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**INVESTIGATION AND FINDINGS INTO THE
ALLEGATIONS OF INEQUITY IN RECRUITMENT,
HIRING, RETENTION, AND PROMOTIONAL
POLICIES AND PRACTICES OF
THE NEW JERSEY STATE POLICE**

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I. SCOPE OF INVESTIGATION.

A. Attorney General Grewal’s Charge - Genesis of Investigation.

In or about August of 2020, former Attorney General Gurbir S. Grewal retained Kaufman Dolowich & Voluck n/k/a Kaufman Dolowich LLP (“Kaufman Dolowich”) to conduct an investigation and render a report and recommendation regarding allegations of inequity within the New Jersey State Police (“NJSP”) in recruiting, hiring, and promotions. The investigation was to also address discrimination allegations by female¹ and Of Color² Troopers.³

Attorney General Grewal’s request for this investigation came on the heels of two anonymous letters from authors who identified themselves as “women and minority NJSP officers.” These anonymous letters made allegations of gender discrimination, race discrimination, and a lack of diversity, inclusion and equity within the NJSP. The letters further discussed a culture within the NJSP that favors White male Troopers and what they referred to as the “good old boys’ network.” The letters demanded that the problems within the NJSP, such as the lack of opportunities at all levels of the organization available to female and Of Color Troopers be examined, and that female and Of Color Troopers be supported.

B. Methods of Investigation.

In 2020 there were approximately 2800 enlisted members in the NJSP. Due to the size of the NJSP, Kaufman Dolowich did not send an interview request to each Trooper. Rather, with the

¹ The term “female/females” and “woman/women” are used interchangeable throughout this report.

² This report does not refer to Black, Hispanic, Asian, or American Indian Troopers as minorities, due to the “inferior” connotation with which the word “minority” has become synonymous. The exclusion of this term is intentional. The term “Of Color” refers to individuals that identify themselves as Black, Hispanic, Asian, American Indian or any combination thereof.

³ The term “Trooper” refers to enlisted and/or separated members of the NJSP regardless of rank.

assistance of the Office of Law Enforcement Professional Standards (OLEPS), which is more fully defined in a section below, it created a statistical protocol and developed a random cross section of the NJSP, based on gender, ethnicity, and rank. To that end, Kaufman Dolowich's investigation was quite robust and benefited from substantial cooperation from the Department of Law and Public Safety. It included voluntary interviews with a cross section of enlisted and separated individuals, randomly selected from within different ranks for the time frame of 2009 through 2020, up until the 160th Class that graduated on September 4, 2020, who were not included.

Kaufman Dolowich contacted approximately 400 enlisted Troopers and approximately 600 separated Troopers, which resulted in approximately 150 Troopers volunteering, after being assured anonymity, for in-person, Zoom or telephone interviews. Kaufman Dolowich had several teams of lawyers who conducted these confidential interviews, the majority of which took place during the month of November 2020. The in-person interviews occurred at the Hughes Justice Complex in Trenton, New Jersey, and Kaufman Dolowich's office in Hackensack, New Jersey. The in-person team consisted of four lawyers who conducted interviews in teams of two, on separate dual tracks. Kaufman Dolowich's Zoom team consisted of two to four lawyers who conducted interviews in teams of two. These interviews were for enlisted Troopers. Kaufman Dolowich's telephone interview team for separated Troopers consisted of nine lawyers who individually made telephone calls and for willing participants, conducted interviews. Kaufman Dolowich was given complete discretion on whom to interview and how to conduct the investigations. All the Troopers expressed gratitude for the opportunity to share their respective experiences with the interviewers and their respective desire that the NJSP be a better place than when they first joined the Division. The quoted material in this report reflects actual Trooper statements provided based on the confidential and anonymous conditions under which each

Trooper was interviewed. It was essential that these conditions precedent were clearly articulated and implemented in order to minimize the fear of reprisal that many of the NJSP shared with the Kaufman Dolowich lawyers who interviewed them. In connection with the investigation, Kaufman Dolowich reviewed statistical demographic information within and outside of the NJSP, numerous NJSP policies, procedures, job descriptions, and related information from various states.

C. Retention of Expert.

The Office of the Attorney General requested that a statistical analysis be completed using promotional data. In that regard, on November 9, 2022, Kaufman Dolowich engaged Palmer Morrel-Samuels, Ph.D., a social scientist from the University of Michigan. Kaufman Dolowich's investigation did not include an analysis of the NJSP's promotional data. Dr. Morrel-Samuels' report, is located at Appendix A.

Dr. Morrel-Samuels was asked to evaluate promotions at the NJSP during the decade between 2010 to 2020. As described in Dr. Morrel-Samuels' report, data availability limited his analysis to the period from 2017 to 2021. He analyzed the NJSP's promotions data from 2017 to 2021, to provide objective statistical analysis of the assessment process the NJSP uses to evaluate candidates for promotions, and to determine whether there is or is not evidence that promotions at the NJSP reveal any disparities that favor or disfavor State Troopers who self-identify as Of Color by virtue of their race or their gender. Dr. Morrel-Samuels' report found that a State Trooper's race, heritage, gender, or age did not have any statistically significant impact on the number of promotions a Trooper received during the years of his analysis, namely, 2017 to 2021.

II. BACKGROUND.

A. The History of the New Jersey State Police.

The New Jersey State Police has a long history, which has influenced its functions, values, and command structure in place today. The Division was created and established on March 29, 1921 upon the passing of the State Police Bill.⁴ New Jersey adopted the bill as a result of a growing movement to create uniform, well-trained, state-controlled police forces throughout the nation.⁵ Herbert Norman Schwarzkopf, a graduate of the United States Military Academy at West Point, was appointed as the first Superintendent of the NJSP and had one of the strongest influences on developing the newly formed organization in its history.⁶

Schwarzkopf organized the first training class for officers, which included competitive examinations for the purpose of selecting “the type of man desired” for the Trooper role.⁷ Of that number, 227 passed Schwarzkopf’s rigorous exam; 116 reported for training; and only 81 became Troopers.⁸ Those men were administered the oath of office on December 1, 1921.⁹

Over the next few decades, the Division continued to develop and professionalize through the creation of specialized sub-sections of the force like the Detective Bureau, and the State Bureau of Identification, which was responsible for collecting and filing evidence and receiving reports of

⁴ *History*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/history/index.shtml> (last visited November 23, 2020).

⁵ *Id.*

⁶ *Id.*

⁷ *1920s – The History Begins*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/history/1920s.shtml> (last visited November 23, 2020).

⁸ *Id.*

⁹ *Id.*

missing and wanted persons.¹⁰ The Division increased community outreach, including the formation of community organizations for the prevention of delinquency.¹¹ By 1950, these new bureaus and groups were filled by the Division's 455 members.¹²

The succeeding decades saw an increase in the demands on the NJSP. The need for specialized police services dictated a related need for an organizational structure change, which further divided the Troopers into specialized sections and bureaus. Several modern crime prevention efforts were also initiated during this period, including arson investigation, fugitive tracking, major crime investigation, and intelligence gathering procedures.¹³ There was also a new emphasis on Trooper education and professionalism, evidenced by Colonel Pagano's signing of a formal contract with Seton Hall University to award credit hours to State Police recruits.¹⁴

By the turn of the century, the Division was home to more than 2600 enlisted and sworn Troopers and 1200 professional staff. Today, members of the NJSP function as enforcers of the law, preventers of crime, apprehenders of criminals, and collectors of legal evidence, as well as guards of state officials and properties.¹⁵ They patrol highways; assist in the identification and prosecution of criminal activities; prepare and respond to emergencies; maintain comprehensive and reliable criminal records and identification systems; regulate certain commerce with

¹⁰ *1930s – Blue and Calvary Yellow*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/history/1930s.shtml> (last visited November 23, 2020); *1940s – The Outfit Goes to War*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/history/1940s.shtml> (last visited November 23, 2020).

¹¹ *Id.*

¹² *1950s – Building a Reputation*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/history/1950s.shtml>, (last visited November 23, 2020).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Core Functions*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/core-functions.shtml> (last visited November 23, 2020).

significant effects on the safety and welfare of the public; and provide support for other state and local law enforcement officers.¹⁶

The NJSP's Mission statement explains that the duty of being a Police Officer of the State of New Jersey is just as important as the accompanying special duties that come with it: to bear in mind that prevention of crime is of greater importance than the punishment of criminals; to cultivate and maintain the good opinion of the people of the State; and to discharge responsibilities by clean, sober, orderly habits and by a respectful bearing to all classes.¹⁷ It further states that all are equally crucial to the distinction and prestige that come with a position in the force.

B. History of Diversity within the New Jersey State Police.

While the NJSP has made significant strides in policing, it has had a troubled history with diversity. Although the NJSP was founded in 1921, the NJSP did not hire an African American male Trooper until 1961—forty years after its inception.¹⁸ The NJSP hired its first Hispanic male Trooper in 1962 and its first woman Trooper in 1975.¹⁹ In 1978, the NJSP hired its first African American female Trooper. In 1979, the NJSP embarked on an experimental program to recruit, select, and train an all-female class of officers to increase the number of women enlisted in the force.²⁰ In 1980, thirty (30) women graduated from the first all-female State Police class in the nation.²¹ It was not until 2001 that the NJSP hired its first Hispanic female Trooper.²²

¹⁶ Id.

¹⁷ *General Order #1*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/general-order1.shtml> (last visited November 23, 2020).

¹⁸ 2005 Lords of Discipline Task Force Report of Investigation and Findings.

¹⁹ Id.

²⁰ *1980s – Diversity and Expansion*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/history/1980s.shtml> (last visited November 23, 2020).

²¹ Id.

²² NJSP Division Human Resources Section; NEW JERSEY STATE POLICE OFFICIAL NEWS RELEASE, https://www.nj.gov/njsp/news/newsitem03_14_01.htm (last visited August 12, 2024).

Between 1975 and 1998, the number of Of Color male applicants fluctuated. The class percentages were as low as 13.6% (310 out of 2,283) in 1998 to a high of 33% (1,118 out of 3,392)²³ in 1988. Not including the all-female class of 1980, the percentage of female applicants did not fluctuate as drastically after the 1980 all-female class. The lowest percentage of female applicants was 6.1% in 1992 (226 out of 3,832), while the highest was 11.7% in 1984 (668 out of 5,731).²⁴

Within the same time frame, despite an apparent increase in the number of female and Of Color applicants, those numbers did not directly translate into appointments to the Academy. The highest percentage of Of Color male recruits was 31.9% (46 out of 114) in 1988,²⁵ and the lowest percentage was 4.6% (5 out of 108) in 1975.²⁶ In 1988, the year of the highest percentage of Of Color male recruits, only 28 of the 46 recruits actually graduated from the Academy, out of a total of 88 graduates.²⁷

The lowest percentage of female recruits after 1980 was 3.8% (5 out of 133) in 1992 and the highest was 14% (30 out of 214) in 1985.²⁸ In 1985, the year of the highest percentage of female recruits, only 5 out of the 30 female recruits graduated from the Academy, from a total of 121 graduates.²⁹

Against this backdrop, several discrimination lawsuits against the NJSP prompted an overhaul of policies and procedures that sought to address the lack of diversity, discrimination, and other inequities within the NJSP. In 1999, former New Jersey Attorney General Peter Verniero appointed the State Police Review Team to review and investigate racial profiling, procedures for processing

²³ Id. at 114; see 110th Class.

²⁴ Id.

²⁵ Id. at 15; see 110th Class.

²⁶ Id.

²⁷ Id. at 16; see 110th Class.

²⁸ Id. at 15.

²⁹ Id. at 16.

citizen complaints and internally generated complaints, hiring, promotions, and training for supervisors.³⁰ The Review Team issued a final report dated July 2, 1999 (“1999 Final Report”). The 1999 Final Report extensively analyzed the NJSP’s diversity in hiring, promotions, and diversity within the NJSP. Specifically, the 1999 Final Report thoroughly analyzed the recruitment, hiring, selection process, promotional practices, and workplace issues relating to diversity and lack thereof. The 1999 Final Report also examined internal affairs and discipline within the NJSP. Finally, the Review Team provided recommendations for the NJSP on how to improve in the aforementioned areas. However, despite the NJSP’s efforts, the 1999 Final Report highlighted that based on the 1996 Census, Of Color representation within the NJSP was less than half of the population of New Jersey as a whole.³¹

Shortly after the 1999 Final Report was issued, on or about March 22, 2000, the NJSP entered into a Consent Order which resolved a class action lawsuit against the NJSP that alleged its hiring practices had a disparate impact on African American and Hispanic applicants.³² Plaintiffs, who were unhired NJSP applicants, alleged that the NJSP’s use of the Law Enforcement Candidate Record written examination (the “LECR”), the NJSP’s newly instituted educational requirements, and the NJSP’s recruiting practices violated Title VII of the Civil Rights Act of 1964 and the New Jersey Law Against Discrimination.³³

Plaintiffs challenged the LECR as having a disproportionately adverse impact on African American and Hispanic applicants as compared to White applicants and resulted in longer waiting

³⁰ John J. Farmer, Jr., Attorney General & Paul H. Zoubek, First Assistant Attorney General, *Final Report of the State Review Team* at 5 (July 2, 1999).

³¹ *Id.* at 17.

³² *NAACP v. New Jersey State Police et al.*, Docket No.: MER-L-2687-96, March 22, 2000, Consent Settlement Agreement.

³³ *Id.*

times before hire for the African American and Hispanic applicants. They also challenged whether the LECR was job-related and justified by business necessity.

Plaintiffs also challenged the educational requirements that the NJSP instituted in 1993. Plaintiffs argued that requiring applicants to have either (1) a four-year college degree from an accredited college or university, or (2) sixty college credits and either two years of military service or two years prior police experience, disproportionately and disparately impacted African American and Hispanic applicants when prior to 1993, only a high school education was required.³⁴ Further, Plaintiffs challenged the newly implemented education as lacking data demonstrating that the education requirement was “necessary for successful job performance or [was] otherwise job-related and required by business necessity.”³⁵

Pursuant to the Consent Order, the NJSP agreed, “[f]or a period of three years from preliminary approval . . . not to use the four-year college degree requirement as the exclusive educational requirement.”³⁶ The parties agreed to modify the educational requirement to be satisfied with either a four-year college degree, an associate’s degree, or the successful completion of sixty college credit hours with a “C” average.³⁷ If the applicant did not have a four-year degree, the applicant also needed at least two years of experience indicating the maturity of the applicant, which was satisfied with at least two years of military experience or satisfactory employment experience.³⁸

In accordance with the Consent Order, the NJSP also agreed to administer an examination test other than the LECR.³⁹ The parties agreed that the new examination would be “based upon available

³⁴ Id.

³⁵ Id. at 8.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Id.

validity studies and impact data, [that] are likely to be good predictors of job performance and have significantly less adverse impact against African-Americans and Hispanics than the selection device and manners of use previously used, and than [sic] other examinations available.”⁴⁰ The parties also agreed that the adverse impact information will include other groups, such as Asians and women.⁴¹

Further, the parties agreed on specific recordkeeping and reporting as it relates to diversity in the NJSP. Specifically, the parties agreed that the NJSP will semi-annually provide a breakdown by race, national origin, sex, and educational level of:

- The applicants for entry-level positions as Troopers;
- The invited applicants for entry-level positions as Troopers;
- The applicants for entry-level positions as Troopers entering each stage of the selection process;
- The applicants for entry-level positions as Troopers disqualified from each stage of the selection process;
- The applicants for entry-level positions as Troopers successfully completing each stage of the selection process;
- The applicants for entry-level positions as Troopers selected for the State Police Academy;
- The applicants for entry-level positions as Troopers graduating from the State Police Academy; and
- The number of sworn State Police enlisted personnel.⁴²

To date, NJSP is still under the requirements as agreed upon pursuant to the Consent Order.

⁴⁰ Id. at 10.

⁴¹ Id.

⁴² Id. at 14.

III. STATE OF THE NEW JERSEY STATE POLICE.

A. Structure of The New Jersey State Police.

As of November 2020, the NJSP was headed by a Superintendent, Colonel Patrick J. Callahan, who remains in that position.⁴³ Second in command at the time this investigation began was the Deputy Superintendent, Lieutenant Colonel Geoffrey Noble.⁴⁴ That position is now held by Sean Kilcommons. Directly under the control of the Superintendent are the four overarching branches of the NJSP: the Administration Branch, Investigations Branch, Homeland Security Branch, and Operations Branch.⁴⁵ When this investigation began, those branches were headed, respectively, by Lieutenant Colonels Scott M. Ebner, Fritz Frage, Glen Szenzenstein, and Jeffrey Mottley.⁴⁶ Additionally, Major Wayne Korte served as the Deputy Branch Commander of the Administrative Branch, Major John Marley served as the Deputy Branch Commander of the Investigations Branch, and Major Sean Kilcommons served as the Division Executive Officer.⁴⁷ Those four branches are further divided into specialized Sections, Bureaus, and Units, each with their own command structures, functions, and responsibilities.

Since the 1999 Final Report and the Consent Order, the NJSP has seen an increase in diversity overall. According to the 1999 Final Report, as of November 1998, the total number of enlisted Troopers was 2,590; Of Color enlisted Troopers totaled 369; and female enlisted Troopers totaled 79.

As of July 20, 2020, there were 2,762 enlisted Troopers. Female Troopers made up 5.05% or 139 females. There was a total of 177 African American Troopers, both male and female; a total of

⁴³ New Jersey State Police Organization Chart; *New Jersey State Police Command Staff*, NEW JERSEY STATE POLICE, <https://www.njsp.org/about/command-staff.shtml> (last visited November 23, 2020).

⁴⁴ Id.

⁴⁵ Organization Chart, *supra*.

⁴⁶ *New Jersey State Police Command Staff*, *supra*.

⁴⁷ Id.

376 Hispanic Troopers, both male and female; a total of 61 Asian American Troopers, both male and female; and a total of 14 American Indian Troopers, all of whom are male.⁴⁸ Thus, Of Color Troopers totaled 628—nearly double from 1998.

Kaufman Dolowich points out that though the 2020 increase of Of Color Trooper numbers were an improvement, the NJSP could still improve upon them to ensure that the NJSP reflects the demographics of New Jersey.⁴⁹ The 2020 race and ethnicity Census information for New Jersey was: White alone 55%, combined Of Color 66.3% (Black alone 13.1%; Hispanic 21.6%; Asian alone 10%; American Indian and Alaska Native alone .6%; Native Hawaiian and Other Pacific Islander alone less than 1%; Some Other Race alone 11.3%; Two or More Races 9.7%). These numbers do not add up to 100% because the Census in the US distinguishes between race and ethnicity and individuals are permitted to indicate one race and another category if they believe it applies. The NJSP has continued to implement recommendations and revise processes and procedures pursuant to the 1999 Final Report to address the NJSP's issues with diversity and equity. Additionally, in 1999, the State of New Jersey entered into a Consent Decree with the U.S. Justice Department following a lawsuit and investigation regarding racial profiling in policing.⁵⁰ Under the Consent Decree, the Federal Government monitored the NJSP to ensure policies and procedures were amended to address the concerns set forth in the lawsuit and investigation.⁵¹

In 2009, the Consent Decree was dissolved. Shortly thereafter, the New Jersey State Legislature created the Office of Law Enforcement Professional Standards (“OLEPS”), a separate

⁴⁸ See, supra, Table on New Jersey State Police Enlisted Members Breakdown by Rank, Race & Gender, dated July 30, 2020.

⁴⁹ As of 2023, the NJSP demographics are: White 65%; Black or African American 10%; Hispanic 19%; Asian 2%; American Indian and Alaska Native less than 1%; Native Hawaiian and Other Pacific Islander less than 1%; Two or More Races 1%; Not Provided 1%. <https://www.njoag.gov/policerecruiting/>

⁵⁰ <https://www.nj.gov/oag/jointapp.htm>

⁵¹ Id.

office within the Department of Law and Public Safety and independent of the NJSP, under the Law Enforcement Professional Standards Act of 2009. (N.J.S.A. 52:17B-222, et seq.).⁵² OLEPS is responsible for identifying disparities by reviewing the NJSP rules, regulations, standing operating procedures, conducting operations audits, and independently analyzing data.⁵³ OLEPS assumed the monitorship function that had occurred under the consent decree, with the purpose of identifying and addressing any systemic problems.

In response to the recommendations from the 1999 Final Report and as outlined below, the NJSP overhauled its recruiting, hiring and promotional processes with the goal that the NJSP hires and promotes diverse candidates that mirror the demographics of the State.

B. Recruiting.

Throughout the year, the NJSP organizes various recruiting events aimed at providing information to individuals who may be interested in a career in law enforcement. The NJSP begins its efforts to increase diversity through recruiting. To attract candidates, the NJSP advertises and hosts various programs targeted at women, Of Color individuals, college students and young adults. These programs focus not only on recruiting individuals to be road Troopers, but also to educate the public on the various career paths available within the NJSP.

⁵² <https://www.nj.gov/oag/oleps/about.html>; OLEPS assumed the functions that had been performed under the Consent Decree. The Consent Decree was established subsequent to a lawsuit filed against the NJSP regarding racial profiling.

⁵³ Id.

C. Hiring.

The hiring and selection process in 2020 encompassed a number of the recommended changes outlined in the 1999 Final Report and Consent Order. Prior to those changes, the NJSP issued the LECR written examination to all applicants before pre-screening for basic eligibility, which kept ineligible applicants in the hiring process for too long and the NJSP improperly ranked ordered the applicants by their LECR test scores. Therefore, as the 1999 Final Report and Consent Order recommended, the NJSP utilized several independent third-party consultant companies to remove any appearance of impropriety.

One consultant company issues the NJSP application, which screens for twelve automatic disqualifiers before proceeding with the remainder of the application process.⁵⁴ The consultant company also schedules and scores the applicants' written exam.⁵⁵ Thereafter, the NJSP conducts a comprehensive background investigation, and reviewed applicants who are approved to proceed

⁵⁴ NJSP utilized the following as automatic disqualifiers for applicants:

1. The applicant was convicted of an indictable offense or is presently under an indictment.
2. The applicant was convicted of any offense involving domestic violence.
3. The applicant was convicted of two or more offenses of driving while intoxicated as defined under N.J.S.A. 39:4-50 or was convicted of driving while intoxicated as defined under N.J.S.A. 39:4-50 within the last five years.
4. The applicant is currently on probation or has been on probation at any time within the last 12 months.
5. If the applicant pled guilty or has been found guilty of any motor vehicle moving violation five or more times within the past two years.
6. The applicant has been dishonorably discharged from any branch of military service or law enforcement agency.
7. The applicant was adjudicated by a court or found by an employer to have violated any person's civil rights.
8. The applicant was convicted of an offense involving or touching on previous public office, position or employment. See N.J.S.A. 2C:51-2(d).
9. The applicant, having been a citizen of the United States, has relinquished his or her citizenship.
10. The applicant is subject to a restraining order for harassing, stalking, or threatening, or a restraining order for any domestic violence related offense.
11. The applicant sold, manufactured or distributed any illegal controlled substance in his or her life.
12. The applicant engaged in the unauthorized usage of any illegal drug while employed in a position of public trust.

⁵⁵ The third-party consultant began overseeing the NJSP application process during the consent decree.

to appear before an interview panel consisting of three Troopers and an attorney from the Department of Law and Public Safety.

Once a conditional offer of employment is extended, individuals submit to various medical and psychological exams. Subsequently, applicants must complete mandatory training sessions and Academy Awareness Weekend. Finally, if funded positions are available and the Superintendent of the State Police approves, applicants proceed to the Academy.⁵⁶

To evaluate the effectiveness of NJSP’s 2019 and 2020 class hiring procedures, Kaufman Dolowich reviewed the demographics of a 2019 application process and a corresponding 2020 class. Kaufman Dolowich found that since undertaking these measures, the NJSP has seen significant increases in the diversity of female and Of Color applicants.

Application Demographics
May 2019

Race	Total		Qualified		Not Qualified	
white (Not Hispanic or Latino)	2465	44%	2262	47%	203	27%
Hispanic or Latino	1561	28%	1338	28%	223	30%
African American or Black (Not Hispanic or Latino)	1064	19%	823	17%	241	32%
Asian (Not Hispanic or Latino)	247	4%	217	4%	30	4%
Native American or Alaskan Native (Not Hispanic or Latino)	8	0%	5	0%	3	0%
Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino)	6	0%	4	0%	2	0%
Two or More Races (Not Hispanic or Latino)	110	2%	90	2%	20	3%
Choose Not to Answer	133	2%	109	2%	24	3%
TOTAL	5594	100%	4848	100%	746	100%

Gender	Total		Qualified		Not Qualified	
Male	4597	82%	4039	83%	558	75%
Female	920	16%	754	16%	166	22%
Choose Not to Answer	77	1%	55	1%	22	3%
TOTAL	5594	100%	4848	100%	746	100%

⁵⁶ <https://www.njsp.org/recruiting/selection-process.shtml>

160th Demographics for Academy

Race/Gender	2/19/2020		2/24/2020		6/4/2020	
	Total		Academy Start Total		Total	
White Male	119	56.4%	119	56.9%	112	58.3%
White Female	14	6.6%	14	6.7%	12	6.3%
Hispanic or Latino Male	42	19.9%	41	19.6%	38	19.8%
Hispanic or Latino Female	8	3.8%	8	3.8%	7	3.6%
African American or Black Male	14	6.6%	14	6.7%	11	5.7%
African American or Black Female	1	0.5%	1	0.5%	1	0.5%
Other Male	1	0.5%	0	0.0%	0	0.0%
Asian Male	7	3.3%	7	3.3%	7	3.6%
Two or More Races Male	3	1.4%	3	1.4%	2	1.0%
Two or More Races Female	1	0.5%	1	0.5%	1	0.5%
Native Hawaiian or Other Pacific Islander Male	1	0.5%	1	0.5%	1	0.5%
TOTAL	I	2111	100%	209	1	100%

Pursuant to the OLEPS tables above, the 160th Class had a total of 5,594 applicants, 4,848 of those applicants were qualified to proceed in the hiring process. Qualified Of Color applicants consisted of 2,477 or 51%. Qualified female applicants consisted of 754 of the 4,848 or 16%. In comparing the numbers from 1998, the number of applicants in general increased, as well as the number of female and Of Color applicants.

