will have little to no impact on the result of the trial. Whether or not the aforementioned allegations were true or not, the public was still provided with comments from legal experts who had doubt the investigation process would be carried out in a just manner even though this action by the Attorney General had never been implemented before.

An especially interesting and thought provoking article that was published on May 6th with the title “Black Motorists Face an Extra Road Hazard in Racism” addressed the disparate number of traffic stops that were by this time common knowledge to those in the black

62 Hogan, John. p. 125
community. This article, however, through its headline attributes this phenomenon to racism; while it would be naïve to say that racist cops do not exist within the NJSP today or during that time, it is also unfounded and an extreme generalization to charge or imply that the differences in traffic stop rates between the minority and White communities are due to racist sentiments by police officers. Kathryn Russell in this article was quoted as saying, “It seems that no matter what black men do in their cars, they are targets for criminal suspicion. It is so commonplace for black men to be pulled over in their vehicles that this practice has acquired its own acronym: DWB (Driving While Black).”

This individual article concludes with a description of the Turnpike Shooting and a quote criticizing racial profiling practices, and in doing so creates a link that may have caused people to accuse the Turnpike troopers of engaging in racial profiling, without much proof of the actual circumstances of the incident being confirmed or any statements from the troopers in question being released. While it is a well known fact, backed up with numerous statistics and studies dedicated to the topic, that black and Hispanic men are more likely to be pulled over in New Jersey than a white man by way of drug courier profiles, the fact that this idea was prematurely thrown into conjunction with the turnpike shooting is a reach that inevitably created a link in the minds of readers, regardless of the truth of the situation at hand. Whether racial profiling had occurred in this incident or not (based on who one may ask) this association invariably had an effect on the ever diminishing “good cop” images the two troopers once had and would yearn for as the case evolved and came under more media scrutiny.

The May 7, 1998 article from The Star Ledger is the first in which Trooper Hogan’s personal statements regarding the case were published, many of which had to do with whether he could confirm prior racial profiling accusations against him in the past, and some of which had to

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do with his conduct during the shooting in 1998 and from one in 1995 which he was involved in, that he claims left him seriously traumatized. Another article that addresses the turnpike shooting outside of its normal context was published a few days later and described the Rites of Passage class offered by St. Matthew’s African Methodist Episcopal Church in Orange, NJ; this program was essentially a several month long seminar that taught young, minority males how to deal with police interactions in response to “an alarming increase in the incarceration and homicide rates of young African-American males across the United States.” The article highlights the fears of many older minority men and women who worry about their children’s potential interactions with cops in the future, in light of the racial profiling debate of the time. While these programs were no doubt helpful, well-intended, and what some may consider even necessary, the Star Ledger’s decision to connect this program with the turnpike shooting further helped in demonizing two officers who, as of yet, were still under investigation. Whether or not Hogan was accused of using racial profiling in the past had no relative determination on whether it was used in this case, per se. Yet again, a link is made between racial profiling allegations and the turnpike shooting at a critical time when several facts of the case were still under investigation; by associating his prior shootings with this one in order to gain more attention and even garner controversy (all of which are more than helpful for raising readership and sales), it is evident to see how Hogan was now indefensible in the media spotlight.

While the media has clearly played a role (whether warranted or not) in terms of the overwhelmingly negative public perception of the Turnpike Shooting of 1998, the media (more narrowly in this instance The Newark Star Ledger) can also be viewed as having the adverse effect on situations concerning racial profiling allegations; using articles from 2009 onward.

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(wherein the state of New Jersey was officially released from the terms of their consent decree with the Department of Justice in order to combat the usage of raced based policing policies) gives an insight into how seemingly quick the public perception towards racial profiling had shifted; once extremely reactive and concerned about the role of race in policing, a mere ten years later and a “good report” on behalf of the state was seemingly enough to erase the memories of racialized law enforcement that occurred before and had branded New Jersey State Police with a seedy reputation.

In an editorial published on September 23, 2009, a writer for the Star Ledger acknowledges that the U.S. Justice Department had in 2006 officially recognized the state of New Jersey and the NJSP of upholding the stipulations of the consent decree to such a high degree that it could have been let out of the binding contract early; however, Governor Corzine at the time had decided (whatever his intentions were is beyond the scope of this research) that New Jersey would remain under the decree for the full ten years that was originally agreed upon between the federal and state departments. This article is seemingly objective in the sense that it offers praise for the advancements made in terms of new policing guidelines and training to dissuade officers from engaging in racial profiling, but also calls to mind that there are still some people within the NJSP who deemed the consent decree unnecessary and related the entire process to that of an “innocent person going to jail for ten years and then getting out.”

