

## AN ABSTRACT OF THE THESIS OF

Charles Okonkwo for the degree of Master of Arts in Interdisciplinary Studies in Applied Economics, Ethnic Studies, and Business Administration presented on June 4, 2019.

Title: The Knee That Shook America: A Case Study of Colin Kaepernick and Historical Analysis of Protest

Abstract approved: \_\_\_\_\_

Victor Tremblay

America is said to be the land of the free and the home of the brave. With the unfair treatment of people of color in this country, however, one would believe that somewhere in the fine print, they were excluded from that phrase. The very foundation of this country was established through the free labor of slavery. Simultaneously, the ideology of racism has promoted white supremacy and terrorized people of color nationwide. It has been perpetuated that racism is an ideal of the past, however recent events prove this to be very wrong. When Colin Kaepernick, an NFL quarterback for the San Francisco 49ers, took a knee to protest racial injustice and police brutality against communities of color, it sparked an outrage that divided the United States along racial lines. After opting out his contract, he has since found himself labeled unpatriotic and has been unable to sign a subsequent contract. This led to an additional controversy regarding his belonging in the league. This thesis intends to incorporate the disciplines of economics, ethnic studies, and business administration to intersectionally analyze the controversy that became the latter part of Kaepernick's career. It will analyze historical implications of his protest, as well as quantitatively investigate the conversation of his belonging in the NFL. It will also evaluate the financial burden the protest had on the NFL's respective organizations. Finally, the results of Nike's 30<sup>th</sup> anniversary ad campaign featuring Kaepernick will be analyzed, accounting for the

price of doing business with him. These results indicate that not only does Kaepernick belong in the league, but the strength of stance taken in protest had little to no effect on end of year financial values of the respective teams and corporations. With a vast literature on athletes whose activism caused them similar fates, I introduce a case of disparate impact in their defense.

©Copyright by Charles Okonkwo  
June 4<sup>th</sup>, 2019  
All Rights Reserved

The Knee That Shook America: A Case Study of Colin Kaepernick  
and Historical Analysis of Protest

by  
Charles Okonkwo

A THESIS

submitted to

Oregon State University

in partial fulfillment of  
the requirements for the  
degree of

Master of Arts in Interdisciplinary Studies

Presented June 4, 2019  
Commencement June 2019

Master of Arts in Interdisciplinary Studies thesis of Charles Okonkwo presented on June 4, 2019.

APPROVED:

---

Major Professor, representing Applied Economics

---

Director of Interdisciplinary Studies Program

---

Dean of the Graduate School

I understand that my thesis will become part of the permanent collection of Oregon State University libraries. My signature below authorizes release of my thesis to any reader upon request.

---

Charles Okonkwo, Author

## ACKNOWLEDGMENTS

Words will not be enough to express my sincere gratitude and appreciation to all those who contributed in making this work a success. I would like to express the deepest appreciation to the director of the MAIS program, Professor David Bernell, for his continued support and guidance through graduate school. He has remained a guiding hand these past two years. I sincerely appreciate his belief in me that I would be able to complete this program. Without his guidance and persistent help, this thesis would not have been possible.

I would also like to express my gratitude towards my major professor, Victor Tremblay, and members of my committee, Professor Aaron Lewis and Dr. Robert Thompson. Their constant encouragement, comments, criticism, and free exchange of ideas helped improve the quality of what is offered here. It has been an honor being their student for through them, I have learned a great amount in these three very distinct disciplines.

I would also like to thank my family. From my parents, Lawrence and Betty Okonkwo, to my siblings, Lawrence, Emeka, and Ada Okonkwo for their continued love and support throughout my collegiate trials and tribulations.

Last but not least, I would like to thank Colin Kaepernick, and other athletes, who have selflessly risked their careers to be the voice for those oppressed. It takes a lot of sacrifice and hard work to gain the platform of a professional athlete, and an even greater sacrifice to enable that platform for social justice.

## TABLE OF CONTENTS

CHAPTER I - INTRODUCTION .....	1
CHAPTER II – COLOR-BLIND RACISM.....	7
ABSTRACT LIBERALISM: .....	8
NATURALIZATION:.....	8
CULTURAL RACISM:.....	9
MINIMIZATION OF RACISM: .....	9
STATE-SANCTIONED VIOLENCE:.....	10
CHAPTER III – ORIGINS OF POLICE BRUTALITY .....	12
POLITICAL CLIMATE: .....	12
AGE OF SURVEILLANCE:.....	14
MEDIA:.....	15
SHIFT TO A PUNITIVE SYSTEM: .....	16
<i>SWAT Teams:</i> .....	17
<i>Broken Window Policing:</i> .....	19
POLICE BRUTALITY:.....	22
CHAPTER IV – INTEGRATION IN THE NFL .....	25
KENNETH S. WASHINGTON: .....	27
RACIAL INTEGRATION:.....	28
ROONEY RULE:.....	29
NFL DEMOGRAPHICS TODAY:.....	30
CHAPTER V – ECONOMIC THEORIES OF DISCRIMINATION .....	32
THEORIES OF LABOR MARKET DISCRIMINATION:.....	33
<i>Personal Prejudice (Employer Discrimination):</i> .....	34
<i>Personal Prejudice (Customer Discrimination):</i> .....	36
<i>Personal Prejudice (Employee Discrimination):</i> .....	37
<i>Monopoly Power:</i> .....	37
CHAPTER VI – TITLE VII.....	39
DISPARATE TREATMENT: .....	40
DISPARATE IMPACT: .....	42
HARASSMENT: .....	43
RETALIATION: .....	44
CHAPTER VII – ATHLETE ACTIVISM.....	46
MUHAMMAD ALI: .....	46
TOMMIE SMITH & JOHN CARLOS:.....	48
BILL RUSSELL:.....	49
MISSOURI FOOTBALL: .....	50
CRAIG HODGES:.....	51
CURT FLOOD: .....	52
WHITE ATHLETES:.....	54

CHAPTER VIII – METHODOLOGY AND RESULTS .....	55
METHODOLOGY: .....	57
RESULTS: .....	59
<i>Nike’s Kaepernick Ad Campaign Results</i> – .....	62
<i>Limitations of Study</i> .....	64
LIST OF TABLES – .....	65
2017:.....	65
2018:.....	68
<i>Playoff Career</i> – .....	72
LIST OF FIGURES – .....	76
<i>Average Regular Season Home Attendance of Teams in which a Player Protested</i> – .....	76
<i>Annual Revenue of Teams in which a Player Protested</i> .....	77
<i>Franchise Value of Teams in which a Player Protested</i> – .....	78
CHAPTER IX – CONCLUSION .....	79
WORKS CITED .....	86

## Chapter I - Introduction

In the western world, the history of racism is broadly associated with slavery as the early form of colonialism. It is in that context that something called race was created, which essentially meant that certain people who defined themselves as non-Europeans found themselves ruled and governed by Europeans.

In the 17<sup>th</sup> and 18<sup>th</sup> century, race was the fact of life for people in America, and racism was a set of attitudes that were devised towards Black people in order to justify the horrors that were committed against them. These people were captured from their homes, tied up, chained, thrown onto ships by the thousands, and forced into a life of servitude. A conservative estimate is that over 11 million Africans were transported across the Atlantic. Manacled and packed together like animals, at least 2 million died during the infernal voyage known as the Middle Passage (Gates, 1999). These African slaves were a deracinated people and their arrival in the New World led to sadistic treatment. For the next 246 years, millions of Black slaves were kept down without rights and forced to work night and day by a system of violent surveillance.

The real engine behind the slave trade, and the subsequent racism that followed, is economics. Slavery was so profitable that by 1860, it sprouted more millionaires per capita in the Mississippi River Valley than anywhere in the nation. At that time, nearly 4 million American slaves were worth approximately \$3.5 billion, making them the largest single financial asset in the entire U.S. economy, worth more than all manufacturing and railroads combined (Coates, 2014). The economic gain by the slave states in the South were so immense that its abolition required a bloody civil war within the boundaries of the United States.

When slavery in the U.S. finally came to an end in 1865, many believed that a new era of liberty and justice was dawning. Yet by the dawn of the 20<sup>th</sup> century, these hopes were shattered



as it became apparent that racism had far outlived slavery. With limited opportunity for economic mobility, many former slaves were left with little choice but to work for their previous owners. They became farm laborers as part of a system called “sharecropping.” Through this system, these families were kept in an unceasing amount of debt, effectively making them near slaves to their landowners. In a subsequent attempt to exclude Black people from the political process, southern states adopted literacy tests, or exams needed to be passed in order to be allowed to vote. These tests disproportionately targeted Black people, requiring a person to answer every single question correctly, in an unrealistic amount of time, in order to pass (Avins, 1966). By the end of the 19<sup>th</sup> century, the southern states made it legal to offer so-called separate but equal services to their Black citizens. These laws denied Black Americans equal access to public amenities such as education and transport, turning the United States into a racially segregated nation. Soon, millions living in the land of the free found themselves trapped by the Jim Crow system.

Jim Crow was a regime of political and economic terror, and at the heart of Jim Crow was violence. Black people were victims of such excessive violence and murder, and across America, any resistance to racism was met with deadly force. This violence against Black Americans took several forms, but its chief form was lynching. As the Ku Klux Klan expanded in numbers throughout the latter of the 19<sup>th</sup> century, thousands upon thousands of African Americans were lynched in the United States. The key function of Jim Crow was to enforce the idea of racial inequality in everyday life. Black people were subject to practices that were brutal and unfair. For instance, Black people were expected to walk in the street when a sidewalk is crowded. Also, reckless eyeballing, or looking a white person in the face, was punishable by death. The media

and popular culture reinforced the idea of a racial hierarchy and white supremacy by ridiculing Black people through the use of black face and other comedic characters.

Such unfair treatment led to resistance and civil disobedience. On December 1<sup>st</sup> of 1955, Rosa Parks' arrest for refusing to give up her seat on a bus to a white passenger in Montgomery, Alabama enticed Martin Luther King Jr. to call for the infamous bus boycott. This 13-month long protest saw 99% of the Black population participate. This action led to the Supreme Court's 1956 ruling in *Browder v. Gayle* that found racial segregation laws on buses to be unconstitutional. This decision marked the birth of the civil rights movement. Throughout the 20<sup>th</sup> century, a tale of exploitation and racial violence unfolded. Scores of people lost their lives in efforts of resistance, fighting battles to ensure a better tomorrow for their children, and children's children. It has now been 65 years since Rosa Parks refused to give up her seat, and although many things seem to have changed, Black people are still subject to many forms of systemic and oppressive racism. In 2016, when star quarterback of the San Francisco 49ers, Colin Kaepernick, took a stand by protesting racial injustice in the U.S., he found himself on the receiving end of such oppression.

Born in 1987 and the son to adoptive parents Rick and Teresa Kaepernick, Colin grew up in Turlock, California where he excelled both academically and athletically. As a 4.0 student at John H. Pitman High School, Kaepernick was a three-sport athlete in baseball, basketball, and football. After receiving many high school accolades, he accepted a football scholarship to the University of Nevada where he starred as the starting quarterback for four years. At the conclusion of his collegiate tenure with the Nevada Wolfpacks, he became the only quarterback in the history of Division I College Football to pass for over 10,000 yards and rush for an additional 4,000.

Kaepernick entered the 2011 NFL Draft, and was the 13<sup>th</sup> pick in the second round (45<sup>th</sup> overall) by the San Francisco 49ers. Midway through the 2012 season, he became the starting quarterback and subsequently led the 49ers to Super Bowl XLVII where they lost a closely-played game to the Baltimore Ravens. In the 2013 season, Kaepernick once again led his team to the playoffs, reaching the NFC Championship Game, losing to the eventual Super Bowl Champion Seattle Seahawks. In the summer of the 2014 season, Kaepernick signed a six-year contract extension worth up to \$126 million. However, after missing the playoffs in 2014, suffering from an injury-plagued 2015 season, and seeing a slew of new coach hirings, he was named the 49ers' backup quarterback to begin the 2016 season.

On August 14th, 2016, during the first of three preseason games for the San Francisco 49ers, Colin Kaepernick chose to sit during the national anthem prior to the start of the game. On August 20th, 2016 he made the same choice. His protest first became a public issue on August 26th, after a photo of the pregame sideline was tweeted by San Francisco 49ers beat writer, Jennifer Chan. Following the August 26th game, in an exclusive interview with Steve Wyche of NFL.com, Kaepernick was asked about his motivation for sitting during the national anthem, to which he responded with, "I am not going to stand up to show pride in a flag for a country that oppresses black people and people of color... To me this is bigger than football and it would be selfish on my part to look the other way."

This moment came at a highly volatile time in modern race relations. Through the summer of 2016 leading up to the 2016-2017 NFL season, police and black citizens of the United States clashed multiple times in cities across the nation. The three most prominent clashes came in Baton Rouge, Louisiana when Alton Sterling was killed by police outside a convenience store, in Falcon Heights, Minnesota when Philando Castile was shot and killed by police during a routine

traffic stop, and Dallas, Texas when a sniper shot and killed multiple police officers during a rally to protest the shooting of Alton Sterling and police brutality in the United States. Soon after Kaepernick decided to sit during the national anthem, a wave of analysis, backlash, and support grew. At the same time, Kaepernick's 49ers jersey became the best-selling jersey in the NFL, while some 49ers fans decided to burn his jersey.

Kaepernick's protest gained attention far beyond the newspapers and sports blogs of the nation. The case seemed unusually polarizing, with critics and supporters rapidly choosing sides. In response to his early critics, such as Tomi Lahren of the conservative news network "The Blaze", Kaepernick made the decision to continue his protest, but alter it. Responding to those who argued that his protest was directed at the military and an insult to veterans, he switched from sitting during the National Anthem to taking a knee. The move was inspired by a conversation he had with Nate Boyer, a former Army Green Beret. Boyer even supposedly sanctioned the newly articulated protest. Kaepernick's critics were still skeptical of the distinction, contending that the police and the military were both aspects of the same state, and a critique of one was an attack on both. As Kaepernick's action to take a knee was widely reported, many athletes, in football and other sports, began to emulate his protest through all levels of sports.

"Taking a knee" during the anthem changed the tenor of the protest. Other NFL players, soccer star Megan Rapinoe, and high school athletes aligned themselves, politically and physically, with Kaepernick. The protest quickly developed into what sociologists call an action frame, in which people identify with a cause, seek out actions that make them an agent rather than a passive subject, and express grievance about an injustice (Coombs, 2019). Many, not just African-Americans, were attracted to this action frame, while others viewed this protest as

disrespectful to the American flag. The protest seemed easy enough to understand; however, it drew much criticism from the majority of whites and support from the majority of people of color. On October of 2016, Kaepernick's contract was restructured, giving him a two-year deal with a player option for the second year. Following the conclusion of the season, Kaepernick opted out of his contract, becoming a free agent. Since becoming a free agent, he has yet to sign with another team.

The fundamental question that this thesis attempts to address is whether Kaepernick's inability to sign on with another NFL team is due to discrimination or to the fact that his athletic skills are insufficient to warrant a spot on an NFL roster? This paper will analyze the historical implications that led to his protest and attempt to answer this question by reviewing evidence based on a variety of variables, such as Kaepernick's athletic performance and injury history.

## Chapter II – Color-blind Racism

In order to fully understand the scope and importance of Colin Kaepernick's protest, it is important to understand what he was protesting against. The U.S. was founded on a system of slavery that has led to white-on-black oppression. Following the election of former President Barack Obama in 2008, people had the notion that America entered into a post-racial society. Slavery was repealed, Jim Crow segregation laws were found to be unconstitutional, and racism was less blatant. Nevertheless, an undercurrent of racism still prevails. This is evident from the high unemployment rate among blacks, the continued wage and wealth gaps between white and black Americans, and the unfair treatment of blacks by police and our legal system.

Political sociologist Eduardo Bonilla-Silva regards racism as a structure, or network of relations at a social, political, economic, and ideological level that shape the opportunities of the various races (Bonilla-Silva, 2010). In the United States, white supremacy has evolved over time. Today, "new racism" tactics have emerged that are more sophisticated and subtler than those typical of the Jim Crow Era. Yet, they can be just as effective in maintaining the racial status quo. Bonilla-Silva explains that there is a new racial structure – new racism or color-blind racism – that is operating and accounting for the persistence of racial inequality. People of color still experience discrimination and remain appreciably behind whites in many important areas of life, and their chances of catching up remain slim.

The central component of any dominant racial ideology is its set of frames, or paths for interpreting information. These set paths operate as cul-de-sacs because after people filter issues through them, they explain racial phenomena following a predictable route (Bonilla-Silva, 2010). Color-blind racism has four central frames and these frames are used by an overwhelmingly

majority of white individuals. The four frames are abstract liberalism, naturalization, cultural racism, and minimization of racism.

#### Abstract Liberalism:

First, I will discuss abstract liberalism, as it is the most important and hardest to understand. It constitutes the foundation of the new racial ideology and involves using ideas associated with political liberalism, such as equal opportunity, and economic liberalism, such as choice individualism, in an abstract manner to explain racial matters. Framing race-related issues in the language of liberalism allow whites to appear reasonable and moral, while allowing them to still oppose practical approaches to deal with racial inequality. For instance, the principle of equal opportunity, central to the agenda of the civil rights movement, is invoked by whites today to oppose affirmative-action policies because they supposedly represent the “preferential treatment” of certain groups with protected characteristics. This claim necessitates ignoring the fact that people of color are severely underrepresented in most good jobs, schools, and universities and, hence, is an abstract utilization of the idea of “equal opportunity” (Bonilla-Silva, 2010).

#### Naturalization:

Naturalization is a frame that allows whites to explain away racial phenomena by suggesting they are natural occurrences. They say phrases like “segregation is natural because we gravitate towards likeness,” or make a justification for the majority of their friends and partners being white because people of color are the same way and “it’s just the way things are.” Although it is not necessarily untrue, thinking through this frame blatantly ignores the fact that there has been a plethora of social influences that have created separation between groups. Coded into language and the media, socialization to have suspicions of other groups begin, in benign ways, at a very early age. These stereotypes develop before individuals are even able to interpret or question what they really mean.

### Cultural Racism:

The third frame, cultural racism, relies on culturally based arguments. In other words, negative evaluations of particular ethnic groups are related to every individual within the group. Arguments such as “Mexicans do not put much emphasis on education” or “blacks have too many babies” are used to explain the standing of minorities in society (Bonilla-Silva, 2010). This frame utilizes a presumed biological inferiority that was widely accepted by a majority of whites as recently as the middle of the 20<sup>th</sup> century. Today, only white supremacists openly adhere to such concepts of biological inferiority. Yet, these biological views have been replaced with cultural ones that are just as effective in defending the racial status quo. However, those who utilize these cultural frames do not see themselves as racists, instead as people who subscribe to the principle that everyone in society is deserving of a fair shake.

### Minimization of Racism:

Last but not least, the minimization of racism is a frame that suggests discrimination is no longer a central factor affecting minorities’ life chances. People say things such as “It’s better now than in the past” or “there is discrimination, but there are plenty of jobs out there.” This frame allows whites to accept facts such as racially motivated instances of police brutality, systemic differentials in the treatment of blacks such as the slow response to Hurricane Katrina by government officials, and many other cases, while still accusing minorities of being “hypersensitive,” of using race as an “excuse,” or of “playing the infamous race card.” More significantly, this frame views discrimination exclusively as all-out racist behavior, which, given the way “new racism” practices operate, eliminates the bulk of racially motivated actions by individual whites and institutions by fiat (Bonilla-Silva, 2010).

It is important to clarify that whites frequently use these frames in combination with one another. This is understandable since informal expressions of ideology are a constructive effort;



therefore, the examples of how whites use a particular frame may be mixed with other frames. Anti-Black racism has existed for centuries now. This reality can be seen not only in the social, economic, and cultural resources passed through generations of white families but also in the white dominance of the economic, legal, educational, and political arrangements that imbed white interests. Moreover, once the system of racism was established, substantial individual and collective resistance by black Americans forced whites to put even more effort into maintaining and periodically reframing white-on-black oppression (Feagin, 2014)

#### State-Sanctioned Violence:

On top of being at a significant disadvantage in society, people of color are also living with a constant fear that their lives can be taken by the very same people who have sworn an oath to protect and serve. Police violence against individuals of color is not a thing of the past. It is still very prevalent in American society today, and the combination of these frames has allowed it to persist. Drawing solely from instances in the past decade involving such individuals as Tamir Rice, Trayvon Martin, Sandra Bland, and Eric Garner, it is apparent that age, gender, or class play little to no factor in the police's handling of these conflictions. The most dangerous weapon an individual can hold in the eyes of the law is the melanin in their skin. Police shootings and killings of African American targets has reached epidemic proportions and has captured the attention of the entire country. Despite being only 13% of the population, Black people were 25% of those killed by the police in 2017. They are 3 times more likely to be killed by the police than white people and represented 30% of unarmed victims of police brutality in 2015. Research in social psychology has studied many dimensions of this layered issue and has generated disparate findings regarding the role of racial bias in police violence. The process of implicit dehumanization of African Americans, especially youth, has been proposed as particularly salient in making shoot/don't shoot decisions (Ellawala, 2016). This dehumanization of black

bodies can be seen taking heed in the testimony of Darren Wilson, the officer responsible for the shooting death of Michael Brown in Ferguson, Missouri. Although autopsy reports and eye witness statements confirm that Brown had his hands up, Wilson characterized the teenager as having super-human strength that caused Wilson to fear for his life, thus justifying the taking of Brown's life.