Conversely, we note that when reviewing the numbers for the applicants who progressed to the Academy and ultimately graduated, the number of female and Of Color recruits is not reflective of the population of New Jersey. The total number of applicants appointed to the 160th Academy class was 209. Seventy-six (76) Academy recruits identified as Of Color, or 35.8%. The total number of female Academy recruits across all races was 24 or 11.5%. The 2020 race and ethnicity Census information for New Jersey was: White alone 55%, combined Of Color 66.3% (Black alone 13.1%; Hispanic 21.6%; Asian alone 10%; American Indian and Alaska Native alone .6%; Native Hawaiian and Other Pacific Islander alone less than 1%; Some Other Race alone 11.3%; Two or More Races 9.7%). These numbers do not add up to 100% because the Census in the US distinguishes between race and ethnicity and individuals are permitted to indicate one race and another

category if they believe it applies. The number of Academy recruits who graduated slightly decreased, for a total of 192 graduates.

D. Promotional Practices.

Since the inception of the promotional process just over a decade ago, the NJSP's system for considering promotional applicants has changed significantly in accordance with the 1999 Final Report and the Consent Order. Under the "Old Process," the Operations Instructions utilized "rank meetings" to evaluate, discuss, and promote candidates.⁵⁷

The "Old Process" has long been scrutinized as being overly subjective and having a disparate impact on women and Of Color Troopers. The 1999 Final Report emphasized the lack of diversity in the upper ranks of the NJSP. In 1993, there were four Of Color officers and zero female officers out of 175 officers in the rank of Lieutenant and above.⁵⁸ In 1998, there were six Of Color officers and two female officers out of 205 officers in the rank of Lieutenant and above.⁵⁹

Pursuant to a study into the NJSP promotional policies and procedures, the 1999 Final Report revealed that the lack of an explicit process and the overall lack of diversity had a "constrictive" impact on not only Of Color and female officer promotions, but on all officers across gender and racial lines.⁶⁰ The recommendations could largely be summarized as the need to create and implement formal and objective promotional policies and procedures for all ranks and supervisory positions.⁶¹

In 2015, the NJSP began implementing its "first formal, comprehensive policy governing promotion in all ranks," which included providing management, supervision and leadership training.

⁵⁷ Promotional Process History.

⁵⁸ Id. at 38.

⁵⁹ Id. at 39.

⁶⁰ Id. at 40-45.

⁶¹ Id. at 45-47.

Additionally, the NJSP reduced the years of service threshold for promotions from 12 years to 7 years, as well as revised the performance evaluation process to connect it to the promotional process.⁶²

The 1999 Final Report further recommended that the NJSP institute formal written policies governing ranks from sergeant to lieutenant within 30 days to ensure that promotions are open to anyone who “demonstrates superior supervisory and management talent;” vacancies would be offered to lateral transfers first; promotions would be based on the candidate’s overall suitability; and the candidate’s performance would be based on objective qualifiers and the last four semi-annual performance evaluations.⁶³ Lastly, the Review Team recommended that the NJSP create job descriptions and standardize the performance evaluation process.⁶⁴

In March 2015, the Division first implemented the new promotional process (the “New Process”).⁶⁵ It was the first overhaul of the old promotional system and included: (1) vacancy announcements; (2) statements of qualification as a part of the application; (3) scoring-based criteria; and (4) interviews for the positions of Lieutenant (LT), Captain (CAP), and Major.⁶⁶ The current Operations Instructions outline the promotional process for both Non-Executive Level Command, including Sergeant (SGT), Detective Sergeant (DSG), Sergeant First Class (SFC), Detective Sergeant First Class (DSFC), Lieutenant (LT), Captain (CAP), as well as Executive Level Command, including Major and Lieutenant Colonel (LTC). Since those initial changes, the Operations Instructions have been reviewed and upgraded periodically, resulting in changes to the

⁶² Id. at 47.

⁶³ Id. at 62; 65-66.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

point system, updated forms, and other substantive and procedural changes. The most recent update to the instructions occurred on April 1, 2020.⁶⁷

Despite implementing a more structured and objective promotional system, the NJSP still lacks diversity in the higher ranks. In other words, while overall diversity within the NJSP has increased, the diversity within the NJSP is concentrated in the lower ranks. The demographics become more homogenous as the ranks increase, as depicted in the chart below.

Date of Data: 7/30/2020

Report Date: July 30, 2020

NEW JERSEY STATE POLICE
ENLISTED MEMBERS BREAKDOWN
BY RANK, RACE & GENDER

	White			Black			Hispanic			Asian			Am. Indian			Others		Total
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Total	
Col.	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
LTC	4	0	4	1	0	1	0	0	0	0	0	0	0	0	0	0	0	5
Maj.	15	2	17	3	0	3	0	0	0	0	0	0	0	0	0	0	0	20
Capt.	46	3	49	4	1	5	5	0	5	0	0	0	0	0	0	0	0	59
Lt.	186	15	201	7	1	8	12	0	12	2	0	2	0	0	0	0	0	223
SFC	162	10	172	10	2	12	11	1	12	2	0	2	2	0	2	0	0	200
DSFC	91	5	96	5	0	5	13	0	13	1	0	1	0	0	0	0	0	115
SSgt.	143	2	145	4	0	4	18	0	18	5	0	5	0	0	0	0	0	172
Sgt.	252	10	262	11	2	13	36	3	39	7	0	7	2	0	2	0	0	323
DSG	130	7	137	10	0	10	18	0	18	3	1	4	0	0	0	0	0	169
Tpr. I	231	3	234	12	0	12	39	0	39	7	0	7	1	0	1	0	0	293
Det. I	104	2	106	2	0	2	13	0	13	2	1	3	2	0	2	0	0	126
Tpr. II	33	2	35	0	0	0	10	0	10	2	0	2	0	0	0	0	0	47
Det. II	22	6	28	1	0	1	0	1	1	1	0	1	0	0	0	0	0	31
Tpr.	557	41	598	94	4	98	174	10	184	24	1	25	6	1	7	1	1	913
Det.	45	2	47	3	0	3	12	0	12	2	0	2	0	0	0	1	1	65
Total	2,022	110	2,132	167	10	177	361	15	376	58	3	61	13	1	14	2	2	2,762

\\smb.dsp.state.nj.us\admin\K215\Crystal\Demographics\Enlisted Breakdown Promo Systems Recap.

1

According to the chart above, as of July of 2020, only 1 out of the 5 Lieutenant Colonels was Of Color and none was female. Of the 20 Majors, 2 were White females and one was an African American Male; the remaining were White males. Of the 59 Captains, 3 were White females, 4 were African American Males, 1 was an African American female, and 5 were Hispanic males; the remaining were

⁶⁷ Id.

White males. Notably, these numbers have not significantly increased since the 1999 Final Report's examination of the racial and gender breakdown within the NJSP ranks.

As discussed above, the NJSP implemented a new promotional process in 2015, which standardized the promotional process. On average, the typical amount of time in which Troopers obtained promotions decreased under the new promotional process. In other words, Troopers needed less time in service after their hiring date before being promoted for the first time under the New System.

E. EXAMINATION OF 2019 – 2020 PROMOTIONAL VACANCIES AND OLEPS INFORMATION.

Kaufman Dolowich examined the promotional trends further by reviewing applicant information for all promotional vacancies closed between January 2019 and June 2020. The information included a list of the vacancies, the demographics of the applicants who applied, the resulting tiers, and ultimately, the candidates who were chosen for the positions. There were 268 vacancies posted in that stated timeframe, which includes both the original vacancies and any related vacancies later filled by the same candidates.⁶⁸

Of the 268 vacancies posted during that time, 123 had at least one Of Color applicant, which is about 45.9% of the positions, with 69 of those vacancies having more than one Of Color applicant, which is about 25.7% of the vacancies. Altogether, there was a total of 262 Of Color

⁶⁸ In some circumstances, a vacancy would be posted, as usual, for a general position and members would apply through the promotional process for that position. For example, a vacancy announcement was posted in April 2019 for a Station Commander – North Lieutenant position, and eight individuals applied. After the original position was filled, the need for a Lieutenant Station Commander in the Meadowlands, Bloomfield, and Hope Stations arose during the months of October and November of that year. Those related vacancies were filled by the same candidates who applied for the original posting. So, while the promoted candidate for each related position is different, the pool of applicants is the same.

applicants for vacancies posted during the one-and-a-half year period.⁶⁹ While 262 applications submitted between January 2019 and June 2020 were from Of Color applicants, only 100 of those candidates were placed in the top tier and 20 were promoted to the originally-posted position.⁷⁰ That is about 38.2% of Of Color applicants who applied for a posting that were placed in the top tier, and only about 7.6% of Of Color applicants were ultimately promoted to an originally-posted position.

An additional twelve Of Color applicants were promoted to related positions that opened up after the original positions were filled by the selected candidates. Of the twelve secondary positions that were later filled by Of Color candidates, ten of the original, corresponding vacancies were first filled by White males; one went to a White female; and one to a Hispanic male. Of the total 32 vacancies that were ultimately filled by Of Color candidates (which includes the 20 promoted to the original posted position and twelve applicants promoted to related positions), 23 of the Of Color applicants promoted were Hispanic males, six were African American males, two were Asian males, and one was an American Indian male. In total, of the 268 vacancies, 32 went to Of Color candidates, meaning 11.9% of the vacancy postings were ultimately awarded to Of Color candidates.

⁶⁹ The information we were provided did not identify the names of the candidates, therefore, we do not presume to know whether the 262 Of Color applications are 262 different Of Color individuals, or if the same Of Color individual applied to multiple positions. For example, two vacancies in early 2019 show that an American Indian male applied for two similar SFC positions. There could have been two separate American Indian candidates who each applied to one of those positions, or the same American Indian male could have applied to both. All the information we were provided indicates that there were 262 opportunities for an Of Color candidate to obtain a promotion in the given timeframe.

⁷⁰ Eight of the vacancy summaries did not include information regarding the tier breakdown, but one resulted in a successful Of Color applicant. Therefore, it is likely that at least one or more Of Color candidates placed in the top tier, but there could have been as many as 108 Of Color candidates who placed in the top tier, regardless of whether they were ultimately promoted.

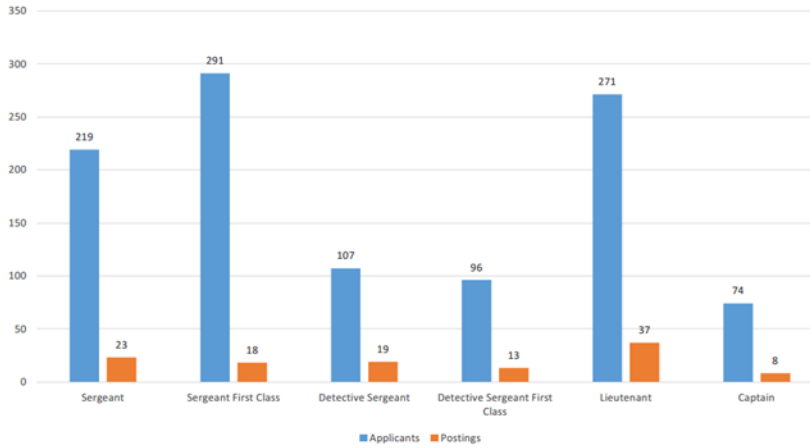
The numbers are even more striking for female applicants. Of the 268 available vacancies, only 50 had a female applicant, which was only about 18.6%. Only nine of those 50 had more than one female applicant per position, which resulted in a total of 67 female applicants during the one-and-a-half-year period. Of those 67 applications of female candidates, 28 females placed in the top tier for their respective vacancies. In total, only eleven female candidates were promoted to the original position for which they applied. That means 41.8% of female candidates who applied for a position were placed in the top tier, and 16.4% of female applicants who applied were ultimately selected for an original position.

One additional female candidate was promoted to a secondary position that opened up subsequent to the original vacancy posting. Of the twelve total female applicants promoted to an open vacancy between January 2019 and June 2020, eleven were Caucasian and one was Hispanic. In total, of the 268 vacancies, twelve went to female candidates, meaning about 4.5% of the vacancy postings between January 2019 and June 2020 were ultimately awarded to female candidates.

By way of further example, in 2019, due to the size of the eligible number of the NJSP who could apply for a promotional opportunity, 1,058 applicants applied for 118 positions. The two charts below provide by gender, and those who identified as Of Color and White, the specific positions for which the applicants applied. Overall, the majority of both male and female applicants identified as White.

NJSP: Promotional Opportunities and Applicants
2019

In 2019, 1,058 applicants applied for 118 State Police Promotional Opportunities.



219 applicants applied for the 23 Sergeant positions, averaging nearly 10 applicants per posting.

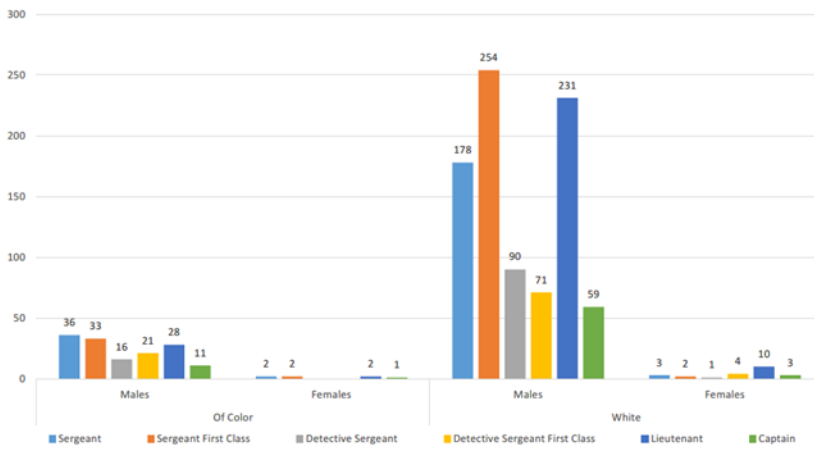
There were 291 applicants for the 18 Sergeant First Class positions, averaging approximately 16 applicants per posting.

*Note: The data provided by State Police do not identify applicants. We do not know whether the number of applicants listed represents unique members or the same member applying to multiple postings.

The data depicted here were provided by NJSP on 2/20/2020 in RECAP SUMMARY REPORTS.

NJSP: Promotion Applicant Race and Gender
2019

In 2019, the majority of both male and female applicants identified as White.



In 2019, 7 of the 30 female applicants, 23.33%, were identified as Of Color.

Comparatively, 145 of the 1,028 male applicants, 14.11%, were identified as Of Color.

*Note: The data provided by State Police do not identify applicants. We do not know whether the number of applicants listed represents unique members or the same member applying to multiple postings.

The data depicted here were provided by NJSP on 2/20/2020 in RECAP SUMMARY REPORTS for 2019.

The NJSP has made strides in revising and implementing a more standardized promotional process. However, as the above OLEP’s information shows, there is still much more work to be done to ensure that female and Of Color Troopers are proportionately receiving promotional opportunities for which they are eligible in the higher-ranking positions.

IV. FINDINGS AND RECOMMENDATIONS.

As explained above, the scope of this extensive investigation involved Kaufman Dolowich's exploration into the NJSP culture as described in the 2020 anonymous complaint letters. Over the course of several months, our team contacted over 400 enlisted Troopers and called over 600 separated Troopers across all demographics, including race and gender, and all ranks to discuss their experience at the NJSP. The Troopers who agreed to participate in the investigation did so based on the conditions precedent that their names would not be disclosed, and they would have complete anonymity. Thereafter, the Troopers discussed their background experience with recruiting and the hiring process as well as their observations and experiences related to promotions, discrimination, and retaliation, if any. Both the telephone and in-person interviews lasted from one to three hours.

After reviewing promotional operations instructions, various policies, procedures, and related information, and as a result of a number of interviews it became increasingly clear that some negative perceptions could have been attributed to the lack of transparency and understanding of the NJSP's policies and procedures. However, many negative feelings a substantial number of Troopers expressed resulted from personal experiences from the academy through retirement.

The Troopers' experiences coupled with our analysis of the aforementioned information led to Kaufman Dolowich's recommendations. The recommendations set forth below are guidelines for the NJSP to assist in addressing the grievances and inequities of which many Troopers complained.

A. Recruitment.

A. Recruitment Analysis and Findings.

Overall, based on Kaufman Dolowich's document review and interviews, recruitment strategies do not seem to be an issue. It was not raised in the anonymous letters, but in speaking to Troopers through this process there appears to be a lot of misinformation among the enlisted Troopers related to the efforts of the recruiting bureau. A thorough review of the recruitment materials demonstrates that the NJSP engages in significant efforts to recruit qualified diverse candidates including women and people Of Color throughout the State.

Interestingly, there were a few Troopers who believed that NJSP should not be engaged in so much recruiting as they perceived recruiting to be "begging" individuals to join. Troopers with this point of view expressed that if someone was interested in a career as a Trooper, it should be incumbent on that individual to reach out to the NJSP for information. This viewpoint came largely from more senior Troopers, who took similar steps in the beginning of their respective careers. Many of the Troopers with this viewpoint were under the impression that only those who have the innate desire to work for the NJSP will be successful candidates. However, Kaufman Dolowich's interviews found that a large number of Troopers with whom we spoke were aware of the hiring options within the NJSP because they had family or friends who were currently or had previously been Troopers. Surprisingly, a large number of the Troopers we interviewed explained that they learned about the opportunities at the NJSP and decided to apply by pure happenstance. In most cases, they randomly interacted with someone, usually a prior or current Trooper, who recommended that they should consider applying for a position. For these individuals the NJSP was not a career path that they had strived to achieve from a young age or knew that such a career was available to them, and yet they have had successful careers at the NJSP. In fact, in some cases,

many current Troopers explained that they had taken the test, following a recruitment event, at the urging of family or friends and continued with the selection process without any expectation that they would successfully complete and eventually accepted a position with the NJSP. Nevertheless, by the time they completed the process, they realized that they could see themselves in this career and have gone on to have successful careers at the NJSP.

The NJSP has made significant efforts in recruiting. Throughout the year, the NJSP organizes various recruiting events aimed at providing information to individuals who may be interested in a career in law enforcement. The NJSP begins its efforts to increase diversity through recruiting. To attract candidates, the NJSP advertises and hosts various programs targeted at women, Of Color individuals, college students and young adults. These programs focus not only on recruiting individuals to be road troopers, but also to educate the public on the various career paths available within the NJSP.

Recruiting events are held at various times and locations throughout North, South and Central New Jersey. During these events, many topics are covered to give potential recruits an idea of what a career with the NJSP entails. Significantly, these events also cover what potential recruits can expect should they be accepted into the Academy. The following topics are covered during recruitment events⁷¹: (1) the initial application, (2) medical exam and psychological evaluation, (3) applicant screening, (4) acceptance to Academy, (5) the written examination, (6) what it is like to be out on the road, (7) the interview process, (8) the different career paths or which you can apply, (9) the background investigation, and (10) benefits.

⁷¹ <https://www.njsp.org/recruiting/career-events.shtml>

Some of the programs include the College Internship Program, the Explorer Program and Trooper Youth Week. The College Internship Program is offered to students interested in a career in law enforcement and provides them with the opportunity to gain valuable work experience while working alongside Troopers. The program is customizable based on availability, a student's specialization, and is offered to students in any field of study.⁷²

The Explorer Program is offered to young men and women ages fourteen (who have completed the eighth grade) through twenty (20) years old. The goal of the Explorer Program is to provide information to young people interested in a career in law enforcement. The program uses a hands-on training approach while establishing an awareness of the complexities of law enforcement. During the program, participants practice military drill, learn about law enforcement topics, develop teamwork through problem solving, and regularly participate in community service.⁷³

Trooper Youth Week is a residential youth education program for male and female students who have completed their junior year and are entering their senior year of high school. During Trooper Youth Week, students attend lectures and presentations covering numerous criminal justice topics. Participants are exposed to a disciplined quasi-military environment, including military drills in combination with structured, fast-paced classroom activities, lectures, films, practical exercises, and physical training with the goal of simulating the NJSP recruit training experience.⁷⁴

For example, the current strategy to recruit student-athletes at different levels, such as Division 1 through Division 3 universities and/or junior colleges is sound. Furthermore, as

⁷² https://www.njsp.org/recruiting/pdf/Internship_Pamphlet.pdf

⁷³ <https://www.njsp.org/recruiting/explorer-program.shtml>

⁷⁴ <https://www.njsp.org/trooper-youth-week/index.shtml>.

described earlier in this report, the Trooper Youth and Explorer Programs appear to be well-thought-out pipeline programs, which demonstrate that the NJSP is invested in cultivating and maintaining long-standing relationships. However, most Troopers interviewed explained that recently recruitment of diverse individuals has faced significant difficulties due to the current perception of law enforcement among people Of Color. They discussed that the recent racially charged incidents between people Of Color and police throughout the country, which culminated in the murder of George Floyd and subsequent protests during the summer of 2020 have significantly hurt their recruitment efforts.

Similar to other law enforcement agencies, the NJSP needs to combat this negative perception. The NJSP should continue to embed itself in communities from different backgrounds (i.e. race, religion, ethnicity and nationality) in order to build stronger community relationships and reinforce that diversity is valued and welcomed throughout the Division. Notably, the Sacramento Sheriff's Department claims that nearly 90 percent of its best-performing officers learned about the department through a friend, relative, or other employee.⁷⁵ Therefore, these "pipeline" programs will likely increase the NJSP's diverse candidate pool long-term by introducing Troopers to young people in the community.

A significant number of Of Color and female Troopers interviewed, commented that they were aware of a negative perception of the NJSP as a discriminatory organization when they applied, and they still opted to join the Division. Further, many of the separated Troopers indicated that the NJSP made a concerted effort to recruit more females and Of Color Troopers. There were also quite a few separated Troopers who indicated that the number of female and Of Color

⁷⁵ Wilson, Jeremy M., Gramlich, Clifford A. 2009 *Police Recruitment and Retention in the Contemporary Urban Environment – A National Discussion of Personnel Experiences and Promising Practices from the Front Lines*. Page 16.

Troopers increased during their employment. However, one separated Trooper stated that she did not notice an increase in Of Color Troopers and another stated that he noticed a decrease in Of Color Trooper enlistment.

Generally, our team was impressed with the efforts the NJSP had been making to increase diversity recruitment. Most importantly, successful recruiting strategies must continue to be identified and expanded upon. For example, Kaufman Dolowich learned that as part of the revamped electronic application process when new applicants begin filling out their application, they are asked to disclose how they learned about the NJSP opportunity. It is imperative that the NJSP collect this information to identify recruitment strategies that have proved successful and weed out unsuccessful initiatives. However, despite these recruitment efforts, as previously discussed above, the number of female and Of Color recruits remains woefully low and not reflective of New Jersey's population in the 2020 Census as set forth above. Notably, most of the female and Of Color Troopers interviewed did not identify recruitment as a substantive issue, instead they overwhelmingly identified the crux of the problem to be the elevation of diverse individuals into the upper ranks of the Division to ensure that diverse recruits are eventually given the opportunity for promotion to leadership roles.

2. Recruitment Recommendations.

The NJSP has taken proactive measures to recruit people Of Color and women by increasing community engagement, streamlining the recruiting department, and implementing mentorship programs that attract candidates earlier in their youth. In furtherance of their efforts, the NJSP has retained a third-party advertiser to create campaigns that target women and Of Color potential candidates. However, there is no denying that the current race tensions throughout the country creates a unique set of recruitment challenges, especially with people Of Color. Therefore,

it is our recommendation that the NJSP continue to identify which recruitment strategies are proving effective in driving candidates to the application. Similarly, we recommend the NJSP continue to increase their community engagement and target junior and four-year colleges. Based on our research of other police departments and state troopers throughout the nation, the NJSP recruitment department seems to be employing recognized best practices.

B. Hiring.

1. Hiring Analysis & Findings.

During our interviews, some enlisted Troopers expressed their belief that the push for more diversity within NJSP resulted in unqualified applicants being accepted into the Academy. Kaufman Dolowich found that the perception of unqualified candidates being pushed through in order to increase diversity numbers to be unfounded. It appears that this perception stems from incomplete facts, misinformation and tales that circulate among some of the enlisted Troopers.

Throughout the course of our interviews, we repeatedly heard that the image of the NJSP is highly regarded, and other law enforcement organizations look to it for guidance. We also consistently heard that the “State Police prides itself on the stringent process it has laid to become a Trooper, in part because it takes a strong and dedicated individual to earn the uniform.”

The 24-week long training at the Academy rigorously tests the candidates’ mental and physical strength. Although both men and women believe that the Academy instructors are equally tough on everyone, some criticized how it is structured. Troopers with prior military experience, who have undergone basic training within the military expressed that the Academy’s current method of a “breakdown” of an individual’s confidence should be amended to mirror the military’s approach. Specifically, these Troopers noted that the military breaks down soldiers, but then builds

them back up, whereas from their perspective, the Academy breaks recruits down without building their confidence back up.

Although many of the separated Troopers Kaufman Dolowich interviewed graduated from the Academy in the 1980s and 1990s, there were a number of separated Troopers that graduated from the Academy within the relevant timeframe this investigation covers between 2010 and 2020. Of those Troopers, the females stated that the hiring process, up to the Academy, lacked diversity. For example, there were female Troopers who indicated the candidate review board consisted of all White males and one African American female.