A more recent editorial concerning New Jersey and racial profiling from February of 2011 acknowledges that reports from the Attorney General’s Office show a decrease in the number of minority drivers pulled over (about 34 percent for African Americans) since the

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issuance of the consent decree. Within this article, an investigator who worked on the assessment of the effects of the consent decree in New Jersey was quoted as saying, “It’s something that they’re continually working on and assessing. The numbers themselves will never indicate racial profiling; the racial profiling itself is in the intent of the trooper.” Here she genuinely supports a theory that I see as the main problem with anti-racial profiling techniques and policies, in that they are geared towards individual officers and their decision making and do not treat the use of racial profiling as a larger, institutional problem within police departments. The investigator’s statement, by which the article was concluded with, seems to give merit to the “bad apple theory” which proposes that racial profiling is an individualized problem and should be treated as such. The article is also interesting in that it brings up the fact (which the general population was probably unaware of for the most part) that the consent decree and federal oversight into racial profiling allegations applied only to the New Jersey State Police. Local police departments surely are not immune to racial profiling practices, yet were not held under the consent decree initially and went on for years without federal oversight or reports monitoring their actions and statistics in regards to racial profiling. To assume that only the NJSP had a problem with racial profiling and that local departments departments, who ultimately work in correspondence with the NJSP in police matters on occasion, did not engage in this practice is wishful thinking at best. This article implicitly calls into account the near-sightedness of the efforts to combat racial profiling in New Jersey; in this case however, as evidenced in the title “Report Shows Progress in Eliminating Racial Profiling by N.J. State Police”, the “progress” reported overshadows the fact that the monitoring applied to only a fraction of police in New Jersey. One of the most recent reports on the status of the NJSP released by the Office of Law Enforcement Professional

Standards (a department under the Attorney General) in relation to combating racial profiling was released in October of 2011 and confirmed that the NJSP was still acting in accordance to the guidelines set up under the consent decree and that this agency was a “model law enforcement agency.”

The media in this instance also failed, according to John Hogan, to relay important facts of the case that seem to support the troopers side of the story and their justification for drawing their weapons in this instance. Hogan stated that, “To recap this tragedy, here is a list of undisputable facts: Keshon Moore was speeding well beyond the posted fifty-five miles per hour speed limit, had refused to pull over for a marked police cruiser, struck (accidentally or not) a police officer with a deadly weapon (a four-thousand-pound vehicle), was driving with a suspended license while under the influence of marijuana, and lastly, initiated a second major accident that caused the Honda he collided with to explode.” He also notes that Keshan Moore, the driver of the van, was determined to be under the influence of marijuana while driving and that he himself was present in an interview with investigators where Moore admitted that he and Danny Reyes tried to switch seats after the cruiser signaled them to pull over due to the fact that Moore was driving on a suspended license. Hogan lamented that, “Furthermore, on June 3, 1998, lab results confirming that Keshon Moore was driving under the influence of marijuana the night he struck me, and caused this entire travesty, had come back positive. Amazingly, instead of forwarding this report to the media as they did with any information detrimental to Kenna and me, this report was mysteriously buried.”

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70 Hogan, John. p. 131
local media outlets, all of which consequently support the actions of the police officers. Hogan laments in his book that, “Instead of combating the negative onslaught by divulging Keshon Moore’s statement where he took full responsibility for this tragedy, the STFA, the NJSP, the state of New Jersey, and every other facet of internal support that Trooper Kenna and I thought we had sat quietly, allowing our reputations and actions to be judged and immediately tarnished by these individuals as well as the mass media.”

Hogan also addresses a part of the case that he and Kenna were commonly criticized for during the initial part of the investigation; reports said the troopers used a radar gun in the stop when in fact they never had one in their possession, which Hogan laments about when he wrote, “For starters, the colonel read a press release, stating that Kenna and me had clocked the van using the troop car’s radar when, in reality, our troop car, as was the case with most turnpike cruisers, did not even have a radar unit installed. I should have realized right then and there I was in trouble!” The media failed to check their facts in depth and once this false statement was given and repeated among news organizations around the country, it would peg the troopers as lying and further solidify the doubts that the general public already had through the guidance of the media. Another failure on the part of the media is exemplified in Hogan’s statement that, “As usual- Breaking News on Nj.com- knew my fate before I did.” It was in this manner that Trooper Hogan was notified of himself being charged with one count of attempted murder and two counts of aggravated assault. He also notes that inaccuracy in research were instrumental to his vilification in the media; when Trooper Kenna decided to sue the state of New Jersey for improper counseling after the first shooting he was involved in, the media firestorm was again

71 Hogan, John. p. 124
72 Hogan, John. p. 123
73 Hogan, John. p. 149
sparked and pictures of Hogan (not Kenna) were inaccurately circulated around the state and country with the relevant article.

