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# LAWYERING ON THE FRONT LINES: ON-SITE LEGAL COUNSEL FOR MAJOR SPORTING EVENTS

LISA A. DELPY\*  
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## I. INTRODUCTION

From international mega-events like the World Cup of Soccer and the Olympic Games to community-centered athletic competitions held for fundraising purposes, sporting events serve a multitude of purposes for individuals, for organizations, for communities, and for nations all around the globe. Athletic competition not only benefits the participants; sporting events bring joy, pleasure, challenge and excitement to millions every day. Over and above the thrill of the chase, the spectacle and pageantry of sporting tradition, the beauty of athletes' physical grace and agility, and the unifying influence of shared human experience, sporting events are big business.<sup>1</sup>

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1. In 1992, Professors Peter Rosendorff and Andy Neumeier from the Economics Department of the University of Southern California, completed an economic impact summary which concluded that the 1994 World Cup soccer championship would have a total estimated impact of more than \$4 billion on the United States economy. The impact on the local economy of Washington, DC one of the nine World Cup venues, was predicted to exceed \$244 million.

Concerning intercollegiate sports, the Knight Foundation Commission on Intercollegiate Athletics concluded in its 1991 report:

Within the last decade, big-time athletics programs have taken on all the trappings of a major entertainment enterprise. In the search for television revenues, traditional rivalries have been tossed aside in conference realignments, games have been rescheduled to satisfy broadcast preferences, the number of games has multiplied, student-athletes have been put on the field at all hours of the day and night, and university administra-

That sports constitute big business does not mean, however, that sport events must inevitably become the proverbial "deep pocket" targets of personal injury suits, business tort claims, breach of contract actions, or lawsuits based on various and sundry other legal theories.<sup>2</sup> The defense and settlement of lawsuits against the organizing committees could soon evaporate the economic benefit that sport events can and do produce. A well-executed sport event is the result of the coordinated efforts, careful strategic planning, and sensible decision-making on the part of the organizers and event managers. Including and involving on-site event legal counsel as an active participant in management's inner circle, an attorney whose responsibility it is to weigh the legal consequences of the day-to-day judgments of the decisionmakers *before* they act in response to developing situations during the course of the event, can be a key factor in preserving the event's financial viability, public accountability, and ultimate success.

This article assumes the context of an event or a series of events held in a particular setting which are a subset of a larger sports extravaganza. Like the Olympic Games, or World Cup USA 1994, many sporting events are staged in multiple facilities, even in multiple host cities, while each component maintains the theme and organizational structure of the singular "umbrella" happening. Although the text of this article is based on an "extravaganza" model, all of the concepts espoused herein may be

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tors have fallen to quarrelling among themselves over the division of revenues from national broadcasting contracts.

*Keeping Faith with the Student-Athlete: A New Model for Intercollegiate Athletics*, in Report of the Knight Foundation Commission on Intercollegiate Athletics 5 (Mar. 1991).

2. A significant movement is afoot in the United States Congress to effectuate monumental changes in the tort law throughout the American system of civil justice. For example, the Chair of the House Judiciary Committee, Henry Hyde (R-Ill.) sponsored a bill, passed by the Committee on February 23, 1995, which would cap punitive damages for all civil tort claims to the greater of \$250,000 or three times the compensatory damages. See T.R. Goldman, *Tort Reform: Wider Reach, Fatter Target*, LEGAL TIMES, Feb. 27, 1995, at 5. Another tort-reform bill, which passed the House Commerce Committee the same day, would absolve drug companies from punitive damages in cases arising from injuries caused by products already approved by the United States Food and Drug Administration. *Id.* On March 7, 1995, the U.S. House of Representatives passed a measure that would adopt for American courts the so-called "English rule" concerning court costs. This measure, if it passes the U.S. Senate and goes on to become law, would hold an unsuccessful plaintiff accountable to the defendant for the defendant's costs.