While the male-separated Troopers did not highlight any negative experiences during recruitment and the Academy, the female-separated Troopers shared that the Academy was not diverse based on gender and/or race, and felt they were disparately treated as females. Some female Troopers also discussed that they felt they were pepper sprayed excessively during training. It should be noted that a component of the training is being pepper sprayed. One former Trooper recalled female recruits would be required to endure more rigorous training during the Academy in order to prove their toughness. Specifically, a female separated Trooper explained that there was a boxing program, which she thought served no law enforcement purpose “other than to prove you can take a punch.” This person felt that she performed well in several fights and did not get “knocked out.” She was then matched up against a male officer near the top of his weight class. This male Trooper ultimately “knocked her out.” Some Of Color Troopers interviewed also identified the boxing program as problematic. For example, they explained that the candidates would line up in size order when they were being matched up to fight against one another. In one instance, the instructors singled out all the Of Color males in the group. The instructors then paired those individuals with White males that were much larger than the Of Color males. One Trooper explained that he felt this was based on

the perception by the instructors that Black and Hispanic males “know how to fight.” He further explained that one of the Of Color males, who was put up against a much larger White male ended up getting knocked out because he did not know how to fight and was inappropriately paired up with a much larger individual. Notably, this Of Color Trooper did not feel this was blatant racism on the part of the instructors, instead he attributed it to unconscious bias on the part of the White male instructors. The boxing program was discontinued with the start of the 162nd Class, which began on August 2, 2021.

Kaufman Dolowich’s investigation also revealed allegations that some Of Color applicants believed that others were denied acceptance into the Academy because of race. One separated Trooper recalled a specific incident that occurred around 2013 in which she felt that a recruit was denied because he was Pakistani. She explained that this recruit was denied simply because he forgot to submit two pages of his tax return. She added that previously African American recruits from the inner city would similarly be denied for having a simple \$20 bench warrant for a parking ticket. This Trooper felt that White male recruits would never be denied over such minor infractions. However, our investigation was not able to substantiate these allegations.

2. Hiring Recommendations.

The NJSP has a dedicated website for interested applicants which is user-friendly and lays out each phase of the application process and the expectations that must be met to move on to the next step. However, one aspect that could potentially increase the number of applicants is the initial application submission. Currently, no predictable recruiting calendar exists for when the NJSP is accepting applications, which creates uncertainty. More importantly, it places the burden on the applicant to routinely visit the recruiting website to determine if this is the month that he or she can apply.

To increase the number of applicants, Kaufman Dolowich recommends that the NJSP accept applications on a rolling basis as opposed to gathering them only when funding is available. For instance, the Los Angeles Police Department offers monthly entry tests, which results in 600 and 800 applicants a month.⁷⁶ By having a system that frequently accepts applications, it would allow the NJSP to review the applicants on an on-going basis and eliminate those that do not meet the minimum qualifications or do not pass the screening for automatic disqualifiers.

Furthermore, after the initial application screening previously described, the NJSP should be open to conducting the remaining phases of the application process out of order prior to the conditional acceptance to the Academy. Specifically, an applicant should be able to take the physical qualification test and written examination interchangeably. For example, the Lenexa Police Department offers written and physical tests every month, this “keeps a steady flow of potential new hires in the pipeline, without overwhelming the process with large numbers of applications coming in at once.”⁷⁷

C. Promotions.

1. Promotions Analysis and Findings.

a. Promotional Process.

Overall, most of the NJSP enlisted Troopers irrespective of race or gender indicated that the current promotional process (“Promotional OI”⁷⁸) is an improvement over the old system. In general, everyone with whom we spoke has different opinions on which items should receive more points in the ranking system, but the clear standards and transparency within the point system is a

⁷⁶ Morison, Kevin P. 2017. *Hiring for the 21st Century Law Enforcement Officer: Challenges, Opportunities, and Strategies for Success*. Washington, DC: Office of Community Oriented Policing Services. Page 33.

⁷⁷ Id.

⁷⁸ Current Promotional OI whet into effect in 2015.

step in the right direction. Conversely, the more subjective portions of the current promotional process, such as the interview panels and preferred criteria were heavily criticized as the source of manipulation, which many Of Color female Troopers believed created inequitable treatment in promotions. A number of enlisted Troopers criticized the old promotional system and deemed it to be part of the “good ole boys” network. This criticism came from all demographics; however, there were a few enlisted Troopers who preferred that system because “you knew where you were in the line for promotions.”

A majority of the separated Troopers expressed concerns and complained of the promotional process. As stated above, the promotional process significantly changed in 2015, consequently, many of the complaints are based on the “old” promotional process. Under the “old” promotional process, the separated Troopers complained that promotions came down to whether somebody liked you or not, and that superior officers only promoted people they were “comfortable with.” Several separated Troopers described the promotional process as the “good ole boy” network or system, which primarily benefited White males, although several White males separated Troopers equally complained of this “system.” However, a few White male Troopers who rated their experience with the NJSP as positive, felt that Of Color and female Troopers were favored for promotions. One Trooper even described the promotional process as being “about who you know and who you blow.” The overwhelming consensus was that the old promotional process was entirely too subjective.

Many separated and enlisted Troopers stated that it was more difficult to be promoted within field operations. They explained that the administrative branches had fewer Troopers, thus increasing the odds of promotions. Kaufman Dolowich found that this belief is supported by facts. In 2019, only 27% of promotional opportunities within the NJSP were located within field operations or “on the

road.”⁷⁹ Thus, 73% of promotional opportunities were located outside of field operations, making it seemingly easier to receive promotions “off the road.”

Troopers also relayed that many female and Of Color Troopers did not remain in Field Operations as long as White males, because of the lack of promotional opportunities. The data supports the fact that female and Of Color Troopers spend less time “on the road” by as much as 3 years on average.

Of the separated Troopers that left after the new promotional system was implemented, they indicated that the new point system was a step in the right direction, given how it has made the system more objective, and merit-based. However, they stated that the new system may still be inequitable to some senior Troopers who might have the experience and merit but lack a degree.

Within the current Promotional OI, enlisted Troopers are grouped into various tiers in relation to the points they have obtained through the promotional process. If an enlisted member achieves Tier 1, they must be chosen before an enlisted member from Tier 2 may be chosen. However, wherever you rank within a particular Tier does not matter for purposes of being promoted. For example, if there are three enlisted members in Tier 1, the person with the most points does not necessarily receive a promotion. Any Trooper ranked within Tier 1 can be chosen to receive the promotion. During our interviews, most enlisted members did not take issue when the highest ranked person within Tier 1 received the promotion. The frustration and confusion among those interviewed came when the person who ranked number three was chosen over someone who ranked number one within the Tier. In addition, there appeared to be a lot of inconsistency, misinformation, and lack of information on why someone who ranked lower within

⁷⁹ NJSP: Promotional Opportunity Location 2019, pg. 27.

a Tier received a promotion over the highest-ranking person. In some instances, members felt that the justifications given for being “passed over” were pretextual and unrelated to the position's job description. Indeed, it was made clear over the course of our interviews that more than anything, the Troopers crave for a promotional process with clear objective criteria that allows them to know how they compare to others, when they can expect to get promoted and what they can do to elevate their chances to be promoted.

It should be noted that this sentiment was not across all branches of the State Police. In fact, certain command staff members were consistently held in high esteem by their subordinates for the way they took ownership of the promotions within their branch and spoke directly to those who were not promoted for a particular position. The Troopers explained that these command staff members ensured that their subordinates understood what was missing from their resume, why they did not receive the promotion and made sure to set specific goals for them to achieve prior to the next promotional opportunity. Kaufman Dolowich recommends that all command staff members adopt this approach with their respective subordinates.

Furthermore, enlisted members overwhelmingly felt that they were unable to voice their objections or question their lack of promotion even when they believed it was based on discrimination for fear of reprisal. This was especially true for many Of Color and female enlisted members although the fear of reprisal from command staff was also cited as a source of concern by White male enlisted members.

The lack of information or clear justifications for why a higher ranked person within the Tier was not chosen for a promotion is one of the main factors that fosters a belief, whether true or untrue, that promotions are made in a discriminatory fashion. In addition, due in part to the number of branches, sections, bureaus and units, enlisted members within some of the more

specialized fields felt significant animus when someone from a different area without the subject-matter expertise is “parachuted” into a spot even if that person has the requisite points associated with the promotional OI for that particular position. This is especially true when a person within that specialized field must then train that promoted person, who is now a higher rank than them.

For these specialized areas, many enlisted members believe that the preferred criteria should be weighted more heavily. They also believe that subject matter expertise should be considered more heavily for those positions. However, those same enlisted members do agree that for the higher ranked leadership positions that better leadership and supervisor qualities are more critical than subject matter expertise if that person trusts his or her team who have the expertise within their bureaus and/or units.

Another significant point of disdain for the promotional OI is the interview process. At a minimum, most enlisted members interviewed believe the interview panel process for the ranks of Captain and below should be revamped. First, the style of interviewing and questions are a source of frustration for the interviewees and interviewers alike. They believe that the questions posed at the interviews are overbroad and are not specific to the position being sought. For instance, if someone is applying for a position in the bomb unit, an interview question on how they overcame a challenge at work does not relate to the skill sets required for this unit.

Similarly, the interview and selection process for the Major and Lieutenant Colonel positions require additional, if not more, transparency than the lower-rank positions. Promotion to the ranks of Major and Lieutenant Colonel are not subjected to the Promotional OI process. The promotional process for the ranks of Major and Lieutenant Colonel is different from the lower ranks, because of those unique positions within the organization. There is a formalized process during which the five LTCs and an attorney from OAG review resumes, statements of

qualifications, discuss the vacancy and the qualifications necessary for the role to determine who the panel will interview. Candidates are then interviewed by the panel and successful candidates are forwarded to the Colonel, Deputy Superintendent, AG and First Assistant AG to be interviewed. Overall, most enlisted members felt that the interview process is ineffective and can be easily manipulated. Across all demographics, enlisted members felt the most frustration and distrust of the interview panel process. The most repeated suggestion was that the interview panel should include an individual from an outside agency, similar to those conducted by the Maryland State Police, New York State Police, and Delaware State Police among others. In fact, our team was advised that a number of the NJSP enlisted members participate in the promotional interview panels for other out of state agencies throughout the year. We were also informed that there is already the ability for these agencies to reciprocate this practice for the NJSP, but it has never been utilized. The members who previously had the opportunity to be involved in these other outside agency interview panels, by and large, believed them to be a process that should be adopted by the NJSP. This viewpoint was largely consistent across gender, race and rank.

i. Recommendations.

Selection Justification – All Ranks below Major

As previously discussed, the promotional process has been revised several times over the course of the last 20 years. The most recent Promotional OI version was created with the intent to be more transparent, inclusive, and provide an objective point system. However, our investigation revealed some areas that should be revised.

Specifically, Troopers who place within a Tier are equally eligible to be selected for that promotion. For example, if Trooper A had 88 points and Trooper B had 84 points, the selecting commander is given latitude to choose Trooper B for the promotion even though he/she has less

points. Although a Promotional Recommendation Justification form, S.P. 595, must be submitted to support why this person was chosen for the position, there is no requirement that the justification explain why the person with a higher total score was not chosen. This leaves the Trooper who had the highest points but was not chosen, confused and frustrated.

Kaufman Dolowich recommends that the selecting commander should include why any of the other candidates with higher accumulated points in the Tier were not selected, what experience, skill, knowledge/expertise they did not possess (that is particular for the job position) that the recommended Trooper possessed. This could help provide greater transparency and ensure that recommendations are grounded on fair and justified reasons and could be easily implemented through a form similar to the current S.P. 595 form. In addition, we recommend that the Troopers who were not chosen within the same Tier receive a feedback form that provides them with information on where they can improve and what goals they should achieve in order to secure a promotion.

b. C20 Physical Fitness Program.

During the course of our interviews, the C20 Physical Fitness Program (“C20”) was identified as an obstacle to the promotions of female Troopers. Namely, if a person is non-compliant with C20 they are automatically disqualified from seeking a promotion. There is no accommodation for female Troopers who recently returned from giving birth and are seeking a promotion, if a new fitness testing cycle has begun.

The C20 was established in accordance with Article V., Section 3, of the New Jersey State Police Rules and Regulations, which states: “A member shall keep physically fit and be subject to

duty at all times.”⁸⁰ This policy was implemented in light of the members’ individual and organizational responsibility to stay physically fit because the Troopers’ “duties are physically demanding and serious in consequence.” Thus, Troopers have a responsibility to develop and maintain habits and lifestyles which are suited to the rigors of police work.

All members on Full Duty Status must participate in the Division’s physical fitness test. Before participating, all members must sign an acknowledgement stating there are no known medical or other conditions preventing them from being tested. The Program consists of five main components: a one and a half mile run to be completed within thirteen minutes; 32 push-ups to be completed within two minutes; 34 sit-ups to be completed within two minutes; a flexibility assessment; and a body weight/composition assessment, which requires that male Troopers maintain a BMI of 20% and that female Troopers maintain 26% BMI. The running component permits two alternative options for those individuals who are unable to participate due to their recovery from an illness or injury, but do not include pregnant or recently postpartum female Troopers. The remaining components have no alternatives and must be completed in the appropriate form.

The physical fitness retests are scheduled for members who have failed testing previously or were unable to participate in the scheduled testing. The retesting is conducted at three-month intervals after the regularly scheduled physical test.

The NJSP does provide an exception for active-duty Troopers. Those Troopers remain C20 compliant for the duration of their leave. A Trooper returning from leave who was compliant prior to going out retains his or her C20 compliant status for the duration of the fitness testing cycle.

⁸⁰ New Jersey State Police Standing Operating Procedure: Physical Fitness Program. Please note that any information contained in this section titled “I. C20 Physical Fitness Program Overview,” is derived from the New Jersey Standing Operating Procedure.

However, if a new fitness testing cycle starts after returning, even if it starts immediately thereafter, there is no exception to requalifying for a woman returning from giving birth. Therefore, she would not be eligible to apply for promotions.

Troopers who do not satisfactorily complete any portion of the fitness test may be subject to discipline. Those Troopers who do not complete or who fail the test are not eligible for promotions and the Superintendent may refuse them for re-enlistment. They are also not eligible to participate in the specialist selection process for an assignment or to apply for specialized schooling. However, Troopers who do not complete any portion of the testing due to temporary medical leave are not automatically excluded from promotion, but the Superintendent determines their eligibility on a case-by-case basis. It was also brought to our attention that male and female enlisted active-duty military receive an accommodation to ensure that they do not become non-compliant when they are on military leave, which appears to make clear that an accommodation can be made under certain leave circumstances.

As only women get pregnant and give birth, this non-compliant status has and continues to have an inequitable effect on female enlisted officers. The most shocking of this disparate treatment was that most of the women interviewed did not feel particularly aggrieved by this inequity. In addition, even under the harshest circumstances, they did not want to be seen as lesser than their male counterparts and would complete the C20 requirements, in some cases, almost immediately following their medical clearance without regard for how close after giving birth they were being forced to complete this physical test without any accommodation.

i. Recommendations.

A pregnant or postpartum Trooper should not be required to take the physical fitness exam within the year that she is pregnant in order to be classified as C20 compliant. Pregnant Troopers

should be extended as an exception similar to that extended to active-duty Troopers. In the case of a pregnant Trooper, her previous year of compliancy should be extended until she has been cleared by her personal doctor and the Physician Division to take the physical exam. A rigid timeline for completion of C20 should not be required of a female Trooper returning back to work after giving birth because the span of time it takes a body to recover is different for every female depending on a myriad of circumstances.

It should also be noted in the amendment of the C20 Policy that Troopers who are pregnant or postpartum will not be subjected to the requirement of appearing at the testing site, filling out the NJSP Physical Testing Non-Participation Acknowledgement Form, or having their height and weight measured. It would clearly be unfair to ask a woman who has just given birth to a human being to document their weight and body fat analysis.

c. Detachments.

Several Troopers interviewed explained that time spent in detachments do not receive credit within the Promotional OI. A detachment is an assignment that separates a Trooper from his or her unit, such as performing undercover work. This lack of credit has a negative effect on Troopers who are frequently detached to other sections. Detachments to other units hurts the length of time in bureau criteria across gender and racial lines. However, it was noteworthy that most of the members we interviewed who were detached, specifically for undercover operations, recruiting efforts and Academy-related work, were in most instances people Of Color and women. This was especially poignant in the undercover assignments. Thus, the lack of credit for detachments had a direct inequitable effect on the promotional capabilities of women and Of Color Troopers throughout the Division. As of August 14, 2023, the O.I.s for “Promotional Process for

SGT/DESG and SFC/DSFC” and “Promotional Process for Lieutenant and captain” have added a section that gives credit for time accrued in the detachment.⁸¹

d. Confidential Positions.

Kaufman Dolowich reviewed documentation the NJSP provided as well as O.I. 20-24 and 20-25 and found that of the many confidential positions 21 reside within the Colonel’s Office, Branch Office, and Office of Labor Relations. Confidential positions are exempt from the promotional process. Notwithstanding their exemption from the promotional process, selected individuals must undergo a meaningful review, including an OPS, EEO, and C20 compliance check.

During our interviews, the topic of confidential positions proved controversial. When asked, some Troopers had never heard of confidential positions or had a misunderstanding of what positions were considered confidential. Furthermore, of the Troopers who knew about the positions, a large number expressed disdain for them. Many of the Troopers felt that these positions were used to bypass the promotional process and that the individuals placed in these positions were not the most qualified. In addition, Troopers interviewed explained they felt that certain members are chosen for confidential positions based on favoritism, or nepotism, which in turn leads the selected Troopers to gain promotions without being subjected to the tiering system of the OI process.

Moreover, Lieutenant Colonels and other ranking officers within the Branch Commanders’ Offices, the Office of the Superintendent, and Office of the Deputy Superintendent may also make a written request for an exemption from the OI process for promotional vacancies to the

⁸¹ Section V(E)(5)(g) and Section VI(E)(5)(g), respectively.

Colonel. The Colonel's decision to issue an exemption is subject to meaningful review and approval by the Office of the Attorney General.⁸²

Kaufman Dolowich's investigation revealed that the Troopers placed in confidential positions indeed were not required to submit to the promotional process. However, Kaufman Dolowich also found that there were numerous valid reasons for the existence of some of these positions. For example, a number of these positions require trust between individuals as well as compatibility between the individuals and their supervisors. For example, Troopers in the Executive Protection Unit must interact with the Governor and Lieutenant Governor numerous hours a day. These interactions require trust and a positive relationship between these individuals.

Troopers who currently serve or have served in confidential positions provided an alternative perspective that sheds light on the constrictive nature that confidential positions impose on promotions. They explained that once they are placed in a confidential position, the only way to go up the ranks is through other confidential positions because their time in confidential positions had not previously been credited to them in the promotional process. This has a negative effect on their point calculations and therefore they normally did not achieve the top tier.

i. Recommendations.

In order to rectify the negative effect on Troopers within confidential positions, they must receive credit for time in confidential positions within the promotional criteria process, specifically related to their "time spent in assignment" credit. We recommend that the Office of the Attorney General review all the confidential positions to determine if there is a valid basis for them to be designated confidential and outside of the promotional criteria process.

⁸² N.J.S.A. 53:1-5.2.

e. Internal Affairs and EEO Complaints.

During our interviews, many Troopers identified Internal Affairs (“IA”) and Equal Employment Opportunity (“EEO”) pending Complaints as a source of great frustration, especially as they relate to promotions. Numerous Troopers coined the phrase “Weaponization of Internal Affairs and EEO.” They also explained that this “tactic” was well-known within the Division. In fact, one Trooper who previously worked for the Office of Professional Standard (“OPS”) explained that when it was well-known that a promotion was coming up internal affairs complaints suddenly increased exponentially. Kaufman Dolowich found this “weaponization” tactic extremely troubling, namely because as previously discussed above, any open misconduct case will automatically disqualify a Trooper from the promotional process. Interestingly, our investigation uncovered that there is a safeguard to ensure that only sustainable complaints will block a Trooper’s promotion. Some higher-ranked Troopers as well as those formally assigned to OPS explained that on many occasions, OPS will be contacted with regard to a Trooper trying to get promoted in order to determine the seriousness of the allegations and whether they will likely be substantiated. However, our interviews found that this practice was not known to most of the Troopers and that on various occasions Troopers were explicitly told they could not be promoted because they were involved in an internal affairs complaint even if they were not the subject of the complaint. The Troopers interviewed had the same concern with regard to the Division of Equal Employment Opportunity/Affirmative Action (“EEO/AA”) complaints. By and large, the biggest complaint related to OPS and EEO/AA complaints as they relate to promotions was the length of time it takes for the complaints to be finalized, which effectively denies the Troopers consideration for promotions during that time period. While some Troopers complained that resolving internal

affairs complaints was a lengthy process, many Troopers complained that the EEO process was excessively long.

i. Recommendations.

Primarily, whether open IA and/or EEO/AA complaints negatively impact and prevent promotions must be clarified and openly communicated in Operating Instructions to enlisted Troopers. Kaufman Dolowich received conflicting information; namely, that some Troopers were not promoted for open complaints that were eventually unsubstantiated, while other Troopers were promoted despite open complaints against them.

Additionally, where IA and/or EEO/AA complaints are considered for promotions, both the IA and the EEO/AA Departments must ensure that the complaints are resolved within the time prescribed in the Operating Instructions, so as not to impede promotions. Otherwise, outstanding complaints can cause Troopers to be passed over for promotions where the complaints were ultimately unsubstantiated. However, the backlog of cases shows that EEO/AA needs substantially more investigators.

2. Promotions Recommendations.

For ease of reference all promotional recommendations were included in each relevant subsection above.

D. Retention.

1. Retention Analysis and Findings.

Overall, retention was not identified as a problem for the NJSP enlisted Troopers interviewed across all demographics and ranks. Generally, our interviews revealed that once a recruit completes the Academy, they stay at the NJSP until they are eligible for retirement or are forced to retire due to their age.

The majority of separated Troopers retired once they were fully vested or after. There were a few Troopers that left prior to 25 years of employment for various reasons. Of those Troopers, some resigned for more lucrative positions with local police departments because of salary freezes within the NJSP. One separated Trooper was not reenlisted.

However, some separated Troopers reported it was their belief that the poor promotional practices and disparate treatment is what likely led to a perceived increase in the number of female and Of Color Troopers who left before retirement and were simply tired of fighting for promotions or equal treatment around the workplace. Notably, while Kaufman Dolowich found that many Troopers stayed until they reached full retirement, some Troopers indicated that they would have stayed longer were it not for what they perceived to be “disparate treatment.” Kaufman Dolowich's investigation did not uncover a problem with retention for any specific group due to promotional issues, alleged discrimination, and/or disparate treatment while remaining employed with the Division.

2. Retention Recommendations.

As stated above, Kaufman Dolowich's investigation did not uncover a problem with retention for any specific group due to promotional issues, alleged discrimination, and/or disparate treatment while employed with the Division. Therefore, we do not have any retention recommendations.

E. DISCRIMINATION AND RETALIATION.

1. Discrimination and Retaliation Analysis & Findings.

During Kaufman Dolowich's investigation, many Troopers recounted feelings like they are plagued with discrimination and retaliation in the workplace. Kaufman Dolowich listened to dozens of the 150 Troopers interviewed who described their experiences through anger, tears and distress. These stories include individually experienced and witnessed discrimination and retaliation, as well as some systemic processes that disparately impact protected categories of Troopers. Many of these instances relating to promotions are outlined earlier in this report. For practical reasons, this report does not include each individual complaint; rather, Kaufman Dolowich includes the most frequently complained issues below.

a. Medical Leave Policy.

During the interviews, the Troopers explained that the NJSP did not have a maternity leave policy. On November 10, 2021, and July 24, 2023, a Pregnancy section was added to S.O.P. C33, which is addressed separately, below. At the time of the interviews, female Troopers were provided with unlimited sick leave during pregnancy and after the birth of a child. Many Troopers also explained that they were unclear of the policy and processes related to pregnancy such as light duty while pregnant and returning to work postpartum. At first glance, an unlimited sick leave policy appeared generous, as it allows female Troopers the option to stay at home at their discretion without a time limit. However, Kaufman Dolowich's investigation determined that the medical leave policy had, and still has, significant flaws and disproportionately impacts female Troopers.

Kaufman Dolowich reviewed the unlimited sick leave policy as part of its investigation. The policy established procedures for reporting, treatment, and evaluation of the medical conditions of enlisted Troopers. Based on the policy, pregnant Troopers would be detached to

Administrative Absence. Administrative Absence is when: (1) any member is on temporary off-duty status for thirty (30) days or more; (2) the medical documentation suggests that the member will be on temporary off-duty status for thirty (30) days or more; or (3) the member is authorized to take thirty (30) days or more under the Family Leave Act. The detachment ends when the member returns to full or temporary limited duty status or returns from Family Leave. Members who detach are required to comply with certain procedures. They must surrender their troop transportation and other specified equipment, submit updated medical information, and be evaluated by a Division physician on a continuing basis. The supervisor of a member on Administrative Absence must collect and secure all issued equipment within five working days, complete an Annual Inventory Inspection Report, and advise their respective troop or section administrative officer of the equipment inventory.

Pursuant to that policy, all Troopers, including female Troopers on pregnancy-related leave, are required to stay at home or at their place of recovery during the hours of 9:00 A.M. through 5:00 P.M. unless they have received prior authorization. “Integrity checks” are conducted by the Compliance Unit to ensure all members properly remain at home or place of recovery during those hours. They must also remain by telephone unless authorized otherwise. The members’ requests cannot be denied for scheduled medical appointments, trips to purchase food or medicine, church attendance, voting, exercise, answering court subpoenas, or duty-related obligations. The member must notify supervisors of their departure and return to the residence or place of recovery. If a member fails to comply with the provisions of the policy, the Superintendent may place them on leave without pay status or they may be referred to the Office of Professional Standards for review.