While it is hard to discern the actual reasons for this, Hogan also noted in his book that:

“In November 1998, the council questioned why state-police cruisers were not outfitted with dash-mounted cameras and demanded they be installed immediately to combat “further acts of racial profiling”. Paradoxically, for years prior to the April 23, 1998 incident, the NJSP had lobbied for the money to have these cameras installed, but reportedly, Governor Whitman always stated they were too costly and never included them in her budgets…Within months, all state-police cruisers utilized for routine patrol would be equipped with these cameras”.

This example illustrates how politics played a large role in framing the incident against the troopers and how pressures from outside organizations (in this case the Black Minister’s Council of New Jersey and their leader Rev. Reginald Jackson) can make changes occur simply in an effort for politicians to look good and gain favor in light of public opinion. Hogan stated that:

“As the threat and likelihood of their political advancements became evident, so was their complete shift in support for the New Jersey State Police. Despite her previous claims that “the state police does not train, teach, condone, or practice racial profiling” the governor, with the realization that her political future hang in the balance, had a mysterious change of heart and went public with it.”

I have tried to exemplify here the way that politicians and the media can portray racial profiling situations in ways that are not fully accurate or may lead to generalizations of the events that actually transpired. And while it is necessarily important for the media to address claims of racial profiling and bring into view for the public at large social problems that affect subsets of the population, more responsible reporting is needed in an effort to produce unbiased stories. In this instance, facts that would have supported the troopers side of the story were rarely published in the articles of the Newark Star Ledger, and seldom were there articles that seemed

74 Hogan, John. p. 133
75 Hogan, John. p. 135
to support or try and understand incidents such as these from a police standpoint. Completely left out of news reports during this time was the fact that, “Media outlets also failed to report that because of Trooper Hogan’s indictment, more than twenty pending criminal cases in which he was involved were dismissed, which Hogan notes…” including a suspect arrested for $160,000 worth of heroin who additionally turned out to be a fugitive wanted for murder in Pennsylvania, were among those cases dismissed!”

Whether the officers were justifies in their actions that resulted in several shots being fired at the unarmed occupants, media portrayal and political backhandedness undoubtedly played a role in pegging these officers as the bad guys in this particular situation and assuredly placed doubt in the minds of the public to the efficiency of the New Jersey State Police and its officers; doubts conveyed through the media can have a profound effect on how police officers are able to perform their job in retrospect and this topic is further addressed in the concluding chapter that follows.

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76 Hogan, John. p. 143
Chapter 5: Where Do We Go From Here? : Changes to be Made and Answers to be Heard

The aforementioned chapters of this paper have outlined the general definitions of racial profiling, major events in American history that provided an indirectly legal basis for racial profiling practices to still be implemented today (despite a majority of the public supporting anti-profiling policies), and the way that media outlets and politicians have a hand in the portrayal of racial profiling in New Jersey. In this chapter, solutions on how to more effectively study and eradicate the practice of racial profiling will be offered, as well as recent statistics that evaluate how effective (or ineffective in some instances) anti-profiling practices have been within the past decade in New Jersey. Also included in this chapter are personal interviews that have been conducted with current New Jersey police officers, and address a multitude of the different elements of the job from those with firsthand knowledge and also address these individual officers’ views on the state of racial profiling practices today.

Anti-profiling measures in New Jersey have been in effect essentially following the highly controversial Turnpike Shooting in 1998, and the effects of these have begun to be evaluated over the past several years. Any reasonable person would assume that anti-profiling strategies could only result positively for the minority community as a whole; however, because New Jersey’s anti-profiling measures tend to be individual officer oriented this has not always proven to be the case. While anti-profiling measures have been put in place in New Jersey and other states across the United States (25 states by 2007 had implemented the use of data collection systems for instance), there have been negative consequences that have been documented as a result; evidence has been provided that shows a “…(16-33 percent) decrease in the number of arrests of blacks relative to whites for motor vehicle theft, an offense susceptible to detection through traffic stops” and that a “decrease in arrests led to higher rates of motor
vehicle theft in minority areas.” According to Heaton’s research, antiprofiling policies which led to a reduction in police efforts to engage in instances where supposed car theft had occurred resulted in a 30 percent decrease in arrests for minority car theft and, subsequently, a 15 percent increase in offending; his calculations suggest that 3,000 additional car thefts (which he translates to about $12.9 million dollars in annual costs) a year went undetected in New Jersey as a result of the Turnpike Shooting in 1998 and the implementation of antiprofiling policies that followed.