State-sanctioned violence against people of color is imbedded in the foundation of this country. The earliest manifestation of policing in the United States took the form of military violence, as European colonizers seized and stole land by exterminating or relocating ten to twelve million indigenous inhabitants of this land. Over time, policing of Indigenous people shifted from armies and militias to regular police forces. During the slave era, African Americans were subject to a system of "plantation justice." Slave law enforcement mostly took place on plantations since it was relatively expensive and time-consuming to prosecute slaves publicly... Planters often branded, stabbed, tarred, feathered, burned, shackled, tortured, maimed, mutilated, crippled, whipped, hanged, beat and castrated slaves (Ritchie, 2017). "Slave codes" were also enacted in most Southern states in order to control the movement and behavior of the enslaved population. These are the gruesome histories of this country we call home. When Kaepernick took a knee, he did not do so because of a small number of unconnected injustices, he did so because this form of state-sanctioned violence seems to have never ended, instead transformed. In the next chapter, I will give an in-depth analysis to how this state-sanctioned violence has evolved and how police forces have been militarized.

### Chapter III – Origins of Police Brutality

The year is 2019 and racial tensions are unsurprisingly high, deadly encounters between the police sworn to protect and serve and unarmed civilians of color occur at an astonishing rate. Sandra Bland, Alton Sterling, Eric Garner, EJ Fitzgerald Jr., Botham Shem Jean are just a few examples where routine police encounters turned deadly at the blink of an eye. The lethal use of police force is one of the most divisive issues of the twenty first century. Communities of color in the United States have disproportionately been on the receiving end of brute force at the hands of the police and criminal justice system. Although Whites and Blacks respectively account for 77% and 13% of the U.S. population according to the Bureau of Justice in 2015, Blacks had a 20% chance of having an encounter with police while Whites had a 23% chance (Davis, 2018).

People of color are victims of police demonization, public and private surveillance, containment policies, and outright repression. This is not a surprise, since the purpose of our legal system has been to preserve white supremacy. During the slavery era, the police served to preserve white supremacy by enforcing the laws around slavery. In the Jim Crow Era, the police served to preserve white supremacy by enforcing the laws to maintain segregation. In the post-civil rights period when minorities gained greater freedoms, the police continued to preserve white supremacy. A look back in history will unveil that the militarization of police and mass incarceration of people of color were put into high gear following the defeat of the legal apartheid of the 60s. This chapter will provide a historical analysis behind Kaepernick's protest by examining the development and link between the police state and the prison industrial complex of today.

#### Political Climate:

In order to understand the rise in unfair treatment by the police, it is important to understand the political and economic climate of the 50s and early 60s. Following the onset of

WWII, the Breton Woods Agreement of 1944 made the U.S. dollar the world's dominant currency. This, and the fact that it took over a decade for many European and Asian economies to recover from the war, gave American businesses incredible economic power. By 1951, the U.S. produced one-third of the planet's commodities (Parenti, 2001). This boom in industrialization created jobs, and technological change accelerated the mechanization of agriculture in the south. In response to the structural changes in the economy, huge waves of African Americans migrated to northern cities. After a couple decades of unprecedented high growth rates and general prosperity, growth began to wane. Recovery from World War II made German and Japanese companies major competitors with companies in the United States.

At the same time, newly industrialized countries (NICs), such as Korea, China, and Taiwan, gained economic strength and began rapid export-oriented policies. The high value of the dollar assisted America's new competitors by making imports into the United States comparatively cheap and foreign wages low (in U.S. dollars). Many American firms soon relocated their production facilities overseas, and deindustrialization began throughout many U.S. cities. Combined with racism, government and private sector redlining, and white flight, this led to the formation of large urban ghettos (Parenti, 2001). A new wave of criminal justice crackdown arose that was fundamentally about controlling the newly "deregulated" populations created by this economic restructuring.

The apex of the civil rights revolution occurred when new civil rights laws coincided with the height of progressive social change. At the centennial commemoration of the Emancipation Proclamation, President John F. Kennedy proclaimed the Reconstruction era to be the most impressive chapter in American history. He hoped his administration could complete the work begun by Abraham Lincoln by fully emancipating the descendants of enslaved Africans

who were, “not yet freed from the bonds of injustice” (Hinton, 2017). To this end, Kennedy became the first American president who was committed to desegregation with the passing of the Civil Rights Act of 1963, legislation that eventually brought an end to Jim Crow.

#### Age of Surveillance:

In the 1960s, the unemployment rates of African Americans were more than double those of their White counterparts. The masses of unemployed and frustrated youth, characterized as social dynamite, was commonplace in congested areas of American cities. In response, Kennedy called for a massive upgrading of public schools and the creation of programs to aid in social reform. However, instead of implementing various job training, education, and equal opportunity programs, the Kennedy administration framed its urban social programs as antidelinquency measures. This was done thanks in large to the emergence of the widely accepted intellectual framework of social pathology. Social pathology claims that cultural and behavioral deficiencies cause poverty, and through this, policymakers presented inequality as a problem of the individual, not society overall (Horwitz, 1984).

The federal government’s new commitment to racial minorities and the poor may have started out with pure intentions. However, the notions of black cultural pathology concealed the policymakers’ own racism and left open the possibility that aiding law enforcement authorities was the only way to manage problems facing urban centers (Hinton, 2017). The Juvenile Delinquency and Youth Offenses Control Act of 1961 sought to address many problems facing “at risk” youth in communities of color by increasing surveillance in these low-income neighborhoods. Although national policymakers and planners lacked concrete statistics on youth crime, they passed and carried out policies based on biased assumptions about race and crime.

With mounting interactions between the police and low-income neighborhoods, the social dynamite that had worried policymakers and officials at the onset of the decade had finally

exploded. The taunting of police officers, burning of property, and plunder in department and grocery stores emerged in response to state-sanctioned murders of youth of color. The largest and most destructive riot occurred in Harlem in 1964 in protest to the murder of a 15-year-old high school student at the hands of a police officer. When the dust settled, the uprising resulted in approximately one death, more than a hundred injuries, 450 arrests, and approximately \$1 million in property damage (Stultz, 2019). President Lyndon Johnson pledged that no part of America would become a jungle, and eight months after Harlem erupted (March, 1965) he officially declared a federal war on crime.

With the inaugural investment in local crime control efforts, Johnson's Law Enforcement Assistance Act of 1965 proposed a new federal crime control agency, the Office of Law Enforcement Assistance (OLEA), to support training programs and experimental surveillance techniques for police serving low-income urban communities (Hinton, 2017). Once Richard Nixon entered the White House in 1969, he continued these efforts of repression as the federal government's law enforcement budget tripled from \$60 million to almost \$800 million between 1969 and 1973. One of the principal conduits for these funds was the Law Enforcement Assistance Administration (LEAA), providing financial support for closed-circuit video surveillance equipment, computerization of records, and police training (Kilgore, 2015).

#### Media:

During this period, the mainstream media promoted the agenda of law and order in various ways. Images of African Americans depicted as criminals dominated newspapers and television screens, criminalizing a whole race of people based solely on the color of their skin. These depictions of Black people as thieves, murderers, and rapists aided in the development of stereotypes in the hearts and minds of white individuals countrywide. Soon, these stereotypes led to prejudice and the prejudice led to a formation of biased attitudes, such as women feeling the

need to clutch their purses in the presence of Black men. The message was clear, the police were the thin blue line protecting law-abiding citizens from the dark and dangerous street criminals.

Shift to a punitive system:

Since previous strategies had failed to lower crime rates, President Gerald Ford developed new crime war strategies when he took office in 1974. These strategies targeted repeat offenders (Hinton, 2017). Through the Career Criminal program and Operation Disarm the Criminal, the Ford administration used a portion of the law enforcement budget to target young black Americans seen as responsible for the crime problem. The Career Criminal program created a separate criminal justice system with mandatory minimum sentences for repeat offenders while Operation Disarm the Criminal established a federal handgun control squad that operated in urban centers (Hinton, 2017). These proposed policies disproportionately targeted Black and Latino citizens by proposing bans on low-quality handguns that were synonymous with low-income neighborhoods. Under the guise of federal policy, Operation Concentrated Law Enforcement conducted a series of handgun sweeps and “stop and frisk” operations in low-income neighborhoods throughout the United States. Although the federal government’s gun control squad came to an end with Ford’s presidency, the widespread arrest, prosecution, and incarceration of young Black Americans shaped attitudes and policies regarding youth and crime for years to come.

At the heart of the expansion of police repression and the philosophical shift to a more punitive system was the prosecution of drug cases. The criminalization of drugs has often been associated with racism and anti-foreigner sentiments. Many people involved in the social movements and youth rebellions of the 60s and 70s experimented with drugs such as marijuana and cocaine. The popular music of the day also reflected an antiestablishment outlook that accepted the recreational use of illicit drugs (Kilgore, 2015). With recreational use of drugs on

the rise, many conservatives, led by President Nixon, introduced the term “war on drugs” into American politics. In 1971, Nixon issued a message to Congress on drug abuse prevention and control, declaring that drug abuse is “public enemy number one.” Once Ronald Reagan was sworn into office, he escalated the war, framing drug use as an attack on American tradition.

During a period when actual drug use was in decline, President Raegan launched an offensive on drug users, further militarizing the police. In 1981, an amendment to the 103-year-old Posse Comitatus Act (which had forbidden using the military against American civilians) removed barriers that had prevented the National Guard from involvement in domestic policing (Kilgore, 2015). With the passing of laws such as asset forfeiture, which gave drug squads the legal right to confiscate a drug users property, the terrorization of low-income neighborhoods only grew larger.

An important aspect of the war on drugs is that it has been heavily racialized. According to the national survey by American Civil Liberties Union (ACLU), Blacks and whites use marijuana at about the same rate, but Blacks are four to five times more likely to be arrested for marijuana possession (Kilgore, 2015). Through the vast outpouring of federal dollars into all aspects of drug law enforcement, from surveillance technology to enhanced weaponry, groups such as drug squads and SWAT teams have focused their efforts in communities of color.

#### SWAT Teams:

Another aspect of the war on drugs is the militarization of anti-drug enforcement. First developed by an LAPD commander named Daryl Gates in 1966, Special Weapons and Tactics (SWAT) teams have been on the rise since the introduction of the war on drugs. With the increase in illicit drug use in the 60s and early 70s, the law-and-order bonanza of the 80s saw most metropolitan police departments establish their own tactical units with military weaponry and training (Hinton, 2017). This militarization of SWAT squads was greatly accelerated by



measures such as the 1033 Program, which allowed surplus Department of Defense equipment and weapons to be distributed free of charge to other government agencies (Kilgore, 2015).

These tactical units have since morphed from emergency response specialists into a standard part of everyday policing, conducting routine drug raids, search warrants, and even probation enforcement.

The access to military hardware changed the way police carried out arrests, as they began to operate as if they were engaged in wartime military operations and Blacks were the enemy. In response to economic turmoil and the drug epidemic, gangs and gang violence were on the rise. Disguised as the war on drugs, these paramilitarization techniques were waged on gangs, which led to even greater terrorization of communities of color. The California Street Terrorism Act of 1998 created sentencing enhancements for people affiliated with gang activity. Most law enforcement units in California used a standardized list of ten criteria to vet alleged “street terrorists.” If a suspect met three out of ten, he/she was deemed a known gang member.

In Fresno, CA, the Violent Crime Suppression Unit (VCSU) was established in 1994 to serve as the local law enforcement’s “special forces.” It was quickly deemed America’s most aggressive SWAT team. According to members of the unit, their violent tactics led to an average of at least one “officer-involved shooting” every three months. Since the advent of the VCSU, the Fresno police have increased their misdemeanor arrests by 48.3%. Much of what they do is stop, search, harass, arrest, and brutalize petty offenders, parole violators, and bystanders (Parenti, 2001). Another unit, the Multi-Agency Gang Enforcement Consortium (MAGEC), also established in 1994 focuses its mission on “nipping problems before they escalate to violence,” so most of its paramilitary work focuses on non-violent offenders. The aggressive nature and no-knock raids of SWAT teams has led to casualties on many occasions. A CBS News survey of

SWAT encounters showed a 34% increase in the use of deadly force between 1995 and 1998. As tactical raids and paramilitary sweeps became more common, the regular police took on more paramilitary attributes. From 1995 to 1997, the Department of Defense distributed millions of dollars-worth of equipment and guns to civilian police departments. This assisted in the repression and terrorization of communities of color, and it became evident that physical terror and spectacular displays of violence are central to the state's control of those who were viewed as members of "dangerous" classes.

#### Broken Window Policing:

In the face of mass rioting and increasing antagonism between the police and communities of color in the 60s and early 70s, the New York Police Foundation of 1970 conducted numerous experiments on police-community relations and "order maintenance". It found previous penalties and enforcement strategies to be inadequate. From this school of thought arose the concept of zero tolerance/quality of life (QOL) policing. Criminologists James Q. Wilson and George Kelling coined it "broken windows" policing. The Wilson-Kelling thesis is simple: if police address the small "quality of life" offenses that create "disorder," violent crime will diminish (Parenti, 2001). These criminologists believed that minor and major crimes are linked. Acceptance of this theory led to strict enforcement against public urination, intoxication, and graffiti in hopes that creating an aura of regulation will help prevent brutal crimes like rape and murder.

An important part of history is William "Bill" Bratton's application of zero/tolerance/QOL policing. Bratton, born and raised in Boston, started his career as a military police officer in Vietnam. Upon returning home, he entered the Boston Police Department, where he ascended up the ranks of command and advocated tougher law enforcement tactics. Bratton's policing tactics came to the attention of Kelling, who then recruited him to run the

New York City Transit Police in 1990. With the intellectual support of Kelling, it was in New York City that Bratton began the country's first full-scale implementation of zero tolerance/QOL policing.

For those who have not experienced New York's subway system during the late 1980s, its nightmarish circumstances are hard to fathom and describe. A quarter of a million passengers a day avoided paying a fare by going over, under, and around turnstiles. Youth deliberately held open emergency gates, and extorted fares from passengers. Platforms, trains, and passageways reeked of human waste. Young men stalked tollbooths with the intent to rob others. Drug and alcohol abusers sprawled throughout the subway system, and robberies were steadily increasing (Kelling & Bratton, 1998).

In response to this subway problem, Bratton's first order as the commander was to lobby for more cars, new radios, better uniforms, and all new Glock nine-millimeter semiautomatic handguns for the Transit Police. Along with attaining these new paramilitary accessories, Bratton reassigned hundreds of officers guarding token booths to more proactive tasks. They were instructed to enforce minor laws, conduct canine sweeps, and set up underground sting operations against "fare-beaters." No longer handing out simple tickets, these sting operations arrested people by the busload, handcuffed, and hurled them into mobile booking stations. Bratton then endeavored to restructure the culture of the Transit brass by importing Japanese-inspired management style of a flatter and more decentralized chain of command (Parenti, 2001).

This new form of policing contributed to a new type of homelessness, as people were displaced from their homes in the nooks and crannies of the subway lines to the streets. Although never as bad as imagined, according to official statistics, between the first quarter of 1990 and that of 1994, felony crime in the subways dropped 46.3% (Parenti, 2001). Following the 1994

election of former federal prosecutor Rudolph Giuliani to the New York Mayor's Office, the success of Bratton's subway policy propelled Bratton to be appointed as Gotham's 38<sup>th</sup> police commissioner. As commissioner, he took his subway policy to the city of New York, by aggressively apprehending perpetrators for quality-of-life offenses on the street. At the neighborhood level, his crime-fighting strategies were grounded in traditional law enforcement methods and in relentless crackdown campaigns to arrest and jail low-level drug offenders and other petty perpetrators. Bratton and Giuliani's opening act to governing was a war against "squeegee operators," whose crime was that of cleaning car windshields at street corners and highway entrances. Next, the NYPD launched a city-wide round up of truants. The school truancy program grabbed so many school-aged kids off the street that "catchment" areas had to be set in school auditoriums and gymnasiums, aiding in the creation of the school-to-prison pipeline (Greene, 1999).

Moreover, Mayor Giuliani launched a civility campaign that had a virulent, downward spiral. After engaging in a war against squeegee men and truants, he turned his efforts against street vendors, bus drivers, sex shops, and even protesting construction workers. He carried this further by pushing the enforcement of laws, such as jay walking, that were applied primarily in low-income neighborhoods. He attacked the legal restrictions that impeded aggressive enforcement against those deemed disorderly, which increased the likelihood of police abuse of its citizens. On the positive side, by 1998, the murder rate fell by over 60% and overall crime dropped by 43%. On the negative side, however, complaints of police brutality jumped by 62%, 46% during the first half of 1994 alone (Parenti, 2001). Regardless of the downside, the decline in crime rates motivated a large wave of metropolitan departments across the nation to implement their own form of broken window policing. This form of policing is often selectively

enforced against people of color, the homeless, and the visibly poor. In a sense, it is a post-modern version of Jim Crow.

#### Police Brutality:

In combination with this form of policing, the individual racist and prejudice thoughts of some police officers have led to greater acceptance of the brutal treatment of minority and poor people. In August of 1988, an infamous police riot saw officers with liquor on the breath tape over their badge numbers as they attacked anti-gentrification demonstrators and bystanders alike in Tompkins Square Park in New York City (Parenti, 2001).

Giuliani's civility campaign also muffled free speech, and by 1999 the zero-tolerance regime had entered a new phase and crisis. The catalyst was the murder of a 22-year-old Guinea immigrant who worked as a street vendor. On the evening of February 5<sup>th</sup>, while unarmed and standing outside his apartment, four officers from NYPD's Street Crimes Unit fired forty-one shots at Amadou Diallo, striking him nineteen times. Reeking of Jim Crow, the Street Crimes Unit was 95% White and practiced the aggressive tactics of SWAT teams on communities of color. After the murder, they ransacked his home in search for drugs, weapons, or anything that might compromise Diallo and justify the shooting, but no incriminating evidence was found. Mayor Giuliani's response was at best out of touch and at worst criminal: at a news conference the mayor proposed that the NYPD start using hollow-point rounds in their Glock 9mms. This ammunition, illegal according to international rules of warfare, expands upon impact, thus blowing holes in human flesh (Parenti, 2001). As the verdict "Not Guilty" came in, protests ensued and by April, over a thousand Black dignitaries had been arrested for acts of civil disobedience. As unforeseen casualties such as this continued to occur, the problem of police brutality became a national issue, making its way to the White House. President Clinton was forced to acknowledge the problem, expressing his "deep concern" by the reports of questionable

shootings and racial profiling by the police. Clinton's comments created a splash of liberal-sounding headlines which gave the appearance of an elite "re-think," but the problem of surplus repression at the local level was, in reality, left unchecked (Parenti, 2001).

In recent years, cases in which black people are killed by the police or died in their custody has risen to national prominence, often prompting protests. Just last year, 22-year-old Stephon Clark fell victim to police brutality when he was shot dead in his grandmother's backyard by Sacramento police, and the examples only get viler. On July 6<sup>th</sup> of 2016, Philando Castile was pulled over by Minnesota PD while driving home with his girlfriend and four-year-old daughter. After being asked for his license and registration, he informed the officer that he was carrying a firearm. When he attempted to grab his license, the officer shot Castile seven times, instantly killing him. After being charged with second-degree manslaughter and endangering safety, the officer was acquitted of all charges. On April 12<sup>th</sup>, 2016, 25-year-old Freddie Gray was arrested by the Baltimore PD for possession of what police alleged was an illegal knife under Baltimore law. While being transported in a police van, Gray fell into a coma and died a week later. Eyewitness accounts suggest that the officers involved used unnecessary force and autopsy reports ascribed injuries to his spinal cord as cause to his death. City officials revealed that Gray requested for his inhaler and medical attention but was not immediately responded to. Pending investigation, all six Baltimore police officers involved were suspended with pay. They were eventually charged with crimes including manslaughter and murder, however three were dropped and the other three were acquitted of all charges. From 2014 to 2016, out of 15 of the more prominent cases of police slayings, officers have been convicted in only three. In seven of those cases, not a single officer has even been charged.