Throughout our interviews, Kaufman Dolowich heard of instances where female Troopers were being called during OBGYN appointments, or received an integrity check while they were breastfeeding, or trying to put the baby to sleep. Although Kaufman Dolowich does not dispute that integrity checks are a valid mechanism to deter sick policy abuse, an exception for Troopers who have just given birth is not overly burdensome. The time after giving birth to a baby is unique and should be treated as such. Requiring postpartum female Troopers to adhere to these strict requirements to call every time they need to leave their home seems counterintuitive, oppressive, and unnecessary as they are obviously not misusing the sick leave policy.

i. Current Revisions.

The November 10, 2021, S.O.P. C33, Medical Policy and Procedures, which replaces the September 22, 2017, S.O.P. C33 “Medical Policy and Procedures,” added a brief pregnancy section. In that section, a female Trooper is entitled to eight (8) weeks of continuous recovery leave after giving birth, with full pay and benefits. The recovery leave is not considered sick leave, nor is the leave time deducted from sick leave balances. During this recovery time, the female Trooper is not subject to residence restrictions. Sick leave is to be utilized for any other pregnancy-related conditions.

On July 24, 2023, the November 10, 2021, S.O.P. C33 was again revised, including the pregnancy section. It is unclear if this new version of the S.O.P. C33 augments the previous version or replaces it in its entirety. At the beginning of the July 24, 2023, document, it states that “the following revisions have been incorporated” but below that it states to “[r]emove and destroy S.O.P. C33 “Medical and Sick Leave Policy, dated November 10, 2021, and replace with S.O.P. C33 “Medical and Sick Leave Policy, dated July 24, 2023.” Thus, it is unclear if the eight (8) week recovery provision is still in effect.

The July 24, 2023, S.O.P. C33 “Medical and Sick Leave Policy” requires that the pregnant Trooper who is out three or more consecutive workdays report to a Division Physician for a duty status evaluation before returning to work, as with all illnesses. Provisions are made for bathroom breaks and periodic rest, assistance with manual labor, job restructuring and modified work schedules, and temporary transfers for less strenuous work; firearm accommodations; duty accommodations; and uniform accommodations. There is also a provision for lactation breaks, “unless the Division demonstrates the accommodation would impose an undue hardship.” Bereavement leave is made available for pregnancy loss.

ii. Recommendations.

In light of this issue, Kaufman Dolowich recommends that the NJSP clarify whether the November 10, 2021, S.O.P. C33 provisions, including the entitlement of eight (8) weeks of continuous recovery leave after giving birth, with full pay and benefits, without the recovery leave being considered sick leave, or having the leave time deducted from sick leave balances, are considered incorporated and are in addition to the July 24, 2023, S.O.P. C33 for postpartum female Troopers. Moreover, the NJSP should confirm that the stay-at-home requirement and integrity checks by the Compliance Unit are not required for a pregnant or postpartum Trooper. All remaining requirements to submit medical records and gain clearance from the Division Physician can remain the same. Further, we recommend that an information packet be made available on the intranet to all Troopers related to pregnancy policies and procedures. The packet should include applicable policies and forms that must be completed before and after a return from medical leave. It should also provide information for frequently asked questions, such as when to take light duty, where to breast pump and who to contact within the Division or Human Resources to answer inquiries regarding pregnancy.

b. Detachments and Transfers/Good Old Boys Network.

One of the most widespread issues that was raised by an overwhelming majority across all demographics is the exploitation of the transfer and detachment methods. Throughout the course of our interviews, Troopers shared their experiences of how they were temporarily detached or transferred to another unit as a source of retaliation or to make space for another enlisted member to take their place so that person could be viable for an upcoming promotion. Other times, people were transferred or detached simply because their commanding supervisor or another member above the chain of command did not like him or her. This practice is widely known, and we understand that it is conducted openly without any repercussions to any ranking members including Majors.

According to the NJSP, the Personnel Transfer System serves as the NJSP's method of human resource management of personnel issues and systems utilized by the Division.⁸³ All members are subject to transfers as necessary for the "best interests" of the NJSP, or members may request a transfer to a location other than that to which they are assigned. Thus, transfers can be either member-initiated or section/troop/bureau-initiated. Regardless of the method, all transfers must be conducted in accordance with the procedures contained in the applicable Trooper collective bargaining agreements. All transfers are finalized only upon the approval of the Superintendent.

Many Troopers explained that this practice fails to consider if the Trooper being transferred has the subject matter expertise or knowledge to fulfill the requirements of the position. Aside from administrative work, there are vast arrays of positions that require experience in a specialized

⁸³ New Jersey State Police Standing Operating Procedure: Personnel Transfer System.

field that a transferee may not possess. Moreover, a number of Troopers explained that this practice creates low morale for the individual being transferred and for the members who are working within the unit/bureau who must adjust to a new member coming in, especially when it is a commanding officer. The Troopers also indicated that many times the person who is transferred or detached is not provided with a reason for the change in position or identity of the decision maker and are only told it is for “operational needs.”

i. Recommendations.

Based on the interviews, the practice of detachments and transfers in some instances has become a weapon of retaliation and punishment. Therefore, we propose that any requests for detachments not Trooper initiated, should require a form similar to the transfer form. The requestor must provide specific justification for the detachment and the basis for selecting the particular Trooper. The form should be reviewed and approved by the requestor’s commanding officer. The commanding officer should ensure that the justifications are valid and consider how far the Trooper will be required to travel, and its effect on the Trooper’s possible subsequent promotions. Revisions to the transfer process should be undertaken by the NJSP in collaboration with OAG.

c. Pool Locker Room Matter.

The majority of the female Troopers interviewed complained about the unequal treatment they are forced to sustain by not having access to a women’s locker room in Building 12. The pool is in Building 12 at State Police Headquarters. Building 12, which houses the pool and a gym, was erected in 1930 and only contains one large male locker room located by the pool. The female locker room is in Building 6 which is separated from Building 12 by a parking lot. There’s no field or grass just a black topped parking lot. This means that female Troopers must traipse across the parking lot after getting out of the pool. Many female Troopers explained that they wrap themselves in a towel

and walk back and forth at times across the parking lot after swimming to use the bathroom in the women's locker room. This slight is exacerbated in bad weather. Just recently in 2024, we learned that the State Police has finally decided to renovate the very large male locker room and make it into two changing rooms, namely, male and female, and both containing showers. The current men's bathroom will be renovated as well but will now be designated a gender-neutral bathroom. State Police has secured funding for the pool locker room project, but funding cannot be approved until there is an estimate from the contractor. Unfortunately, there is currently no timeline for the renovations. Female Troopers reported that they have complained about this awful situation for decades and their complaints have fallen on deaf ears. A number of these female Trooper's are hopeful that this Report will encourage the State Police to "do the right thing," and expedite this long overdue renovation.

d. Troops.

The Operations Branch controls only one, all-encompassing section, the Field Operations Section.⁸⁴ That one section is further divided into multiple subgroups, with the next layer of hierarchy being two major offices, including the Traffic and Public Safety Office and CIO/SIU Office, plus four "troops," divided into Troop A, Troop B, Troop C, and Troop D.⁸⁵ There are an additional two standalone offices that fall directly under the control of the Field Operations Section, namely, the Office of Division Operations and the Risk Management Office.⁸⁶ Each Troop also operates their own standalone offices, including a CIO office, Risk Management Office, and at least one TAC office.⁸⁷

⁸⁴ Organization Chart, *supra*; *Operations Branch*, NEW JERSEY STATE POLICE, <https://www.njsp.org/division/operations/index.shtml> (last visited November 23, 2020).

⁸⁵ *Id.*

⁸⁶ Organization Chart, *supra*.

⁸⁷ *Id.*



Troop Area Responsibilities

i. Troop A.

Troop A is responsible for the southern-most geographical portion of the State, spanning from the Delaware River to the Atlantic Ocean, and a population of over 1.7 million people.⁸⁸ Its headquarters is located in Buena Vista Township, and consists of eight underlying stations.⁸⁹

Troop A consists of three regions, Region 1, Region 2, and Region 3.⁹⁰ Region 1 includes the Bellmawr Station, the Metro South Station, and the Woodstown Station.⁹¹ The Bellmawr Station is responsible for thirty-five miles on I-295, I-76, I-676, SH #42 to the Atlantic City Expressway, and twenty miles of SH #55.⁹² The Metro South Station is located in Camden and partners with the Strategic Investigations Unit and local law enforcement to police its area.⁹³

⁸⁸ *Troop A Road Stations*, NEW JERSEY STATE POLICE, <https://www.njsp.org/division/operations/troop-a.shtml> (last visited November 23, 2020).

⁸⁹ *Id.*

⁹⁰ *Organization Chart, supra; Troop A Road Stations, supra.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

Likewise, the Woodstown Station, located in Pilesgrove, is responsible for multiple municipalities in several counties, and works in conjunction with established municipal departments in its designated area, with the added responsibility of the lower fifteen miles of I-295.⁹⁴

Region 2 consists of the Strategic Investigation Unit, Buena Vista Station, and Woodbine Station.⁹⁵ The Strategic Investigations Unit, also located in Camden, works with the Metro South station and other state agencies, community groups, political leaders, and the private sector to address quality of life and crime issues identified by the citizens of the area and its police department.⁹⁶ The Buena Vista Station in Williamstown and Woodbine Station monitor multiple municipalities in their geographical area.⁹⁷

Region 3 consists of the Atlantic City International Airport Unit, Atlantic City Expressway Station, Bridgeton Station, and Port Norris Station.⁹⁸ The Atlantic City International Airport Unit provides security for the Atlantic City airport, and the Atlantic City Expressway Station is responsible for all police functions on the forty-four-mile toll road.⁹⁹ The Bridgeton and Port Norris Stations are responsible for the municipalities in their geographic areas, with the Port Norris Station having the added responsibility of the lower twenty miles of SH #55.¹⁰⁰

Largely, our interviews revealed that many females and Of Color Troopers reported experiencing discrimination and a hostile work environment while assigned to Troop A. Many Troopers stated that while they did not experience overt hostility and bigotry, the underlying implicit bias created a chilling and isolating effect on female and Of Color Troopers. Those female

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

and Of Color Troopers that did experience explicit discrimination, recalled egregious and disturbing events. A couple of troubling examples include someone removing a Trooper's clothing and/or towel or both while they were in the shower, or purposefully responding slowly to the field when called on for assistance. The NJSP should immediately implement an anti-hazing policy based on best practices.

Some Troopers attribute the covert prejudice to Troop A's location in southern New Jersey. It has been compared to the "South" during the Civil Rights Era.

Nonetheless, Troopers across all demographics explained these experiences as a way of hazing that typically occurs in Troop A. However, our interviews clearly showed that the hazing experience was significantly different for female and Of Color Troopers.

The Of Color and female Troopers described dealing with the environment in various ways. While many female Troopers self-selected out of Troop A, many of the Of Color male Troopers directly confronted the offending Troopers. These Troopers explained that they refrained from complaining about fear of reprisals as described in this report.

ii. Troop B.

A second troop operating under the Field Operations Section, Operations Branch, is Troop B, which is headquartered in Totowa and serves the northern-most geographical portion of the State, as well as a population of about five million people.¹⁰¹ The Troop consists of nine stations, covering ten counties in northern New Jersey.¹⁰²

¹⁰¹ *Troop B Road Stations*, NEW JERSEY STATE POLICE, <https://www.njsp.org/division/operations/troop-b.shtml> (last visited November 23, 2020).

¹⁰² *Id.*

Troop B consists of four regions: Region 1, Region 2, Region 3, and Region 4.¹⁰³ Region 1 includes only the Totowa Sub-Station.¹⁰⁴ Region 2 consists of the Hope Station, Netcong Station, Sussex Station in Augusta, and Strategic Investigation North Unit in Irvington.¹⁰⁵ Region 3 is responsible for the Perryville Station in West Hampton, Somerville Station in Bridgewater, and Washington Station in Port Murray.¹⁰⁶ Region 4 oversees only the Meadowlands Station.¹⁰⁷ The Troop also includes a Criminal Investigations Office and four Tactical Patrol Units.¹⁰⁸

Troop B provides full police coverage to twenty-nine (29) municipalities, part-time coverage to six municipalities, and the patrolling of 218 miles of five interstate highways that traverse North Jersey, as well as State Highway 24.¹⁰⁹ The troop personnel also assist law enforcement agencies with various tasks, including crisis/hostage negotiations, VIP and high-profile prisoner escorts and protection, and tactical entries into fortified structures for the purpose of executing felony arrest and search warrants.¹¹⁰ They conduct crowd and traffic control at major events at the Meadowlands Sports Complex and work closely with the United States Secret Service to coordinate dignitary protection.¹¹¹ Troop B participates in community policing, including attendance at municipal government meetings, DARE graduations, and community events like youth athletic activities, high schools award ceremonies, and senior citizen meetings taking place in its covered areas.¹¹²

¹⁰³ Organization Chart, *supra*; *Troop B Road Stations, supra*.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Troop B Road Stations, supra*.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

iii. Troop C.

Troop C serves the central jurisdictional portion of the State and is headquartered in Hamilton Township.¹¹³ Its coverage spans from the Delaware River to the Atlantic Ocean.¹¹⁴ The southern border extends to portions of Burlington and Ocean County, while the northern border is Middlesex County.¹¹⁵ Troop C is accountable for twenty (20) municipalities in seven counties in central New Jersey, along with Fort Monmouth and a population of 3.4 million citizens.¹¹⁶ It consists of five road stations along with offices at the New Jersey State Capitol Complex.¹¹⁷ Troop C patrols five State Highways and 430 miles of three major interstate highways with five bridge crossings.¹¹⁸

There are three Regions under the control of Troop C, including Region 1, Region 2, and Region 3.¹¹⁹ Region 1 oversees only the Strategic Investigations Central Unit.¹²⁰ Region 2 is responsible for Kingwood Station in Frenchtown, as well as the Office of State Government Security, the Presiding Officers Security Detail, Security Operations Unit, State House Complex Security Unit, and the R.J. Hughes Complex Security Unit.¹²¹ Region 3 consists of Bordentown Station, Hamilton Sub-Station, Red Lion Station in South Hampton, and Tuckerton Station in West Creek.¹²²

¹¹³ *Troop C Road Stations*, NEW JERSEY STATE POLICE, <https://www.njsp.org/division/operations/troop-c.shtml> (last visited November 23, 2020).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ Organization Chart, *supra*; *Troop C Road Stations*, *supra*.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

The Office of State Governmental Security under Region 2 works in conjunction with the Presiding Officers Security Detail, Security Operations Unit, State House Complex Security Unit, and R.J. Hughes Justice Complex Security Unit to formulate a layered security approach to combine training, policy, procedures, and physical countermeasures to reduce vulnerabilities associated with street crimes and terrorism.¹²³ They provide security and protection to visitors, employees, and property within the State Capitol Complex, in a professional, unbiased, and courteous manner and are responsible for patrolling and protecting State grounds and properties.¹²⁴

Troop C personnel also provide crowd control and traffic assistance to the College of New Jersey and Rutgers University Police Departments during sporting events.¹²⁵ They employ detectives who handle criminal investigations and assist other agencies in central New Jersey, as well as all major criminal investigations which occur at the two mental health facilities in Mercer and Burlington Counties.¹²⁶ Great Adventure Six Flags Amusement Park in Jackson is also within the scope of Troop C, as well as thirteen State Parks, the New Jersey State Police Training Academy, and New Jersey National Guard Training Center.¹²⁷

iv. Troop D.

Lastly, Troop D controls virtually all traffic highways between the great seaports of New York and Philadelphia.¹²⁸ Its headquarters are located in Cranbury and is comprised of two regions: the Parkway Region and the Turnpike Region, each with their own support structure.¹²⁹

¹²³ *Troop C Road Stations, supra.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Troop D Road Stations*, NEW JERSEY STATE POLICE, <https://www.njsp.org/division/operations/troop-d.shtml> (last visited November 23, 2020).

¹²⁹ Organization Chart, *supra*; *Troop C Road Stations, supra.*

The Parkway Region is responsible for the Garden State Parkway which extends 173 miles from the southern tip of the State to the New York Thruway.¹³⁰ It is also responsible for the events at the PNC Bank Arts Center in Holmdel.¹³¹ The Parkway Region oversees three stations, including the Bloomfield, Galloway, and Holmdel Stations, all supplemented by Tactical Patrol Units, which are assigned to high accident areas to reduce motor vehicle crashes, enhance police presence, and increase traffic safety and enforcement.¹³² The Turnpike Region similarly oversees 148 miles of the nation's busiest, limited access non-stop toll road.¹³³ It also consists of three stations, including Cranbury Station, Moorestown State in Mount Laurel, and Newark Station, all supplemented with their own Tactical Patrol Units.¹³⁴ Both regions are responsible for the inspection and enforcement of all commercial vehicles, the oversight of contractors making improvements on both roads, and the prevention of crime in the Parkway and Turnpike service areas or commuter lots.

1. Recommendations.

During Kaufman Dolowich's investigation, numerous NJSP Troopers recounted feelings of being plagued with discrimination and retaliation in the workplace. Kaufman Dolowich listened to many Troopers recount their experiences through anger, tears, and distress. These allegations included individually experienced and witnessed events of discrimination. Although issues related to Troop A were the most reiterated and most egregious, based on the interviews, many females and Of Color Troopers believe these issues permeate throughout the Division.

¹³⁰ *Troop D Road Stations, supra.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

We understand that the NJSP participated in a couple of mandatory third-party administrated implicit bias training. Specifically, in 2019, the Department of Law and Public Safety (“LPS”) provided mandatory implicit bias awareness training to the sworn police personnel of the NJSP. Based on the LPS Office of Diversity, Equity, and Inclusion’s recommendations, which included a working group comprised of both civilian and police personnel, LPS engaged Fair and Impartial Policing LLC (“FIP”) to provide this training. FIP was engaged to provide (a) direct, FIP instructor-led training, and (b) training of the NJSP instructional staff, via their 2-day “Training of Trainers” course (“TOT”) and certifying them to deliver a standardized block of FIP’s proprietary implicit bias awareness training to other police personnel within the NJSP. FIP provided TOT sessions in July and September of 2019, that included NJSP personnel as well as police personnel employed within county prosecutor offices across the state. The NJSP then began to include the FIP’s implicit bias awareness training as part of the academy’s standard curriculum taught by those that had completed the TOT course.

For the direct training, FIP provided a 4-hour block of instruction customized for police, with instructors that were all former police. The training sessions were conducted in-person in a small classroom setting of approximately 30 people per session. These training sessions took place at the State Police Academy as part of the annual mandatory in-service training that all sworn police members are required to attend. Given the large number of police personnel, the training was delivered on a daily basis, Monday through Friday, from October 16 through November 26, 2019. In total, 2,692 of enlisted members attended out of 2,771, with approximately 100 people trained each day.

In 2023, FIP was also engaged to provide training to the NJSP. The TOT training was delivered to approximately 40 NJSP members in January 2023. This enabled the Division to

provide FIP's curriculum at the academy, as well as on an ad hoc basis within the NJSP. The FIP training was provided during the mandatory annual in-service. This training was designed to review and reinforce concepts that FIP's 2019 training previously covered, and to enhance and strengthen the participants' understanding. This training was delivered via in-person, FIP instructor led sessions in a small classroom setting, with multiple sessions delivered daily between October 30 through December 8, 2023. The training block was 3-hours long and involved facilitated discussion based on video scenarios that allowed the participants to apply the key principles to common policing situations. The overwhelming majority of police personnel took part in the training.

While the inclusion of the FIP training at the academy is a step in the right direction, such training should be mandatory for all the NJSP on a yearly basis. Therefore, we recommend increased training related to implicit bias, diversity and inclusion, discrimination, sexual harassment, and retaliation be a standard part of the NJSP required annual mandatory in-service training that all sworn police members are required to attend. We further recommend that such training be provided by third party outside professionals.

e. EEO/AA Enforcement.

Based on our interviews, Kaufman Dolowich discovered that despite the 1999 Final Report's suggestions over 20 years ago, many of the same issues relating to the EEO/AA department still persist. As previously explained, the 1999 Final Report recommended that the OAG EEO/AA should take control of the entire EEO/AA process, from complaint to the determination, arising from the NJSP.¹³⁵ The 1999 Final Report also recommended that NJSP

¹³⁵ John J. Farmer, Jr., Attorney General & Paul H. Zoubek, First Assistant Attorney General, *Final Report of the State Review Team* at 5 (July 2, 1999), at 60.

Troopers be assigned to the EEO/AA Unit and they be properly trained on their duties, and that the EEO/AA shall review, revise and administer EEO/AA training to management and supervisory roles.¹³⁶

Unfortunately, although the NJSP did revamp its EEO/AA department, this has not alleviated the problems related to EEO/AA complaints. Our investigation found that while the OAG now oversees the EEO/AA department, the complaint process is still problematic. We understand that the process, up until 2021, was as follows: First, NJSP receives a complaint. Next, the complaint is then sent to the OAG for a determination on whether it should be investigated. If the complaint is determined that it should be investigated, NJSP conducts the investigation. The completed investigation is sent back to the OAG and the OAG determines whether the complaint is substantiated or unsubstantiated. Lastly, the OAG sends its determination to OPS for disciplinary consideration. It is important to note that OPS is the department that oversees discipline.

Additionally, the 1999 Review Team found that female and Of Color Troopers were reluctant to file formal complaints with the EEO/AA department because they feared retaliation, believed the process was too lengthy, and that the process was ineffective.¹³⁷ Moreover, the complaint process can take years to complete.¹³⁸ Interviewed Troopers made virtually identical complaints to Kaufman Dolowich. Furthermore, the 1999 Review Team reported that many Troopers who have been accused of discriminatory and retaliatory behavior were not reprimanded and were promoted to positions of authority despite their behavior.¹³⁹ Likewise, many Troopers we interviewed alleged that they had observed or heard about discriminatory attitudes and conduct

¹³⁶ Id. at 61-62.

¹³⁷ Id. at 55.

¹³⁸ Id.

¹³⁹ Id. at 51.

engaged in by certain members of the Division, which have had no effect on their ability to be promoted into supervisory roles. The perception among many Of Color and female Troopers is that the supervisory ranks tolerate discrimination and tend to discourage those with complaints from coming forward for fear of retaliation.

The act of making a complaint against another enlisted Trooper is allegedly perceived as an act of disloyalty and anyone who makes a complaint believes that they may be punished. It should also be noted that fear of reprisal was expressed irrespective of gender or race. A number of interviewees commented that female and/or Of Color Troopers who may have legitimate complaints to raise under the NJSP's EEO Policy¹⁴⁰ have refrained from bringing those issues to the attention of the EEO/AA unit. Indeed, many of the male Of Color Troopers explained that instead, they would confront the bad actor "as a man" and threaten to "take it outside" when treated in a bigoted fashion even with a supervisor. These Of Color male Troopers stated that once they handled the situation in that fashion the bad actor would normally subside. On the other hand, female Troopers explained that they normally did not report the bad actor to EEO/AA. They offered explanations, which included fear of reprisal or retaliation, lack of follow-through by the EEO/AA office in other circumstances and attempting to "tough it out" so that they would not be labeled "difficult" or a "troublemaker" and hopefully accepted by the group. Some female Troopers also directly confronted the bad actor in the hopes of stopping the offensive actions.

During the investigation, the separated Troopers expressed their belief that they had experienced varying degrees of discrimination within the NJSP. Many White male separated Troopers indicated that they had not experienced or witnessed discrimination, and that the NJSP

¹⁴⁰ "EEO Policy" refers to the Department of Law and Public Safety's Policy for Internal Complaints Alleging Discrimination in the Workplace and Policy Prohibiting Discrimination in the Workplace.

was an equitable place to work. Yet, some of those same Troopers recalled extremely discriminatory anecdotes. For example, one separated Trooper explained that sometimes African Americans would be referred to as “white eyes.” Moreover, when an assignment required them to be stealthy at night, African Americans were told to “keep their eyes and mouths shut.”

There were also African American male and female Troopers who indicated that they had not experienced or witnessed discrimination. However, there were several separated Troopers who had experienced discrimination and acknowledged witnessing discrimination toward others. Some female separated Troopers felt unwelcomed and stated that their colleagues were “cold” and “unprofessional.” Others reported that they witnessed Sergeants treating African American male Troopers poorly, making comments such as “just because you’re Black doesn’t make you a good cop.” There were also reports of other Troopers and Sergeants making stereotypical comments about women, such as they are “liabilities on the road” and “are not tough enough for the job.”

Several separated females and Of Color Troopers reported experiencing retaliation as a result of filing internal complaints and lawsuits against other Troopers and the NJSP. Most explained that the retaliation came in the form of an inability to be promoted.

Interviewees also noted that the complaint process can take several years to complete. Upon further exploration, Kaufman Dolowich found these complaints to be valid. Moreover, it appears that the bulk of the delays are at the OAG/EEO level. Overall, most of the Troopers believe that the Division doesn’t take EEO/AA complaints seriously and that the office is “a joke.” They also explained that there are no consequences even when a complaint is substantiated.

i. Recommendations.

Based on our interviews it is clear that the EEO/AA Office has lost all credibility and confidence among the majority of the Troopers who were interviewed. Generally, the office is

perceived to be ineffective and lacks the respect necessary to ensure proper adherence to the EEO/AA Anti-Discrimination Policy.¹⁴¹

Primarily, the EEO/AA Department must ensure that all complaints are resolved within the time prescribed in their own Policy. Furthermore, all complaints received must be investigated. Lastly, substantiated complaints must be subjected to progressive discipline. This department is in dire need of more staff. Without these major changes, the EEO/AA will continue to be mired in its own ineffective environment.