In these regards, anti-profiling policies have had negative effects in preventing certain crimes from occurring. A study conducted in 2006 also warns of potential hazards that could occur in relation to anti-profiling efforts gauged at singling out individual officers; the study concluded that when police officers in the 1990’s lost salary arbitration cases they were less effective in performing their jobs as a result. In relation to more recent anti-profiling strategies, some researchers conclude that “organizational theory suggests that a change in incentives could lead to reduced policing and more crime.” If officers fear that they may lose their job over who they arrest (even if under ethical pretenses), the efficiency of their jobs will undoubtedly be compromised in the name of keeping said job. In this instance, politics are changing policing, but not in an effective way for public safety overall when taken into account that “officers concerned that enforcement efforts directed at minority drivers would be perceived as violating antiprofiling policies may have been reluctant to scrutinize vehicles with black drivers.” This may be a positive occurrence in regards to halting true instances where discrimination or even racism were

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78 Heaton, Paul. p. 52  
79 Heaton, Paul. p. 57  
80 Heaton, Paul. p. 32  
81 Heaton, Paul. p. 34
used in conjunction with racial profiling, but also is a downside to New Jersey’s antiprofiling efforts in that minority drivers who, by reasonable police standards, were not pulled over and may have very well been involved in a criminal activity were let go because of fears of personal repercussions by individual officers. Studies covering the stop rate of minorities on New Jersey highways from 2003 until 2007 conclude that higher disparate numbers were evidenced during this time frame, rising from 16.6% in 2003 to 18.1% in 2007 for black drivers.\textsuperscript{82}

While a large percentage of researchers in the field of racial profiling choose to relegate the implementation of this practice upon individual officer decision making, institutional factors play a large role in the use of these policies and must be taken into consideration in an effort to eradicate this problem. Institutional racism and the discriminatory practices that exist as a result “are generally imbedded in the laws, rules, policies, norms, and standard practices of an institution, and can manifest itself in discrimination in a number of ways.”\textsuperscript{83} In the case of New Jersey, the “bad apple theory” clearly is seen as the dominant paradigm through which racial profiling was and continues to be studied; this is evidenced by the fact that New Jersey is one of only several states in America who require police officer’s identification numbers in their data collection systems in an effort to individually monitor police officers and the rates at which each officer stops and arrests civilians among the different racial categories. With the implementation of data collection systems in New Jersey as a mandated stipulation of the consent decree with the Department of Justice, it is easier to identify individual officers whose stop records allege a potential racial profiling problem; this however, I believe, distracts researchers and those in the policing field alike from the larger problem that is infrastructural discrimination. Individual officers are certainly are part of why racial profiling still exists today, yet I contend that the

\textsuperscript{82} Kupferberg, Noah. p. 155  
\textsuperscript{83} Gumbhir, Vikas. p. 55
larger institutional policies (many of which are informal in nature) and, in the case of New Jersey police departments especially, negligence on behalf of police departments and government institutions as a whole play a larger and more encompassing role in the persistence of this largely condemned practice. Resource allocation is an institutional problem that persists today and undoubtedly influences the use of racial profiling; when police departments must restrict the use of their resources (being officers and where they are stationed to patrol), they focus their efforts on geographical points deemed more dangerous or in need of a larger law enforcement presence than others, which can in turn affect the rates of minority drivers stopped if officers are dispatched in higher numbers in minority neighborhoods. The prioritization of apprehending perpetrators of one crime over another can also influence officers to engage in racial profiling; it is a substantially known fact that “…in every law enforcement agency, certain classifications of criminal behavior are given priority, meaning that officers are instructed (explicitly or implicitly) to be particularly attentive to these categories of crime and criminals.”84 The War on Drugs is the most obvious and one of the most recent examples in regards to criminal prioritization in this instance; if a police departments aim is to suppress the flow of drugs in their proximity, focusing on drug courier profiles the rates will undoubtedly show a disparate amount of stops by race. Coupled with the fact, initially addressed in Chapter 1, that the War on Drugs established the widespread use of these courier profiles which focused a great deal of attention on the racial characteristics of the “typical” drug courier. And one of the most obvious ways that institutional problems attribute to the preponderance of racial profiling on a larger scale is the history of racial and ethnic hostility in police subculture which in turn can produce stereotypes in the minds of officers. It has been my aim throughout this paper to show how complicity (whether through

influential court cases, politicians whose main concern is their image, or negligence on the part of individual police departments and agencies to effectively manage and control the actions of their officers) plays the largest role in the persistence of racial profiling today.