The societal problem of police brutality might be characterized as isolated, the result of a single bad police officer, rather than a structural issue. However, a look back in history reveals that decades of racist policies has shaped the police state that we are in today. Concepts with racist undertones, such as Black cultural pathology and broken window policing, have heavily influenced these policies, ensuring that the police institution continue to preserve white supremacy. As the police increase surveillance tactics, interactions and casualties with people of color rise. Riots emerge in response to these casualties, and the state responds with more repressive tactics in control of the rioting public, creating a cycle that seems perpetual. This cycle continues to feed the prison industrial complex, and mass incarceration has since morphed into the new form of slavery. Over time, the uniforms and badges may have changed, but the priorities and functions of the police institution have remained the same. Just like their slave catcher predecessors, the police bolster this industrial complex through the terrorization, and out-right demonization, of communities of color. With such a vast history of oppression towards communities of color, Kaepernick took a knee in hopes that his sacrifice will create awareness and help change the course of history.

#### Chapter IV – Integration in the NFL

In a world where racism and hatred can run rampant, sports have always served as a medium in which people of all backgrounds can coexist. Regardless of race, sex, or religion, sport has the power to bring people together in ways preceded by none. The late political revolutionary and President of South Africa, Nelson Mandela, once said:

*“Sport has the power to change the world. Where the rules of the game are the same for everyone, and behavior is guided by fair play and good sportsmanship, it has the power to inspire and unite people in a way that little else does. It speaks to the youth in a language they understand. Sport can create hope where once there was only despair. It is more powerful than governments in breaking down racial barriers and it laughs in the face of all types of discrimination that goes out into the world... spreading help, inspiration, and hope.”*

At its best, sport is inclusive, generous-hearted and fundamentally multi-cultural, yet discrimination is all too common on and off the sports field. Throughout history, racism has run amok through sporting organizations. However, as more and more athletes in high levels of sport realize their responsibilities are not limited to the pitch, the field, or the track, international and regional federations, clubs, leagues, and associations have begun to eradicate racism and discrimination in their respective fields. As these athletes of high stature are looked up to and admired by the next generation, the organizers of such high-profile events are also looked upon to take principle and inspiring action in welcoming the participation of all men and women in sports, as well as to prevent and combat any form of discrimination. Sporting organizations such as the National Football League (NFL), National Basketball Association (NBA), and the several UAEFA Champion Leagues across the world can become showcases for what human beings can



achieve when we respect the dignity and human rights of one another. This chapter aims to focus on the NFL, taking a closer look at its formation, the discriminatory practices of its past, what has been done to make amends, and where it stands today.

Formed in 1920, the NFL is a professional American football league consisting of 32 teams, divided equally between the National Football Conference (NFC) and the American Football Conference (AFC). It is one of the four major sports leagues in North America and represents the highest professional level of American football in the world. Today, the NFL owns a day of the week, has the highest average attendance of any professional sports league in the world, and is the most popular sports league in the United States. Be that as it may, from the late 19<sup>th</sup> through the mid 20<sup>th</sup> century, legal segregation seeped into all aspects of American life, including sports, where people of color were banned from competing in any of the professional leagues.

Due to such segregation, professional sports became a rich white man's club. Qualified athletes of color, despite stellar collegiate careers, were persecuted by their respective leagues and forced into alternate career paths. Communities of color, however, found ways to compete in sports despite segregation. They competed against one another in historically black colleges (HBCUs) and created their own thriving sports leagues and associations. These leagues, like the Negro League, nurtured pioneering athletes such as Jackie Robinson who later became responsible for breaking down racial barriers. As baseball was the indisputable American national pastime until the late 20<sup>th</sup> century, the tale of Robinson's integration into the Major League Baseball (MLB) was vastly told and recounted. On the other hand, the story of Kenny Washington, the man responsible for integrating the NFL, has never received its due diligence.

Kenneth S. Washington:

Born Kenneth S. Washington in the inner cities of Los Angeles in 1918, he grew up in the Lincoln Heights neighborhood where he, at an early age, excelled in sports. He was a star at both baseball and football at Abraham Lincoln High School, leading both teams to city championships in the same calendar year. His god given athleticism led him to be recruited by the UCLA Bruins as a two-sport athlete, where he led the nation in total offense in 1939, with 812 rushing and 559 passing yards and won the Douglas Fairbanks Trophy for college's most outstanding player.

Despite such major accomplishments, Washington went undrafted in the 1939 NFL Draft. George Halas, legendary owner and coach of the Chicago Bears, proclaimed he considered drafting Washington, but was unable to persuade the other owners in lifting the ban placed on Black players 7 years prior. Due to the chokehold that the Great Depression had on the country, NFL owners believed Black players were taking jobs from whites. They in turn formulated an informal agreement that would exclude Black players from the league for roughly 13 years.

A breakthrough would not come until six years later in 1946, when Cleveland's NFL team, the Rams, moved to Los Angeles and sought a lease to play at the publicly owned Los Angeles Memorial Coliseum. This decision created immediate pressure that the team be racially integrated, being that both Black and white taxpayers paid for the construction of the facility. Under pressure from the Coliseum Commission and Los Angeles Tribune sports editor Halley Harding, the Rams announced their intent to integrate as a condition of its lease. As a result, Washington was signed on March 21<sup>st</sup>, 1946, becoming the first African American athlete to sign an NFL contract.

In terms of abuse, reintegrating professional football may have been more daunting than other sports. In a game where contact is expected, Washington endured brutal physical treatment

on the field, as well as verbal abuse off it. After his first game at Chicago's Soldier Field, he was barred from the Stevens Hotel, where the team had reservations for the night. Also, during a game in his first season, he was down on his back and well out of the play when an opponent tried to kick him in the head. He was able to dodge it, but a teammate who saw this asked Washington about it after the game. "It is hell being a Negro," he told the teammate (Graser, 2017).

Thanks, in large part to several knee surgeries, however, his NFL career was short lived, playing only three seasons with the Rams before announcing his retirement in 1948. In the final game of his career, he received a standing ovation from a crowd of 80,000 at the Coliseum. Upon retirement, he battled with health issues for years and in 1971, at the young age of 52, passed away at his home in Los Angeles. For his contribution to sports in Los Angeles, he was honored with a Los Angeles Memorial Coliseum "Court of Honor" plaque by the Coliseum commissioners, was posthumously inducted into the College Football Hall of Fame in 1956, the UCLA Athletic Hall of Fame, and was the first player to have his jersey retired at UCLA (Plaschke, 2011). Although Washington has yet to be inducted into the Pro Football Hall of Fame, and the story of his life seems to have been forgotten by many, athletes of color will forever unknowingly reap the benefits of his legacy.

#### Racial Integration:

Racial integration was slow to come to the NFL. Following the signing of Washington, no team followed the Rams in re-integrating until the Detroit Lions signed Mel Groomes and Bob Mann in 1948. No Black player was selected in the NFL draft until 1949 when George Taliaferro was selected in the 13<sup>th</sup> round, and Burl Toler, the league's first Black official, was not hired until 1965. The story of the NFL's integration offers no comfort to the league, which would prove notoriously slow to show trust in Blacks with the positions of greatest responsibility, on

the field, along the sideline or in the front office (Wolff, 2009). During this era, putting limits on the number of Black players were commonplace, and Black players were subject to position segregation in order to allow them to be eliminated as a matter of competition.

According to several books, such as the autobiography of Vince Lombardi, Black players were stacked at “speed” positions such as defensive back but excluded from “intelligent” positions such as quarterback and center (Rhoden, 2011). The first Black quarterback would not be drafted with the number 1 overall pick till 2001, when Michael Vick heard his name called by the Atlanta Falcons. In subtle ways, this stereotypical concept is still prevalent today and can be heard through the comparison in the analysis of Black and white football players. While the NFL was much more integrated by the 21<sup>st</sup> century, racial integration came much slower to front office positions. In an attempt to foster diversity within the NFL coaching ranks, the league proposed a policy known as the Rooney Rule.

#### Rooney Rule:

Named after the former chairman of the league’s diversity committee and owner of the Pittsburgh Steelers, Dan Rooney, the campaign began with two civil rights law attorneys, Cyrus Mehri and Johnny Cochran. Implemented by the Fritz Pollard Alliance in 2003, the rule’s purpose was to ensure that at least one ethnic-minority candidate be interviewed for each coaching vacancy in the NFL. In 2007, it was further expanded to include general manager and other senior-level football operation positions. The catalyst of the Rooney Rule was the firing, in 2002, of two African-American head coaches: Tony Dungy, by the Tampa Bay Buccaneers, and Dennis Green, by the Minnesota Vikings. It had been Green’s first season with a losing record in ten years as a head coach; Dungy became the first coach with a winning record to be fired by the Bucs. In a study released later that year, Mehri and Cochran demonstrated that even though

Black head coaches won a higher percentage of games, they were less likely to be hired and more likely to be fired than their white counterparts (Freedman, 2014).

Since its implementation, the Rooney Rule has left a significant imprint on professional football. From the conception of the NFL in 1920 to the rule's passage in 2003, there had been 7 Black head coaches in league history. Ensuing 2003, with the hiring of Brian Flores by the Miami Dolphins at the conclusion of the 2018 season, that number has risen to 19, including interim head coaches. Even with such improvements however, the rule arrived at a kind of crisis following the 2012 NFL season. Of the eight head coaches and seven general managers hired by teams in the post season, none were minorities. Additionally, the firings of Lovie Smith and Romeo Crennel meant that there were only four minority coaches entering the 2013 season – the lowest since the Rooney Rule took effect.

#### NFL Demographics Today:

Today, in a league now comprised of roughly three-fourths players of color, the number of minorities in coaching and other high-level positions still are not indicative enough of a diverse organization. As the 2018 NFL season kicked off, there were eight minority head coaches, tied for most ever in league history. The Chargers' Anthony Lynn, Denver's Vance Joseph, Cincinnati's Marvin Lewis, Pittsburgh's Mike Tomlin, Cleveland's Hue Jackson, New York's Todd Bowles, Carolina's Ron Rivera, and Arizona's Steve Wilkes all led NFL teams in 2018. However, that number is likely to fall to half by next year. At season's end, among the eight coaches who lost their jobs, five were Black, leaving just three minority coaches – two Black and one Latino – among the 32 coaches in the league. Thus far, of the seven coaches hired, six have been white. This sudden reversal of fortune for minority coaches comes in an age in which social consciousness and player empowerment are of utmost importance. In the case of

higher-level positions, such as general managers, this story seems to remain the same as minorities continue to be underrepresented in positions of greatest responsibility.

In 2017, 5 out of the 32 general managers in the league were Black. However, by the end of the 2018-2019 season, just Chris Grier of the Miami Dolphins remain as the as the sole black general manager in the NFL. Diversity around the league is even more diluted among owners. In league history, there has never been a principal owner of a team who was Black. As a matter of fact, today, there are only two people of color among the principal owners of the NFL's 32 teams. They are Jacksonville Jaguars owner Shahid Khan, who is Pakistani American, and Kim Pegula, who is Asian American and co-owns the Bills (Garcia, 2018). The lack of diversity among ownership, management, and coaching staff becomes even more stark when taking the makeup of the players in the league into consideration. In the next chapter, I will delve further into the economic theories of discrimination.

### Chapter V – Economic Theories of Discrimination

The term *discrimination* can often be used imprecisely because the relationship between prejudice and discrimination is unclear. Prejudice is defined as a negatively unjustified or incorrect attitude towards an individual based solely on the individual's membership in a social group. Discrimination, on the other hand, is the negative behavior or actions towards this individual, or group of individuals, on the basis of sex, race, social class and more. A prejudiced person may not act on their attitudes. Therefore, someone can be prejudiced towards a certain group but not discriminate against them. Discrimination can occur in a variety of settings, such as in the housing market, various product markets, and treatment under the law.

In the labor market, for example, this occurs when an employer pays workers of a particular group less than the value of their labor services. To illustrate, the wage determination model below indicates that the wage rate,  $W$ , is explained by the following relationship:

$$W = \beta X + \alpha Z + \varepsilon$$

where  $\alpha$  and  $\beta$  are constants,  $X$  is a vector of variables that accurately characterize the worker's level of productivity,  $Z$  is an indicator variable for membership in a minority group, and  $\varepsilon$  is a random error term. Assuming that  $\beta X$  fully captures the return to these productivity characteristics, then discrimination exists when  $\alpha < 0$  (Autor, 2003). In this case, the workers are paid less than their worth based on productivity. In labor economic literature, *current labor market discrimination* exists when a worker is paid less than the dollar value of his/her marginal revenue product (MRP):  $W < \text{MRP}$ . When factors unrelated to productivity adverse one's wage or employment opportunities, discrimination is said to occur. Other forms of discrimination can stem from past experiences and expected future experiences in an individual's life. These past

experiences, known as premarket differences, are also instrumental in shaping the effects of labor market discrimination. For example, one's current MRP can be lowered due to educational discrimination in the past. In addition, expected future discrimination may discourage effort in school, which also lowers one's current MRP.

The above definition is also contingent on three points: 1) The identification of discrimination is emphasized on measurable market outcomes, such as earnings and employment levels. Thus, while prejudicial attitudes may be felt by members of one group from members of another, these feelings must be accompanied by considerable action that result in different market outcomes for discrimination to be asserted. 2) Discrimination stems from systemic behavior rather than random actions or errors. 3) Labor market and premarket factors are operationally distinguishable. Differentials that derive from average productivity levels across race or gender groups can be characterized as premarket in nature, while differentials attributed to race or sex, holding productivity constant, can be said to be evidence of labor market discrimination.

#### Theories of Labor Market Discrimination:

Labor market discrimination can be categorized into two factors that affect the probability of discrimination. The first, *personal prejudice*, derives from the prejudice of owners, fellow workers, and customers. At a restaurant, for example, an owner may prejudice against women, male waiters may not want to work alongside waitresses, or customers may prefer to be served by waiters rather waitresses. Regardless of its underlying cause, the effect on discrimination is the same when an employer chooses to indulge this prejudice.

The second are theories according to which the desire for and use of monopoly power is the source of discrimination (Ehrenberg & Smith, 1985). Discrimination is less likely in



competitive markets, because employers who fail to offer competitive wages and hire the most productive workers will have higher costs and go out of business in the long run. In this study, football owners are assumed to have enough monopoly power to make discrimination possible.

Personal Prejudice (Employer Discrimination):

As stated previously, the personal prejudice theory states that discrimination can stem from employer prejudice, employee prejudice, and customer prejudice. Employer discrimination occurs when, regardless of having the same productive characteristics, an employer utilizes his/her personal preferences in the hiring of an individual belonging to one group, over an individual belonging to another. For instance, if an employer has a preference for hiring males in high-paying jobs despite the availability of equally qualified women, they will act as if the latter were less productive than the former. This devaluing of productivity by employers is purely subjective and is a manifestation of personal prejudice (Ehrenberg & Smith, 1985). Suppose that  $MRP$  stands for actual marginal revenue productivity, measured in dollars, of all workers in a particular labor market and  $d$  represents discrimination, which is positive in the presence of discrimination (and zero otherwise). In this case, market equilibrium for males is reached when their wage ( $W_M$ ) equals  $MP$ :

$$MRP = W_M \quad (1)$$

For the women, however, equilibrium is achieved only when their wage ( $W_F$ ) equals their subjective value to firms:

$$MRP - d = W_F, \text{ or} \quad (2)$$

$$MRP = W_F + d. \quad (2a)$$

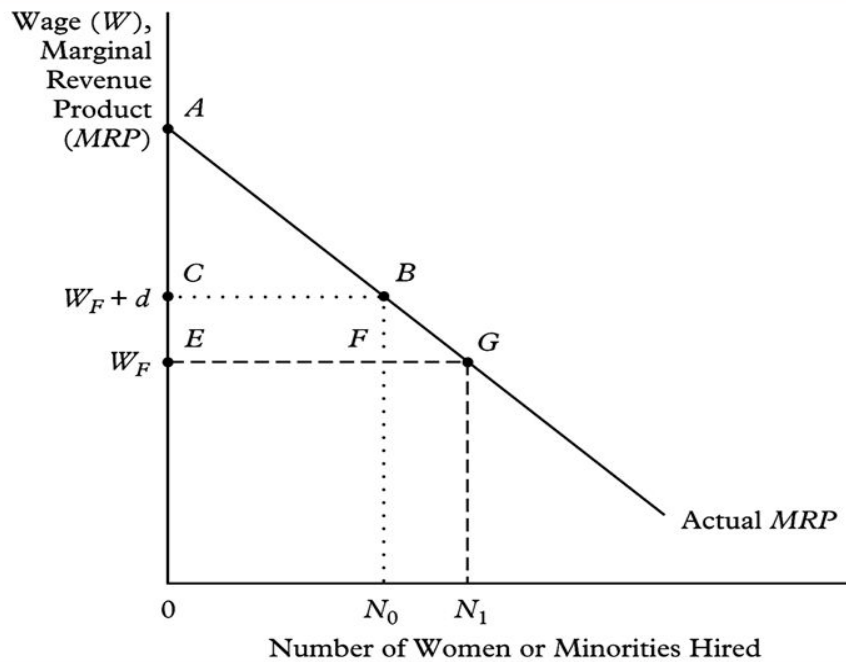
Since the actual marginal revenue productivities are equal by assumption, equations (1) and (2a) are equal to each other, and one can easily see that  $W_F$  must be less than  $W_M$ :

$$W_M = W_F + d, \text{ or} \quad (3)$$

$$W_F = W_M - d \quad (3a)$$

Algebraically, what these equations imply is very simple in economic logic: since the actual productivity of women are devalued by employers, female workers must offer their services at lower wages than white males in order to remain competitive in the job market. As illustrated by Figure 12.2, which is a graphic representation of equation (2a), this model of employer discrimination has two major implications. Figure 12.2 shows that a discriminating employer faced with a wage rate of  $W_F$  for women will hire  $N_0$  number of women, or at the point where  $MP = W_F + d$ . Non-discriminatory employers, on the other hand, will hire  $N_1$  number of women; in other words, they will hire until  $MP = W_F$ . It also demonstrates that discrimination is inefficient from society's perspective. The efficient number of employment will occur where  $W_F = MRP$  at  $N_1$ . By hiring less than the efficient number of female workers, a deadweight loss is created that is equal to are  $\triangle BFG$  in Figure 12.2.

**Figure 12.2** Equilibrium Employment of Women or Minorities in Firms That Discriminate



Addison Wesley Longman, Inc. © 2000

Personal Prejudice (Customer Discrimination):

The second personal prejudice model stresses prejudice on behalf of the customer as a source of discrimination. In some instances, customers may have some discriminatory tastes and prefer to be served by individuals who have certain characteristics. They may prefer being served by males in some situations and women in others. In these instances, profit-maximizing employers will discriminate to satisfy customer preferences and increase profits. If customers discriminate, sales and profits can be increased by segregating workforces and matching them to potential customers (Leonard, Levine, & Giuliano, 2009). If their preferences for white males extend to jobs requiring major responsibilities and their preferences for women are confined to less skilled jobs, then occupational segregation that works to the disadvantage of women will occur. Further, if women are to find employment in the jobs for which customers prefer males, they must accept lower wages or be more qualified than the average male. The reason for this is

that their utility to the firm is lower than that of equally qualified males due to the preferences of the customers.

Personal Prejudice (Employee Discrimination):

The third source of discrimination based on personal prejudice is found on the supply side of the market, where certain employees may avoid situations with other employees that pertain protected characteristics. For example, male workers may avoid situations in which women fill certain jobs they find inappropriate. They may resist taking orders from, sharing responsibility with, or working where women are not confined to low-status jobs (Ehrenberg & Smith, 1985). Employee discrimination predicts that males working in integrated environments will receive higher wages than those with exactly the same levels of productivity who work in environments that are segregated. This is so because employers who wish to hire or retain male workers who are prejudiced, will have to pay them more than they would the average employee. Also, in some cases, employers attempt to avoid the higher costs of hiring these white employees by racially or sexually segregating the plants.