Despite this "tort reform fever" in the 104th Congress, *id.* at 5, it seems unlikely that the civil justice system will be revolutionized overnight. Even such drastic "tort reform" would not succeed in preventing liability actions entirely. Indeed one would expect the suits that would survive the filter of "tort reform" to be the most meritorious claims. In any event, suits based on constitutional claims or contract actions would not be affected by "tort reform" measures.

down-sized to fit the needs of a committee engaged in planning a small community-based event. The pattern is identical. Its execution can be scaled to size.<sup>3</sup>

## II. THE ROLE OF ON-SITE LEGAL COUNSEL: AN OVERVIEW

Timely, systematic, and thoughtful selection and placement of on-site event legal counsel (hereinafter "OLC"<sup>4</sup>) — one lawyer assigned to each individual facility or venue hosting any part of the overall event — may be a critical factor in the ultimate success of any sporting event. By following the suggestions set forth in this article, including involving the same OLC in the preparations and planning who will be present at the facility for the event, organizers may save themselves and everyone affected by the overall sporting event — athletes, guest performers, spectators, staff, volunteers, managers, sponsors, vendors, and the host community — untold anxiety, nuisance, red tape, and perhaps even tragedy.<sup>5</sup>

This article is intended to articulate the advantages of employing an *individual attorney* as OLC, a lawyer who — before, during, and after the event or series of events held in a particular forum — is prepared to advise the organizers about the legal implications of every decision made with respect to the narrower, localized event. Ideally, OLC should be assigned and have authority to act for the management team for a two-to-three month period, allowing at least a month before the event is staged and approximately three weeks to a month for wrap up.

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3. For coordinating a small-scale event, the comparable entity to the organizing committee may be a group of neighbors meeting over beer and tortilla chips. Nevertheless, there is information to be gained herein, and benefits to be had in applying the principles outlined here to any event, even if its small-scale would lead one to believe the event is not subject to the risks envisioned. Regardless of size, any athletic event is a monument to the hours of effort and cooperation of everyone involved. The intent of this article is to examine a particular means of protecting the financial interests as well as the community spirit that inspired commitment to the event in the first instance.

4. One definition of "counsel" is "a lawyer appointed to advise and represent in legal matters" a client, whether individual or entity. WEBSTER'S NEW COLLEGIATE DICTIONARY 296 (9th ed. 1988). The plural is also "counsel." Therefore, in the context of this article, "OLC" (for On-site Legal Counsel) may be either singular or plural.

5. An important distinction must be made between OLC and the legal department, headed by the general counsel, which likely has been working with the organizing committee almost since its inception. The legal department is a key player in structuring the entire organization and in constructing the contractual framework on which the entire event edifice is based. The legal department, although it prepares contracts relating to all venues and all facilities during the months and even years preceding the events, must concentrate on the entirety of the "umbrella" event, for the department is responsible for the entirety.

Before opening day, OLC should have examined and become familiar with all the event-specific contracts. She must have a working knowledge of the applicable law, preferably buttressed by the reinforcing effects of her review of that law for purposes of her position as OLC. She will have participated in lengthy preparations with government officials, the courts, and various law enforcement agencies in the jurisdiction(s) of the local host community.<sup>6</sup> In addition, OLC should evaluate the potential risks involved in the event from the standpoint of how those risks could impact spectators, officials, athletes, staff, volunteers, and any other persons who may be present at or around the event facility (including even trespassers).<sup>7</sup>

OLC ideally should be an individual who will make every effort to integrate into the management team so as to enable the entire staff to invest their confidence and trust in OLC. The aim of OLC's efforts to "fit in" and become a part of the management team is to permit department managers to reach a comfort level sufficient to allow them to call upon OLC and (perhaps even more important) to provide essential information to OLC when the need arises. In short, the organizers and management team have a lawyer, an event-specific or venue-specific lawyer, to advise and guide their collective decision-making in a manner that will allow event organizers to avoid the legal pitfalls inherent in any large-scale event.