Institutional discrimination is broken down, by researchers like Vikas Gumbhir and other experts involved in the scholarship of this field, into three different categories and stages that have persisted throughout the history of policing: direct, indirect, and complicit. While direct institutional discrimination involves an overt targeting of a certain group, indirect institutional discrimination essentially leads to the same results, yet has a more covert approach to accomplishing these aims. Examples of the direct approach would include the Jim Crow laws which dominated the antebellum South in America and were unabashedly aimed against blacks, while the overt domain would apply to examples such as differential drug sentencing; even though new regulations have been put in place in the past year alone lowering this discrepancy, crack and cocaine still have differential sentencing, wherein possession of crack holds a longer jail sentence and was and still is portrayed as a drug used by minorities at higher rates. The category of institutional discrimination that researches apply to the present time period is the complicit category, where “institutions allow for the unjust treatment of certain racial/ethnic groups by failing to adopt rules or policies that prevent discrimination.”85 The aforementioned court cases that were outlined in Chapter 2, Terry v. Ohio and Whren v. United States, are more contemporary examples of the failure of institutions (in this case the United States Supreme Court) to effectively discourage policing procedures that use race as a major determinant.

As within any other field of study or discourse, many differing opinions exist within the context of racial profiling, its exact definition, and what constitutes ethical policing in the first

85 Gumbhir, Vikas. p. 55
place. Some researchers in the field of criminal justice today believe that using race in any context of police enforcement is the same as racial profiling; researchers and experts in this field, such as Fred Pampel, even use the term racial profiling as a shorthand word for criminal profiling, which I contend is a misnomer and actually confuses two separate realms of investigatory police work.\textsuperscript{86} If police were not able to use race as part of a larger profile (say in the instance where the race of a known perpetrator is confirmed by a victim or witness of a crime) police would not be able to effectively perform their jobs in capturing perpetrators. Racial profiling is distinct in that it uses race as the sole factor in a decision to stop a motorist they suspect of being involved in a criminal action as opposed to criminal profiling, which uses race as one of a number of individual characteristics (along with height, dress style, automobile, etc.) to locate a known criminal.

Other researchers, such as Heather MacDonald, have taken on the defense of racial profiling (or in her case what she refers to as the “myth of racial profiling”) and contend that the media has overhyped and sensationalized a policy that simply reflects true crime data statistics. But while some studies indicate that minority civilians commit more drug and traffic related offenses than do their white counterparts, David Harris gives a common sense example and analogy of why statistics may wrongly conclude this by mirroring the enforcement characteristics of the War on Drugs:

“Imagine for a moment a state that decides to make stopping rape its top priority. Legislators pass new laws criminalizing rape in new ways, increase sentences for the crime dramatically, and limit or even eliminate parole for all sexual offenses. Prosecutors do their part by vigorously prosecuting all cases and asking for maximum sentences and police drastically increase their enforcement efforts against rape. If we looked at prisons after ten years of these policies, we would surely find a higher percentage of inmates imprisoned for rape than used to be true. But this would not necessarily mean that rape itself is much more common than it was

\textsuperscript{86} Pampel, Fred. p. 24
ten years before. Rather, the numbers would reflect the priorities and actions of actors and institutions within the criminal justice system.  

As evidenced in preceding chapters, police can often be wrongly or unjustly condemned in the public arena, regardless of all the facts of the individual case they are involved in. And while MacDonald comes to the defense of police officers, stating that disparate numbers merely reflect what is actually going on and who is offending the majority of the crimes along racial lines is discounted by a large number of researchers who have dedicated countless hours of research on this topic. While not all police officers engage in racial profiling practices, it cannot be denied that some do, and largely through the implementation of newly aimed programs focused on certain areas of crime.