Monopoly Power:

Models of market structure indicate that discrimination is most likely to be profitable for firms with monopoly power. Monopoly power theories of discrimination include; Crowding, Dual Labor Markets, and Collusive Action. While they vary from each other in emphasis, these theories tend to share the feature that discrimination can segment workers into noncompeting groups, creating or perpetuating a kind of worker caste system (Ehrenberg & Smith, 1985). The collusive action theory argues that prejudice, along with the conflicts it creates, are inherent in society because they serve the interest of owners. Although the owners of capital may not be prejudiced, they may still discriminate when employee and/or customer prejudice makes it profitable to do so. For instance, white employers can collude and become monopsonists with the

respect to the hiring of minority labor. The greater their numbers and degree of disconnect, the harder it will be for these minorities to organize and collectively battle firms with monopsony power. Unionizing can help, as it makes their demands more cohesive, however this reduces individual worker flexibility. When employers A through Y conspire to monopsonize a labor market, employer Z will always have incentives to break the agreement. Thanks in large part to the agreement by other employers to discriminate, Z can enhance its profits by cheaply hiring these otherwise equally productive workers that are being discriminated against by A-Y employers. This is a prisoners' dilemma, an issue that is common to all collusive agreements.

Following the victory of the Civil Rights movement, the government did much to prevent racism and discrimination in the business sector. In the next chapter, I will discuss Title VII of the Civil Rights act, which focused on the prevention of employment discrimination.

### Chapter VI – Title VII

Under the guise of Jim Crow, the justice system overwhelmingly favored whites as public facilities, washrooms, water fountains and hotels were segregated. This practice rendered Black people second-class citizens, excluding them from quality housing and job opportunities that were available to whites. In response, Civil Rights Advocacy groups were formed throughout the 20<sup>th</sup> century. Led by Martin Luther King Jr., groups such as the National Association for the Advancement of Colored People (NAACP), Congress of Racial Equality (CORE), Southern Christian Leadership Conference (SCLC), and Student Nonviolent Coordination Committee (SNCC) lobbied government and coordinated large numbers of protests throughout the 60s (Janzen, 2010). The civil rights movement put pressure on the Kennedy administration for change. In response, President John F. Kennedy gave a national address, calling for civil rights legislation “because it is right.”

This resulted in the Civil Rights Act of 1964. Systematic racial prejudice was the greatest stain on America’s reputation, and the bill attempted to do much to remove it. With its passing, the federal government upheld substantial laws against racial discrimination and paved the way equal treatment under the law. Signed into law by President Lyndon B. Johnson on July 2<sup>nd</sup>, 1964, the landmark piece of civil rights and other labor market legislation outlawed discrimination on the basis of race, color, religion, gender, or national origin. It prohibits unequal application of voter registration requirements and racial segregation in schools, employment, and public accommodations. In this chapter, I am going to provide a brief overview of the statute in general, then delve deeper into those areas that apply directly to Kaepernick’s situation.

Enforced by the Equal Employment Opportunity Commission (EEOC), Title VII is the section of the Civil Rights Act that prohibits employment discrimination. The primary objective

of anti-discrimination legislation is to ensure that individuals are given an equal opportunity to succeed in the work place. Nearly all employers are covered by Title VII of the Civil Rights Act, including federal, state, and local governments, as well as public and private employers with at least 15 or more employees. It protects all job applicants and all employees of a covered employer. The demographic traits that cannot be used for employment decisions are known as protected characteristics, or protected classes.

In order to prove discrimination, an employee or applicant must demonstrate four elements to establish a prima facie case, or preliminary case, under Title VII. (1) The employee is in a protected class. (2) The employee is qualified for the position. If the applicant was not hired, he/she must show that they meet the job requirements. If an employee was fired, he/she must show that they were performing the job and meeting the employer expectations. (3) The job applicant or employee is rejected for a position – not hired, not promoted or fired. (4) Someone outside the protected class was selected for the position or the employer continued to look for other candidates. If an employee presents evidence of each element, the burden switches to the employer to demonstrate that the decision was not discriminatory. The employer must show evidence of a legitimate, nondiscriminatory motive for the action (Bovard, 2018).

#### Disparate Treatment:

Discriminatory practices can typically be grouped under one of four categories: 1) Disparate Treatment 2) Disparate Impact 3) Harassment 4) Retaliation. Disparate treatment involves direct discriminatory treatment of an employee by an employer, or employers' representative, based on the employee's protected class. For instance, not hiring a qualified woman simply because she is female would be obvious and intentional discrimination. If someone is turned down for an employment opportunity and can show that it was because of a particular attribute that is protected by law, that individual has the right to file charges against the

employer. The plaintiff must convince the court that the employer intentionally discriminated against the plaintiff.

The analyses of individual disparate treatment cases, at least viewed from Supreme Court precedent, is to first determine whether the “direct” evidence approach is met. Without direct evidence, the “circumstantial” evidence approach established in *McDonnell Douglas v. Green* in 1973 is the default method of analysis (Zimmer, 2001). An applicant who believes that he/she has been the victim of a disparate treatment claim must make a prima facie case using the McDonnell-Douglas Test. This requires that the plaintiff show that he/she belongs to a protected class, was qualified for the employment opportunity, was rejected, and the employer made an alternate decision within the plaintiff’s protected class. The burden of proof then shifts to the employer to provide a legitimate, job-related reason for the decision. The McDonnell-Douglas framework operates on a presumption that if the employer’s rationale is found to be untrue, the employer must be hiding his “true” discriminatory motive. Because the focus of the McDonnell-Douglas framework is on pretext and cover-up, it can only address conscious, willful discrimination.

A Title VII case can also be tried under the mixed-motive framework. In the mixed-motive framework, a plaintiff need not demonstrate that the employer’s nondiscriminatory rationale was pretextual, but merely that discrimination was a “motivating factor” in the adverse employment action. As a practical matter, this means that the plaintiff must show that the same action would not have happened outside the discriminatory motive (Barocas & Selbst, 2016). In order to shift the burden of proof to the employer, the plaintiff must “demonstrate” that the employment practice was motivated by race, sex, or some other illegitimate factor, no matter how small.



Disparate Impact:

Under the McDonnell-Douglas framework, a court must find either that the employer intended to discriminate or did not discriminate at all. Thus, unintentional discrimination will not lead to liability (Barocas & Selbst, 2016). Where there is no discriminatory intent, the disparate impact doctrine would be better suited to finding liability for discrimination. While disparate treatment refers to intentionally unfair and illegal treatment of a particular individual, disparate impact, or adverse impact, refers to a more subtle and unintentional form of discrimination. Disparate impact occurs when a company uses an employment practice that unintentionally discriminates against members of a protected class. It transpires when policies, practices, rules, or other systems of management that appear to be neutral result in a disproportionate impact on protected groups.

In a disparate impact case, a plaintiff must show that a particular facially neutral employment practice causes a disparate impact with respect to a protected class. If shown, the defendant-employer may “demonstrate that the challenged practice is job related for the position in question and consistent with business necessity.” Objective criteria, such as tests, degree requirements, and physical requirements (for lifting or stamina, for example), may be challenged under the disparate impact theory. Subjective criteria, such as performance, collegiality, or impressions made during an interview, may also be subject to a disparate impact case (Guerin, 2017). If the defendant makes a successful showing to that effect, the plaintiff may still win by showing that the employer could have used an “alternative employment practice” with less discriminatory results (Barocas & Selbst, 2016). Being that it is unclear how much disparate impact is needed to make a prima facie case, the EEOC created the four-fifths rule as the simplest, most common way of estimating adverse impact: “A selection rate for any race, sex, or ethnic group which is less than four-fifths of the rate for the group with the highest rate will

generally be regarded as evidence of adverse impact” (Uniform Guidelines on Employment Selection Procedures, 29 C.F.R. § 1607.4(D), 2015).

In other words, in a group of applicants, the selection rate of the protected group should be at least 80% that of the non-protected group. An example of the rule is as follows: In a pool of 135 applicants, 63 are minorities and 72 are non-minorities. Seven of the 72 non-minority applicants were hired, which is a 9.7% hire rate compared to the hire rate for minorities of 4.8%. The 80% rule states that the selection rate of the protected group should at least be 80% of the selection rate of the non-protected group. In this example, 4.8% of 9.7% is 49.5%. Since 49.5% is less than four fifths (80%), this group has adverse impact against minority applicants. However, since the 80% test does not involve probability distributions to determine whether the disparity is a “beyond chance” occurrence, it is usually not regarded to as a definitive test for adverse impact. Instead, other statistically significance tests, such as the standard deviation analysis, may be used for this purpose.

#### Harassment:

Although the term “harassment” does not appear in the law, Title VII also prohibits harassment based on protected characteristics. Any unwanted and unwelcomed conduct based on race, color, religion, gender, national origin, age, disability, or genetic information are forms of harassment. Examples of such offensive conduct in the workplace may include, but are not limited to, sexual harassment, physical assault or threats, offensive jokes, slurs, epithets, intimidation, and interference with work performance. Harassment becomes unlawful when 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidation, hostile, or abusive. Also, if a supervisor’s harassment results in an obvious change in the employee’s salary or status, this conduct would be considered unlawful workplace

harassment (Doyle, 2018). The EEOC recently issued a proposed guideline crystallizing the agency's expectations that employers be proactive in eliminating workplace harassment. The Proposed Enforcement on Unlawful Harassment, which was published on January 10<sup>th</sup> of 2017, requires that employers implement programs to combat "known or obvious risks of harassment," and states that a failure to do so could result in the loss of traditional affirmative defenses to harassment claims (Nicholas, 2017). When investigating allegations of harassment, the EEOC looks at the entire record: including the nature of the conduct, and the context in which the alleged incidents occurred. A determination of whether harassment is severe or pervasive enough to be illegal is made on a case-by-case basis.

#### Retaliation:

Title VII also prohibits employers from retaliating against an employee for making a complaint of harassment or discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination or harassment. Although it doesn't mention political protests, retaliation occurs when an employer punishes an employee for engaging in a legally protected activity. It can take on many forms including, but not limited to the following; denying a promotion to an employee who is otherwise qualified, demoting the employee, suspending the employee for a period of time, writing a negative evaluation of the employee, or threatening the employee if a complaint is not withdrawn. To state a viable claim for retaliation, a plaintiff must first establish that he or she opposed an unlawful employment practice or participated in an investigation proceeding under Title VII. The other elements of a retaliation claim are employer knowledge of the protected activity; an adverse employment action; and a causal connection between the protected activity and the adverse employment action.

To determine if an individual has engaged in protected activity, the key question is to determine whether the complaint concerns conduct between an employer and his/her employee.

If so, such concerns are protected (Colangelo-Bryan, 2004). Over the past decade, the EEOC has reported that retaliation is the most common issue alleged by federal employees and the most common discrimination finding in federal sector cases. Nearly half of all complaints filed during the fiscal year of 2013 were retaliation complaints, with 42 percent of findings of discrimination based on retaliation (Kharzazi, Siwatu, & Brooks, 2015).

Retaliation is different from discrimination or harassment in that it does not matter if the underlying conduct was actually discriminatory or harassment, as long as the employee had a good faith belief that it was. For example, an employee may see an encounter between a coworker and a supervisor that the employee honestly believes is an incident of harassment, even though it was not. If the employee reports the incident and the employer disciplines or fires the employee in response, the employee nevertheless has a retaliation case (England, 2017). In a retaliation suit, an employment lawyer will almost always sue for an award of money called “damages.” To recover damages, an employee must be able to show that he/she suffered an actual loss as a result of the retaliation, such as lost wages or benefits. In the next chapter, I will review the literature on athletes of color who have been discriminated against in the labor market.

### Chapter VII – Athlete Activism

Activism consists of efforts to promote, impede, direct, or intervene in social, political, economic, or environmental reform with the desire to make better changes to society. When athletes use their platforms to promote activism, their efforts carry much significance because they have the ability to branch out to an audience unsurmountable by most. Regardless of race, sex, or religion, sports are enjoyed and participated in by all. It intersects with education, religion, politics & more, and is the ultimate example of how people of all backgrounds and political views can come together in pursuit of a common goal. Due to such influence, once an athlete dedicates his/her platform to a social justice, economic, environmental, or political issue, the message in which he/she promotes will be indulged by an immensely diverse audience. To the naked eye, this sort of activism seems to be a remarkable way to enable a voice that promotes better changes for society, however all change come with resistance. Throughout history, there has been a vast literature on athletes who have put their platforms ahead of themselves, becoming a voice for the oppressed. One thing these athlete activists share in common is that their efforts for a better tomorrow are commonly met with opposition, and in too many instances for athletes of color, jeopardized their careers. In this chapter I will provide a brief history of athletes who have participated in activism, and how their efforts were received by the general public as well as their various sporting institutions.

#### Muhammad Ali:

Colin Kaepernick was not the first and will not be the last athlete to use his platform to promote social change. Muhammad Ali, born Cassius Clay, was an American professional boxer, activist, and philanthropist. Nicknamed “The Greatest”, he is widely regarded to as one of the most significant and celebrated sports figures of the 20<sup>th</sup> century and is one of the greatest boxers of all time. Ali has received numerous accolades throughout his career, including an Olympic

gold medal, 3x World Heavyweight Championship belts, and the Essence Living Legend Award. His outspoken nature on many issues of race, religion, and politics made him a controversial figure in the eyes of the public. After developing relationships with the likes of Malcolm X and the Honorable Elijah Muhammad, he joined the Nation of Islam in 1964 and subsequently changed his name. Upon being drafted during the Vietnam War, he refused conscription on the grounds of his religious convictions regarding race and war.

*“Why should they ask me to put on a uniform and go ten thousand miles from home and drop bombs and bullets on brown people in Vietnam while so-called Negro people in Louisville are treated like dogs and denied simple human rights.”*

*“The real enemy of my people are right here. I will not disgrace my religion, my people or myself by becoming a tool to enslave those who are fighting for their own justice, freedom and equality. If I thought the war was going to bring freedom and equality to twenty-two million of my people they wouldn't have to draft me, I'd join tomorrow”*

(Doone, n.d.).

Because of his views, he was sentenced to five years in federal prison. While fighting imprisonment for his stance, he was also stripped of his title, denied a license to fight in the United States, and denied a visa to go overseas to fight. This put him in a very tight financial bind. After a 43-month exile, Ali returned to the ring in October of 1970 and gradually fought his way back up to title contention. In 1974, in what was dubbed the “Rumble in the Jungle,” Ali was able to overcome the odds and reclaim the Heavyweight title, which was stripped from him seven years prior, by knocking out then world champion George Foreman. He went on to have

an illustrious career, In June of 2016, passed away from “unspecified natural causes” after publicly battling with Parkinson’s disease for more than three decades.

Tommie Smith & John Carlos:

The late 1960s were a tumultuous time due to the war in Vietnam and the battle for Civil Rights legislation. With the federal-sanctioned assassination of Black revolutionaries such as Malcolm X and Martin Luther King Jr., Black Americans wanted change and the Black Power Movement was not requesting but demanding change. As the 1968 Olympics slowly approached, many African American athletes toyed with the idea of boycotting the Games to protest racial inequities in the United States. However, the boycott, organized by sociologist Harry Edwards, never fell through. Athletes Tommie Smith and John Carlos at San Jose State University, where Edwards was teaching, took part in that conversation (Davis, 2008). Smith and Carlos were U.S. sprinters who qualified for the 200-meter dash at the Olympic Games. The bitter paradox facing these, and many other American Olympians of color, was that regardless winning gold medals, they were continually treated as second-class citizens upon return home. During the Olympic finals, Smith won gold, setting a new world record in the 200-meters, and John Carlos took home the bronze. As they received their medals at the podium, Smith and Carlos made a simple gesture that became one of the most influential protest images of all time.

While the Star-Spangled Banner began to play, they refused to put their hands over their hearts to show pride in a flag that failed to represent them. Instead, they threw their fists up in solidarity to Black power. They wore black gloves to represent social power, or Black power, black socks to represent poverty, and a black scarf around their necks to represent the lynchings that Black people endured while building this country. This protest led to persecution. As the national anthem played, the crowd began to erupt in boos. Then some people in the crowd began to scream the national anthem. The punishment for defying Olympic rules was swift, Smith and

Carlos were ordered to leave the Olympic Stadium (Brown, 2018). Additionally, they were asked to leave Mexico City and once on U.S. soil, were suspended from the national track team and were recipients of several anonymous death threats. Such persecution put them in a tough financial bind and the pressure, Carlos says, was factor in his then-wife's suicide in 1977. In 2016, they were invited to a Team USA Awards ceremony, the first Olympic Committee ceremony they had been invited to since 1968. Smith and Carlos have emphasized that they support Colin Kaepernick and other football players who have knelt during the national anthem to protest police brutality.

#### Bill Russell:

One might think that the ever-increasing participation and salaries of minority athletes have caused them to become insulated from the struggles and racial injustices of their people. An important counter example is Bill Russell. Born on February 12, 1934, Russell is a retired NBA player who is widely regarded to as one of the greatest basketball players of all time. During his college career, he led the University of South Florida to NCAA championships in 1955 and 1956, including a string of 55 victories. Once in the NBA, as a center for the Boston Celtics he was the centerpiece of a dynasty that lasted over a decade. In his thirteen-year career, he was named an All-Star twelve times, the Most Valuable Player (MVP) five times, and played a major role in bringing eleven NBA championships to Boston. Regardless of his athletic achievements, Russell's life was marked by an uphill battle against racism. This made him active in the Black Power movement and caused him to publicly support Muhammad Ali's decision to refuse the draft. The racial tension surrounding his career eventually led to a fallout between him and the Boston fanbase.

When he publicly spoke out against racism he was also the highest-paid Celtic at the time. As a result, many white fans felt that Russell was egotistical, paranoid, and hypocritical. This



atmosphere reached an apex when vandals broke into Russell's home, covered the walls with racist graffiti, damaged his trophies and defected in his bed. Subsequently, the FBI maintained a file on Russell and described him in their file as "an arrogant Negro who won't sign autographs for white children" (Taylor, 2005). Upon retirement, Russell described Boston as a "flea market for racism" and refused to return to or acknowledge the city. It wasn't until 1999, when his jersey was re-retired, that he returned to the city. On September 26<sup>th</sup> of 2017, Russell posted a photograph of himself to a previously unused Twitter account in which he is taking a knee in solidarity with NFL players kneeling during the U.S. national anthem. Russell wore his Presidential Medal of Freedom, and the image captioned with "Proud to take a knee, and to stand tall against social injustice." In an interview with ESPN, Russell said he wanted the NFL players to know they were not alone (MacMullen, 2017). These athletes, along with the likes of Jim Brown, Jackie Robinson, Kareem Abdul-Jabar and more, are examples of athletes who have used their platforms to affect the world.

#### Missouri Football:

These are some of the more infamous instances of activist efforts by athletes of color. They carry significance because they were heavily covered by the media due to the importance of the athlete's platform. However, athletes with less significant platforms have also conducted in activist efforts. In recent years, college athletes have challenged Universities and the NCAA over issues of social justice and fair treatment. In 2015, the University of Missouri's football team said it would boycott all football-related activities until University President, Tim Wolfe, resigned or was fired. Two days later, Wolfe stepped down. The football team's involvement added national attention to a growing chorus on campus criticizing Wolfe for his handling of several racially charged incidents on campus. Students and lawmakers were among those who called for Wolfe's resignation. The pioneers in the area of college athlete activism were the

“Syracuse Eight,” a group of Syracuse University football players who walked out of a spring football practice in 1970 to protest racial discrimination on campus and within the football program. They paid a high price for their stand as they were kicked off the team, ending their athletic careers.

Craig Hodges:

The case of Hodges vs. the NBA is one that most resembles Kaepernick’s battle with the NFL. Craig Hodges, a 10-year NBA veteran, found himself permanently out of a job following a controversial visit to the White House 1992. During his tenure in the NBA, Hodges led the league in 3-point shooting percentage three times, was one of the only players to win three consecutive Three Point Shooting Contests at All-Star Weekend, and was a two-time NBA Champion with the Chicago Bulls. Hodges also holds the Three Point Contest record for most consecutive shots made with 19. Motivated by the viral beating of Rodney King by the LAPD in 1991, Hodges wanted to voice his opposition. In June of 1991, the NBA finals began as the Bulls took on the Los Angeles Lakers. After five games, Hodges and the Bulls went on to win the championship. Once the Bulls were invited to the White House to meet President George H. W. Bush, Hodges became a one-man protest movement when he wore a dashiki and presented the President with a letter asking him to do more to end injustice toward the African American community.