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6. For example, in preparation for World Cup USA 1994 in the Washington venue, it was necessary for Venue Legal Counsel (or "VLC" — the term given by World Cup to the attorney we call "OLC") to be familiar with and to have developed working relationships with the law enforcement agencies and key court personnel in both Maryland and Virginia as well as the District of Columbia. Because several training sites were located outside the District, because key employees and volunteers resided in the Maryland and Virginia suburbs, because *all* area airports are located outside the District, and for a host of similar reasons, OLC had to be prepared for the possibility that she might be required to interface with governmental authorities in those jurisdictions. Moreover, law enforcement organizations in the national capital area are legion: the Washington VLC not only interfaced with the Metropolitan Police Department, but with the United States Park Police (who provide law enforcement for most of the Washington Mall area, where the major national monuments are located), the United States Capitol Police (who provide security for the Capitol Building and its immediate surroundings), the Secret Service, the Federal Aviation Administration, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Department of Defense.

7. OLC will likely work hand-in-hand with the Legal Department, but the division of labor and responsibility between OLC and the Legal Department, the chain of command, and the nature of the attorney-client relationship between OLC and the venue management team, are all critical issues to be defined and clarified very early in OLC's tenure with the organization.

### III. DUTIES THAT SHOULD BE ENTRUSTED TO THE OLC

The purpose of establishing a team of managers who head various departments is obviously to allow the executive director or chairman of the entire entity the possibility of delegating properly and rationally the enormous amount of work and sheer number of tasks that staging a large-scale sports competition will generate, especially an event of international proportions. There are certain responsibilities that arguably are best handled by OLC. In this section, this article examines these areas and explains the reasons for the judgment that these responsibilities are best overseen by an attorney who is authorized to act on behalf of the local or venue management team, with a minimum of supervision and control emanating from the general counsel's office.

#### A. *Inter-Organizational Relationships: Maintaining Appropriate Boundaries*

Large-scale sporting events like the World Cup,<sup>8</sup> and specifically the World Cup USA 1994 world championship of soccer,<sup>9</sup> generate a vast

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8. The World Cup international soccer championship tournament, held every four years, is the world's largest single-sport event, with 141 nations vying in the qualifying phase for the opportunity to compete among the total of 24 teams selected for the final tournament. *WORLD CUP USA 94 TEAM HANDBOOK* 52 (1994). The cumulative total television audience for all 52 games of the final competition was projected to be 31.2 billion people. By comparison, the total cumulative television audience for the 1992 Summer Olympic Games held in Barcelona was 13.5 billion. The actual viewing audience around the world for the 1994 Final match between Brazil and Italy was estimated at 2 billion people. 1995 *INFORMATION PLEASE SPORTS ALMANAC* 677 (M. Meserole, ed.). In-person spectator attendance at the 1994 tournament matches held in nine American cities totalled 3,567,415 persons. *Id.* at 668. This tournament is held every four years and, much like the Olympic Games, member countries vie for the privilege of serving as host nation for the World Cup championship.

The rights to the World Cup tournament are held by Le Fédération Internationale de Football Association (or "FIFA"). FIFA, a Zurich-based world-wide soccer organization, was founded in 1904 to promote unity among seven European national soccer organizations, to encourage and forward the growth of the game, and to impose uniformity in the game by overseeing the national football associations of its constituent members. FIFA is the ultimate administrative authority in soccer around the globe, with 178 national members in 1994. The organization governs all facets of the game, regulating its rules of play, overseeing transfers of professional players, and establishing standards of conduct for referees, coaches, and players.