2. Discrimination and Retaliation Recommendations.

For ease of reference, these recommendations were included in each relevant subsection above.

CONCLUSION

Kaufman Dolowich's investigation started in the fall of 2020. The Troopers appreciated that our lawyer teams would conduct in-person interviews at the Hughes Justice Complex in Trenton, our firm's office in Hackensack, and via Zoom. After the Troopers were assured of complete anonymity, the interviews became cathartic, as many of the Troopers said that they had been waiting for years to tell their respective stories. Others who did not have any issues volunteered to speak with us because they wanted their views to also be included in this report. We are grateful for each Trooper's candor and time they took to speak with us, since the interviews sessions lasted anywhere from one to three hours. We thank the Troopers for their courage in volunteering to speak with us or we would not have been able to issue this report, and for that we are grateful.

¹⁴¹ New Jersey State Procedures for Internal Complaints Alleging Discrimination in the Workplace; New Jersey State Policy Prohibiting Discrimination in the Workplace.

Our investigation, while robust, was not expansive enough to discern if the NJSP as a Division was riddled with an environment within which sexism and discrimination were rampant. Rather, there were scores of Troopers who recounted experiences through anger, tears and distress. Those feelings, emotions and experiences were real to them. No one else lived through their personal experiences and this process gave them a much-needed opportunity to be heard.

From the stories that the Troopers shared, a number of them, mostly White and a small number of females and Of Color, were never discriminated against nor did they observe any type of discrimination during their tenure with the NJSP. Unfortunately, the majority of the Troopers we interviewed believe that they were subjected to gender and race discrimination. A small number of White Troopers stated that they had observed a few situations where a female or Of Color Trooper had experienced discrimination.

The examples of gender and race discrimination as reported to us could be emblematic of a more serious and larger problem within the NJSP. These practices could have a cascading effect. However, we cannot extrapolate pervasive discrimination findings in the NJSP from the 150 enlisted, retired, and former Trooper interviews.

Based on the painful experiences the many Troopers shared with us, the NJSP must be intentional in its desire to create a welcoming environment for all Troopers regardless of race, ethnicity, or gender. Towards this end, the OAG must work with the NJSP leadership to implement the recommendations contained in this report.

We also urge the OAG to work with the NJSP to establish programs that will garner and hopefully achieve sustainable changes that can be measured by metrics several times a year. One recommendation is for the OAG to assist the NJSP to immediately implement an annual process similar to a 360 review, where each level of troopers will review/evaluate one level upward on an

anonymous basis their respective supervisor. Thereafter, the OAG's office will compile the review findings. The next step would be for an OAG representative, the supervisors and his or her manager to meet and discuss the information that has been compiled and put in place several metrics the supervisor would be required to meet by the following review cycle. The upward review would go up to and include the Colonel. We believe that this process will give all Troopers an opportunity to be heard and will help to create a more cohesive and better NJSP.

We also recommend that Captains and above have open meetings twice a year with their subordinates. This session will provide an opportunity for Troopers to offer suggestions and ideas for the Division. Troopers seemed to be yearning for more open, transparent, and effective communications with their supervisors.

We wish the NJSP well on its quest to better cultivate an equitable environment within which all Troopers feel welcome.

APPENDIX A

Preliminary Report Regarding Promotions at the NJSP

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* This preliminary draft is subject to revision to reflect the availability of new information or supplementary data.

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§1.0 INTRODUCTION

§1.1 Background: I have been asked to evaluate promotions at the New Jersey State Police (the NJSP) during the decade between 2010 to 2020. As described below, data availability limited this analysis to the period from 2017 to 2021, inclusive. Moreover, even though I was unable to examine promotions for the decade starting in 2010, I was able to examine *all* promotions and *all* Promotional Readiness Scores (described below) throughout the entire state from 2017 to 2021. Notably, my overarching objective in this analysis – as it is in all my expert witness work – is to act as an impartial and independent “third-party neutral” so that the NJSP can objectively evaluate its promotion process through the five-year period of this study.

§1.2 Goals, Methods & Definitions: The **goal** of this report is to provide objective statistical analysis of the assessment process the NJSP uses to evaluate candidates for promotions to determine whether there is or is not evidence that promotions at the NJSP reveal any disparities that favor or disfavor State Troopers (STs) who self-identify as minorities by virtue of their race (described directly below) or their gender. It is important to note that the Human Resources Information System (HRIS) used by the NJSP follows the general categories used by the US Census but does not provide a comprehensive categorization of all classes protected by Title VII, which limits our analytic **method** to some extent. Specifically, in the NJSP’s HRIS “Race” has a narrow **definition**. In this analysis, Race includes 5 categories based on a self-designation: A (Asian); AI (American Indian); B (Black), presumably used primarily by “Troopers of Color”; H (Hispanic); and W (White). Note that these five categories are protected by Title VII but that this 5-part categorization does not have a designation for “Other” as a racial category, or a category for another heritage, or for nationality. Gender in this system is designated as either M or F, and there is no documented record of religious affiliation of any ST. This report – for convenience – uses the term “Minority” to cover STs who have self-designated as A, AI, B, or H; male and female STs (designated as M and F respectively) are additionally covered under statistical analyses of Gender.

§1.3 Outcome Measures and Definitions of Reliability, Validity and Statistical Significance: This report summarizes statistical analyses of two important outcome measures: 1) The “Total Score” that the NJSP uses to determine if a State Trooper (ST) who has applied for a promotion is ready to receive that promotion, and; 2) The actual receipt of a promotion, measured as “Number of Promotions” which is nonidentical with the formal application process because STs may receive a promotion on the basis of their Total Score (described below) when submitting a formal application (as is typical), or they may decline an offered promotion, or they may be promoted under a separate promotion system used to fill “Confidential Positions” e.g., in the Special Investigations Unit. Accordingly, Total Score and Number of Promotions, although highly similar, need to be examined

as separate outcomes. Because the vast majority of promotions rely on a transparently generated Total Score for a publicly disclosed promotion, and because promotions for Confidential Positions are not subject to public review, this report necessarily addresses what research psychologists respectively call “validity” (i.e., accuracy) and “reliability” (i.e., replicability) of the promotion process used for non-confidential positions.¹ Accordingly, this report relies heavily on peer-reviewed research, learned treatises, and case law regarding the evaluation of employees. Consistent with research in the behavioral sciences and case law, this report speaks only of differences that are “statistically significant,” meaning that the results cannot easily be explained by mere random chance alone.² Moreover, this report analyzes disparities associated with Race and Gender as separate and independent factors, as described in Footnote 3 below.³ This report provides a forecast of results in an Executive Summary (§2.2) and also offers a substantively identical Detailed Summary (§6.0) which, unlike the Executive Summary,

¹ Please note that “validity” and “reliability” are terms of art in both assessment design and in law, although their meaning is different in the two disciplines. In the legal domain, they are often used to denote (approximately and respectively) legal sufficiency or enforceability and truthful accuracy; in assessment design they respectively denote accuracy and replicability. However, as Rosenthal’s text on research methodology points out, there are at least 15 different subtypes of validity and four subtypes of reliability that are relevant to assessment design in the behavioral sciences (also called psychometrics). This report restricts itself to the general meaning in psychometrics, where validity and reliability (broadly speaking) mean accuracy and replicability respectively. Note that proof of validity only requires converging evidence, not perfect evidence of validity using every conceivable metric. Rosenthal, R., & Rosnow, R. L. (2007). *Essentials of behavioral research: Methods and data analysis* (3rd ed.). Boston: McGraw-Hill. Because this report uses rigorous statistical analysis to evaluate the validity and reliability of the Total Scores described in §1.2 above, and because promotions into Confidential Positions are not made on the basis of an ST’s Total Score, this report necessarily excludes discussion of promotions into Confidential Positions.

² The meaning of the term “statistically significant” is a term of art in both in case law and psychometrics, although some differences in the precise meaning have persisted in each domain. This report follows the standard established in 1977. *Hazelwood School District v. US*, 433 U.S. 299 (1977) (J. Stewart, follows *Castaneda v. Perdita*, 430 U.S. 482 (1977), by requiring statistical tests to rule out the role of chance at the $p = .05$ or $p = .01$ level, which respectively are observations 2 or 3 Standard Deviations from the value expected by chance alone). The same standard for statistical significance is promulgated in §14 (B) (5) of the EEOC’s guidelines for enforcing Title VII. 29 CFR Part 1607; *Uniform Guidelines on Employee Selection Procedures* (1978). Similarly, I rely on the same standard in my articles on assessment design, statistical analysis of disparities in discrimination lawsuits, and methods for evaluating validity by cross-indexing subjective data to objective metrics from external datasets. Morrel-Samuels, P. (2003) *Web surveys’ hidden hazards*. *Harvard Business Rvw*, 81 (7) 16-17; Morrel-Samuels, P. & Goldman, E., (2007) *Who, what, and where: Guidelines for the statistical analysis of disparate impact in EEO litigation*, *Docket*, 25, (2), pp. 54-74; Morrel-Samuels, P., Francis, E., & Shucard, S. (2009) *Merged datasets: An analytic tool for evidence-based management*, *California Management Review*, 52 (1), pp.120-139. In this report, to avoid confusion, the term “significant” (and its cognates) are used exclusively to denote statistical significance.

³ Because the statistical analyses in this report analyze Gender and Race separately, each in its own right (using a statistical method called multiple regression) there is no need to run separate tests to measure the “interactions” AKA “joint effects” (i.e., all possible conjunctions of the two main variables). An analysis of the interactions would, for example, compare females with Hispanic heritage to males with non-Hispanic heritage, but – to properly control for the role of chance – that analysis would have to consider all 10 possible interactions between Race and Gender. Such an analysis would be time-wasting, redundant, and justified only if both Race and Gender had an independent statistically significant impact on the outcome variable of interest. An example is instructive: If neither shoe size nor hair color had an independent significant impact on salary in a dataset of interest, then statistical best practices do not allow an analysis to test if the salaries of black-haired employees with small feet are different from the salaries of brown-haired employees with big feet, because we already know that neither shoe size nor hair color has any significant impact on salary. As respected reference works on statistics warn, it is imperative “to beware of mistaken inferences drawn from incomplete sets” of interactions, especially where the number of observations in each “joint effect” are not proportional (e.g. See Cohen, Cohen, West & Aiken, (2003) *Applied Multiple Regression/Correlation Analysis for the Behavioral Sciences* (3rd Ed.), pp. 373, 375, & 388). Accordingly, this report speaks of Race and Gender as separate entities without examining all of the 10 possible interactions between these two variables. Please note that this approach to joint effect interactions is consistent with the wording of Title VII that requires only main effects (such as Nationality) rather than joint effects which address the conjunction of two or more protected classes.

includes pinpoint citations citing specific numbered graphs and numbered blocks of text to facilitate review. Note also that, in this report, the name of variables and outcome measures (such as Race, Gender, Total Score, etc., are capitalized to highlight their role in the statistical analyses that follow.

§1.4 How the Datasets Were Compiled: The burden of compiling and cleaning data for this analysis was substantial. To run all the statistical analyses of interest it was necessary to compile one dataset of Promotional Readiness Scores and one dataset of actual promotions from 2370 heterogeneous data files – some containing thousands of rows and hundreds of columns – dating back to the founding of the NJSP in 1921 when Badge Numbers were first allocated⁴. The optimal time window for this merged data was from 2017-2021 (inclusive) because data outside this time period were not sufficiently comprehensive or free from contradictory datapoints to support a comprehensive and accurate statistical analysis. The resulting data on Promotions during this period supported a thoroughly cross-validated study using multivariate inferential statistics to test for the presence of discrimination under both theories of discrimination – Disparate Treatment (DT) and Disparate Impact (DI)⁵ – regarding two important outcomes: Applications for a promotion, and Final promotion decisions.

§1.5 Strengths and Limitations of Statistical Analysis: While reading this report it is important to have a clear-eyed view of what statistical analysis can and cannot do. An informative statistical analysis can allow us to see patterns and trends that might not be apparent to the naked eye, because at the heart of statistical analysis is (typically) one or more large and heterogeneous datasets of aggregated quantitative data. Personal anecdotes and qualitative data – while valuable in their own right – are routinely excluded from statistical analysis of quantitative data. So, the content of this report must be accompanied by an important caveat: The personal experience of an individual State Trooper working for the NJSP may or may not be adequately captured in the statistical analyses of aggregated quantitative data described here. Moreover, the findings here may not generalize to years outside the period analyzed (from 2017 to 2021 inclusive); in fact, given the long history of animosity against specific minorities in our country, it is a virtual certainty that the results described in this study do not map perfectly to every location and every time period that could be analyzed. Nevertheless, statistical analysis of aggregated data is essential: Statistics can allow us to identify and respond to subtle developing trends.

§1.6 Summary of Qualifications: Consistent with FRE 702, my education, training, knowledge, skills, and experience place me in a good position to assist the NJSP by providing a disinterested and objective analysis of the agency’s promotion process. I

⁴ Badge Numbers were used as the common indexing variable that allowed dissimilar databases to be merged, following the process I described in my California Mgt. Review paper cited above.

⁵ Zimmer, Michael J., Charles A. Sullivan, and Rebecca Hanner White. Cases and materials on employment discrimination. (2013) (8th Ed.) New York, N.Y.: Aspen.

have – for many years – taught graduate students, undergrads, and physicians at the University of Michigan, where I offered classes on the design and analysis of workplace evaluations, research methods, and statistics. I am the founder and principal consultant of a survey company that has designed and analyzed workplace assessments for more than 7 million employees and students at government agencies, corporations, and universities – work that has, for example, led me to testify before Congress on a statistical analysis of racial disparities at the US Ports of Entry that I conducted for the Department of Justice. As mentioned above, my intention in this report is to act as an informed third-party neutral so that the NJSP can objectively and comprehensively evaluate its promotion process. Please note that throughout this report I assiduously avoid violating FRE 704 which prohibits experts from offering opinions on an ultimate legal issue. (My CV is appended to this report as Appendix 7.2.)

§2.0 FORECAST OF RESULTS

§2.1 Structure of This Report: This report has three main sections: The first examines the reliability (i.e., replicability) and the validity (i.e., accuracy) of the promotional readiness score (called the “Total Score”) of STs who filed a formal application seeking a promotion. The second evaluates whether or not disparities exist in the Total Scores of STs based on Race, Heritage, Gender, or Age. Similarly, the third examines whether or not disparities exist in the actual number promotions received by STs based on Race, Heritage, Gender, or Age during the period of interest. Section headings are provided for convenience and purposes of organization only.

§2.2 Executive Summary: The information directly below provides a forecast of this report’s findings. Its content summarizes (respectively) the central issues (§2.2.1), the methodological rules of the report’s statistical analyses (§2.2.2), a description of how those rules were applied for the statistical analyses below (2.2.3), and the report’s conclusions (§2.2.4). Accordingly, the text directly below will be substantiated by the report’s text and statistical analyses.

§2.2.1 Central Issues: This report evaluates the NJSP’s promotion process to determine whether discrepancies exist in promotions of STs on the basis of Race, Heritage, Gender or Age – at least to the extent that the NJSP’s Human Resources Information System (HRIS) tracked those factors in datasets that could be cross-checked to verify their accuracy. Following the procedure described above, it was possible to compile and cross-check 2370 heterogeneous and independent spreadsheets into a small set of compiled datasets that supported a rigorous statistical analysis of promotions from 2017 to 2021 (inclusive). Two main outcome metrics were examined: the Number of Promotions received by the ST, and the ST’s Total Readiness Score (“Total Score”) – a composite measurement based on a set of evaluations comprised of six elements (“Subscales”) that evaluate

job-related components⁶ of the Total Readiness Score. These six Subscales are based on the performance elements listed directly below:

- 1) The ST's disciplinary record
- 2) The ST's annual job evaluations written by the ST and the ST's supervising officer
- 3) The ST's resume
- 4) The ST's optional written statement
- 5) The supervising officer's optional written recommendation
- 6) The ST's optional interview, including an assessment of the ST's Statement of Qualifications for the desired position.

In the interests of convenience, this report uses the term “merit” as a summary of the underlying construct associated with these six Subscales. Accordingly, the data and the two outcome measures were closely tailored to fit the central purpose of this report.

§2.2.2 Methodological Rules of Statistical Analysis: By using reliable principles and methods of statistical analysis that are standard tools throughout the behavioral sciences, it was possible to conduct a rigorous statistical analysis of the NJSP's promotion practices in the state during the period of interest. These methods entailed the several types of statistical tests (most especially multiple regression) which allowed this report to examine the role of Race, Heritage, Gender, and Age on promotion decisions at the NJSP while controlling for (AKA adjusting for, or partialling out) the role of the ST's Rank, Organization, Year of Hire, and Seniority – confounding factors that, without proper statistical control, would have compromised the statistical validity of this report's conclusions. As many learned treatises point out, multiple regression makes it possible to evaluate the simultaneous role of several contributing causal factors (called “predictor variables”) on an outcome metric while partialling out the role of numerous confounding variables so that the statistical validity of the conclusions can be maximized.

§2.2.3 How Reliable Statistical Methods were Applied Reliably: This report follows best practices applied by peer-reviewed journals, as outlined by several key references in the behavioral sciences (e.g., Cohen, J., Cohen, P., West, S. G., & Aiken, L. S. *Applied Multiple Regression/Correlation Analysis for the Behavioral Sciences*. (2003). (3rd ed.). Lawrence Erlbaum Associates

⁶ The American Psychological Association's Dictionary of Psychology defines a subscale as a metric “... that taps some specific constituent or otherwise differentiated category of information as part of a larger, overall scheme. For example, a test of intelligence might consist of several subscales (or subtests) assessing verbal and performance aspects or dimensions of intelligence, which in combination yield a verbal intelligence score, a performance intelligence score, and an overall intelligence score.” Note that all six Subscales tap job-related elements of the ST's performance that entail reliance on a documented record.

Publishers.) and in law (e.g., Federal Judicial Center, Reference Manual on Scientific Evidence (2011) (3rd Ed.) FJC). These application rules rely on several foundational principles, among which are replicability, transparency, standardization, objectivity (i.e., freedom from methods that might distort results), and method-independence (i.e., reliance on converging lines of evidence.) Accordingly, the statistical analyses in this report are written to meet the highest standards of the best research journals in the behavioral sciences *and* the most demanding statistical standards promulgated in case law. (See Hazelwood Sch. Dist. v. US, 433 U.S. 299 (1977), among others).

§2.2.4 Conclusions: The eight major statistical analyses shown in the graphs below, and the accompanying text, all lead to a single conclusion: At the NJSP, examining all available data that could be cross-validated, it is clear that Promotions are made on the basis of variables that are associated with “merit” as used in this report – regardless of Race, Heritage, Gender or Age.

- 1) Neither the applicant’s Race or their Heritage or their Gender, or their Age – at least as these were tracked by the NJSP’s HRIS during the 5 years from 2017 to 2021– had a statistically significant impact on either of the two outcome variables examined in these statistical analyses:
 - a) The Number of Promotions received by the ST
 - b) The ST’s Total Readiness Score (“Total Score”)
- 2) As detailed below (in §4.0 on Total Scores), a rigorous comprehensive statistical analysis reveals that Race and Heritage had no consistent statistically significant impact on an ST’s Total Score.
- 3) Gender and Age also had no statistically significant impact on Total Scores.
- 4) Total Scores easily met the standards for reliability and validity established by the EEOC’s Uniform Guidelines on Employee Selection Procedures (29 CFR Part 1607, Uniform Guidelines on Employee Selection Procedures, §14 (B)(5), 1978). Specifically, Test-retest reliability of Total Scores is very high (i.e., the replicability of Total Scores was consistent for the same ST in conditions that were identical or highly similar, e.g., separated by a few months or less).
- 5) Evidence of validity is both unambiguous and compelling
 - a) High scores go to STs who have attained high ranks
 - b) High scores go to STs who have more practice applying for promotions at the NJSP
 - c) High scores go to STs who have greater Seniority

- 6) As detailed below (in §5.0) comprehensive statistical analyses using multiple regression revealed no statistically significant disparities in the total Number of Promotions attributable to Race or Heritage, Gender, or Age.
- 7) Similar statistical analyses reveal that neither Race, Heritage, Gender nor Age had a statistically significant impact on the Number of Applications submitted by an ST.
- 8) More importantly, statistical analyses also revealed the specific factors that do have a statistically significant impact on an ST's success in garnering a high Number of Promotions:
 - a) STs with the highest Number of Promotions tend to have significantly higher Total Scores
 - b) STs with the highest Number of Promotions tend to apply for a significantly higher number of promotions
- 9) In summary, the pattern of results suggests that – when it comes to securing a promotion at the NJSP – the best predictors are a dedication to building a strong personnel record as manifest in a high Total Score, and practice. Everything considered, (as the detailed summary in §6.0 recapitulates), all the statistical analyses described in this report indicate that the outcome of the promotion process at the NJSP reflects variables associated with merit – as that term is used in this document – regardless of Race, Heritage, Gender or Age.

§3.0 RELIABILITY AND VALIDITY OF THE PROMOTIONAL READINESS SCORE

§3.1.0 How Total Readiness Scores Were Generated: STs who are interested in applying for a promotion at the NJSP are evaluated on the basis of six criteria (listed above in §2.1.1) which included the following: 1) the ST's disciplinary record, coded as a value from -10 to 8, where 0 reflects a positive evaluation; 2) the ST's annual job evaluations written by the ST and the ST's supervising officer; coded as a value from 0 to 55, where 55 reflects a positive evaluation; 3) the ST's resume, coded as a value from 8 to 108, where 108 reflects a positive evaluation); 4) The ST's optional written statement, coded as a value from -2 to 8, where 8 reflects a positive evaluation); 5) The supervising officer's optional written recommendation, coded as a value from -2 to 30, where 30 reflects a positive evaluation, and; 6) the ST's optional interview score, which included an assessment of the ST's interview as well as the ST's Statement of Qualifications for the desired position, coded as a value from 0 to 963, where 963 reflects a positive evaluation. These six Subscales were compiled into a unified Promotional Readiness

Score (“Total Readiness Score” or “Total Score”) following a pre-specified weighting algorithm⁷. Analyses below pertain to this Total Score, which served as the overall summary of the promotion evaluation process at the NJSP.

§3.1.1 What Graph 3.1 Tells Us: A statistical analysis of the available data reveals evidence that the Total Scores used to evaluate readiness for a promotion were highly reliable (i.e. replicable.)

§3.1.2 What Graph 3.1 Shows: The horizontal gray bars in Graph 3.1 show that Test-retest Reliability (the extent to which an ST’s Total Scores agreed within the same year), for all years of the study from 2017 to 2021. In other words, the Total Scores for any given ST were very consistent from one application to another in the same year. Specifically, among the 702 STs who applied for 2 to 5 promotions in the same year during the 5 years of the study, the overall reliability coefficient (the functional equivalent of an average correlation among all possible correlations, is called Cronbach’s Alpha, and for Total Score it is .95. (NB: Item Reliability of the six Subscales comprising the Total Score was not possible to analyze with Cronbach’s Alpha because the range, kurtosis, skewness, valence, and computational methods of the Subscales would have violated the underlying assumptions required by the test.) A Reliability coefficient of .95 far surpasses the minimum requirement of .70 for assessments published in research journals published by the American Psychological Association.

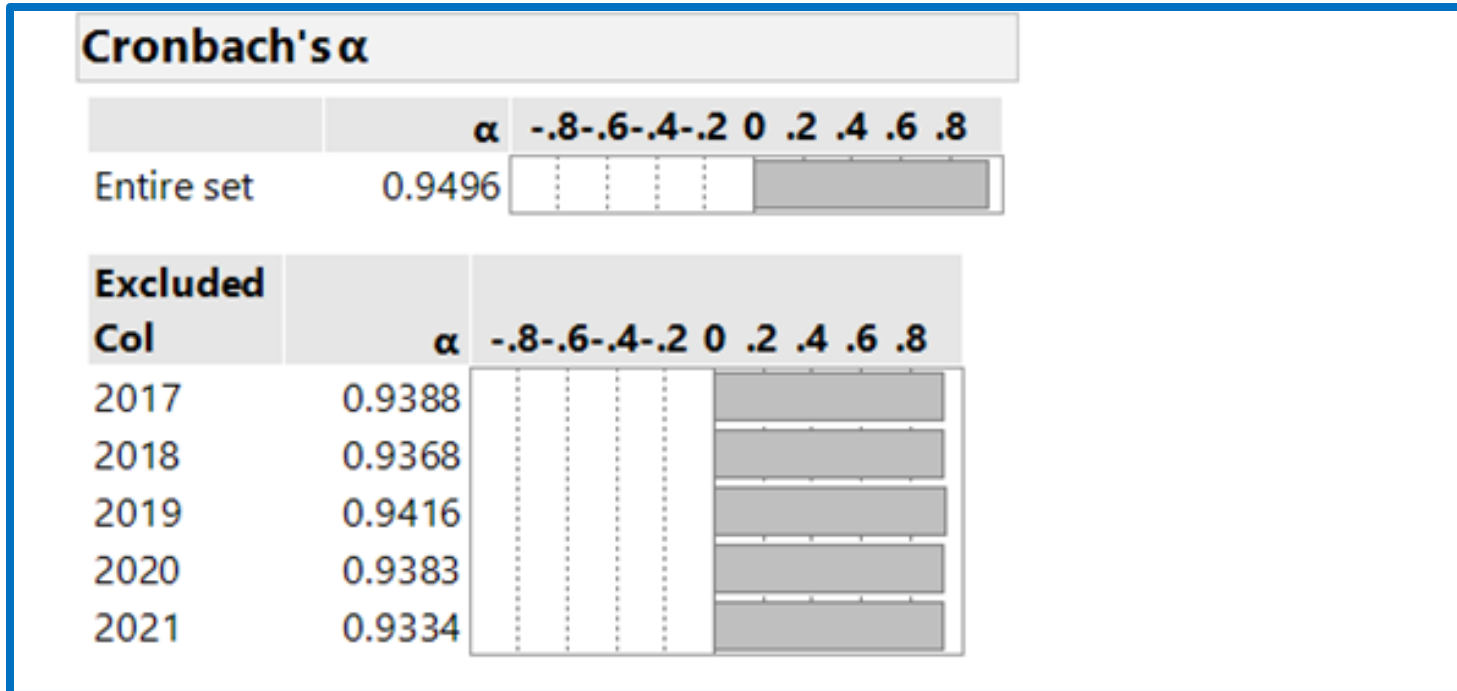
§3.1.3 The Importance of Graph 3.1: Reliability is a requirement for any assessment because measurements that are not reliable lack the ability to provide consistent measures that are invariant in conditions where the measures should be invariant.