Questions naturally abound, then, as to how government officials can stop a policy that has been imbedded (consciously or not) into the infrastructure of policing today most effectively. Most researchers and academics today who are involved with racial profiling studies admit that faults lie within certain studies of stop rates, namely that a more precise “benchmark” must be determined to represent more accurate disparate rates; the majority of researchers today also focus on the fact that more qualitative (as opposed to quantitative) study approaches are needed to fully understand the complexities that come along with measuring the extent that racial profiling is used today by police officers and enforcement agencies. A quantitative study or research project may include the use of surveys or questionnaires in interviews with police officers or victims of racial profiling, but these tend to extremely limit the answers that can be provided by subject volunteers and result (the majority of the time) in vague and inconclusive “yes” or “no” answers. In an effort to more fully understand the inner workings of the profession of police officers from their unique point of view, I have undertaken the task of interviewing

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current day police officers in New Jersey on a wide spectrum of topics pertaining to their job, specifically pertaining to the practice of racial profiling. Instead of using a survey or questionnaire, I engaged in oral interviews with these officers in an attempt to get the most accurate and descriptive answers possible. And while quantitative studies that operate in this manner do have the drawback of taking much longer to attain and compile (especially if one is trying to conduct an in-depth study, which is not the aim of this paper) they do have the upside of producing more engaged answers.

In case it was not already general knowledge, getting police officers to become involved in interviews (especially those which contain questions about a condemned practice within their profession) is not the easiest task in the world. However, the group of officers I interviewed seemed interested in answering questions pertaining to a job that most of them claimed was “the best job in the world”. I interviewed around ten police officers, whose experiences as police officers in New Jersey range from 4 months on the job to 25 years as an active officer. Most of the officers were average patrolmen, and the officers interviewed all worked in areas where there is at least an equal split between the Caucasian and minority residents of the community, some of whom work in highly minority populated areas. The questions asked ranged from those addressing initial police training to everyday routines to thoughts on media perception of police officers, and also covered these respective officer’s thoughts pertaining to racial profiling more generally.

When discussing their initial training and the long road to becoming a police officer in New Jersey, the officers interviewed noted that upon being accepted to one of the state police

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88 In an attempt to protect the individual police officers who participated in these interviews and their respective departments, no mention of the names or departments will be made in this paper to facilitate their anonymity.
training centers located throughout New Jersey the application process, a sufficient background check, personal interviews, and a physical fitness test must all be completed before one is even considered as being an acceptable applicant to enter any one of the training centers. Once accepted, soon-to-be police officers undergo a variety of different training techniques and classes at whichever New Jersey State Police academy they attend, some of which include law and procedure classes, self defense training, and what one officer coined as “delicate situation handling”; one officer (although he noted the cliché of his statement) noted that, “You have to be a little bit of everything in this job: a little bit of a doctor, a lawyer, all that”. Relating it to military training, many of the officers acknowledged that one of the main aims of the training underwent was to prepare future officers in the sense of a “test of mental ability” and that the academy also doubled as a “weeding out process” to prevent those mentally incapable of handling the stresses of the job from being put in situations they could not handle in the future. Several of the officers also acknowledged that the reputation of New Jersey police training being one of the most stringent programs of its kind in the country remained true today, especially since New Jersey cops were placed under intense scrutiny by their respective departments in response to the racial profiling debate. It was also discovered solely through these interviews that New Jersey’s reputation is revered to the extent that police chiefs and training officials from major cities across the United States, such as Memphis and Atlanta, have visited police officer training centers in New Jersey in an effort to learn how to better train officers in their respective departments.

When asked about the mentioning or discussion of the term “racial profiling” while in training by their superior or training officers, the officers who had been hired more recently (generally in the time frame following 1998) claimed that the notion that racial profiling was
unacceptable was “hammered home” in the academy. A handful of officers brought up an interesting point of view that has not been mentioned in much of the literature addressing the issues of racial profiling today: many of the officers interviewed brought up the fact that increased educational standards required to become a police officer today tend to make police officers more culturally diverse and therefore less likely to engage in racial profiling based on racist rhetoric. While one of the officers interviewed entered the force in the late 1980’s (before the racial profiling debate had exploded and when a high school degree was enough to enter the police force) noted that he had never even heard the words racial profiling while in training, officers who had less experience seemed to experience the exact opposite during this six-month process. While statistics will have to prove whether this is true or not, the link between the education level of police officers today and how they choose to engage with potential offenders surely plays some sort of role in the use of racial profiling today and the overall racial tolerance that has greatly improved by the American public over the past several decades.