9. The national representative to FIFA for the United States is the U.S. Soccer Federation ("USSF" or "U.S. Soccer"). On May 6, 1987, the World Cup Organizing Committee ("WCOC") was established to prepare U.S. Soccer's bid to host the 1994 World Cup Games. WCOC's bid on behalf of U.S. Soccer was submitted to FIFA on September 30, 1987. On Independence Day — July 4, 1988 — FIFA designated the United States as the host country for the final round competition of the 1994 tournament. The Organizing Committee was transformed into a Delaware corporation and became World Cup USA 1994, Inc., a non-profit legal entity responsible for staging the 1994 World Cup championship tournament. World

number of complex relationships between various corporate entities involved in different aspects of planning, staging, promoting, marketing, and directing the various aspects of the event. While the list may seem endless, there are serious business management, marketing, and other reasons for the number and variety of entities. OLC's effective exercise of her responsibility will ensure, at least with respect to local or venue management, whose contractual rights and obligations are within the purview of OLC, that the local entity does not sell or buy what it is not authorized to sell or buy, that no *other* entity attempts to sell rights that belong to the venue, and that no person acting on behalf of the venue is engaging in any activity that creates a conflict of business interests.

At the venue level, OLC interfaced at some point with each of the following departments of World Cup USA 1994, Inc., in Washington: Accreditation,<sup>10</sup> ACT Team (Architecture, Construction and Turf),<sup>11</sup> Arts and Cultural Affairs,<sup>12</sup> Ceremonies,<sup>13</sup> Communications Center,<sup>14</sup> Environmental Design,<sup>15</sup> Finance and Administration,<sup>16</sup> Food Services,<sup>17</sup> Government Relations,<sup>18</sup> Hospitality,<sup>19</sup> Language Services,<sup>20</sup> Logistics,<sup>21</sup>

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Cup USA 1994, Inc. continued to use the acronym WCOC, even after its name had been changed.

10. The Accreditation Department defined access zones at each venue and created access control systems, including the processing of accreditation applications and preparation of identification and access control badges for more than 50,000 World Cup "family" members such as FIFA personnel, visitors from the World Cup France 1998 Committee, and the Atlanta Committee for the Olympic Games, players, referees, sponsors and affiliates, dignitaries, and press, World Cup volunteers and staff, and contract personnel.

11. The ACT team prepared the nine venue stadia, soccer pitches, and related facilities for teams, media, VIPs, spectators, and sponsors.

12. This Department created and staged "ARTS94 - Celebrating the World of Soccer" — a promotion of World Cup in cooperation with the arts community in each venue city.

13. The Ceremonies Department staged opening ceremonies in Chicago and closing ceremonies in Los Angeles for the World Cup festivities, as well as half-time shows at all 52 games focusing on each of the venue cities.

14. The Communications personnel provided communications support on a 24-hour basis linking all World Cup executives; all departments and venues; maintaining a log of significant events; relaying requests, directives, approvals, and other information.

15. The Environmental Design Department created the World Cup cohesive "look" which allowed visitors to absorb the coordinated, unified visual effect from the moment they arrived at the venue airports, travelled along the city streets, and at the stadia.

16. The Finance Department managed the business functions of the World Cup, from in-house travel services and mail rooms to accounting, payroll, cash management, audit, budgeting, and financial planning analysis. Finance and Legal staff worked in close contact continuously throughout the games.

17. The same 50,000 individuals who were processed and accredited for access to World Cup events were required to be fed and kept adequately hydrated.

18. One of the few departments not centered in Los Angeles, Government Relations was based in Washington, DC and was charged with responsibility for ensuring that the United

Medical Services,<sup>22</sup> Press Operations,<sup>23</sup> Protocol,<sup>24</sup> Public Information,<sup>25</sup> Security,<sup>26</sup> Technology,<sup>27</sup> and Transportation.<sup>28</sup> Provided that OLC has spent the time and energy learning the personalities of the department managers in the venue and the functions of various departments, OLC can be ideally placed to provide a central "clearinghouse" function, ensuring that the various departments are acting in a coordinated and cohesive manner, thereby protecting the entire organization from embarrassment as well as legal liability.

Indeed, despite the best of intentions, situations may arise in which OLC is the only person who is familiar with the express terms of a pertinent contract or the official guidelines emanating from headquarters. A

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States government fulfilled the diplomatic guarantees required by FIFA. A Task Force headed by Vice President Gore coordinated federal actions in support of the events. Any international event requires government assistance for details such as immigrations, customs, security, and transportation.