§3.1.4 Conclusion Re Graph 3.1: As Graph 3.1 shows, the promotion readiness score provided by the Total Score provided by the application process are consistent and reliable.

[GRAPH 3.1 on next page; remainder of page blank]

⁷ The weighting algorithm used to compile these scores, and even the procedures for computing these Subscales varied substantially between 2010 and 2021, according to the NJSP’s Administration Branch. As is not uncommon in a large geographically distributed state agency, it was not possible to recover a comprehensive list detailing these changes over time. Accordingly, the Total Score was taken at face value, in part because the NJSP itself apparently used *only* this score when determining who would be offered a promotion.

GRAPH 3.1: The Total Scores Used to Evaluate Readiness for a Promotion were Highly Reliable (Alpha = .95)



§3.2.1 What Graph 3.2 Tells Us: A statistical analysis of the available data reveals evidence that the Total Scores used to evaluate readiness for a promotion are highly valid (i.e. accurate.)

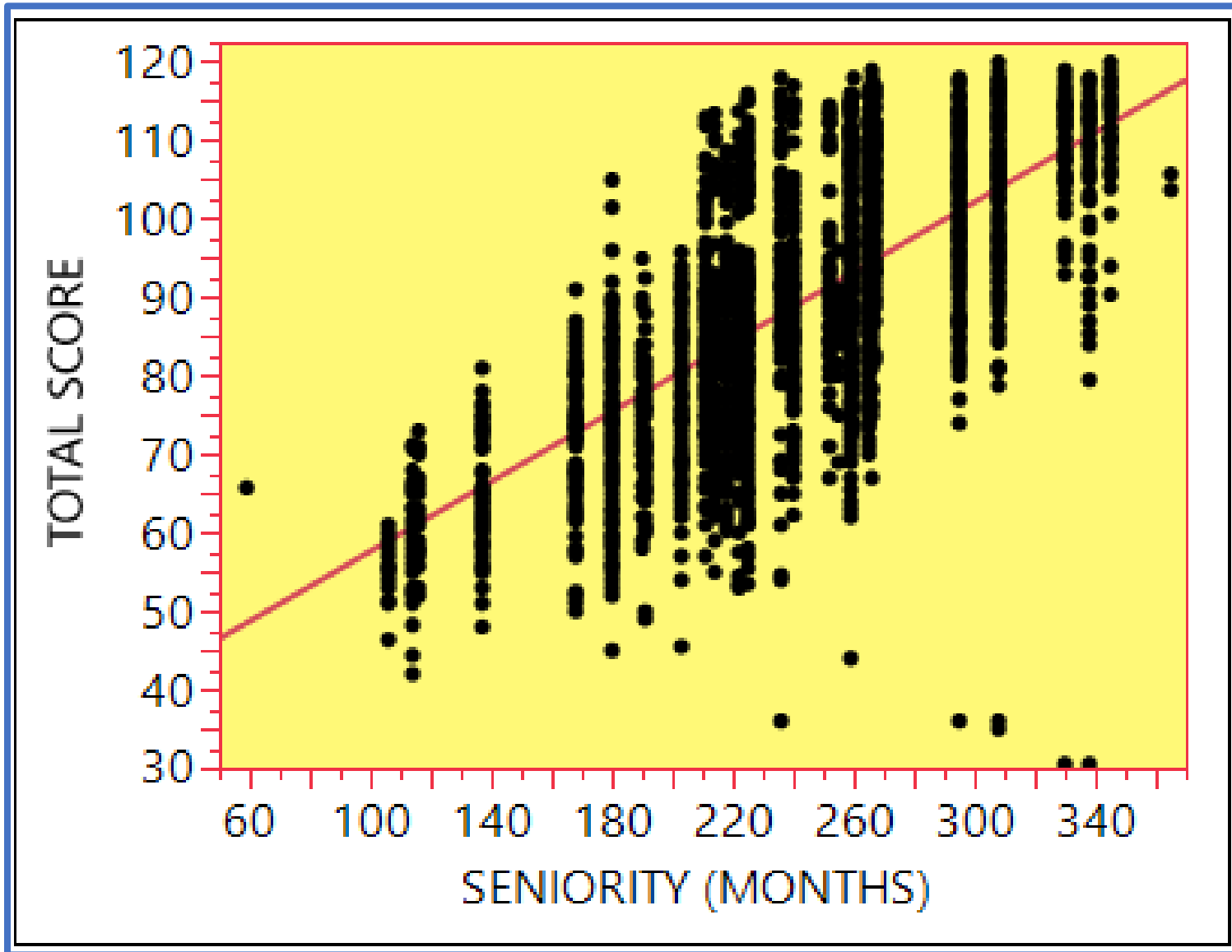
§3.2.2 What Graph 3.2 Shows: The scatterplot on the following page shows that as an ST's seniority increases, the Total Score also increases, just as common sense would lead us to expect. Specifically, the strong and statistically significant relation between these two variables shows that the longer a ST is a member of the workforce, the greater his or her ability to learn about the agency, garner favorable recommendations from a superior officer, write a compelling personal statement, polish their resume, and conduct themselves well in an oral interview – exactly the elements that contribute to a high Total Score ($r=.70$, $p<.0001$). NB: Other evidence of good validity exists without any apparent counterevidence: ST's with higher ranks garner higher Total Scores ($R\text{-square} = .62$, $p <.0001$), and the more times an ST files an application for a promotion, the higher his or her Total Score becomes ($r=.13$, $p<.0001$); both findings are typically used as evidence of a test's validity because they are straightforward, unambiguous, and consistent with common sense: Higher ranking Troopers know more about the job, and the Practice Effect is well documented by research in psychometrics (e.g., see Kulik, J. A., Kulik, C.-L. C., & Bangert, R. L. (1984). Effects of Practice on Aptitude and Achievement Test Scores. *American Educational Research Journal*, 21(2), 435-447. <https://doi.org/10.3102/00028312021002435>).

§3.2.3 Importance of Graph 3.2: Good Validity is a requirement for any assessment because measurements that are not valid (i.e., not accurate) lack the ability to provide relevant and informative measures that will predict important outcomes.

§3.2.4 Conclusion Re Graph 3.2: As Graph 3.2 shows, the promotion readiness score provided by the Total Score is sufficiently accurate to be used as a basis for job actions because there is converging evidence that the Total Score is valid, just as the laws on employee selection require. See e.g., 29 CFR Part 1607; Uniform Guidelines on Employee Selection Procedures, §14 (B) (5) (1978).

[GRAPH 3.2 on next page; remainder of page blank]

GRAPH 3.2: The Total Scores Used to Evaluate Readiness for a Promotion were Highly Valid (i.e. accurate.)



§4.0 ANALYSIS OF TOTAL SCORES

§4.1.0 Statistical Analysis of Total Scores: As described above, the Total Score was a compiled readiness score given to STs who applied for a promotion. Proving that the Total Score is Reliable and Valid, as shown in §3 above, are the threshold requirements of any evaluation used for promotional purposes in the workplace, as the Uniform Guidelines on Employee Selection Procedures (cited above) specifies. The next question, of course, is whether or not the Total Scores show any evidence of creating an artificial disparity that gives minority employees an unfair advantage or unfair disadvantage during the promotion process. In the analyses on the pages that follow, this question is examined by using multiple regressions controlling for all available covariates that might distort the statistical results if they were omitted from consideration (such as Seniority, and Rank) as recommended by the FJC’s Manual on Scientific Evidence. (See Rubinfeld, Daniel L 2011, Reference Guide on Multiple Regression. In Reference Manual on Scientific Evidence: Third Edition. Federal Judicial Center, 415-469)

Specifically, our statistical model seeks to determine whether Total Score is significantly impacted by any of three demographic variables: 1) The applicant’s Gender; 2) The applicant’s Race & Heritage (classified in PIMIS based on Self Report as being Asian, American Indian, Black, Hispanic, or White); and 3) The applicant’s Age. The Statistical model controlled for (AKA “Adjusted for” or “Partialled out”) five important “confounding variables” (AKA “covariates): 1) Rank; 2) Year of Hire; 3) The name of the NJSP Organization; 4) the Year of the Posting, and; 5) The Officer’s Seniority in Months. These covariates (or their equivalents) have a proven record of serving as effective covariates in peer-reviewed research on discrimination and in relevant case law. As revealed below, this model predicts 76% of the Variance in Total Score, indicating very strong predictive power. The same statistical model (or its equivalent) is also used in the next section where I evaluate the number of actual promotions provided by the NJSP from 2017 to 2021, inclusive. The Statistical output is shown on the following pages.

§4.1.1 What Graph 4.1 Tells Us: A statistical analysis of Total Scores reveals no consistent and compelling evidence of a statistically significant disparity based on Race or Heritage.

§4.1.2 What Graph 4.1 Shows: The partial regression plot below shows that there is no statistically significant impact on Total Scores created by Race or Heritage (at least as those factors are measured by the NJSP in the datasets to which we have access regarding 2017 to 2021). In other words, the Total Scores of Minorities and Nonminorities, while not exactly identical, *are* equivalent, and any observed difference can easily be explained by random variation alone. The statistical standard used in the behavioral sciences is identical to the standard used in law, as is clear from common citations in both fields. (For example, see Rosenthal, R., & Rosnow, R. L., (2007). Essentials of behavioral research: Methods and data analysis (3rd ed.). Boston: McGraw-Hill; and see Hazelwood School District v. US, 433 U.S. 299 (1977) among others). Namely, a disparity must be at

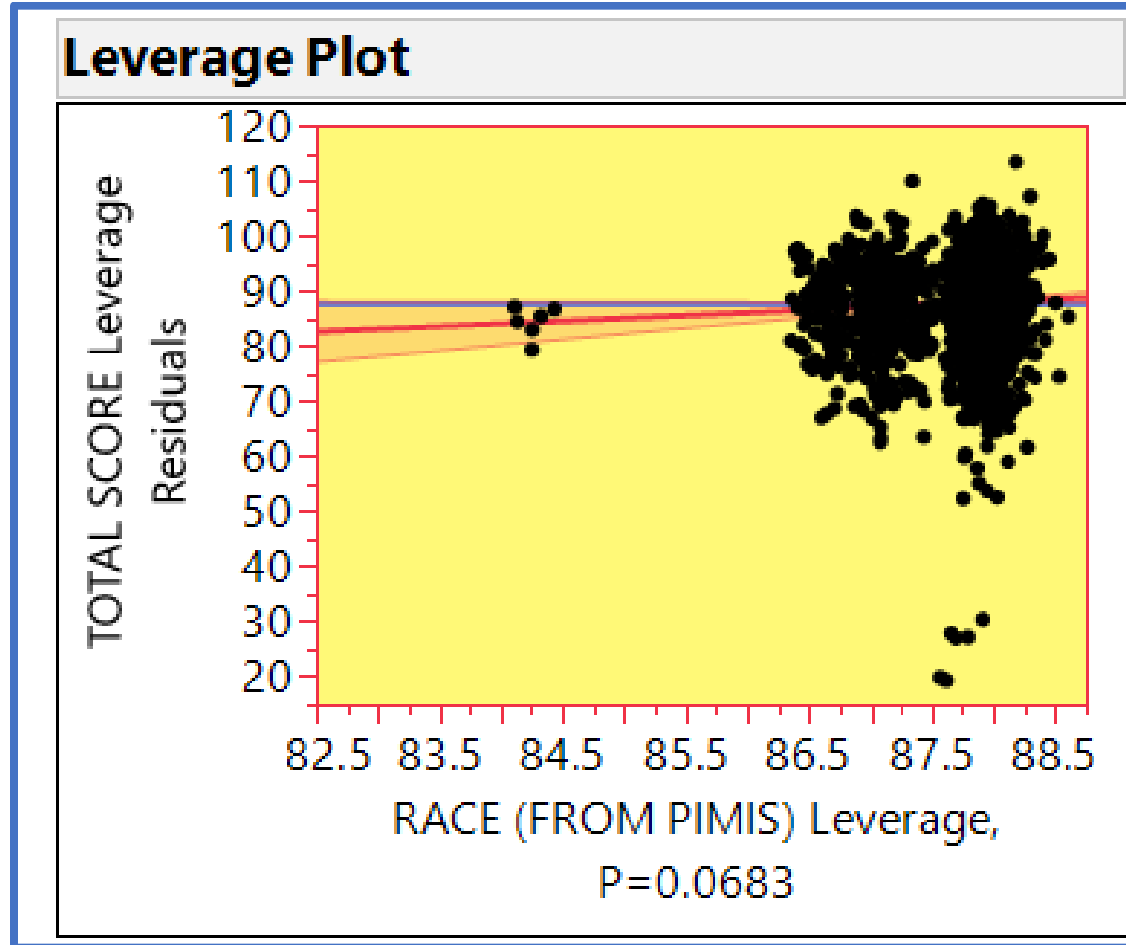
least two standard deviations away from what we would expect to see if only chance alone were operating – a difference that translates to a “p value” of .05 (i.e., 5 chances in 100) or smaller before either discipline considers the disparity to be “statistically significant.” Note that the p value of the graph below is .07, meaning there is only a 7 in 100 chance that these results are caused by something other than mere random variation. So, even though a skeptic might claim that the Total Scores of Black ST’s are meaningfully below the scores of “White” STs or meaningfully above the scores of “Asian” STs (at roughly 84, 89, and 80 respectively, as the Table below shows) it is nevertheless the case that a long trusted tradition of scientific research concurs with the Hazelwood decision cited above: These differences are too small and too unlikely to be meaningful in this context, because chance alone can easily explain the minor variations. NB: In the Least Squares Means Table below, the actual Mean Total Scores are shown alongside the Least Squares Means, i.e., the means that would be observed if it were possible to control for all the covariates in the statistical model simultaneously. For example, in the Least Squares Means Table below, the average Total Score of “Black” STs would rise to roughly 85 and the average Total Score of “White” STs would fall to roughly 86...differences that would still be classified as “not significant” (or “ns”) in any scientific research journal.

§4.1.3 Importance of Graph 4.1: The lack of a statistically significant relation between Total Score and Race/Heritage – even when we control for all the covariates in the statistical model described above – shows that there is no statistically significant difference between the Total Scores of STs categorized into the groups that the NJSP uses in its HRIS, where Minority STs are self-identified as Asian, American Indian, Black, or Hispanic, and Nonminority STs are self-identified as White.

§4.1.4 Conclusion Re Graph 4.1: As Graph 4.1 shows, the promotion readiness score provided by the Total Score reveals no evidence of a statistically significant disparity that favors or disfavors STs who self-identify as a Minority.

[GRAPH 4.1 on next page; remainder of page blank]

GRAPH 4.1: The Total Scores Evaluating Promotion Readiness Do Not Show Evidence of Racial Disparities ($p < .07$, ns)



Least Squares Means Table			
Level	Least Sq Mean	Std Error	Mean
A	86.394917	1.3293511	80.1278
AI	82.594066	3.2978444	87.7883
B	84.898493	1.2098758	83.5351
H	85.441401	1.0876226	85.7045
W	86.281399	1.0288716	88.5364

§4.2.1 What Graph 4.2 Tells Us: A statistical analysis of Total Scores reveals no consistent and compelling evidence of a statistically significant disparity based on Gender.

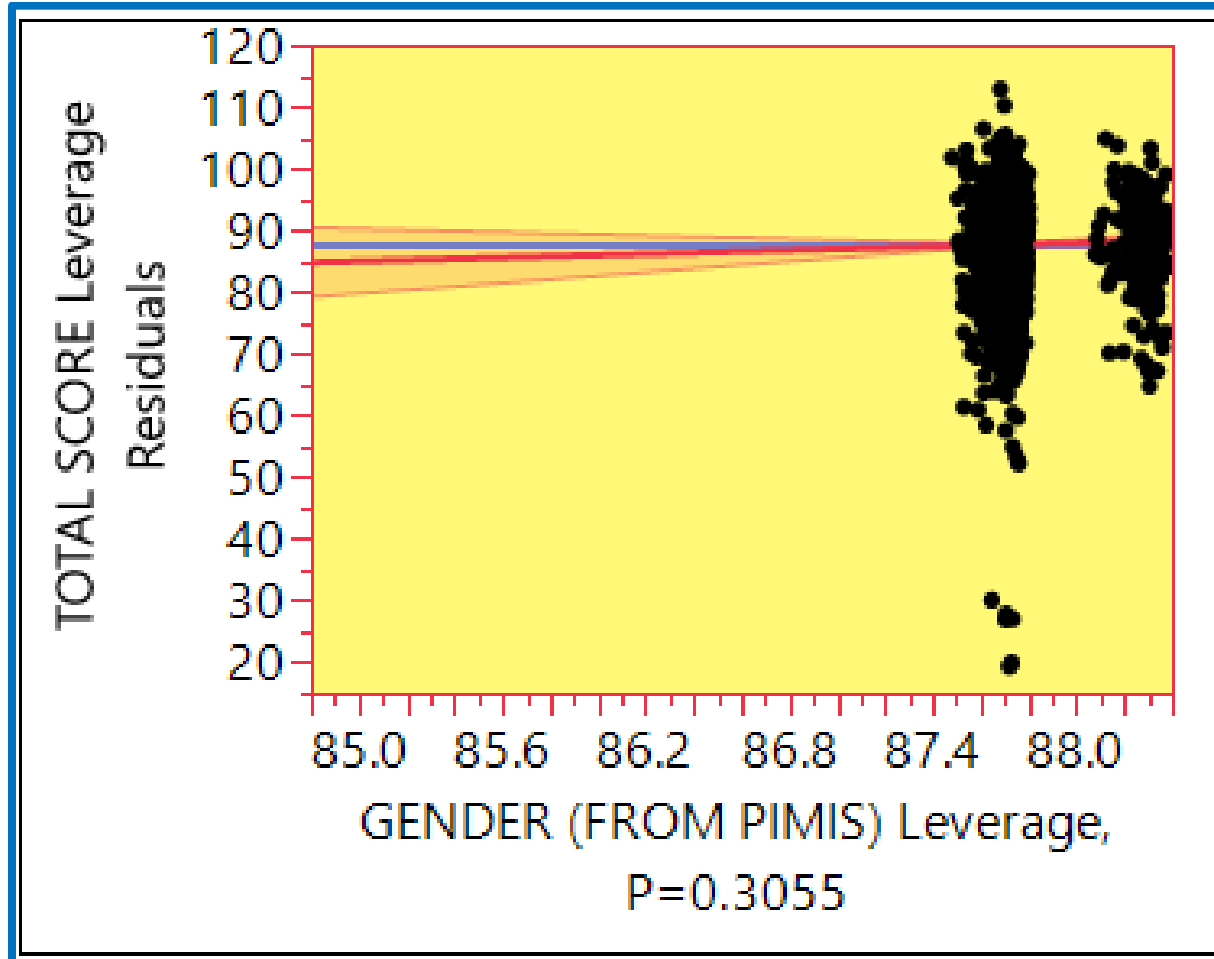
§4.2.2 What Graph 4.2 Shows: The partial regression plot below shows that there is no statistically significant impact on Total Scores created by Gender (at least as it is measured by the NJSP in the datasets to which we have access regarding 2017 to 2021). In other words, the Total Scores of Men and Women, while not exactly identical, are *equivalent*, and any observed difference can easily be explained by random variation alone. So, even though a skeptic might claim that the Total Scores of Male STs are meaningfully different from the scores of Female STs (see the Table below) it is nevertheless the case that this difference is too small and too unlikely to be meaningful in this context because chance alone can easily explain the minor variation. It is of substantial importance to note (as shown in the statistical appendix for this analysis) that even though Total Scores show no statistically significant disparity associated with the ST's age ($p < .40$, ns), there is a statistically significant drop in Total Scores over the course of the study: In 2017, 2018, 2019 and 2020 the average Total Score was roughly 90, but in 2021 the average Total Score dropped to roughly 75 – a decline that is remarkable for both its magnitude and its and statistical significance ($p < .0001$). NB: In the Least Squares Means Table below, the actual Mean Total Scores are shown alongside the Least Squares Means, i.e., the means that would be observed if it were possible to control for all the covariates in the statistical model simultaneously. For example, as the table shows, the average Total Score of Female STs would fall to roughly 85.4 and the average Total Score of Male STs would fall to roughly 84.8...but the difference between Males and Females would still be classified as “not significant” (or “ns”) in any scientific research journal.

§4.2.3 Importance of Graph 4.2: The lack of a statistically significant relation between Total Score and Gender – even when we control for all the covariates in the statistical model described above – shows that there is no statistically significant difference between the Total Scores of Male and Female STs.

§4.2.4 Conclusion Re Graph 4.2: As Graph 4.2 shows, the promotion readiness score provided by the Total Score reveals no evidence of a statistically significant disparity that favors or disfavors STs who self-identify as a Female.

[GRAPH 4.2 on next page; remainder of page blank]

GRAPH 4.2: The Total Scores Used to Evaluate Promotion Readiness Do Not Show a Gender Disparity ($p < .31$, ns)



Least Squares Means Table			
Level	Least Sq Mean	Std Error	Mean
F	85.434240	1.3043376	87.9607
M	84.809870	1.1849597	87.7372

§5.0 ANALYSIS OF NUMBER OF PROMOTIONS

§5.1.0 Statistical Analysis of Promotions: As described above, a rigorous statistical analysis of Total Scores revealed no consistent and compelling evidence of any statistically significant disparities associated with Race, Heritage, Gender, or Age. The next question, of course, is whether or not the actual number of promotions made at the NJSP show any evidence of statistically significant disparities that provide minorities at the NJSP with an unfair advantage or disadvantage. As before, on the pages that follow, this question is examined by using multiple regressions controlling for all available covariates that might distort the statistical results if they were omitted from consideration (such as Seniority, and Rank) as recommended by the FJC’s Manual on Scientific Evidence. As before, our statistical model seeks to determine whether The Number of Promotions given to STs is significantly impacted by any of three demographic variables: 1) The recipient’s Gender; 2) Their Race & Heritage (as before, classified in PIMIS based on Self Report as being Asian, American Indian, Black, Hispanic, or White); and 3) The recipient’s Age. The Statistical model controlled for (AKA “Adjusted for” or “Partialled out”) five important “confounding variables” (AKA covariates): 1) Rank; 2) Year of Hire; 3) The name of the NJSP Organization; 4) the Year of the Promotion, and; 5) The Officer’s Seniority in Months. These covariates (or their equivalents) have a proven record of serving as effective covariates in peer-reviewed research on discrimination and in relevant case law. As revealed below, this model predicts 80% of the Variance in the Number of Promotions received by an ST during the 5-year period of interest from 2017 to 2021, inclusive, indicating very strong predictive power. In this dataset, the total Number of Promotions received by the 1152 STs in our database totaled 986 and varied between 0 and 4 per ST. The Statistical output is shown on the pages below.

§5.1.1 What Graph 5.1 Tells Us: A statistical analysis of the Number of Promotions reveals no consistent and compelling evidence of a statistically significant disparity based on Race or Heritage.