One of the officers interviewed also made it clear that officers being taught that racial profiling was unacceptable policing, “…was presented as a just issue, not a right or wrong issue, and about fairness”. All officers interviewed stated when answering the question “Is racial profiling a useful tool?” that the use of this practice was actually counterintuitive to their goals as officers; some stated that race did not act as a legitimate or useful basis for action and others harped on the fact that racial profiling acted in such a way as to divide the community from police officer assistance. To discover the frequency of racial profiling accusations within this small pool of police officers, I then asked if any of them had ever been overtly accused of using racial profiling against a civilian; while only a few have (and each of these officers state it was a rare occurrence) the less experienced officers all claimed they have never been accused of
engaging in the practice. Rhetoric such as treating each individual incident as the one before it and that a “fair attitude” and politeness were keys to ensuring that accusations like these did not occur and were integral parts of de-escalating a situation were mentioned in response to this question. One officer put it plainly by stating, “I don’t want any questions in their mind as to why they are being pulled over”.

Since the media’s role in the portrayal of police was covered extensively in the preceding chapter, I then proceeded to ask the interview subjects if they thought the media sensationalizes supposed incidents of racial profiling and the police officers involved in them currently. While asking this, one officer personally addressed recurring discussions with himself and his mother and which most people can probably relate to in some form; while watching the news, this officer’s mother will frequently question police actions in a specific incident and he finds himself having to explain to her the cop’s actions in the moment and lamented that, “People will always have judgments when it comes to police actions, and people have big misconceptions if you don’t go through the training”. Another officer also noted that regardless of media scrutiny, all complaints within his department are taken seriously and that in the realm of policing, “Lost integrity means you have lost everything”. The majority of those interviewed believed that cops were unfairly judged for their actions and/or decisions by the general public and resented that “It’s always easy to judge after the fact”. Although one respondent had an interesting notion that “public scrutiny is not necessarily a bad thing” and that it actually holds a higher standard for police to follow much of the time.

In an effort to better understand what exactly police experience within their profession, respondents were asked what they believed to be the hardest part about their job. A range of answers from the long hours (many of which are 10 or 12 hour shifts) and the uncertainty that
comes along with the job on any given day were recorded. Others noted that public scrutiny and trying to appease everyone (specifically their individual departments and the community) were challenges. One cop responded that the hardest part of the job was that cops are essentially always on duty. He gave an example of when I was meeting with himself and a group of other officers and how he was being teased by the other officers for having his back to the door when I entered the building; being taught in the academy to always be aware of your surroundings, little lessons like these impact their lives and thoughts, whether on or off duty. And while some refer to this fact as “heavy badge syndrome”, this officer related this feeling to the fact that most law enforcement agents always play the role of a police officer once they become one out of habit. The majority of the respondents however acknowledged that in the long run, “the pros outweigh the cons” when it came to their job.

I decided to ask the interview subjects what their thoughts were on the level of discretion cops have, especially since this is a highly contested question in the realm of criminal justice and social justice in a broader sense. Asked whether they believed they had too little, just enough, or too much powers of discretion, the majority believed cops had the right amount of discretion to perform their job. However, one officer bluntly stated (much to the dismay of critics of police discretion) that, “In reality, we have complete discretion under the law”. And while many of the cops stated that discretion was necessary in this job because law violations occur so frequently (especially in the realm of driving and subsequent traffic stops), any person believing they have absolute discretion under the law tends to clash with the idea of democracy and civil liberties which is proudly espoused in America. While it would be a complete overgeneralization to assume that cops in general abuse this power, it would also be naïve to assume that none do and is an area of policing I believe needs more focus and reform to deter the use of racial profiling.
Another question asked that embodies the trouble between distinguishing the discretion cops have and what the law actually permits police officers to do was addressed in the question asked to officers, “What is the difference between reasonable suspicion and probable cause?” Throughout the research conducted to write this paper, a general idea as to the differences was gained, but I was interested in how officers personally (as opposed to what court decisions) chose to define these terms. Every officer who answered this question stumbled initially to give a distinct answer and a surprising number of them responded along the lines that “…It’d be much easier to demonstrate it than to describe it” or that “You know with it when you deal with it”. These responses beg the question: if the police officers given the responsibility to search and question individuals suspected of criminal wrongdoing cannot give definitive answers to these legal distinctions, who can?