Despite being one of the best shooters in the NBA, the following season Hodges was waived by the Bulls and received no further inquiries from any other team. He then went on to file a suit against the NBA. He claimed that Billy McKinney, director of player personnel for the Seattle SuperSonics, who is Black, was quoted as having first voiced interest in Hodges in 1992 and then shortly backing away, telling Hodges he could do nothing because “brothers have families,

if you know what I mean.” Also, while a Bulls official said Hodges was waived because he was getting old and could not play defense, head coach Phil Jackson said:

*“I also found it strange that not a single team called to inquire about him. Usually, I get at least one call about a player we’ve decided not to sign. And yes, he couldn’t play much defense, but a lot of guys in the league can’t, but not many can shoot from his range either.”* (Berkow, 1996).

Although Hodges went on to lose his court case, the similarities it shares with that of Kaepernick’s leads me to believe it deserves greater scrutiny. What I can draw from these examples is, it is not the manner in which athletes of color protest, rather it is what they protest about that stirs the ire of some white individuals.

#### Curt Flood:

In today’s day and age, the story of Curtis Charles Flood is often recollected by a mere handful of people. However, athletes of all color will forever be beneficiaries of the sacrifices in which he made during his athletic career. As an adolescent, born in 1938, Flood quickly established himself as an elite baseball player. Growing up in the inner cities of Oakland, California, he was moderately exposed to the harsh realities of racial injustice. This all changed following high school graduation in 1956, when he was signed by Major League Baseball’s (MLB) Cincinnati Reds. Upon arriving at spring training in Tampa, Florida, he was exposed to the legal apartheid of Jim Crow when he was turned away from the team hotel and redirected to a rundown “Colored Only” hotel, where the Reds housed all their Black talent.

Regardless of such oppression, Flood went on to have an illustrious career. In his 15 seasons in the MLB, he established himself as the best center fielder in all of baseball, being selected as an All-Star in three seasons and winning the Golden Glove in seven consecutive seasons. However, when he refused to accept a trade during the 1969 season, he became one of the most

pivotal figures in the sport's history. Despite his outstanding playing career, Flood's principal legacy developed off the field. He believed that the MLB's decades-old "reserve clause" was unfair in that it kept players beholden for life to the team with which they originally signed, even after satisfying the terms and conditions of their contracts. On October 7<sup>th</sup>, 1969, the Cardinals traded Flood to the Phillies, however he refused to go. He cited the Phillies poor team record and racist fanbase as reason, as well as stating "I didn't want to pick up twelve years of my life and move to another city."

On January 16<sup>th</sup>, 1970, Flood filed a \$1 million lawsuit against Commissioner Bowie Kuhn and the MLB, alleging violation of federal antitrust laws. Even though Flood was making \$90,000 at the time, he likened the reserve clause to slavery. "I think the change in black consciousness in recent years has made me more sensitive to injustice in every area of my life." This comparison to slavery drew criticism from baseball's fanbase, which was majority white. He was bombarded with hate mail, death threats, and frequently heard criticism such as "it must be tough being a \$90,000 slave." He responded by saying "a \$90,000 slave is still, nevertheless, a slave." His case, *Flood v. Kuhn*, ultimately made it to the U.S. Supreme Court. Although his legal challenge was eventually unsuccessful, it brought about additional solidarity among players as they fought against baseball's reserve clause and sought free agency.

Following the lawsuit, Flood was blackballed from the MLB as he never received a subsequent contract from another team, leading him to an early retirement. Throughout the duration of the case, the majority of Black MLB players were scared of losing their jobs, so Flood received little support from the peers he was fighting for. The stress of the case drove him to alcoholism, and on January 20<sup>th</sup> of 1997, he passed away at the age of 59 after developing pneumonia.

For his sacrifices, he was shunned out for attempting to “destroy baseball.” It wasn’t until decades later, in 1997, that his legacy was acknowledged in Congress via the *Baseball Fans and Communities Protection Act of 1997*. The legislation established federal antitrust law protection for MLB players to the same extent as provided for other professional athletes. The Curt Flood Act of 1998 also stopped owners from controlling players’ contracts and careers. Not only did Flood help modify the reserve clause, he also helped bring in the 10/5 rule, or Curt Flood Rule. The rule states that when a player has played for a team for five straight years and played in the MLB for a total of ten years, they have to give the club their consent to be traded. His legal battle with the MLB may have led him to alcoholism and early retirement, but all baseball athletes of the future will forever bear the fruits of his labor.

#### White Athletes:

Activism is not limited only to athletes of color, as white athletes also enable their platforms. However, their efforts are never as scrutinized as the efforts of Black athletes. For instance, when women’s soccer player, Megan Rapinoe, became the first White professional athlete to kneel during the anthem, the club’s owner attempted to block her protest but that did not stop her. She continued to protest, and when she took a knee before the U.S. women’s national team’s match against Thailand, wearing the Red, White and Blue, it led to the U.S. Soccer Federation passing a policy that required all players and staff to stand during anthems (Phillips, 2017). This case is scarcely known by the public, as her efforts were hardly picked up by the mainstream media. Furthermore, Kyle Korver of the Utah Jazz recently wrote a piece in *The Players Tribune* titled “Privileged,” visibly acknowledging his white privilege and taking a stand against racism. Apart from the day of its release, there has been little talk about the contents of his letter. One could well imagine that this historical example would have received considerably more criticism from the right-wing media had it been written by Kaepernick.

### Chapter VIII – Methodology and Results

History often repeats itself and that is just how it goes. The predicament Colin Kaepernick currently finds himself in is not one that is unique to the history of this country. With such a vast literature about athletes who have been persecuted for publicly advocating for social justice, it is important to look closely at the details regarding Kaepernick's situation.

As his protest began to gain national coverage, it was hijacked by President Donald Trump and used as a political tool to incite voters during the election campaign. Rather than shining light on racism and police brutality as intended, it was instead framed as an attack on the American flag and military. Sentiments from each side of the political spectrum began pouring in. The conversation soon tilted from Kaepernick's activism to him being unpatriotic. In this day and age, those who align themselves with Kaepernick can often be easy to tell apart from those who do not. His fans tend to be people of color and white liberals, while those who oppose him are usually white conservatives.

This was not always the case, however, as Kaepernick was once one of the more beloved quarterbacks in the NFL. Such notoriety was bestowed upon him early when he, in week 10 of his sophomore season, was thrown into the fire after then starting quarterback, Alex Smith, went down with a concussion. Following a remarkable performance, he took over the reins of starting quarterback for the rest of the season and led the 49ers to an 11-4-1 record and a berth in the 2012 NFL playoffs (Sando, 2012). He performed extremely well in his post-season debut, leading his team to Super Bowl XLVII in New Orleans where they eventually lost a closely competed game against the Baltimore Ravens, 34-31. Such stellar performance was repeated in the following season by leading his team to a 12-4 record and yet another berth in the 2013 NFL playoffs. The 49ers advanced to the NFC Championship Game, where they lost to the eventual

Super Bowl Champion Seattle Seahawks. Regardless the consecutive playoff shortcomings, he quickly established himself as a prominent quarterback in the league. He was considered by coaches and players to be an immensely dynamic player with his incredible scrambling ability and arm strength.

The success he enjoyed during his rookie contract led to a new six-year contract extension with the 49ers, worth up to \$126 million. However, the team had limited success in 2014, winning only 8 out of 16 games and missing the playoffs for the first time since 2010. Following the conclusion of the season, head coach Jim Harbough accepted a coaching vacancy position at the University of Michigan and everything seemed to go downhill from there. Halfway through the 2015 season, Kaepernick suffered a significant tear in his non-throwing shoulder that required season-ending surgery. While rehabilitating his shoulder, he began his protest on the sidelines and soon found his relationship with the front office slowly beginning to deteriorate. Not long after, his lucrative 9-figure contract was strangely reconstructed from a six-year to a two-year contract, with a player option for the second year. Coincidentally, this restructuring was done just two months following his initial protest and was handled by a third-party, not Kaepernick's original agent (Biderman, 2016). Kaepernick was able to make his return from injury to the starting lineup in week 6 of the 2016 season, and after going 1-10 on a bad 49ers team, decided to opt out of his contract.

It has now been three years since Kaepernick decided to become a free agent, and he has yet to find a position with another NFL team. This sequence of events has created huge controversy in sports and political discourse all throughout the country. Some believe his performance does not justify a position on an NFL team, while others believe his absence from the league is primarily an organizational response to his activism. Some even claim his age and

injury, although not career-ending, as reason for his absence. Eventually, these conversations began to carry racial significance. At issue is the extent to which his protests and racism play a role in his inability to earn a position with another team. This thesis intends not only to analyze Kaepernick's protest as far as its significance to communities of color, but also to analyze the controversy surrounding his inability to find a position in the NFL. Rap legend and business mogul, Shawn "Jay-Z" Carter, once said, "women lie, men lie, numbers don't lie." In a generation so heavily reliable on analytics, what is a more fitting solution than a statistical analysis?

#### Methodology:

Methodologically, I compare Kaepernick's statistics to other notable quarterbacks in the NFL during the 2017 and 2018 season. As counter arguments introduced his age and injury history into the equation, I will derive this list of quarterbacks by sampling quarterbacks who have undergone surgery and missed a significant amount playing time stemming from an injury. I will also adjust for these quarterbacks' age to include those who fall within two years of Kaepernick's age and length of contract (seeing that the average length of an NFL contract is approximately three years). This will allow for a comparison of their NFL productivity during the three seasons following their injury. I will also conduct similar analysis for quarterbacks with playoff experience. The data sets are obtained from Pro-Football Reference, a website that provides a complete set of facts about a player's football history, including the team(s) played for, league stats, awards, records, position leaders, etc.

Statistics can be manipulated to produce a biased result. For example, the sample may be unrepresentative. In American sports, numbers can be used in a variety of ways to assess the competency, efficiency, and overall success rates of our favorite athletes. That process might be the most controversial in football, especially at the game's most crucial and infamous position –



quarterback. In football, there are many different metrics incorporated into the evaluation of a quarterback's performance. Each of these metrics present its own unique pros and cons, as no single number or index can tell the entire story. A fair analysis requires one to investigate a variety of quarterback performance metrics. When comparing quarterbacks, there are several fundamental statistics that signal the quality of performance. In addition, there are at least several second- and third-level stats that can be used to reaffirm or refute the conclusion of the fundamental statistics (Biderman, 2016). To achieve fair results, I will create a set of tables that provide insight into a quarterback's overall performance. They will be categorized as listed below:

- Years: Last three years of NFL performance.
- G: Games played.
- GS: Games started.
- Record: Team record in games started.
- Win-Loss: Win to loss ratio
- Cmp: Passes completed.
- Att: Passes attempted.
- Cmp%: Percentage of passes completed.
- Rush: Rushing attempts.
- Yds: Yards gained by passing/rushing.
- TDs: Passing/rushing touchdowns.
- INTs: Interceptions thrown.
- Y/C: Yards gained per pass completion.
- Y/A: Yards gained per pass/rush attempt.
- Y/G: Passing/rushing yards gained per game played.
- A/G: Rushing attempts per game played.
- QB Rate: Quarterback rating.
- 4QC: 4<sup>th</sup> quarter comeback led by quarterback.
- GWD: Game winning drives led by quarterback.
- TD-INT: Touchdown to interception ratio.
- Age: Age of quarterback.

Critics may argue that although Kaepernick's statistics are better than other signed free agent quarterbacks, signing the best individual players does not necessarily make for the best

team. Their contention might be that to have a profitable team requires a large and loyal fan base that drives ticket and merchandise sales, and the signing of a controversial player like Kaepernick undermines that goal. This idea makes the assumption that engaging in activism to aid in the betterment of the lives of people of color makes you bad for business, reiterating the power dynamics of white supremacy.

To test the efficacy of the discrimination argument against the NFL, I will first derive a list of all NFL teams in which at least one player participated in Kaepernick's protest. Although a plethora of teams and players participated in multiple forms of protests to show solidarity, such as kneeling before the anthem, raising fists, locking arms, etc., I will refine my search to only include teams in which players took a knee during the anthem, similar to Kaepernick. I will do so by creating a graph that depicts the change in each of these teams' average regular season home games attendance, team revenue, and franchise value, before, during, and after the protest. These statistics will be gained from Statista, a website that provides statistics and data within 600 industries and 50+ countries. Furthermore, Nike fell subject to criticism when, amidst all the controversy, they released a 'Just Do It' campaign featuring Kaepernick, amongst other athletes. In an attempt to debunk the aforementioned criticism, I also intend to examine the results of Nike's ad campaign. Through this all, I will formulate the results and come to an overall conclusion on the controversy of Kaepernick's situation and the way it played out.

### Results:

First, I discuss the last three years of Colin Kaepernick's NFL performance relative to that of a sample of 13 quarterbacks in 2017, and 14 in 2018, with similar characteristics. The criteria for selecting this set of quarterbacks are: (1) quarterback on an active NFL roster in the given year (2) two years within the age range of Kaepernick, (3) underwent surgical procedure stemming from a significant injury. Tables 1-6 lists these quarterbacks performance metrics for

the 2017 season. These include the team's record (Table 1), quarterback completing percentage (Table 2), touchdown to interception ratio (Table 3), passing yards (Table 4), quarterback rating (Table 5), and rushing yards (Tables 6 & 6B). Tables 7-12 include the same metrics for the 2018 season, and Tables 13-18 include metrics during the playoffs.

During the 2017 season, Colin Kaepernick's statistics ranked near the top in most categories. Although directly coming off an injury, he ranked 12<sup>th</sup> in team record, but 1<sup>st</sup> in completion percentage, rushing yards per attempt, and rushing yards per game. He also ranked 2<sup>nd</sup> in total rushing yards, 4<sup>th</sup> in touchdown to interception ratio, 5<sup>th</sup> in rushing touchdowns, and 7<sup>th</sup> in 4<sup>th</sup> quarter comebacks. A few of his metrics fell to the bottom half of the sample set, ranking 8<sup>th</sup> in total passing yards and yards gained per catch. 9<sup>th</sup> in quarterback rating and game-winning drives, 10<sup>th</sup> in passing yards gained per attempt and 11<sup>th</sup> in passing yards gained per game.

During the 2018 season, Kaepernick's rankings were similar to that of 2017. He once again ranked 12<sup>th</sup> in team record but ranked 1<sup>st</sup> solely in rushing yards per attempt. Subsequently, he ranked 2<sup>nd</sup> in completion percentage, 3<sup>rd</sup> in total rushing yards and rushing yards gained per game, 5<sup>th</sup> in passing yards gained per catch, 6<sup>th</sup> in rushing touchdowns and quarterback rating, and 7<sup>th</sup> in touchdown to interception ratio. At the bottom half of the sample set, he ranked 8<sup>th</sup> in 4<sup>th</sup> quarter comebacks, 10<sup>th</sup> in total passing yards and passing yards per attempt, 11<sup>th</sup> in game-winning drives, and 13<sup>th</sup> in passing yards per game.

Amongst the 12 quarterbacks whom have led their respective teams to a playoffs berth, Kaepernick's post-season numbers protrude him miles above the rest. He ranks 1<sup>st</sup> in team record, passing yards gained per attempt, game-winning drives, 4<sup>th</sup> quarter comebacks, rushing yards gained per attempt, rushing yards gained per game, total rushing yards, and rushing

touchdowns. Furthermore, he ranked 2<sup>nd</sup> passing yards gained per catch, and 6<sup>th</sup> in total passing yards and touchdown to interception ratio. He also ranked 7<sup>th</sup> in completion percentage and passing yards gained per game.

I believe it is important to note that the majority of quarterbacks sampled are starting quarterbacks who have enjoyed a bountiful and illustrious career. With the results tallied together, Colin Kaepernick's performance is certainly at or above average among the quarterback samples. This suggests that his inability to obtain a position with any NFL team is due to discrimination, rather than a lack of ability.

Figures 1-3 document the effect that these protests had on the respective teams' home game attendance, annual revenue, and annual franchise value. The annual revenue refers to the total end of year income by each respective team, while franchise value refers to the team's overall value at the end of the year. In order to illustrate the significance protesting the national anthem had on these teams' financial values, I compared the end-of-year figures before, during, and after the protest. Through these comparisons, I was able to demonstrate the fluctuations in team values throughout the years, from prior to the protest, to its peak, to the year following its conclusion. The information I gained through these figures is that taking a stance during the national anthem had little to no correlation with the end of year values within each organization. During the year of protest, teams saw both reductions and increases in the values of their regular season home attendance (Figure 1). For the majority of teams, however, these fluctuations followed a trend maintained in the previous and following year, causing little cause for concern. Of all teams, the Kansas City Chiefs in 2017 and Jacksonville Jaguars in 2018 were the only two to break the trend, experiencing a slight drop in home attendance the year in which players protested, and an increase the following year.

The annual revenues (Figure 2) and annual franchise values (Figure 3) are similar to the attendance data. This suggests that there are no correlations between the strength of stand taken and end of year financial figures.

#### Nike's Kaepernick Ad Campaign Results:

Nike, one of the most recognized and reputable brands of athletic equipment in the world, sent shockwaves around the globe with its 30<sup>th</sup> anniversary advertising campaign in September of 2018. Television commercials, print, and digital media outlets featured Colin Kaepernick donning an afro with the message "Believe in something. Even if it means sacrificing everything." The sacrifice in question would seem to be his NFL career. Those who strongly oppose Kaepernick announced their intentions to boycott the brand on social media. Some discarded their Nike apparel, and in some cases even went as far as setting them ablaze. The following day, Nike suffered a \$4 billion-dollar loss in market cap when shares of its stock fell 3.2% (Kelleher, 2018). President Trump subsequently tweeted his dismay with the marketing campaign, citing statements such as "...Nike is getting absolutely killed with anger and boycotts" and "What was Nike thinking?"

As the backlash grew, what seemed to be marketing suicide turned out to be just the opposite. Notable athletes, like Serena Williams and LeBron James, praised the ads and it seemed they were not alone. According to a news report from Edison Trends, following the initial dip after the launch of the ad, Nike's online sales grew 31% over Labor Day Weekend, compared to a 17% increase in 2017. Its stock also closed at \$83.47, an all-time high (Sterling, 2018). In less than 24 hours, there were more than 2.7 million mentions of Nike on social media, a 1,400% increase compared to the previous day. Plus, Nike's brand mentions increased by 135% compared to the previous week. In total, Nike generated a total of \$163.5 million in media brand exposure, \$49.1 being negative, \$48.8 being neutral, and \$65.6 being positive (Levito,

2018). The company's CEO, Mark Parker, also expressed that the ad campaign resulted in "record engagement with the brand." In a three-month period, Nike's revenue was up 9% to \$9.9 billion and its shares had risen 6.2%, adding \$6.38 billion to the company's value (Rovell, 2018).

With Nike being a primary partner of the NFL, the two organizations share similar customers. These numbers demonstrate how Colin Kaepernick's protests were viewed by the majority of Nike buyers. If this is true for most football fans, then the inability of Kaepernick to gain a position with an NFL team may imply the discrimination originates more within the owners rather than within fans.

Limitations of Study

In Figures 1 – 6, I analyze the organizational revenues of NFL teams in which a player participated in the national anthem protest. The data I incorporated analyzed the average regular season home attendance, annual team revenue, and annual franchise value of the teams involved. It evaluated the year prior to protest, the year of protest, and the year following protest in order to figure out the effect these protests had on organizational values of a specific year, relative to other years.

Ideally, a comparison should be made not just among teams that participated in the protests, but between teams that participated and teams that did not. Critics may argue that although the values in the data remained unaltered and the trends consistent, that does not signify that protests did not reduce revenue. They may argue that the values may have been trending up, and the protests caused them to trend up more slowly. A comparison between teams that did and teams that did not protest would do a better job in debunking such criticism.

List of Tables –

2017:

Table 1: Team Record –

2017 Season - Passing	Years	G	GS	Record	Win-Loss
T.J. Yates (30)	2013-15	8	2	2-0-0	2.00
Cam Newton (28)	2014-16	45	44	26-17-1	1.56
Andy Dalton (30)	2014-16	45	45	26-17-0	1.53
Matthew Stafford (29)	2014-16	48	48	27-21-0	1.28
Case Keenum (29)	2014-16	18	16	9-7-0	1.28
Nick Foles (28)	2014-16	22	20	11-9-0	1.22
Matt Ryan (32)	2014-16	48	48	25-23-0	1.09
Joe Flacco (32)	2014-16	42	42	21-21-0	1.00
Brian Hoyer (32)	2014-16	31	27	13-14-0	0.92
Sam Bradford (30)	2013-15,16	36	36	17-19-0	0.89
Ryan Mallet (29)	2014-16	15	8	3-5-0	0.60
Colin Kaepernick (30)	2014-16	37	35	11-21-0	0.52
Blaine Gabbert (28)	2014-16	15	13	4-9-0	0.44
Chad Henne (32)	2012-14	28	22	5-17-0	0.29

Among the QBs that meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 12<sup>th</sup> in the winning percentage over the last three years of NFL production.