§5.1.2 What Graph 5.1 Shows: The partial regression plot below shows that there is no statistically significant impact on Number of Promotions created by Race or Heritage (at least as those factors are measured by the NJSP in the datasets to which we have access regarding 2017 to 2021). In other words, the Number of Promotions received by Minorities and Nonminorities, while not exactly identical, are *equivalent*, and any observed difference can easily be explained by random variation alone. As mentioned above, the statistical standard used in the behavioral sciences is identical to the standard used in law, as is clear from common citations in research psychology. (As mentioned above, see, e.g., Rosenthal, R., & Rosnow, R. L., (2007). *Essentials of behavioral research: Methods and data analysis* (3rd ed.). Boston: McGraw-Hill; and see *Hazelwood School District v. US 433 U.S. 299*, (1977) among others). Namely, a disparity must be at least two standard deviations away from what we would expect to see if only chance alone were operating – a difference that translates to a “*p* value” of .05 (i.e., 5 chances in 100) or smaller

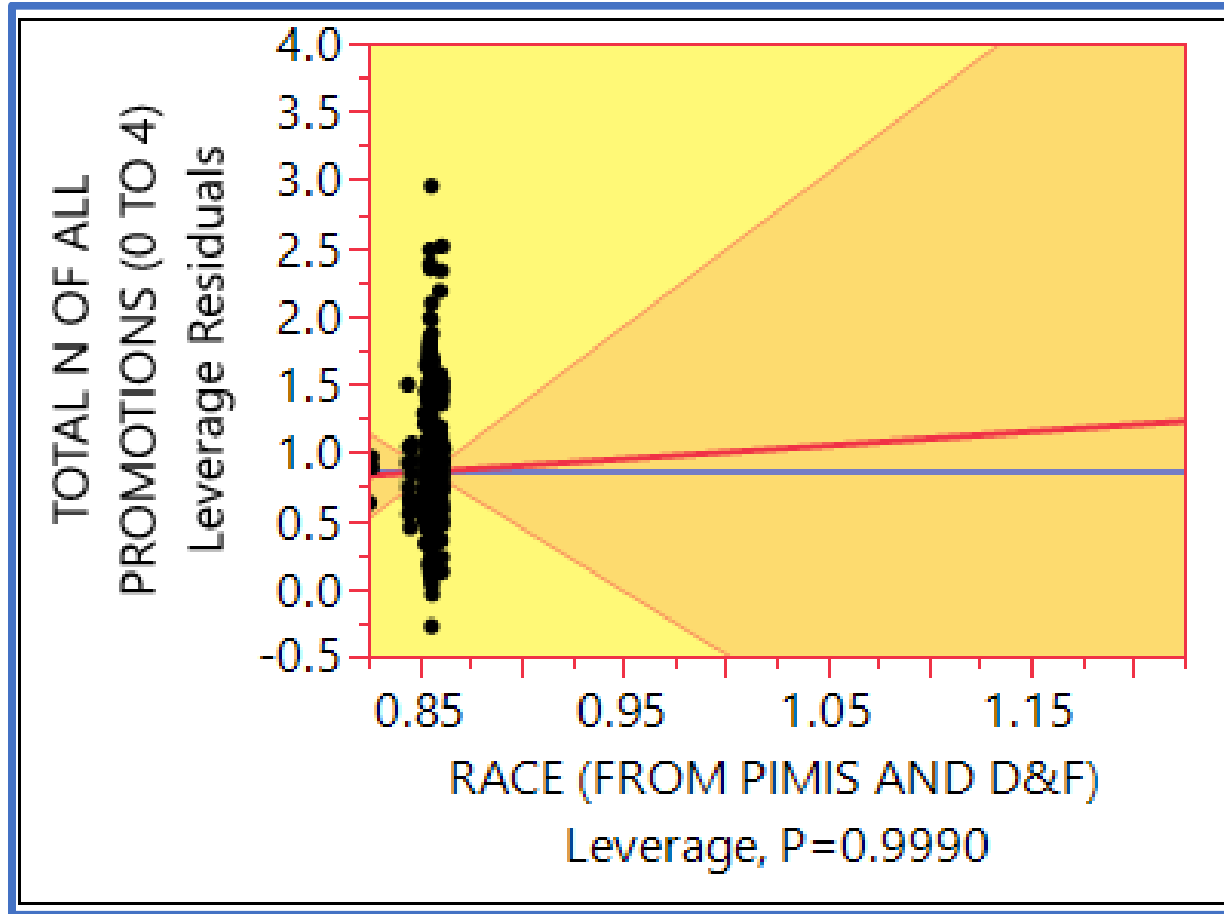
before either discipline considers the disparity to be “statistically significant.” Note that the p value of the graph below is $\approx .99$, meaning these results are exceedingly easy to account for as mere random variation alone. So, even though it may seem that the Number of Promotions received by Asian ST’s are substantially below the number received by “White” STs or “Black” STs (at averages of roughly .68, .86, and 94 promotions per ST respectively during the period of the study, as the Table below shows) it is nevertheless the case that a long trusted tradition of scientific research concurs with the Hazelwood decision cited above: These differences are too small and too unlikely to be meaningful in this context, because chance alone can easily explain the minor variations. NB: In the Least Squares Means Table below, the Mean Number of Promotions Per ST are shown alongside the Least Squares Means, i.e., the mean number of promotions per ST that would be observed if it were possible to control for all the covariates in the statistical model simultaneously. For example, in the Least Squares Means Table below, the average Number of Promotions received by an “Asian” ST during the period of the study would rise to roughly 1.20 and the average Number of Promotions received by “White” STs would rise to roughly 1.22 per ST, and the average Number of Promotions received by “Black” STs would rise to roughly 1.21 Promotions during the period of the study...differences that would still be classified as “not significant” (or “ns”) in any scientific research journal.

§5.1.3 Importance of Graph 5.1: The lack of a statistically significant relation between Number of Promotions and Race/Heritage – even when we control for all the covariates in the statistical model described above – shows that there is no statistically significant difference between the Number of Promotions of STs categorized into the groups that the NJSP uses in its HRIS, where Minority STs are self-identified as Asian, American Indian, Black, or Hispanic, and Nonminority STs are self-identified as White.

§5.1.4 Conclusion of Graph 5.1: As Graph 5.1 shows, the Number of Promotions received by STs during the period of interest reveals no evidence of a statistically significant disparity that favors or disfavors STs who self-identify as a Minority.

[GRAPH 5.1 on next page; remainder of page blank]

GRAPH 5.1: The Total Number of Promotions Received by STs Do Not Show Evidence of Racial Disparities (p ≈.99, ns)



Least Squares Means Table			
Level	Least Sq Mean	Std Error	Mean
A	1.2043711	0.08443814	0.68000
AI	1.1849413	0.18927364	1.00000
B	1.2125471	0.07513770	0.94444
H	1.2201879	0.06315035	0.84746
W	1.2153003	0.05590279	0.85609

§5.2.1 What Graph 5.2 Tells Us: A statistical analysis of Number of Promotions reveals no consistent and compelling evidence of a statistically significant disparity based on Gender.

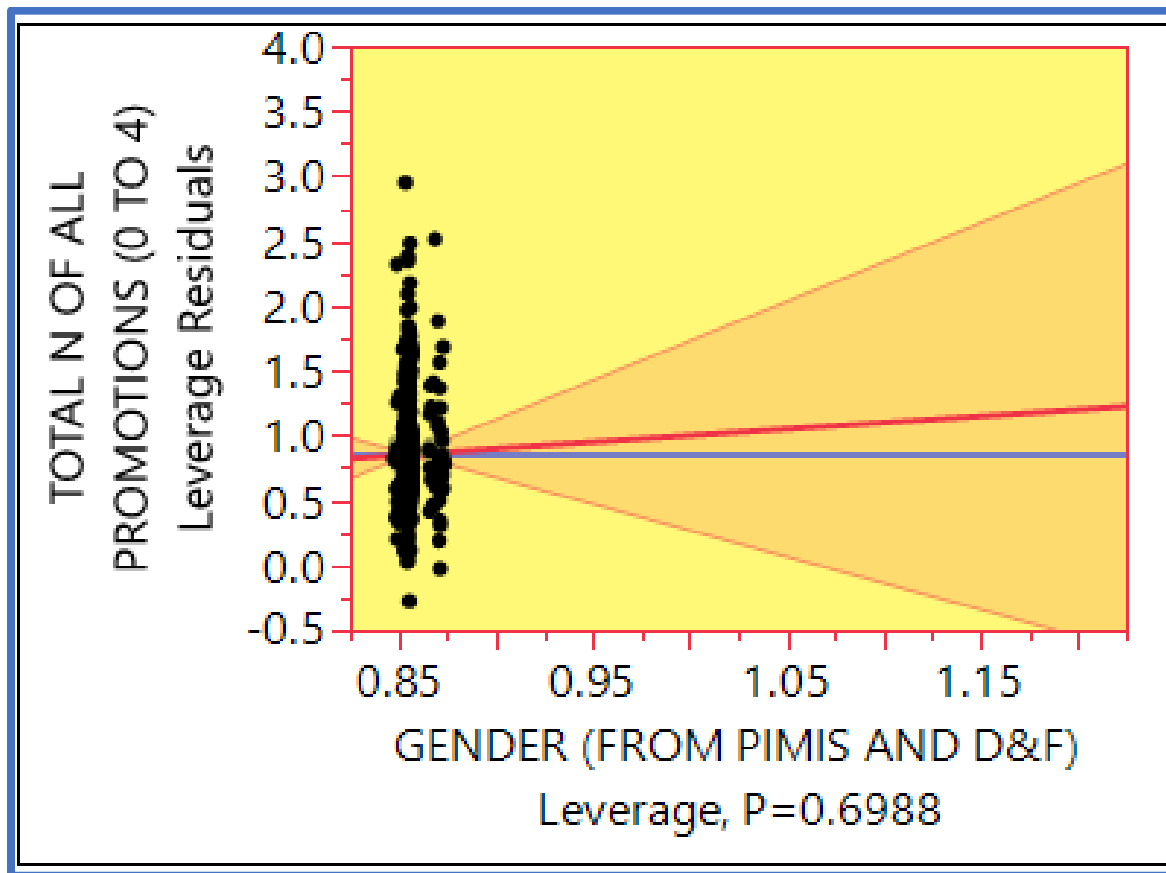
§5.2.2 What Graph 5.2 Shows: The partial regression plot below shows there is no statistically significant impact on Number of Promotions created by Gender (at least as it is measured in the data from 2017 to 2021). That is, the Number of Promotions received by Men and Women are *equivalent*, and any observed difference can easily be explained by random variation alone. So, even though a critic might claim that males seem to get fewer promotions than females (receiving, respectively, an average of .85 promotions vs 1 promotion during the period of the study, as the Table below shows) it is nevertheless the case that this difference is too small and too unlikely to be meaningful in this context because chance alone can easily explain the minor variation. It is of substantial importance to note (as shown in the statistical appendix for this analysis) that Total Number of Promotions also shows no statistically significant disparity associated with age ($p < .83$, ns). Additional analyses (shown only in the Statistical Appendix accompanying Graph 5.2) also revealed that the **Number of Applications** did not vary significantly by Gender, Race, Heritage, or Age. Moreover, there is no material change in this or the previous analysis of promotions if we measure promotions differently – counting only whether or not an ST received a promotion, rather than counting the Number of Promotions Received. NB: In the Least Squares Means Table below, the actual Mean Number of Promotions per ST are shown alongside the Least Squares Means, i.e., the means that would be observed if it were possible to control for all the covariates in the statistical model simultaneously. For example, as the table shows, the average Number of Promotions received by Female STs would rise from 1.0 to roughly 1.2 and the average Number of Promotions received by Male STs would rise from .85 to roughly 1.2... but the difference between Males and Females would still be classified as “not significant” (or “ns”) in any scientific research journal.

§5.2.3 Importance of Graph 5.2: The lack of a statistically significant relation between Number of Promotions and Gender – even when we control for all the covariates in the statistical model described above – shows that there is no statistically significant difference between the Number of Promotions received by Male and Female STs.

§5.2.4 Conclusion Re Graph 5.2: As Graph 5.2 shows, Number of Promotions received by STs reveals no evidence of a statistically significant disparity that favors or disfavors STs who self-identify as a Female.

[GRAPH 5.2 on next page; remainder of page blank]

GRAPH 5.2: The Number of Promotions Received by STs Does Not Show Evidence of a Gender Disparity ($p < 0.7$, ns)



Least Squares Means Table			
Level	Least Sq Mean	Std Error	Mean
F	1.2162686	0.07841426	1.03448
M	1.1986706	0.06655507	0.84644

§5.3.1 What Graph 5.3 Tells Us: A statistical analysis of Number of Promotions reveals that the best predictors of receiving a promotion at the NJSP are to have a high Average Total Score or to submit a high number of applications, or both together.

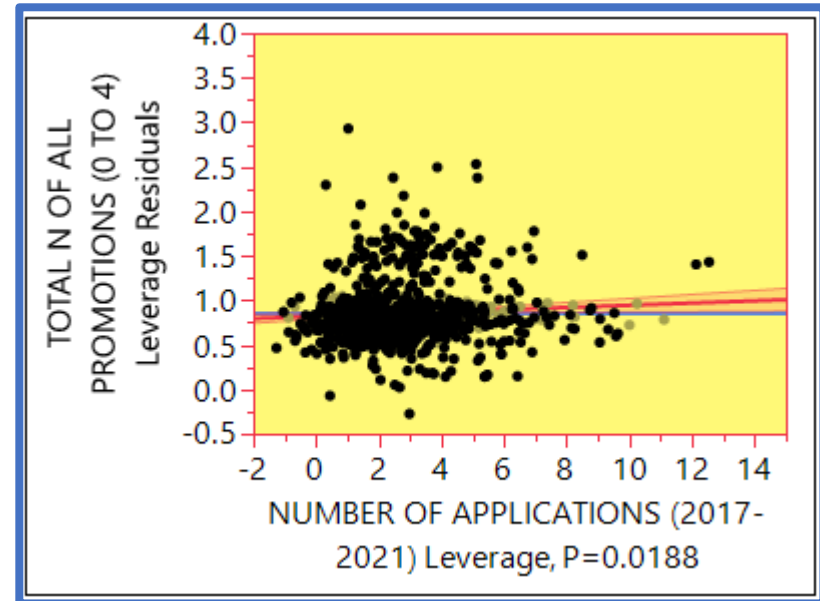
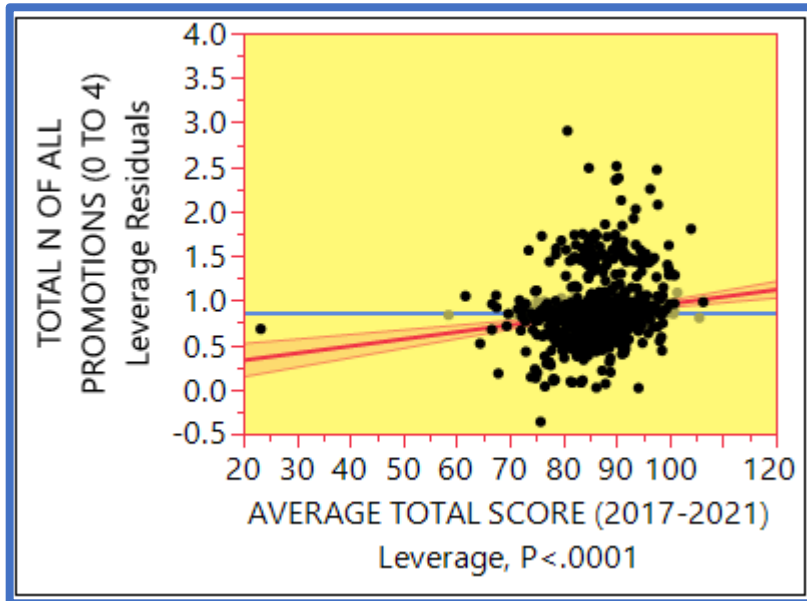
§5.3.2 What Graph 5.3 Shows: The partial regression plot below shows there are two variables with a consistently strong and independent positive impact on getting a promotion: Average Score and Number of Applications. Because this is a partial regression plot, the graphs show that both effects have a consistent impact on the Number of Promotions, either alone or in conjunction with each other. Similarly, both factors – either alone or in conjunction – meet the criteria for statistical significance which would allow publication by a research journal in the behavioral sciences.

§5.3.3 Importance of Graph 5.3: The fact that an ST's Number of Promotions is associated to a statistically significant extent with the Trooper's average Total Scores from the application process, and the number of times he or she submits an application for a promotion suggests that the best route to getting a promotion relies on diligence, good planning, and consistent practice.

§5.3.4 Conclusion Re Graph 5.3: As Graph 5.3 shows, the Number of Promotions is related to a statistically significant extent to two very straightforward independent factors: Repeatedly applying for promotions over a series of years, and getting a high Total Score during the application process – a score which reflects, among other things, a low number of disciplinary incidents, good recommendations from the superior officer, a strong resume, and compelling performance during an oral interview – all factors that are associated with merit, as that term is used in this document.

[GRAPH 5.3 on next page; remainder of page blank]

GRAPH 5.3: As the two plots below show, the best predictors of receiving a high Number of Promotions at the NJSP – at least during the period of our study – are not associated to a statistically significant extent with Gender, Race, Heritage, or Age. The strongest, most consistent, independent predictors of receiving a high Number of Promotions are (as shown on the left) to have a high Total Score during the Promotion Application Process ($p < .0001$), and (as shown on the right) to submit a high number of applications ($p < .02$).



§6.0 DETAILED SUMMARY WITH PINPOINT CITATIONS TO TEXT & GRAPHS

§6.1 We Used Procedures that are Straightforward and Standard in Behavioral Science: Following the process described above (in §1.3) we compiled 2370 heterogeneous spreadsheets into a small group of datasets that supported a rigorous, comprehensive statistical analysis of promotions from 2017 to 2021 (inclusive). This allowed us to analyze the Age, Gender, Race, and Heritage of all the STs in our datasets while controlling for Rank, Seniority, Year of Hire, and Organization, at least to the extent these variables were tracked by the NJSP’s HR Information System (see Statistical Details, §7.4). Consistent with statistical analyses in peer-reviewed journals, our results were consistent regardless of method (see e.g. §3.2.2 & §5.2.2).

§6.2 Total Scores: As detailed above (in §4.0) a rigorous comprehensive statistical analysis reveals that Race and Heritage had no consistent statistically significant impact on an ST’s “Total Score” – a composite measurement based on a set of evaluations which included an assessment of the ST’s disciplinary record, the ST’s Resume, a written recommendation from the ST’s superior officer, the ST’s optional written statement, and the ST’s optional oral interview (Graph 4.1). Similarly, Gender (Graph 4.2) and Age (§4.2.2) also had no statistically significant impact on Total Scores. It is important to note that Total Scores easily met the standards for reliability and validity established by EEOC’s Uniform Guidelines on Employee Selection Procedures: Test-retest reliability is very high (Graph 3.1) and evidence of validity is compelling: High scores go to STs who hold high ranks, or who have more practice applying for promotions at the NJSP, or who have greater Seniority (§3.2.2 and Graph 3.2).

§6.3 Number of Promotions: As detailed above (in §5.0), there is no statistically significant disparity in the total Number of Promotions associated with an ST’s Race or Heritage (Graph 5.1) or Gender (Graph 5.2) or Age (§5.2.2). This same section of the report (i.e., §5.2.2) also reveals that neither Race, Heritage, Gender nor Age has a statistically significant impact on the Number of Applications submitted by an ST – a finding which shows the absence of a race-based or age-based disparity in the Number of Applications submitted during the years of this analysis. More importantly the analyses also revealed the specific factors that *do* have a statistically significant impact on an ST’s success in garnering a high Number of Promotions: As Graph 5.3 reveals, by a statistically significant margin, the STs with the highest Number of Promotions also tend to have significantly higher Total Scores, and they tend to apply for a significantly higher number of promotions, suggesting that – when it comes to securing a promotion at the NJSP – the best predictors are a dedication to building a strong personnel record, and practice.

§6.4 Summary: In each case where we were able to run rigorous statistical tests on available data, conclusions were clear and consistent: Promotions were made on the basis of merit – as that term is used in this document – regardless of Race, Heritage, Gender or Age. Specifically, Gender, Age, Race and Heritage had no statistically significant impact on the Number of Promotions or the Total Scores that Troopers received during the years of our analysis.

§7.0 APPENDICES

§7.1 Affirmation

If you have any questions about this report or any of the analyses it describes please contact Dr. Palmer Morrel-Samuels by email through his University of Michigan account (palmer@umich.edu). Suggested corrections and suggested revisions are always welcome.

I affirm that this report is a complete statement of the opinions addressed in this report, and that I summarize herein the basis and reasons for those opinions. This report also includes a reference to the facts and data I considered in forming those opinions, as well as pertinent exhibits that might be used to summarize or support those opinions and findings. I reserve the right to supplement this report with additional information which was not readily available at the time of this report's completion including, but not limited to, additional documents or reports produced by any party or third party, additional empirical data, additional deposition testimony not presently available, etc.

My vita is included (as Appendix 7.2); it contains a list of all publications authored in the previous 10 years.

The findings and opinions contained in this report, as well as the procedures I used to formulate those opinions and findings, are consistent with the standards and principles of my profession as a research psychologist specializing in the design and analysis of workplace assessments.

/s/ Palmer Morrel-Samuels

Palmer Morrel-Samuels, MA, M.Phil. MSc in Law, Ph.D. (psychology),

§7.2 CV of Dr. Palmer Morrel-Samuels

Email: palmer@umich.edu Cellphone: 734-368-3348 -- Office at EMPA, 210 Park St., Chelsea, MI 48118

ACADEMIC TRAINING

Northwestern University School of Law, Chicago, IL (2015-2017) MSL (Master of Science in Law)

Area of Specialization: workplace discrimination

Columbia University, Department of Psychology, NYC, NY (1982-1989) M.Phil, Ph.D.

Area of Specialization: experimental social psychology

University of Chicago, Division of Social Sciences, Chicago, IL (1979-1980) M.A.

Area of Specialization: research methodology in behavioral science

Goddard College, Plainfield VT, credits transferred from Dickinson College (1974-1976) B.A.

MAJOR WORK EXPERIENCE

President & Principal Consultant

Employee Motivation & Performance Assessment, Inc. (EMPA) Chelsea, MI (4/98-present)

Instructor (teaching courses on survey design & research methodology, including classes on statistics, and sampling)

Institute for Social Research, Survey Research Ctr., Summer Institute, University of Michigan (7/09-present)

Lecturer (teaching courses on survey design & research methodology, including classes on ethics, statistics, and sampling)

School of Public Health, University of Michigan (teaching 9/08-4/14; on-call thereafter)

Expert Witness

Employee discrimination, surveys & assessments, contract disputes requiring statistical analysis (2004-present)

ADDITIONAL WORK EXPERIENCE

Team Director & Senior Consultant: Hewlett-Packard, formerly EDS-Survey Services (8/91-11/96)

Assistant Research Scientist: Cognitive Science & Machine Intelligence Lab, University of Michigan, Ann Arbor, (3/93-12/99)

Adjunct Research Scientist: National Quality Research Center, University of Michigan Business School, Ann Arbor (6/97-6/98)

Research Assistant: Computer Science Department, Watson Research Center, IBM, Yorktown, NY (8/86-4/87)

Research Assistant: Psychology Department, Yale University, New Haven, CT (12/81-9/82)

PROFESSIONAL MEMBERSHIPS

American Psychology-Law Society

Society for Empirical Legal Studies

Society of Industrial/Organizational Psychologists (SIOP)

Society for Public Health Education

Association for Psychological Science (Charter Member)

Amer. Assn. for Public Opinion Research

HONORS

Who's Who in Science and Engineering (second edition, 1994-1995)

Faculty Fellowship, Department of Psychology, Columbia University (1982-1987)

Scholarship, French Ministry of Education & Université de la Source, Orleans, France (1967)

SAMPLE of SUPPLEMENTARY EXPERIENCE

Served as consultant (~30 years) designed & analyzed assessments for more than 7 million employees in over 70 countries.

Wrote and patented four web-based assessments and surveys for the workplace.

Provided survey services for corporations (e.g., Disney, FedEx, Mars, Credit Suisse, Coke, GM, UPS, Ford, Duke Energy)

Provided survey services for non-profits & government agencies (e.g., US Department of Justice, Blue Cross Blue Shield)

Provided survey services for healthcare industry (e.g., Harvard Pilgrim HC, Pfizer, Novo Nordisk, Univ. of Michigan)

Testified to Congress on a DOJ study examining the relation between working conditions, motivation, and job performance.

LITIGATION EXPERIENCE as EXPERT WITNESS (EW)

- 1) Burns v. Interstate Brands Corporation (AKA Hostess Bakeries); expert witness (EW) for D (settled ~ 5/9/04)

Ran statistical analysis of job assignments for evidence of disparate impact (DI) and/or disparate treatment (DT).

- 2) Tower Automotive Products v. Lamb Technicon; EW for D (settled ~ 8/31/05)

Ran statistical tests of 4 million datapoints tracking assembly-line failures in breach of contract suit.

- 3) [Corp. A] v. [Corp. B] EW for D testified to ICC's International Court of Arbitration in The Hague (settled ~ 2/10/12)

Analyzed psychometric properties of assessment P used to compute damages in contract breach suit. Testified (details sealed).

- 4) Scott v. City of Indianapolis; EW on behalf of the Ps (settled ~ 7/19/12)

Ran statistical analysis of data from Human Resources Information System (HRIS) to evaluate Ps' claim of DI based on race.

Withstood Daubert Challenge: 3-25-2010 US District Court, S.D. IN, Indianapolis Division.

- 5) American Postal Workers Union, AFL-CIO v. United States Postal Service; EW for P (settled ~ 3/7/13)

Ran statistical analysis of 111 postal workers who did or did not receive letter of intent regarding job relocation, for DI analysis.

- 6) EEOC v. Bass Pro Inc.; EW for P and the EEOC (settled ~ 3/4/2014)

Designed a cross-validated assessment for verifying race of several hundred job applicants to rebut exclusion of P's expert.

- 7) Sweeney v. Washington Board of Pilotage; EW for P alleging DT violation (settled ~ 10/1/14)

Ran statistical tests of 1.03 million datapoints from pilot's licensing test for evidence of sex discrimination; Deposed (8/22/13).

8) Cardelle et al. v. Miami Fraternal Order of Police; EW for P alleging ADEA violation (settled ~ 11/25/2015)

Ran statistical tests of 221K datapoints from pension payments & HRIS for evidence of age discrimination.

9) Grevera v. Microsoft Inc.; EW for P alleging ADEA violation (settled ~ 8/29/14)

Ran statistical tests of 4.9 million datapoints from job evaluations & HRIS for evidence of age discrimination.

Withstood Daubert Challenge (details sealed).

10) Schmidt v. Gronik; EW for D alleging violation of ADA, FLSA & Clean Hands Doctrine (settled ~ 5/14/14)

Ran statistical analysis of HRIS data and analyzed documents re ADA, FLSA & Clean Hands Doctrine; Deposed (8/1/13).