Because the 1998 Turnpike Shooting is considered to be the spark of the racial profiling debate (and was covered extensively throughout several chapters of this paper) interview subjects were asked if they were familiar with the events that transpired within this incident and their thoughts about the outcome of it. Every officer interviewed was familiar with the event to some extent, and the police officers who entered the academy in the years following this incident (from 1998 onward) claimed that this incident was addressed extensively in the academy. However, the majority of the respondents claimed they did not feel comfortable commenting on the actions of the officers involved; put rather bluntly, one officer responded that, “You don’t Monday-morning-quarterback what an officer did”. Through an evaluation of major policing incidents in recent history (some of which are mentioned in this paper) the majority of the public today, it seems, clearly never received this memo.
One of the most important (and afterwards enlightening) questions throughout this interview was the question: “Is racial profiling still a problem today, in New Jersey and/or your specific department?” I, surprisingly, received a range of answers from this question; one officer stated that racial profiling was not a problem in New Jersey at all in current, while the majority believed that racial profiling “…is not a rampant problem, but still continues today.” The majority of officers also attested to the long standing theory that many in law enforcement hold today by stating, “There will always be a few bad seeds” and that some officers “…still slip through the cracks” and engage in practices that are not tolerated today. Some cops believed that the use of this practice would “phase itself out eventually” and some even lamented that cops receive the brunt of the criticism when it comes to racial profiling, but that a wide spectrum of other professions also use it and seemingly are not called out on it. While it would be inaccurate and unfounded to conclude from this small group of police officers that all cops in New Jersey subscribe to this theory, it does prove the point that this belief still is present today and results in a number police officers believing that essentially nothing can be done or needs to be done to prevent the use of racial profiling if only a small majority of cops continue to engage in this practice.

Since the policing profession undergoes a lot of scrutiny, I ended each interview by asking the question: “If you could tell people one thing about your job that you do not think they already know or take into consideration, what would it be?” The majority of the responses were aimed at dedication to the job these officers had and gaining the respect of the community in which they serve, evidenced in statements like, “I’d give my life for this job” and “I’m here to serve you, not myself or my interests.” Many also responded similarly to the statement made by one officer that, “I’m a part of this community just like you are.” While the majority of these
officers seemed sincere with these statements (which is impossible to ascertain certainly) answers like this brought to the forefront of public knowledge could, on a large scale, help bridge the gap between minorities and police officers on a whole which is evident to still persist today.

In conducting these interviews, I was in no way trying to empirically prove the existence or non-existence of racial profiling by specific police officers or departments, nor was I trying to generalize the beliefs of New Jersey police officers as a whole; these interviews serve simply to uncover the beliefs of normal patrolmen that tend to go undiscovered in more qualitative studies of police actions and decision making in current times. While no statistics can be derived from this small pool of police officers, understanding the challenges that these men and women face every day and understanding the “gray areas” of policing was the aim of this section of the paper and can be used on a larger scale to improve efforts that focus on combating racial profiling in the realm of law enforcement.

It has been the aim of this paper to outline the complicated history of racial profiling, the role of media and political intervention in the portrayal of police officers in the realm of racial profiling, the effectiveness (or ineffectiveness) of antiprofiling policies, and the areas of antiprofiling policies that must be improved in order to combat the current downsides of these policies and to aid in the eventual eradication of racial profiling techniques. In no way is racial profiling a problem that will be solved overnight; however, it is still a problem that a majority of researchers agree persists today and affects the everyday lives of a significant portion of Americans. If New Jersey politicians and police officials want to dissuade officers from using racial profiling techniques, overall changes within the policing system as a whole must be implemented and emphasis on individual officer decision making must not overshadow these efforts. When it comes down to it, most police act on what they have been taught by their
supervisors and peers; if policing institutions continue to let the use of unofficial guidelines persist (which has been proven countless times throughout this paper as occurring in New Jersey police departments) and do not establish more stringent policies in the realm of police officer discretion, antiprofiling policies will continue on as generally moot solutions. It was also the aim of this paper to put an end to the often believed sentiment that “racial profiling exists because racism still exists”; while racism in some instances may still play a role in the fact that racial profiling is sometimes used today, attributing this occurrence solely to that idea is unfounded and again overshadows the problem of institutional police discrimination in favor of individual officer decisions. The overarching problems in trying to combat the use of racial profiling can be summed up in the statement that, “Police efforts to protect citizens from crime can violate constitutional rights, but efforts to protect constitutional rights make it harder for police to fight crime.”

89 Racial profiling is not a disease; there is no exact solution that can be derived to eradicate it at once and the problem remains largely hidden or unaddressed because of the emotional and controversial past this policy has in New Jersey’s history especially. In a time when individual rights are of extreme importance to the general public and where race can still negatively play a role in the sphere of law enforcement, solutions to combat the institutional components that provide the grounds for racial profiling persist may prove more compatible with this struggle between equal civil rights and community protection.

Bibliography