Table 2: Completion Percentage –

2017 Season - Passing	Cmp	Att	Cmp%
Colin Kaepernick (30)	629	918	69%
Matt Ryan (32)	1195	1776	67%
Sam Bradford (30)	900	1346	67%
Andy Dalton (30)	928	1430	65%
Matthew Stafford (29)	1149	1788	64%
Joe Flacco (32)	1046	1639	64%
Blaine Gabbert (28)	272	449	61%
Case Keenum (29)	317	524	60%
Brian Hoyer (32)	600	1007	60%
Nick Foles (28)	412	703	59%
Chad Henne (32)	513	889	58%
Cam Newton (28)	828	1453	57%
T.J. Yates (30)	46	83	55%
Ryan Mallet (29)	180	339	53%

Among the QBs that meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 1<sup>st</sup> in completion percentage over the last three years of NFL production.



Table 3: Touchdown to Interception –

2017 Season - Passing	TDs	INTs	TD-INT
Matthew Stafford (29)	78	25	3.12
Matt Ryan (32)	87	37	2.35
Sam Bradford (30)	53	23	2.30
<b>Colin Kaepernick (30)</b>	<b>41</b>	<b>19</b>	<b>2.16</b>
Cam Newton (28)	72	36	2.00
Andy Dalton (30)	62	32	1.94
Brian Hoyer (32)	37	20	1.85
Joe Flacco (32)	61	39	1.56
Blaine Gabbert (28)	16	13	1.23
Nick Foles (28)	23	20	1.15
Case Keenum (29)	15	14	1.07
Chad Henne (32)	27	26	1.04
Ryan Mallet (29)	7	9	0.78
T.J. Yates (30)	3	4	0.75

Among the QBs that meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 4<sup>th</sup> in Touchdown to Interception ratio over the last three years of NFL production.

Table 4: Passing Yards –

2017 Season - Passing	Yds	Y/C	Y/A	Y/G
Matt Ryan (32)	14229	12.0	8.1	296.4
Matthew Stafford (29)	12846	11.2	7.2	267.6
Joe Flacco (32)	11094	10.6	6.8	266.3
Sam Bradford (30)	9289	10.4	6.8	255.2
Andy Dalton (30)	10854	11.8	7.7	241.8
Brian Hoyer (32)	7377	12.0	7.3	238.4
Cam Newton (28)	10473	12.6	7.2	232.7
Blaine Gabbert (28)	2994	11.4	6.1	223.1
Nick Foles (28)	4625	11.3	6.9	197.9
Chad Henne (32)	5817	11.6	6.5	196.2
<b>Colin Kaepernick (30)</b>	<b>7225</b>	<b>11.4</b>	<b>6.8</b>	<b>192.3</b>
Case Keenum (29)	3464	10.6	6.3	191.9
Ryan Mallet (29)	1792	9.4	5	102.3
T.J. Yates (30)	547	14.0	9.2	64.7

Among the QBs that meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 11<sup>th</sup> in yards per game, 10<sup>th</sup> in yards gained per pass attempt, 7<sup>th</sup> in yards gained per pass completion, and 8<sup>th</sup> in total passing yards gained over the last three years of NFL production.

Table 5: Quarterback Rating –

2017 Season - Passing	QB Rate	4QC	GWD
Matt Ryan (32)	100.0	8	9
Andy Dalton (30)	93.8	9	7
Sam Bradford (30)	92.2	2	4
Matthew Stafford (29)	92.0	15	16
Brian Hoyer (32)	88.6	5	5
Joe Flacco (32)	85.9	7	7
Cam Newton (28)	85.8	6	6
Nick Foles (28)	85.4	3	4
<b>Colin Kaepernick (30)</b>	<b>85.2</b>	<b>4</b>	<b>3</b>
Blaine Gabbert (28)	84.9	2	2
Case Keenum (29)	78.8	2	2
Chad Henne (32)	76.5	1	1
Ryan Mallet (29)	52.6	0	0
T.J. Yates (30)	51.3	1	1

Among the QBs who meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 9<sup>th</sup> in quarterback rating, 7<sup>th</sup> in 4<sup>th</sup> quarter comebacks, and 9<sup>th</sup> in game winning drives over the last three years of NFL production.

Table 6: Rush Yards –

2017 Season - Rushing	Rush	Yards	TD
Cam Newton (28)	325	1534	20
<b>Colin Kaepernick (30)</b>	<b>218</b>	<b>1363</b>	<b>4</b>
Andy Dalton (30)	163	495	11
Mathew Stafford (29)	124	459	5
Blaine Gabbert (28)	73	363	3
Matt Ryan (32)	100	325	0
Chad Henne (32)	50	166	1
Joe Flacco (32)	73	151	7
Sam Bradford (30)	61	123	0
Case Keenum (29)	42	96	1
Nick Foles (28)	37	84	1
Brian Hoyer (32)	46	81	0
Ryan Mallet (29)	16	7	1
T.J. Yates (30)	7	0	0

Among the QBs who meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 2<sup>nd</sup> in yards gained by rushing, and 5<sup>th</sup> in rushing touchdowns over the last three years of NFL production.

Table 6 (B): Average Rush Yards –

2017 Season - Rushing	Y/A	Y/G	A/G
Colin Kaepernick (30)	6.2	35.8	5.8
Cam Newton (28)	4.7	34.1	7.2
Blaine Gabbert (28)	5.0	18.9	3.7
Andy Dalton (30)	3.1	11.0	3.7
Mathew Stafford (29)	3.8	9.5	2.6
Case Keenum (29)	2.2	7.8	3.0
Matt Ryan (32)	3.4	6.8	2.1
Chad Henne (32)	4.2	6.6	1.7
Sam Bradford (30)	2.1	3.6	1.8
Joe Flacco (32)	2.1	3.4	1.7
Nick Foles (28)	1.5	3.0	1.6
Brian Hoyer (32)	1.4	2.2	1.4
T.J. Yates (30)	0.0	0.0	14.0
Ryan Mallet (29)	0.5	-0.1	1.3

Among the QBs who meet the criteria under an NFL contract in 2017, Colin Kaepernick ranks 1<sup>st</sup> in rushing yards per game played, 1<sup>st</sup> in yards gained per rush attempt, and 3<sup>rd</sup> in rushing attempts per game played over the last three years of NFL production.

2018:

Table 7: Team Record –

2018 Season - Passing	Years	G	GS	Record	Win-Loss
Matt Ryan (33)	2015-17	48	48	29-11-0	2.63
Cam Newton (29)	2015-17	47	46	32-14-0	2.28
Case Keenum (30)	2015-17	31	28	18-10-0	1.80
Andrew Luck (29)	2014-16	38	38	21-17-0	1.23
Tyrod Taylor (29)	2015-17	44	43	22-20-0	1.10
Andy Dalton (31)	2015-17	45	45	23-21-0	1.09
Mathew Stafford (30)	2015-17	48	48	25-23-0	1.08
Sam Bradford (31)	2015-17	31	31	16-15-0	1.06
Ryan Tannehill (30)	2014-16	45	45	22-23-0	0.95
Joe Flacco (33)	2015-17	42	42	20-22-0	0.91
Mark Sanchez (32)	2014-16	15	10	4-6-0	0.67
Colin Kaepernick (31)	2014-16	37	35	11-21-0	0.52
Blaine Gabbert (29)	2015-17	19	18	6-12-0	0.50
Brian Hoyer (33)	2015-17	28	20	6-14-0	0.43
Colt McCoy (32)	2013-15	7	4	1-3-0	0.33

Among the QBs who meet the criteria under an NFL contract in 2018, Colin Kaepernick ranks 12<sup>th</sup> in winning percentage over the last three years of NFL production.

Table 8: Completion Percentage –

2018 Season - Passing	Cmp	Att	Cmp%
Colt McCoy (32)	98	139	70%
<b>Colin Kaepernick (31)</b>	<b>629</b>	<b>918</b>	<b>69%</b>
Sam Bradford (31)	773	1127	68%
Matt Ryan (33)	1122	1677	67%
Mathew Stafford (30)	1157	1751	66%
Ryan Tannehill (30)	1016	1565	65%
Mark Sanchez (32)	267	418	65%
Case Keenum (30)	597	928	64%
Joe Flacco (33)	1054	1639	64%
Tyrod Taylor (29)	774	1236	63%
Andy Dalton (31)	916	1445	63%
Brian Hoyer (33)	481	780	62%
Andrew Luck (29)	888	1454	61%
Blaine Gabbert (29)	364	613	59%
Cam Newton (29)	857	1497	57%

Among the QBs who meet the criteria under an NFL contract in 2018, Colin Kaepernick ranks 2<sup>nd</sup> in completion percentage over the last three years of NFL production.

Table 9: Touchdown to Interception –

2018 Season - Passing	TDs	INTs	TD-Int
Tyrod Taylor (29)	51	16	3.19
Brian Hoyer (33)	29	11	2.64
Mathew Stafford (30)	85	33	2.57
Andy Dalton (31)	68	27	2.52
Matt Ryan (33)	79	35	2.26
Sam Bradford (31)	42	19	2.21
<b>Colin Kaepernick (31)</b>	<b>41</b>	<b>19</b>	<b>2.16</b>
Andrew Luck (29)	86	41	2.1
Ryan Tannehill (30)	70	36	1.94
Cam Newton (29)	76	40	1.9
Case Keenum (30)	35	19	1.84
Colt McCoy (32)	5	3	1.67
Joe Flacco (33)	52	40	1.3
Mark Sanchez (32)	18	15	1.2
Blaine Gabbert (29)	21	19	1.1

Among the QBs that meet the criteria under an NFL contract in 2018, Colin Kaepernick ranks 7<sup>th</sup> in Touchdown to Interception ratio over the last three years of NFL production.

Table 10: Passing Yards –

2018 Season - Passing	Yds	Y/C	Y/A	Y/G
Cam Newton (29)	10648	12.4	7.1	226.7
Matt Ryan (33)	13630	12.2	8.2	283.9
Andrew Luck (29)	10882	12.1	7.3	283.0
Andy Dalton (31)	10776	11.8	7.5	240.1
Tyrod Taylor (29)	8857	11.4	7.2	201.6
Colin Kaepernick (31)	7225	11.4	6.8	192.3
Mathew Stafford (30)	13035	11.3	7.5	271.6
Ryan Tannehill (30)	11248	11.1	7.3	248.7
Case Keenum (30)	6576	11.0	6.9	198.2
Brian Hoyer (33)	5335	11.0	6.8	198.2
Blaine Gabbert (29)	4042	11.0	6.5	208.4
Sam Bradford (31)	7984	10.8	7.6	238.5
Mark Sanchez (32)	3127	10.6	6.6	156.4
Colt McCoy (32)	1185	10.0	6.6	70.8
Joe Flacco (33)	10249	9.8	6.3	248.4

Among the QBs that meet the criteria under an NFL contract in 2018, Colin Kaepernick ranks 5<sup>th</sup> in yards gained per pass completion, 10<sup>th</sup> in yards gained per pass attempt, 13<sup>th</sup> in yards per game, and 10<sup>th</sup> in total passing yards gained over the last three years of NFL production.

Table 11: Quarterback Rating –

2018 Season - Passing	QB Rate	4QC	GWD
Cam Newton	103.4	1	1
Matt Ryan	96.5	11	15
Andrew Luck	94.9	8	7
Andy Dalton	92.8	3	5
Tyrod Taylor	91.7	7	6
Colin Kaepernick	91.5	7	9
Mathew Stafford	89.3	6	7
Ryan Tannehill	87.9	1	1
Case Keenum	87.5	2	5
Brian Hoyer	85.3	4	7
Blaine Gabbert	85.2	4	3
Sam Bradford	82.3	5	5
Mark Sanchez	76.8	1	2
Colt McCoy	75.5	4	4
Joe Flacco	66.5	0	0

Among the QBs that meet the criteria under an NFL contract in 2018, Colin Kaepernick ranks 6<sup>th</sup> in quarterback rating, 8<sup>th</sup> in 4<sup>th</sup> quarter comebacks, and 11<sup>th</sup> in game winning drives over the last three years of NFL production.

Table 12: Rush Yards –

2018 Season - Rushing	Rush	Yards	TD
Cam Newton (29)	361	1749	21
Tyrod Taylor (29)	283	1575	14
<b>Colin Kaepernick (31)</b>	<b>218</b>	<b>1363</b>	<b>4</b>
Andrew Luck (29)	161	810	5
Ryan Tannehill (30)	127	616	3
Mathew Stafford (30)	110	464	3
Blaine Gabbert (29)	95	440	3
Andy Dalton (31)	141	425	7
Matt Ryan (33)	103	323	0
Case Keenum (30)	72	216	2
Joe Flacco (33)	59	135	5
Mark Sanchez (32)	44	107	1
Sam Bradford (31)	48	89	0
Colt McCoy (32)	25	57	1
Brian Hoyer (33)	31	46	1

Among the QBs that met the criteria under an NFL contract in 2018, Colin Kaepernick ranks 3<sup>rd</sup> in yards gained by rushing and 6<sup>th</sup> in rushing touchdowns over the last 3 years of NFL production

Table 12 (B): Average Rush Yards –

2018 Season - Rushing	Y/A	Y/G	A/G
<b>Colin Kaepernick (31)</b>	<b>6.2</b>	<b>35.8</b>	<b>5.8</b>
Tyrod Taylor (29)	5.6	35.9	6.4
Andrew Luck (29)	5.2	22.6	4.3
Cam Newton (29)	4.7	36.9	7.7
Ryan Tannehill (30)	4.7	13.6	2.8
Blaine Gabbert (29)	4.6	22.8	5.1
Mathew Stafford (30)	4.2	9.6	2.3
Matt Ryan (33)	3.2	6.7	2.2
Andy Dalton (31)	3.0	9.5	3.2
Case Keenum (30)	2.3	5.5	2.2
Joe Flacco (33)	2.3	3.1	1.4
Mark Sanchez (32)	1.9	4.7	2.4
Brian Hoyer (33)	1.0	1.4	1.1
Sam Bradford (31)	0.9	1.6	1.4
Colt McCoy (32)	0.7	2.9	2.6

Among the QBs that meet the criteria under an NFL contract in 2018, Colin Kaepernick ranks 1<sup>st</sup> in yards gained per rush, 3<sup>rd</sup> in rushing yards per game, and 3<sup>rd</sup> in rushing attempts per game played over the last three years of NFL production.

*Playoff Career –*

Table 13: Team Record –

Playoffs - Career Pass	G	GS	Record	Win-Loss
Colin Kaepernick	6	6	4-2	2.00
Joe Flacco	15	15	10-5	2.00
Mark Sanchez	6	6	4-2	2.00
Nick Foles	6	6	4-2	2.00
T.J. Yates	3	2	1-1	1.00
Case Keenum	2	2	1-1	1.00
Andrew Luck	8	8	4-4	1.00
Cam Newton	7	7	3-4	0.75
Matt Ryan	10	10	4-6	0.67
Andy Dalton	4	4	0-4	0.00
Matthew Stafford	3	3	0-3	0.00
Brian Hoyer	2	1	0-1	0.00
Tyrod Taylor	1	1	0-1	0.00

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 1<sup>st</sup> in playoffs winning percentage over his NFL career.

Table 14: Completion Percentage –

Playoffs - Career Pass	Cmp	Att	Cmp%
Matt Ryan	237	351	67%
Nick Foles	143	210	68%
Mathew Stafford	74	117	63%
Mark Sanchez	95	157	60%
Case Keenum	53	88	60%
Cam Newton	134	224	60%
Colin Kaepernick	94	162	58%
Joe Flacco	253	447	57%
Andrew Luck	185	328	56%
Andy Dalton	88	158	56%
T.J. Yates	28	55	51%
Tyrod Taylor	17	37	46%
Brian Hoyer	15	34	44%

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 7<sup>th</sup> in playoffs completion percentage over his NFL career.

Table 15: Touchdown to Interception –

Playoffs - Career Pass	TD	INT	TD-INT
Mark Sanchez	9	3	3.00
Matt Ryan	20	7	2.60
Joe Flacco	25	10	2.50
Nick Foles	11	5	2.20
Cam Newton	10	7	1.40
Colin Kaepernick	7	5	1.40
Matthew Stafford	4	3	1.30
Andrew Luck	12	13	0.92
Case Keenum	2	3	0.67
T.J. Yates	1	3	0.33
Andy Dalton	1	6	0.17
Tyrod Taylor	0	1	0.00
Brian Hoyer	0	4	0.00

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 6<sup>th</sup> in playoffs touchdown to interception ratio over his NFL career.

Table 16: Passing Yards –

Playoffs - Career Pass	Yds	Y/C	Y/A	Y/G
Colin Kaepernick	1374	14.6	8.5	229.0
Joe Flacco	3223	12.7	7.2	214.9
Matthew Stafford	908	12.3	7.8	302.7
T.J. Yates	343	12.3	6.2	114.3
Mark Sanchez	1155	12.2	7.4	192.5
Andrew Luck	2254	12.2	6.9	281.8
Nick Foles	1633	11.4	7.8	272.2
Matt Ryan	2672	11.3	7.6	267.2
Case Keenum	589	11.1	6.7	294.5
Andy Dalton	873	9.9	5.5	218.3
Brian Hoyer	136	9.1	4	68.0
Cam Newton	1821	8.1	13.6	260.1
Tyrod Taylor	134	3.6	7.9	134.0

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 1<sup>st</sup> in playoff yards gained per pass completion, 2<sup>nd</sup> in playoff yards gained per pass attempt, 7<sup>th</sup> in playoff passing yards per game, and 6<sup>th</sup> in total passing yards gained over his NFL career.



Table 17: Quarterback Rating –

Playoffs - Career Pass	Rate	4QC	GWD
Matt Ryan	100.8	1	1
Nick Foles	98.8	2	2
Mark Sanchez	94.3	2	2
Joe Flacco	88.6	1	2
Mathew Stafford	87.8	0	0
Cam Newton	87.7	0	0
Colin Kaepernick	87.3	2	2
Case Keenum	73.5	1	1
Andrew Luck	73.4	1	1
Andy Dalton	57.8	0	0
T.J. Yates	53.8	0	0
Tyrod Taylor	44.2	0	0
Brian Hoyer	15.9	0	0

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 7<sup>th</sup> in playoff quarterback rating, and is tied for 1<sup>st</sup> in playoff 4<sup>th</sup> quarter comebacks and game winning drives over his NFL career.

Table 18: Rush Yards –

Playoffs - Career Rush	Rush	Yards	TD
Colin Kaepernick	51	507	4
Cam Newton	63	258	2
Andrew Luck	30	188	0
Andy Dalton	16	92	0
Joe Flacco	50	87	1
Matt Ryan	23	43	1
Tyrod Taylor	7	27	0
Matthew Stafford	6	25	1
Case Keenum	2	12	0
Mark Sanchez	11	9	0
Nick Foles	9	0	1
Brian Hoyer	4	-2	0
T.J. Yates	2	-3	0

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 2<sup>nd</sup> in playoff rushing attempts, 1<sup>st</sup> in playoff yards gained by rushing, and 1<sup>st</sup> in playoff rushing touchdowns over his NFL career.

Table 18 (B): Average Rush Yards –

Playoffs - Career Rush	Y/A	Y/G	A/G
Colin Kaepernick	9.9	84.5	8.5
Andrew Luck	6.3	23.5	3.8
Case Keenum	6.0	6.0	1.0
Andy Dalton	5.8	23.0	4.0
Matthew Stafford	4.2	8.3	2.0
Cam Newton	4.1	36.9	9.0
Tyrod Taylor	3.9	27.0	7.0
Matt Ryan	1.9	4.3	2.3
Joe Flacco	1.7	5.8	3.3
Mark Sanchez	0.8	1.5	1.8
Nick Foles	0.0	0.0	1.5
Brian Hoyer	-0.5	-1.0	2.0
T.J. Yates	-1.5	-1.0	0.7

Among the QBs that meet the criteria under an NFL contract in 2017 or 2018, Colin Kaepernick ranks 1<sup>st</sup> in playoff rushing yards gained per rush attempt, 1<sup>st</sup> in playoff rushing yards per game played, and 2<sup>nd</sup> in playoff rushing attempts per game played over his NFL career.