11) Swann v. Time Warner Entertainment; EW for D regarding alleged DI and DT violations. (dismissed 12/15/15)

Ran statistical analysis of HRIS data; analyzed validity of performance appraisal & employment screening test (details sealed)

12) National Treasury Employee Union v. Social Security Admin.; EW for P in binding arbitration (Complaint #1 settled ~ 8/28/15)

Analyzed HRIS data; evaluated performance assessment's validity & evidence of DI using covariates. Testified (details sealed)

13) EEOC v. FAPS; EW for P and the Equal Employment Opportunity Commission (settled ~ 4/28/16)

Designed a cross-validated assessment to determine race of 900 job applicants by mail, for DI analysis; Deposed (12/9/13)

Withstood Daubert Challenge: 9-26-14 US District Court, District of N.J.;

14) Nevis v. Jacobs Telecommunications Inc.; EW. for P re. D's apparent failure to accommodate P under ADA (settled ~ 6/1/16)

Researched information on procedures for using workplace assessments to conduct drug-testing of employees.

15) Johnson v. ABF Freight System; EW for P (settled ~ 2/15/17)

Evaluated validity of promotional process

16) US v. City of Jacksonville [FL]; EW for D (settled ~ 1/13/17)

Ran statistical tests of 179 million datapoints from promotion exams & HRIS for evidence of DI; Deposed (3/4/16 & 3/14/16)

Withstood Three Daubert Challenges (deemed moot).

17) US v. Commonwealth of Pennsylvania & Pennsylvania State Police; EW for D (settled ~ 4/4/18)

Wrote rebuttals of reports by P's EWs regarding evidence of DI; Deposed (7/14/16)

18) Neff v. City of East Lansing; EW for D (Summary Judgment Granted 4/20/17)

Evaluated validity of workplace assessment and ran statistical analysis evaluating evidence of DT & DI

19) Grzebyk, Shin & Hardrick v. Auto Club Insurance Assn. [of AAA]; EW for P (settled ~ 9/12/19)

Evaluated survey methodology used by D to set compensation rates for home health assistants; Deposed (3/10/17)

20) Miller v. Port Authority of NY & NJ; EW for P (Still in litigation)

Evaluated D's claim that P's request for reasonable accommodation would necessarily entail an undue hardship.

Withstood Daubert Challenge: 12-20-2017 US District Court, District of NJ

21) Jones & Barnes v. Bd. of Trustees of Univ. of Il et al.; EW for P. (decided ~3-25-19)

Evaluated interview process used to make promotions to Chief Engineer; ran statistical analyses; Deposed, Barnes, (11/30/17)

Withstood Daubert Challenge: 3-25-2019 US District Court, Northern District of IL, Eastern Division (deemed moot)

22) Herron v. AT&T; EW for P (status of litigation uncertain) (Details sealed)

Evaluated termination records for evidence of discrimination.

23) Wesley v. KY Transportation Cabinet; EW for P (still in litigation)

Evaluated employment data on promotions, salary, raises and performance bonuses.

24) Robinson v. Des Moines Public Schools; EW for D (still in litigation)

Evaluated P's motion to be designated Class Representative for a proposed class; evaluating employment data.

Withstood Daubert challenge: 10-2-2018 Iowa District Court, Polk County, IA

25) Scott et al v. State of NJ; EW for D (still in litigation)

Evaluated the role of race in job actions within the AG's office Re Promotions, New & Old Hires, & Job Performance. Deposed 7/13/22 & 8/11/22.

26) Mitchel v Jefferson County School District; EW for P (settled ~ 5/29/20)

Evaluated the psychometric properties of a workplace survey that was used to evaluate P's work performance.

27) Nam v. Regents of the University of California; EW for D (settled ~ 11/4/23)

Evaluated HRIS data, depositions, and survey data to determine whether or not Disparate Impact can explain D's job actions.

28) Rodriguez v. Atrius; EW for P (decided, ~ 8/29/23)

Evaluated HRIS data, depositions, and survey data to determine whether or not Disparate Impact can explain D's job actions.

29) Approximately 20 Ps v. DeVry University; EW for Ps, arbitration (sealed, settled ~11/11/21)

Evaluated DeVry's student data & publications to determine whether or not DVU's marketing materials constituted false advertising.

30) B. van Meeuwen v. IBM; EW for P (settled ~ 11/11/21)

Evaluated data from HRIS to determine whether or not Disparate Impact or Disparate Treatment can explain D's job actions.

31) Herskovitz v. Snowflake; EW for P (still in litigation)

Evaluated data from HRIS to determine whether or not Disparate Impact or age discrimination played a role in D's job actions.

32) X v. National Football Leagues; EW for P (still in arbitration)

Evaluated data from HRIS to determine whether or not arrests were inappropriately used as a basis for D's job actions.

33) Bartholomew v. Lowes, EW for P (settled ~9/4/23)

Evaluated contracts and data on compensation to determine whether Lowes has discriminated against older EEs.

34) Kennedy v. Froe; EW for Ds (settled ~ 8/24/22)

Evaluating whether D – owner of a low-income housing unit – discriminated against minority applicants.

35) Seely, Harper, Stout and/or Renati v. Walmart; EW for 4 separate Ps (still in litigation)

Evaluating whether D, subsequent to denial of Class Cert. in Wal-Mart v. Dukes, discriminated against 4 female EEs in CA.

36) Alhariri v. Kaiser Permanente, EW for P, arbitration, (sealed, settled ~ 3/21/23)

Evaluated HRIS data, depositions, and survey data to determine whether or not Disparate Impact can explain D's job actions.

37) X v. NJ State Police; arbitration/mediation, EW for D in statewide, multi-year analysis (status uncertain, sealed)

Evaluated HRIS data, depositions, and survey data to determine whether or not Disparate Impact can explain D's job actions.

Sample of Publications and Presentations as of February 2024

- 1) Fiske, D., & Morrel-Samuels, P. (1980, May) *A Dictionary of Terms in Research Methodology*. (Technical Report). Chicago, IL. University of Chicago, Quantitative Research Methodology for the Social and Behavioral Sciences.
- 2) Herman, L., Morrel-Samuels, P., & Pack, A. (1990). Bottlenosed dolphin and human recognition of veridical and degraded video displays of an artificial gestural language. *Journal of Experimental Psychology: General*, 119, 215-230.
- 3) Krauss, R., Morrel-Samuels, P., & Colasante, C. (1991). Do conversational hand gestures communicate? *Journal of Personality and Social Psychology*, 61, 743-754.
- 4) Morrel-Samuels, P., & Krauss, R. (1992). Word familiarity predicts temporal asynchrony between gesture and speech. *Journal of Experimental Psychology: Learning, Memory & Cognition*, 18, (3) 615-622.
- 5) Morrel-Samuels, P., (April 1, 1996) U.S. Patent No. 5,743,742 "System for Measuring Leadership Effectiveness." [for HP].
- 6) Morrel-Samuels, P., (August 18, 1998) U.S. Patent No. 5,795,155 "Leadership Assessment Tool & Method." [for Xerox].
- 7) Morrel-Samuels, P. (June 30, 1998). An objective measure of performance linked to employee motivation. In M. Cronin (Chair) INTEX: A system to evaluate performance at INS. Briefing to staff and officials of US Congress, Washington. DC.
- 8) Morrel-Samuels, P., (December 28, 1999) U.S. Patent No. 6,007,340 (Filed April 1, 1996) "Method and System for Measuring Leadership Effectiveness." [Divisional Patent for HP].
- 9) Morrel-Samuels, P., (Sept. 22, 2009) U.S. Patent 7,593,861 (Filed Oct 4, 2002) "Employee Assessment Tool" [for EMPA].
- 10) Morrel-Samuels, P. (2002) Measuring illegal immigration at US border stations by sampling from a flow of 500 million travelers, *Population and Environment*, 23, (3), 285-302.
- 11) Morrel-Samuels, P. (2002) Getting the truth into workplace surveys. *Harvard Business Review*, 80 (2) 111-118.
- 12) Morrel-Samuels, P. (2003) Web surveys' hidden hazards. *Harvard Business Review*, 81 (7) 16-17.
- 13) Maini, B, & Morrel-Samuels, P. (2006) Cascading improvements in communication: Adopting a new approach to organizational communication. *Physician Executive: Journal of Medical Management*. 32 (5), pp 38-43.
- 14) Morrel-Samuels, P. and Maini, B., (August 2006) Cascading improvements in communication throughout the workplace. Presented at the annual conference of the American Psychological Association, New Orleans, LA.
- 15) Morrel-Samuels, P. & Goldman, E., (2007) Who, what, and where: Guidelines for the statistical analysis of disparate impact in EEO litigation, *Docket*, 25, (2), pp. 54-74.
- 16) Morrel-Samuels, P., & Jacobson, P. J. (2008, March). Using statistical evidence to prove causality to non-statisticians. Presented at the meeting of the American Psychology-Law Society, Jacksonville, FL.

- 17) Morrel-Samuels, P., (2009, August) The National Benchmark Study: Employee motivation affects subsequent stock price. Presented at the annual meeting of the American Psychological Association, Toronto, Canada.
- 18) Morrel-Samuels, P., (Sept. 22, 2009) U.S. Pat 7,593,861 (Filed Oct. 4, 2002) "Employee Assessment Tool" [for EMPA].
- 19) Morrel-Samuels, P., Francis, E., & Shucard, S. (2009) Merged datasets: An analytic tool for evidence-based management, *California Management Review*, 52 (1), pp.120-139.
- 20) Morrel-Samuels, P., (2010, March) Distinguishing reverse discrimination from overcorrection: Statistical methods for clarifying this neglected distinction. Presented at the meeting of the American Psychology-Law Society, Vancouver, CDN.
- 21) Morrel-Samuels, P., & Zimmerman, M. (2010). Research methodology: An innovative approach to a venerable course. *Clinical and Translational Science*, 3(6), 309-311.
- 22) Fritz, C., Curtin, J., Poitevineau, J., Tao, F., & Morrel-Samuels, P. (2012). Player preferences among new and old violins. *Proceedings of the National Academy of Sciences*, 109 (3) 760-763.
- 23) Morrel-Samuels, P. Banaszak-Holl, J, Karls, E, DeCicco, B. (2013, June). The importance of organizational climate in the performance improvement process. Presented at the Annual Research Meeting of AcademyHealth, Baltimore, MD.
- 24) Morrel-Samuels, P. & Goldman, E., (2014) Workplace assessments: Thirteen ways to invite litigation and thirteen ways to avoid it. Presented at the Annual Conference of the American Psychological Association, Washington DC.
- 25) Morrel-Samuels, P. (2014) Using graphs in business, law, and public health to facilitate analysis of trends, impacts, and linkages. Presented at the Annual Conference of the American Psychological Association, Washington DC.
- 26) Morrel-Samuels, P (2015) True or False: The Ricci Decision was Illogical and Problematic. Presented at the annual conference of the European Association of Psychology and Law, Nuremburg, 8/4/15.
- 27) Morrel-Samuels, P. (2018) Statistical Analysis in Employment Discrimination: Trends and Implications. Presented to the Conference on Empirical Legal Studies, Society of Empirical Law Studies, Ann Arbor, 11/9/18.
- 28) Morrel-Samuels, P. (2019) Psychologists Can Provide Critical Empirical Assistance to Judges Evaluating Class Certification. Presented to the Conference of the American Psychology-Law Society, Portland OR, 3/14/19.
- 29) Morrel-Samuels, P. (2020) Working Conditions Driven by Corporate Culture; A Factor Underlying Commonality in Class Action Lawsuits. To be Presented to the Conference of the American Psychology-Law Society, New Orleans LA, 3/5/20.
- 30) Morrel-Samuels, P. Banaszak-Holl, J, Karls, E., Predictive Links between Organizational Culture and Outcomes in Four Domains: Profit, Patient Satisfaction, Staff Retention & Hospital-Acquired Infections. MS submitted for publication.
- 31) Morrel-Samuels, P. Employment Discrimination: 12 Key Recommendations for Executives versus 12 for Employees. MS submitted for publication.

• • •

§7.3 List of Informative References, Statutes & Regulations

- 1) 29 CFR Part 1607; Uniform Guidelines on Employee Selection Procedures, §14 (B) (5) (1978).
- 2) 42 USC 2000e-Title VII of the Civil Rights Act of 1964.
- 3) ABA Profile of the Legal Profession, ABA, [1878-2020] 2020, <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf>.
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§7.4 Statistical Details for Slides in this Report

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§7.4.1 Statistical Details for Graph 3.1

Data Table=NJSP (A) CD FILES MAIN (3235 ROWS
 2017-2021) AKA TOTAL RECAP SHORT (01) 57
 SHOWING AVE TOTAL SCORE BY BADGE SPLIT BY
 YEAR FOR RELIABILITY MM 02

Multivariate

Correlations

	2017	2018	2019	2020	2021
2017	1.0000	0.8185	0.7512	0.7836	0.7936
2018	0.8185	1.0000	0.7592	0.8186	0.7882
2019	0.7512	0.7592	1.0000	0.7391	0.8439
2020	0.7836	0.8186	0.7391	1.0000	0.8148
2021	0.7936	0.7882	0.8439	0.8148	1.0000

There are 684 missing values. The correlations are estimated by REML method.

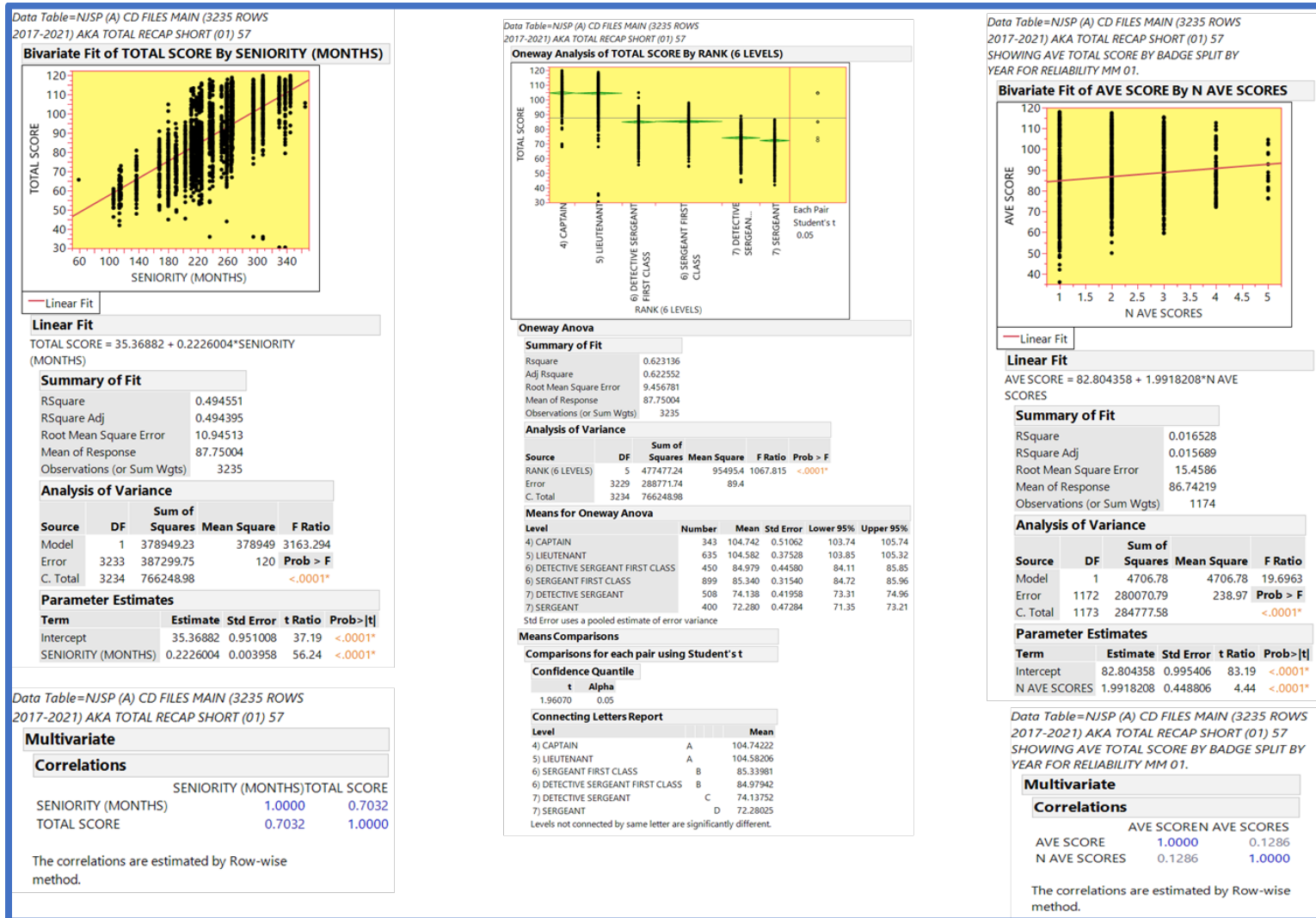
Cronbach's α

	α	-.8-.6-.4-.2 0 .2 .4 .6 .8				
Entire set	0.9496					

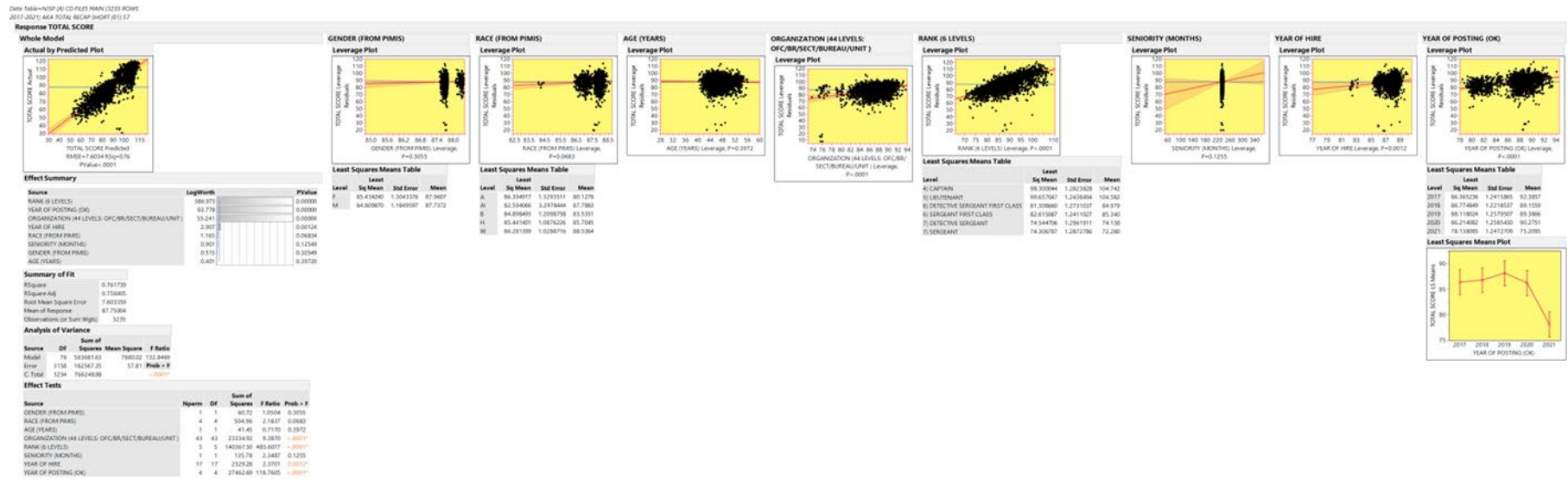
Excluded

Col	α	-.8-.6-.4-.2 0 .2 .4 .6 .8				
2017	0.9388					
2018	0.9368					
2019	0.9416					
2020	0.9383					
2021	0.9334					

§7.4.2 Statistical Details for Graph 3.2



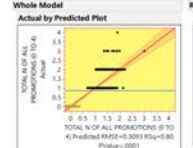
§7.4.3 Statistical Details for Graph 4.1 & Graph 4.2



§7.4.4 Statistical Details for Graph 5.1 & 5.2 & 5.3

Date: Table=NISF_Q3_PROMOTIONS_BY_THE
 WORKFORCE_2017-2021_152_RMRV_DMF_03_04_F
 U.S. ONLY POS IN KNOWN ORG WHO APPLIED 17

Response TOTAL N OF ALL PROMOTIONS (0 TO 4)

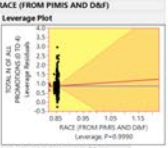


Summary of Fit

R-squared	0.802097
R-squared Adj	0.799805
Root Mean Square Error	0.309322
Mean of Response	0.833903
Observations (or Sum Wgts)	1152

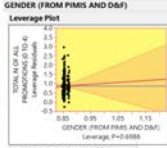
Analysis of Variance

Source	Df	Sum of Squares	Mean Square	F Ratio
Model	67	420.36239	6.27407	65.5734
Error	1084	505.71716	0.46646	
C. Total	1151	926.07956		



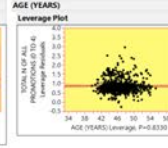
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
A	1.2042711	0.0844304	0.80000
B	1.1848482	0.1801766	1.00000
C	1.2125471	0.0751370	0.84444
D	1.2201429	0.0673005	0.84766
W	1.2133993	0.0559029	0.83608



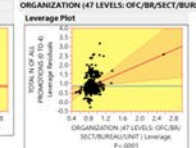
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
F	1.2162506	0.0784142b	1.02448
M	1.1986706	0.0660300f	0.86664



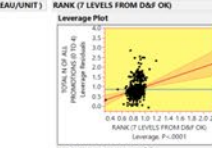
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
A	0.823742	0.0693902b	0.69844
B	0.906570	0.0517594a	0.93276
C	1.127387	0.0764203a	1.13475
D	1.184723	0.0505027b	0.88584
E	1.189978	0.0579877	0.77386
F	1.173286	0.0557407	0.81176
G	2.100453	0.1827193b	2.00000



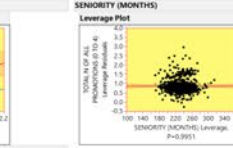
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
41 CAPTAIN	0.823742	0.0693902	0.69844
51 DETENTION	0.906570	0.0517594	0.93276
6 DETECTIVE SERGEANT FIRST CLASS	1.127387	0.0764203	1.13475
61 SERGEANT FIRST CLASS	1.184723	0.0505027	0.88584
71 DETECTIVE SERGEANT	1.189978	0.0579877	0.77386
71 SERGEANT	1.173286	0.0557407	0.81176
81 TROOPER I	2.100453	0.1827193	2.00000



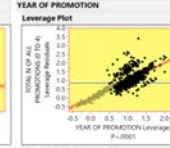
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
41 CAPTAIN	0.823742	0.0693902	0.69844
51 DETENTION	0.906570	0.0517594	0.93276
6 DETECTIVE SERGEANT FIRST CLASS	1.127387	0.0764203	1.13475
61 SERGEANT FIRST CLASS	1.184723	0.0505027	0.88584
71 DETECTIVE SERGEANT	1.189978	0.0579877	0.77386
71 SERGEANT	1.173286	0.0557407	0.81176
81 TROOPER I	2.100453	0.1827193	2.00000



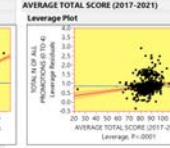
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
897096 2017	0.2058754	0.0712100	-0.3614
2017	1.8016815	0.0767880	1.6287
2018	1.458998	0.0724408	1.3318
2019	1.2602767	0.0738819	1.2056
2020	1.224039	0.0733462	1.0994
2021	1.175008	0.0722340	1.0053
2022	1.1972104	0.0811982	1.0000



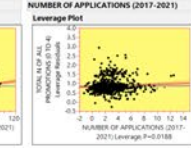
Least Squares Means Table

Level	Sq Mean	Std Error	Mean
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Least Squares Means Table

Level	Sq Mean	Std Error	Mean
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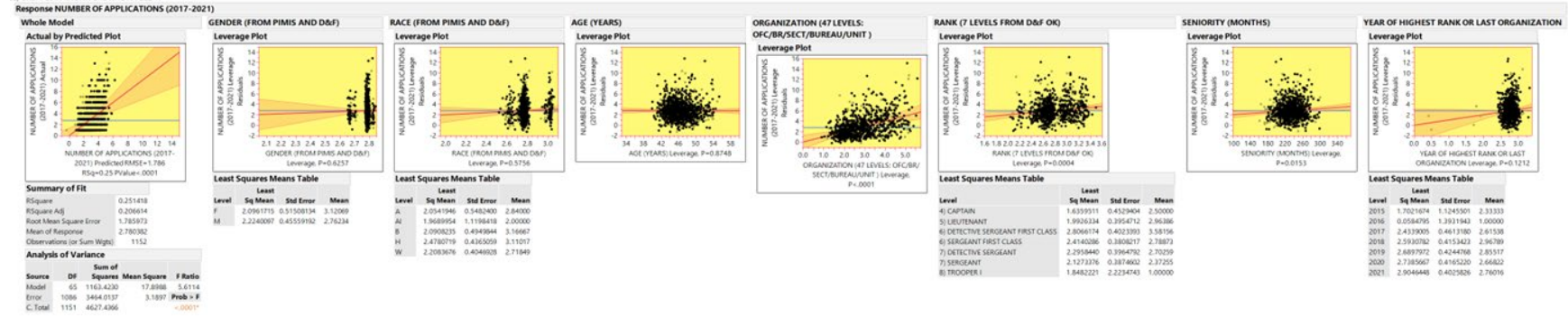


Least Squares Means Table

Level	Sq Mean	Std Error	Mean
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2017	1.8016815	0.0767880	1.6287
2018	1.458998	0.0724408	1.3318
2019	1.2602767	0.0738819	1.2056
2020	1.224039	0.0733462	1.0994
2021	1.175008	0.0722340	1.0053
2022	1.1972104	0.0811982	1.0000

§7.4.5 Statistical Details for Text in §5.2.2 Accompanying Graph 5.2

Data Table=NISP (G) PROMOTIONS IN THE WORKFORCE 2017-2021 1152 ROWS (D&F 05 & F 52) ONLY POS IN KNOWN CARS WERE APPLIED 17



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