List of Figures –

*Organizational Revenues:*

*Average Regular Season Home Attendance of Teams in which a Player Protested –*

Figure 1:

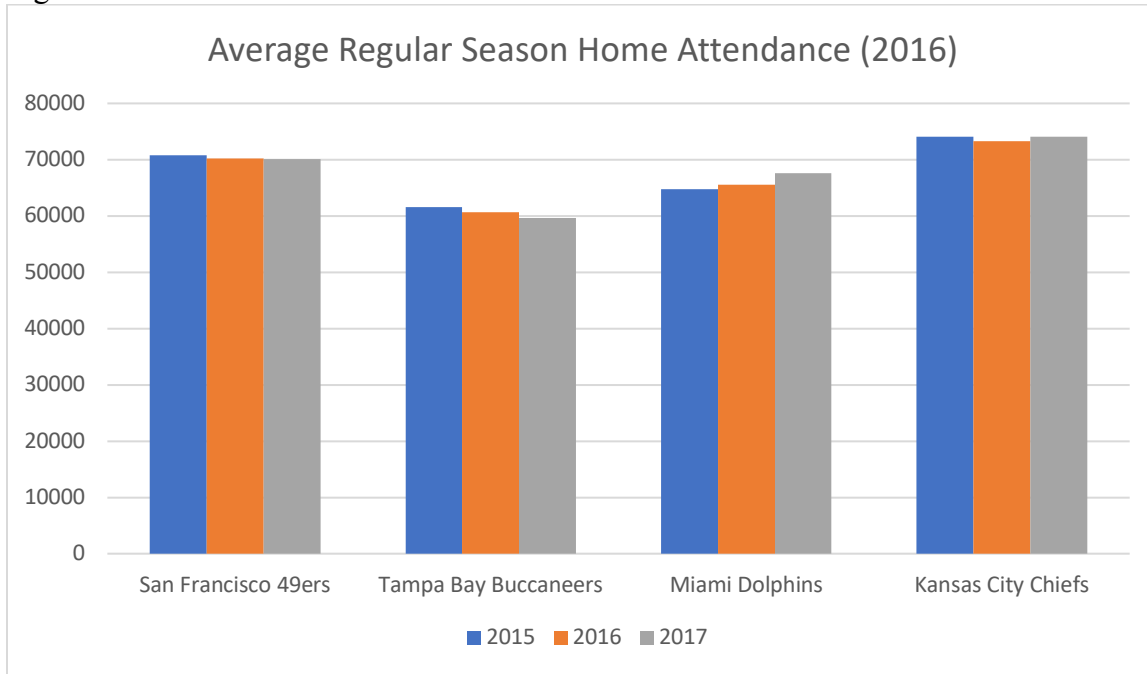
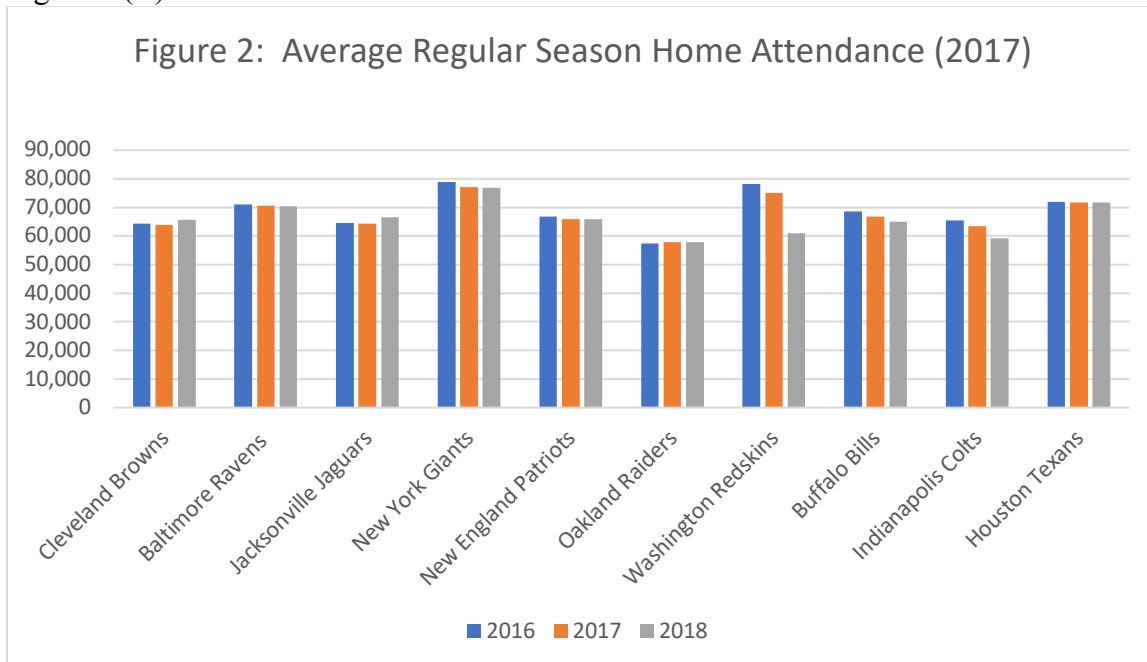


Figure 1 (B):



*Annual Revenue of Teams in which a Player Protested –*

Figure 2:

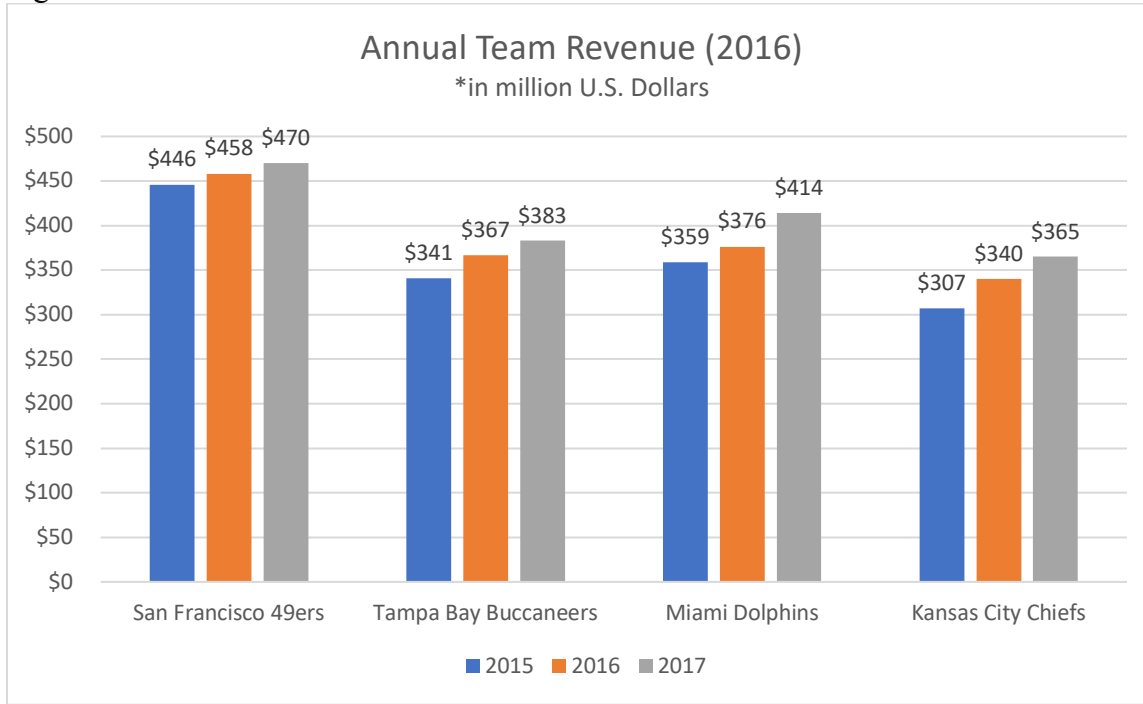
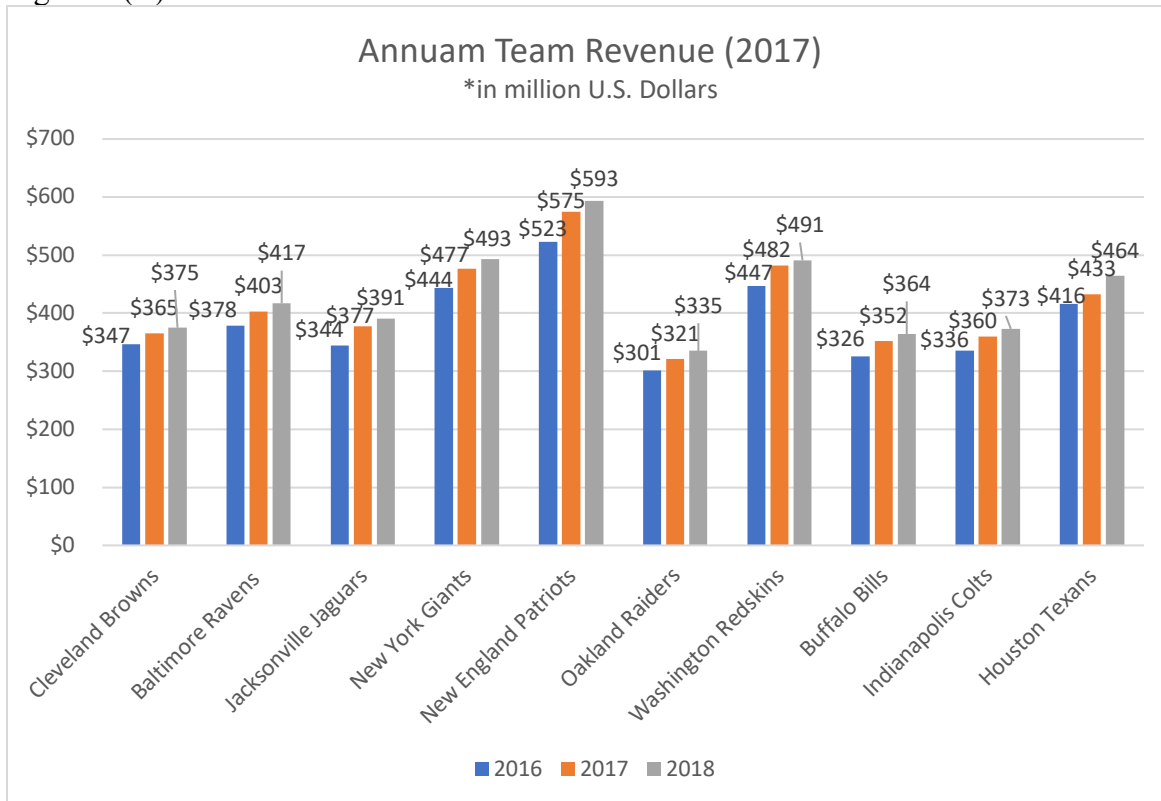


Figure 2 (B):



*Franchise Value of Teams in which a Player Protested –*

Figure 3:

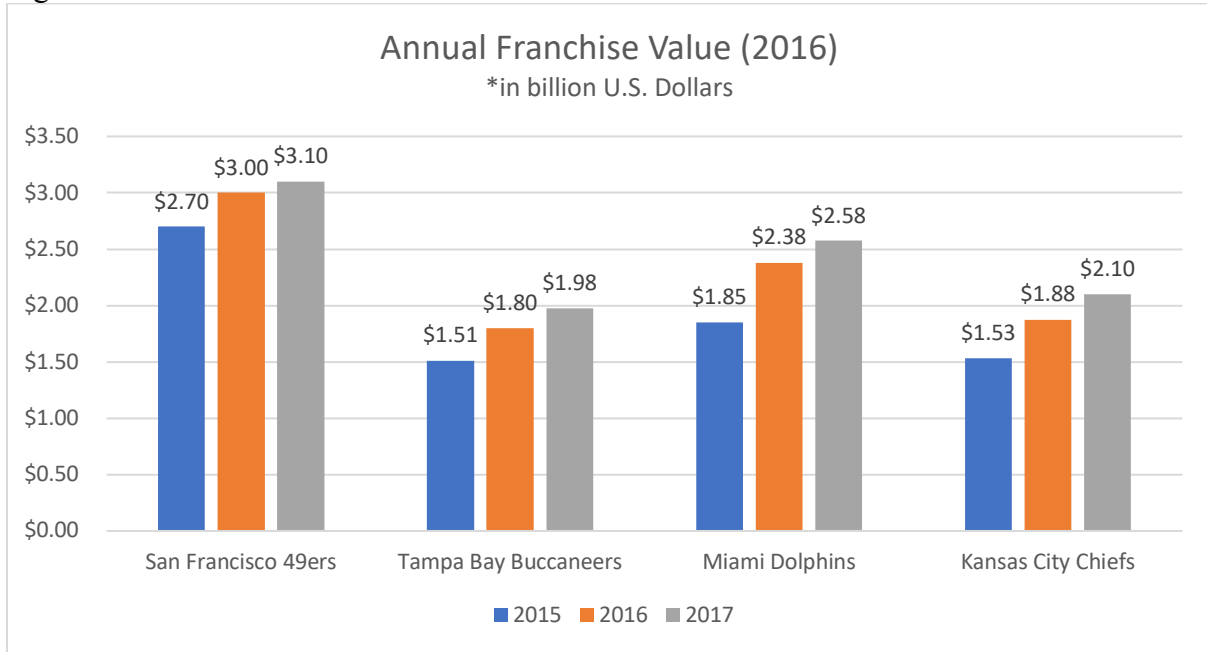
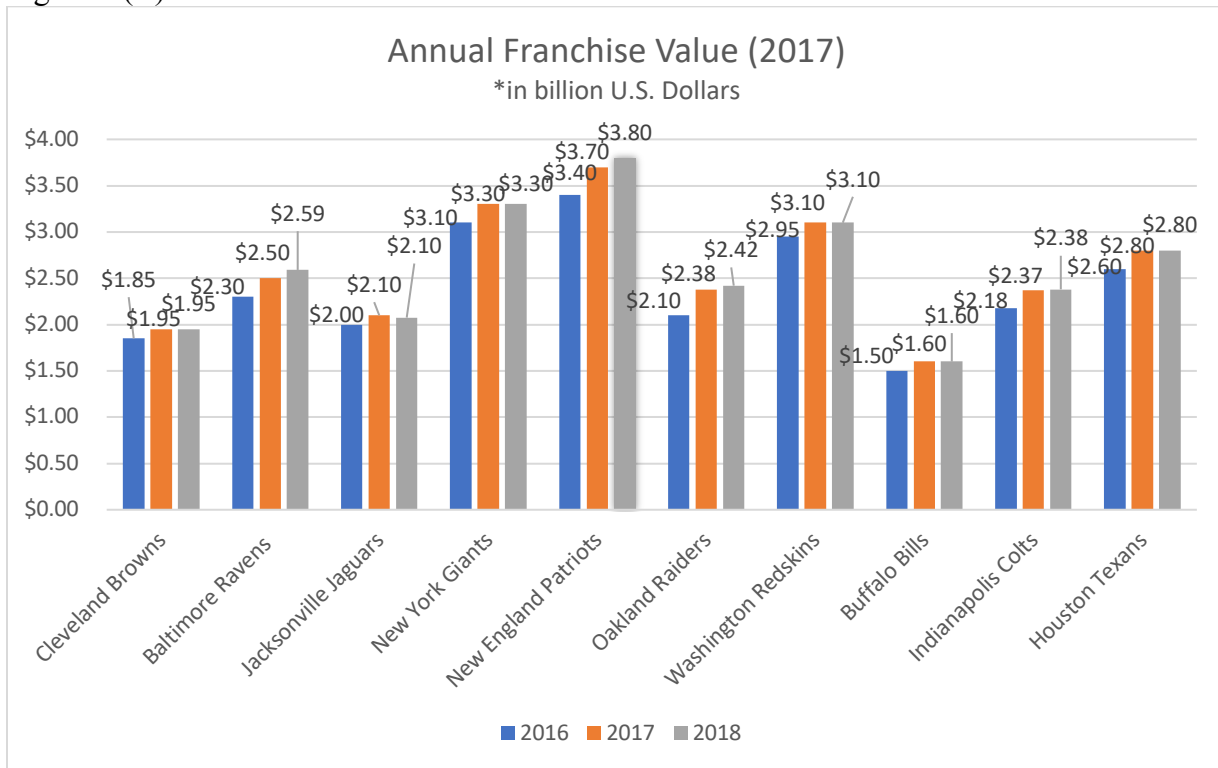


Figure 3 (B):



### Chapter IX – Conclusion

Being Black in America means living at a constant disadvantage in every facet of life. Since its inception, the United States has oppressed people of color. It is a nation built on the backs and free labor of these very same people, and for their contributions they have been met with violence and hatred. These, however, are a very strong people. For generations they found hope where there was despair, joy where there was sorrow, and fight when all seemed lost. These people have contributed to the culture and wealth of the nation yet have been forced to fight for their equality and basic human rights. As the fight wages on, small victories have helped shape society today. Be that as it may, oppression still persists. From colonization, to an era riddled with slavery, to that of indentured servants and Jim Crow, and finally to the paramilitarization of police and the prison industrial complex, the status quo of white supremacy has systemically been maintained through generations. These oppressive tactics maintain a racial hierarchy, and people of color continue to suffer the atrocities and lifelong struggle for equal treatment. In recent years, some have said that the United States is currently living in a post-racial society. That the dream of Martin Luther King Jr. has finally come to fruition. However, they could not be more wrong. The overt racism of the past has simply evolved into a more sophisticated and subtler, yet just as effective, form.

The victories of the civil rights movement significantly reduced racism in theory, however this was not true in practice. With the defeat of American apartheid came the emergence of a new powerful ideology to defend the contemporary racial order: the ideology of color-blind racism. Color-blind racism is a curious racial ideology because it goes beyond the traditional views of what we presume those who spew racial rhetoric to look like. It contends that racists no longer subscribe to membership in the Ku Klux Klan, but instead practice racism in

more subtle ways. It does this by engaging in victim blaming in guileful ways that mirror its character. By definition, racial frames, like victim blaming, are meant to hide the fact of dominance by enabling these frames to misrepresent the world and explain racial phenomena through solid historical foundations. For instance, it is true that people of color in the United States are much better off today than any other time in history. However, it is also true – facts hidden by color-blind racism – that because people of color still experience systemic discrimination and remain appreciably behind whites in many important areas of life, their chances of catching up are very slim. Dominant racial frames, therefore, provide the intellectual road map used by rulers to navigate the always rocky road of domination and derail the ruled from their track to freedom and equality. (Bonilla-Silva, 2010). Color-blind racism conjoins multiple frames to introduce new ideas and new jargon that defends the contemporary racial order. Such can be seen with the controversy surrounding police brutality on communities of color.

At the same time, the deindustrialization of the American economy had its biggest effects on the unemployment rates of African Americans. Being just one generation removed from slavery, most were illiterate with little education, so the disappearance of factory jobs signified the disappearance of an adequate way of living. The building up of these masses of frustrated, unemployed youth worried the federal government and the proposed solution was additional surveillance. Over the past century, this unnecessary surveillance has led to countless confrontations and conflicts between the police and people of color. Many unarmed Black civilians have had their lives taken by the hands of those sworn to protect and serve. What is confounding is that through a combination of frames of the new racial ideology, color-blind

racism, this state-sanctioned violence has been allowed to persist, blaming the victims and in most cases punishing the offending officers with a mere slap on the wrist.

I have always admired the world of sport because it is a world in which the rules are the same for everyone. Where behavior is guided by fair play and good sportsmanship, sports has the ability to create lifelong relationships among people, regardless of race, creed, or religion. However, when Colin Kaepernick took a knee to stand against this state-sanctioned violence, I found myself exposed to a different reality. However inclusive the game itself might be, the leagues and organizations that organize these sporting events have also been responsible for maintaining the status quo of white supremacy. For instance, solely analyzing the NFL, although a majority of the league's athletes are of color, it has been notoriously slow to hire Blacks in positions of greatest responsibility. Even after the passage of the Rooney Rule to help improve diversity among front offices league wide, the number of minorities in coaching and other high-level positions are still not indicative of a truly diverse organization. As of today, while the league is comprised of roughly three-fourths athletes of color, there are only four minority coaches, one general manager, and two owners of color – none that are Black. This similar demographic can be found across sport leagues nationwide. These numbers indicate that although athletes of color are responsible for generating a majority of the wealth and revenue for these various sporting leagues and organizations, they are not being properly represented and their contributions and interests are not being taken into consideration.

Colin Kaepernick used his platform to peacefully protest systemic oppression in this country, specifically police brutality against Black people. Men, women, and children are wrongfully dying and those responsible for committing these murders are not being held accountable. He brought the justice of Black men and women to the forefront of conversation,



and many in the country showed their true colors. He took a knee and was exiled from the NFL. White conservatives, and even politicians, hijacked the narrative of his protest and framed it as an attack on the American military. His controversial absence from the league has since been the cause of controversy from opposing sides of America. Most think he is an outstanding NFL player who deserves to be on an active roster, while others claim him to be unpatriotic and is not an NFL caliber quarterback.

However, the evidence seems to support the former, rather than the latter. Although battling back from an injury, the numbers from his last three years of NFL performance still prove him to be an NFL caliber quarterback. Of all quarterbacks his age who have missed an amount of playing time due to injury, Kaepernick ranked in the top quartile in a majority of the categories and established himself as the most dynamic athlete, displaying his incredible scrambling ability and arm strength. He outshined all quarterbacks on the ground, leading the sample set in total rushing yards, and rushing yards per attempt and per game. He also was one of the more efficient and accurate quarterbacks, leading the sample set in completion percentage and ranking in the top quartile in touchdown to interception ratio. Among those quarterbacks who led their respective teams to a playoff berth at some point in their careers, Kaepernick is just one of three to have reached the Super Bowl. He also has the best team record in the post-season, leads all quarterbacks in clutch performance, yards gained per pass completion, and is the most dynamic athlete, leading the way in every rushing category. In a sample that includes notable franchise quarterbacks, such as Cam Newton and Mathew Stafford, these numbers clearly indicate that something other than his performance is reason for his termination from the league.

Other counter arguments from owners, and a court for that matter, may make the case that running an NFL team is not about signing the best players. Their contention might be that

the goal of running a team is to create a large and loyal fan base that drives ticket and merchandise sales, and the signing of a controversial player like Kaepernick undermines that goal. The results of my analysis, as shown in Figures 1-3, clearly illustrate that the effects of protesting had little impact on organizational values. With the exception of the Chiefs and Jaguars, attendance at regular season home games during the year of protest maintained similar trends from the previous and following years. Annual revenue and franchise value also seemed unaffected, as the value of all teams maintained a positive sloping trend before, during, and after the protest.

This evidence suggests that the negative backlash of owners against protestors was motivated by personal prejudice. A man who protests the end of police terrorization on communities of color is said to be bad for business. Nike took this proposition head on when it featured Kaepernick on their 30<sup>th</sup> anniversary ad campaign. The campaign received criticism, but Nike were the beneficiaries at the end, dramatically increasing its market value. All in all, the success of this marketing campaign validated one point, having Black interests at heart is not bad for business because Black, as well as white, dollars contribute to business success. This prosperous American economy was created by the hands of Black people, and they play a larger role in the economy's success than most people realize. Although Black people are systemically treated like second-class citizens, collectively, we hold financial power that cannot be ignored.

Since his protest, NFL owners have unanimously approved a new national anthem policy that requires all players to stand if they are on the field during the performance of the national anthem but gives them the option to remain in the locker room if they prefer. Kaepernick, on the other hand, has further been involved with activism at the grassroots level.

He has made many social justice contributions, such as the Know Your Rights Camp, and has donated a million of his personal earnings to grassroots organizations across the country with his Million Dollar Pledge. After donating \$900,000, he challenged his celebrity friends and colleagues to match the donations of the last \$100,000, which he called the 10 for 10 challenge. The Know Your Rights Camp is a free grassroots campaign, founded and fully funded by Kaepernick, that is dedicated to underprivileged youth to raise awareness on higher education, self-empowerment, and instruction to properly interact with law enforcement in various scenarios. He believes children are the key to the future, and it is important for our children to be raised better and more educated than the previous generation. The camp offers children with 10 rights they should know:

- (1) You have the right to be free;
- (2) You have the right to be healthy;
- (3) You have the right to be brilliant;
- (4) You have the right to be safe;
- (5) You have the right to be loved;
- (6) You have the right to be courageous;
- (7) You have the right to be alive;
- (8) You have the right to be trusted;
- (9) You have the right to be educated;
- (10) You have the right to know your rights.

Being Black in America means living at a constant disadvantage in every facet of life. What has happened to Colin Kaepernick is not unique to the history of the United States. As Black people continue to struggle, continue to be oppressed, many in positions of power have enabled that platform to be the champion for the oppressed. They have put the fate of their people ahead of their careers in an attempt to achieve social justice and speak out about issues that impact our communities. Looking solely at the field of sports, athletes such as Colin Kaepernick, Craig Hodges, Muhammad Ali, Tommie Smith, John Carlos, Mahmoud Abdul-Rauf, and much more have intertwined sports and social activism. Risking their careers and all

they worked for to be the voice of oppressed people. For their efforts, they have been persecuted and their careers derailed. The disparate impact doctrine refers to a subtle and unintentional form of discrimination. It transpires when policies, practices, rules, or other systems of management that appear to be neutral result in a disproportionate impact on protected groups. In the age of color-blind racism, and with the persistent condemnation throughout the history of sports, my evidence shows that racial discrimination in sports persists to this day. In economic discrimination theories of monopoly power, the theory of collusive action can also be applied to Kaepernick's case. He had been a highly productive NFL quarterback, but his protests led to owner retaliation that made it impossible for him to gain a position with any NFL team.

Despite being only 13% of the population, numbers from 2017 show Black people were 25% of those killed by the police. They are 3 times more likely to be killed by police officers than white people and are represented 30% of all unarmed victims of police brutality in 2015. As a matter of fact, although representing 60% of the U.S. population, in most years there is not one category where non-Hispanic white people are killed more frequently by police officers. There is commonly a conversation about progress and how far we have come, however that is a lie. Black people are being killed at higher rates today than during slavery. During slavery, we were viewed as an investment, more valuable than the land itself, so efforts were made to avoid killing us. However now that slavery is abolished, and America is becoming more diverse, we are vehemently being killed and mass incarceration is drastically on the rise. Bullets stop population growth and imprisonment makes us slaves again, as through the 13<sup>th</sup> amendment, slavery can be used as a form of punishment. Now, the United States has the highest prison population in the history of mankind, with more Black men incarcerated today than enslaved in 1850.

Works Cited

*2017 NFL Passing Leaders*. (2017). Retrieved from Pro-Football Reference: <https://www.pro-football-reference.com/years/2017/passing.htm>

*2018 NFL Passing Leaders*. (2018). Retrieved from Pro-Football Reference: <https://www.pro-football-reference.com/years/2018/passing.htm>

Autor, D. H. (2003). Lecture Note: The Economics of Discrimination — Theory. *Economic Models of Discrimination*, 1-16.

Avins, Alfred. “The Fifteenth Amendment and Literacy Tests: The Original Intent.” *Stanford Law Review*, vol. 18, no. 5, 1966, p. 808., doi:10.2307/1227087.

Barocas, S., & Selbst, A. D. (2016). Big Data’s Disparate Impact. *California Law Review*, 673-729.

Berkow, I. (1996, December 25). *The Case Of Hodges Vs. the N.B.A.* Retrieved from New York Times: <https://www.nytimes.com/1996/12/25/sports/the-case-of-hodges-vs-the-nba.html>

Biderman, C. (2016, October 6). *A strange detail in the Colin Kaepernick contract restructure story*. Retrieved from Niners Wire: <https://ninerswire.usatoday.com/2016/10/09/a-strange-detail-in-the-colin-kaepernick-contract-restructure-story/>

Bonilla-Silva, E. (2010). *Racism Without Racists: Color-blind Racism And The Persistence of Racial Inequality in America*. Lanham: Rowman & Littlefield.

- Bovard, K. (2018, May 23). *What Employers Need To Know About Title VII*. Retrieved from The Business Journal: <https://businessjournaldaily.com/what-employers-need-to-know-about-title-vii/>
- Brown, D. L. (2018, October 16). *A cry for freedom': The Black Power salute that rocked the world 50 years ago*. Retrieved from Washington Post: [https://www.washingtonpost.com/history/2018/10/16/a-cry-freedom-black-power-salute-that-rocked-world-years-ago/?utm\\_term=.40811ccccb39](https://www.washingtonpost.com/history/2018/10/16/a-cry-freedom-black-power-salute-that-rocked-world-years-ago/?utm_term=.40811ccccb39)
- Coates, Ta-Nehisi. "Slavery Made America." *The Atlantic*, Atlantic Media Company, 7 Nov. 2014, [www.theatlantic.com/business/archive/2014/06/slavery-made-america/373288/](http://www.theatlantic.com/business/archive/2014/06/slavery-made-america/373288/).
- Colangelo-Bryan, J. (2004, March 9). *itemImage.AlternateText "Title VII Retaliation Claims: What Constitutes Protected Activity?"*, *New York Law Journal*. Retrieved from Dorsey & Whitney LLP: [https://www.dorsey.com/newsresources/publications/2004/03/title-vii-retaliation-claims-what-constitutes-pr\\_\\_](https://www.dorsey.com/newsresources/publications/2004/03/title-vii-retaliation-claims-what-constitutes-pr__)
- Coombs, Danielle Sarver, et al. "Flag on the Play: Colin Kaepernick and the Protest Paradigm." *Howard Journal of Communications*, 2019, pp. 1–20., doi:10.1080/10646175.2019.1567408.
- Davis, Elizabeth, et al. "Contacts Between Police and the Public, 2015." *US Department of Justice*, Office of Justice Programs, Oct. 2018, [www.bjs.gov/content/pub/pdf/cpp15.pdf](http://www.bjs.gov/content/pub/pdf/cpp15.pdf).
- Davis, D. (2008, August). *Olympic Athletes Who Took a Stand For 40 years, Olympians Tommie Smith and John Carlos have lived with the consequences of their fateful protest Read more: https://www.smithsonianmag.com/articles/olympic-athletes-who-took-a-stand-593920/#Qh6J4wmcR8JGB4*. Retrieved from Smithsonian: <https://www.smithsonianmag.com/articles/olympic-athletes-who-took-a-stand-593920/>

- Donald, Heather Mac. "San Francisco Gets Tough with the Homeless." *City Journal*, 26 Jan. 1994, [www.city-journal.org/html/san-francisco-gets-tough-homeless-12527.html](http://www.city-journal.org/html/san-francisco-gets-tough-homeless-12527.html).
- Doone, B. (2001, January 17). *MUHAMMAD ALI REFUSES TO FIGHT IN VIETNAM (1967)*. Retrieved from Alpha History: <https://alphahistory.com/vietnamwar/muhammad-ali-refuses-to-fight-1967/>
- Doyle, A. (2018, November 6). Retrieved from The Balance Careers: <https://www.thebalancecareers.com/types-of-harassment-in-the-workplace-2060886>
- Ehrenberg, R. G., & Smith, R. S. (1985). *Modern Labor Economics - Theory and Public Policy* . Glenview, Illinois: Scott, Foresman and Company.
- Elia, Cory. "Houselessness Advocacy Group Protests Business Improvement Districts." *PSU Vanguard*, 26 Sept. 2018, [psuvanguard.com/houselessness-advocacy-group-protests-business-improvement-districts/](http://psuvanguard.com/houselessness-advocacy-group-protests-business-improvement-districts/)
- Ellawala, T. I. (2016). *Pulling the Trigger: Dehumanization of African Americans and Police Violence* . Worcester: Clark University; Volume 2 Article 1.
- England, D. C. (2017, December 18). *How Does an Employment Lawyer Evaluate a Retaliation Case?* Retrieved from NOLO: [How Does an Employment Lawyer Evaluate a Retaliation Case?](http://www.nolo.com/legal-encyclopedia/how-does-an-employment-lawyer-evaluate-a-retaliation-case.html)
- Feagin, J. R. (2014). *Racist America: Roots, Current Realities, and Future Reparations*. Routledge.
- Freedman, S. G. (2014, February 11). *What Work Remains for the Rooney Rule*. Retrieved from New Yorker: [https://www.newyorker.com/sports/sporting-scene/what-work-remains-for-the-rooney-rule](http://www.newyorker.com/sports/sporting-scene/what-work-remains-for-the-rooney-rule).

Gagnon, B. (2013, July 3). *Which Metric Matters Most When Evaluating NFL Quarterbacks?*

Retrieved from Bleacher Report: <https://bleacherreport.com/articles/1691533-which-metric-matters-most-when-evaluating-nfl-quarterbacks>

Garcia, A. (2018, May 18). *These Are The Only Two Owners Of Color In The NFL*. Retrieved

from CNN Money: <https://money.cnn.com/2018/05/18/news/nfl-nba-mlb-owners-diversity/index.html>

Gates, Henry L., et al., editors. *Black Immigration And The Middle Passage*. The W.E.B. Du Bois Institute Series, 1999.

Grant, Benjamin. "What Is Gentrification? | Flag Wars | POV | PBS." *POV | American*

*Documentary Inc.*, POV, 17 Jan. 2003, [archive.pov.org/flagwars/what-is-gentrification/](http://archive.pov.org/flagwars/what-is-gentrification/).

Graser, G. (2017, September 28). *The NFL was segregated, until Kenny Washington broke the*

*color barrier in Los Angeles*. Retrieved from Timeline: <https://timeline.com/kenny-washington-black-nfl-32e2f52a8b98>

Greene, Judith A. "Zero Tolerance: A Case Study of Police Policies and Practices in New York

City." *Journal of Research in Crime and Delinquency*, 1999,

[journals.sagepub.com/doi/pdf/10.1177/0011128799045002001](http://journals.sagepub.com/doi/pdf/10.1177/0011128799045002001).

Guerin, L. (2017, June 1). *Disparate Impact Discrimination*. Retrieved from NOLO:

<https://www.nolo.com/legal-encyclopedia/disparate-impact-discrimination.html>

Hinton, Elizabeth Kai. *From the War on Poverty to the War on Crime: the Making of Mass*

*Incarceration in America*. Harvard University Press, 2017.

Hoffman, Alexander Von. "A Study in Contradictions: The Origins and Legacy of the Housing

Act of 1949." *Housing Policy Debate*, vol. 11, no. 2, 2000, pp. 299–326.,

doi:10.1080/10511482.2000.9521370.



- Horwitz, Allan V. "The Economy and Social Pathology." *Annual Review of Sociology*, vol. 10, no. 1, 1984, pp. 95–119., doi:10.1146/annurev.soc.10.1.95
- Johns, S. (2000). *Chapter 12 Gender, Race, and Ethnicity in the Labor Market*. Retrieved from Addison Wesley Longman, Inc. © 2000 : <https://slideplayer.com/slide/7707864/>
- Johnson, M. (2018, December 11). *All the quarterbacks who signed since Colin Kaepernick became a free agent*. Retrieved from The Undefeated: <https://theundefeated.com/features/33-quarterbacks-signed-before-colin-kaepernick-free-agent/>
- Kelleher, K. (2018, September 5). *Nike's Stock Fell 3% on Colin Kaepernick's Endorsement Deal. Here's Why Investors Will Shrug It Off*. Retrieved from Fortune: <http://fortune.com/2018/09/04/nike-stock-market-buy-sell-kaepernick-boycott/>
- Kelling, George L., and William J. Bratton. "Declining Crime Rates: Insiders' Views of the New York City Story." *The Journal of Criminal Law and Criminology (1973-)*, vol. 88, no. 4, 1998, p. 1217., doi:10.2307/1144255.
- Kharzazi, D. R., Siwatu, D. M., & Brooks, D. R. (2015, July). *The Federal Manager*. Retrieved from U.S. equal Employment Opportunity Commission: [https://www.eeoc.gov/laws/types/retaliation\\_considerations.cfm](https://www.eeoc.gov/laws/types/retaliation_considerations.cfm)
- Kilgore, James. *Understanding Mass Incarceration: a People's Guide to the Key Civil Rights Struggle of Our Time*. The New Press, 2015.
- Leonard, J. S., Levine, D. I., & Giuliano, L. (2009). *Customer Discrimination*. Berkeley: University of California.
- Levito, A. (2018, September 6). *Nike's Colin Kaepernick ads created \$163.5 million in buzz since it began—and it's not all bad*. Retrieved from CNBC:

<https://www.cnbc.com/2018/09/06/nikes-colin-kaepernick-ad-created-163point5-million-in-media-exposure.html>

MacMullen, J. (2017, September 28). *Bill Russell: "Tell Those NFL Players I'm With Them"*.

Retrieved from ESPN: [http://www.espn.com.au/nba/story/\\_/id/20835178/bill-russell-tell-nfl-players-them](http://www.espn.com.au/nba/story/_/id/20835178/bill-russell-tell-nfl-players-them)

McRae, D. (2017, April 20). *Craig Hodges: 'Jordan didn't speak out because he didn't know*

*what to say'*. Retrieved from The Guardian:

<https://www.theguardian.com/sport/2017/apr/20/craig-hodges-michael-jordan-nba-chicago-bulls>

*National Football League (NFL) - Statistics & Facts*. (2018). Retrieved from Statista: National Football League (NFL) - Statistics & Facts

Nicholas, J. (2017, February 13). *Foley & Lardner LPP*. Retrieved from Labor & Employment

Law Perspectives: <https://www.laboremploymentperspectives.com/2017/02/13/eec-issues-new-harassment-guidance/>

Parenti, Christian. *Lockdown America: Police and Prisons in the Age of Crisis*. Verso, 2001.

Phillips, C. J. (2017, August 1). *When White athletes use their privilege for good* . Retrieved

from NY Daily News: <https://www.nydailynews.com/sports/white-athletes-privilege-good-article-1.3374300>

Plaschke, B. (2011, October 11). *Remembering forgotten hero Kenny Washington*. Retrieved

from LA Times: <https://www.latimes.com/sports/la-xpm-2011-oct-11-la-sp-plaschke-20111012-story.html>

- Reints, R. (2018, September 28). *Colin Kaepernick Pushes Nike's Market Value Up \$6 Billion, to an All-Time High*. Retrieved from Fortune: <http://fortune.com/2018/09/23/nike-market-value-colin-kaepernick-ad/>
- Rhoden, W. C. (2011, December 11). *At Some N.F.L. Positions, Stereotypes Create Prototypes*. Retrieved from New York Times: [https://www.nytimes.com/2011/12/12/sports/football/at-some-nfl-positions-stereotypes-reign.html?pagewanted=all&\\_r=0](https://www.nytimes.com/2011/12/12/sports/football/at-some-nfl-positions-stereotypes-reign.html?pagewanted=all&_r=0)
- Ritchie, A. J. (2017). *Invisible No More: Police Violence Against Black Women and Women of Color*. Boston: Beacon Press.
- Rovell, D. (2018, September 25). *Nike's Mark Parker says Colin Kaepernick ad leads to record engagement with brand*. Retrieved from ESPN: [http://www.espn.com/nfl/story/\\_/id/24796806/nike-colin-kaepernick-ad-results-record-engagement-says-ceo-mark-parker](http://www.espn.com/nfl/story/_/id/24796806/nike-colin-kaepernick-ad-results-record-engagement-says-ceo-mark-parker)
- Sando, M. (2012, November 26). *Victory trumps QB confusion for 49ers*. Retrieved from ESPN: [http://www.espn.com/blog/nfcwest/post/\\_/id/82689/victory-trumps-qb-confusion-for-49ers](http://www.espn.com/blog/nfcwest/post/_/id/82689/victory-trumps-qb-confusion-for-49ers)
- Sterling, G. (2018, September 11). *Report: Nike's sales jump 31% in wake of Kaepernick ad campaign*. Retrieved from Marketing Land: <https://marketingland.com/report-nikes-sales-jump-31-in-wake-of-kaepernick-ad-campaign-247856>
- Stultz, Spencer. "The Harlem 'Race Riot' of 1964 ." *Redlining (1937- ) | The Black Past: Remembered and Reclaimed*, Black Past, 27 Jan. 2019, [www.blackpast.org/african-american-history/harlem-race-riot-1964/](http://www.blackpast.org/african-american-history/harlem-race-riot-1964/).

Taylor, J. (2005). *The Rivalry: Bill Russell, Wilt Chamberlain, and the Golden Age of Basketball*. New York City: Random House.

*The Reintegration of the NFL*. (2015). Retrieved from NFL Operations:

<https://operations.nfl.com/the-players/evolution-of-the-nfl-player/the-reintegration-of-the-nfl/>

*Uniform Guidelines on Employment Selection Procedures, 29 C.F.R. § 1607.4(D)*. (2015).

Retrieved from <https://www.law.cornell.edu/cfr/text/29/1607.4>: Cornell Law School

Wolff, A. (2009, October 12). *The NFL's Jackie Robinson*. Retrieved from Sports Illustrated:

<https://web.archive.org/web/20091014070542/http://sportsillustrated.cnn.com/vault/article/magazine/MAG1161017/4/index.html>

Zimmer, M. J. (2001). Slicing & Dicing Individual Disparate Treatment Law. *Loyola University Chicago, School of Law*, 578-602.