19. World Cup commercial affiliates and Premier and Gold ticketholders had the opportunity to entertain their guests at the World Cup pavilion in the Hospitality Village at each stadium, including pre- and post-game buffets, bar service and other beverages, and snacks, in air-conditioned tents on the stadium grounds.

20. To address the needs of FIFA personnel, athletes, officials, media, support operations, and spectators, World Cup language operations had written and oral translation services available in the four official FIFA languages (English, French, Spanish, and German) and eleven more, comprising the fifteen principal languages of the World Cup family.

21. The Logistics team procured, accepted delivery, stored, distributed, recovered, liquidated, and accounted for all equipment and materials used to stage the World Cup events.

22. The Medical Services department included the sports medicine team, coordination with a local hospital, medical personnel and stations at the training sites, and doping control.

23. Each venue employed a venue press officer whose function was to serve as the point of contact for journalists in each locale. In addition, press operations staff worked closely with the host broadcaster, EBU Sports International ("ESI"), as well as ABC Sports and ESPN, which provided television coverage around the world for all World Cup events.

24. Protocol personnel were responsible for identifying and implementing all traditionally offered courtesies; provided flag and national anthem protocol at World Cup matches; and arranged for airport arrivals, hospitality, accommodations, transportation, family events, and departure arrangements for visiting dignitaries.

25. Public Information staff handled information regarding ticket availability, public transportation, schedules, scores and team standings, stadium policies, community and cultural events, emergency situations, and World Cup history and facts.

26. The Security Department, with whom OLC interfaced on a daily basis, developed and implemented security plans including security of athletes and visiting dignitaries, access control, crowd control, and protection of assets and property.

27. The Technology Department handled, maintained, distributed and retrieved equipment and hardware necessary for information technology, telecommunications, and electronics.

28. The Transportation Department ensured that, in every case, the 24 teams, referees, officials, FIFA and World Cup staff and volunteers were able to show up at the places they were supposed to be and when they were supposed to be there. In addition, the Transportation Department supervised the World Cup General Motors vehicle pool.



measured word or a well-timed interruption from OLC can save money as well as face.

*B. Community Leaders and Law Enforcement Authorities: OLC as Liaison for the Event*

Along with attracting participants, spectators, and celebrants, with their contribution of revenues to a host city's coffers, any sport event creates difficulties. Even a community fun run requires rerouting of traffic and assignment of extra patrol officers. The larger and higher-profile the event, the higher the stakes for the city in demonstrating an ability to stage a major event successfully.<sup>29</sup> An international competition such as the Olympic Games can attract even terrorist activities, whether for political or financial gain. From preparing for traffic management and crowd control to creating a master plan for emergency court sessions and disaster contingency plans, most if not all of a host city's resources may be stretched to cover all the possible problems that may arise.

1. Brainstorming and Troubleshooting Meetings

OLC is ideally placed to meet with community and law enforcement authorities in advance and proactively to plan for problems which are a known quantity: extra transportation demands, parking, crowd control, security for "protectables,"<sup>30</sup> and anti-theft measures, for example. In these brainstorming and troubleshooting discussions, OLC should address possible ways of dealing with potentialities which are more remote threats but which nevertheless are possible, such as terrorist activities or natural disasters. Advance planning will help to ensure that the city and region will be able to respond correctly and quickly if the need arises. The network of contacts woven and maintained before the event in the

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29. "The golden rule when determining safety/security procedures for any event is to take a proactive position." Lynn Kraft, *The Roar of the Crowd/The Smell of a Lawsuit*, RELIGIOUS CONFERENCE MANAGER, Oct. 1994, at 27.

30. During World Cup USA 1994, the term "protectables" supplanted the term "VIPs," perhaps because of the sheer number of international celebrities in attendance at World Cup matches and events. In Washington, for example, members of the royal families of the Netherlands, Spain, and Saudi Arabia attended matches, as did other foreign heads of state, Cabinet Secretaries and a host of internationally celebrated artists and performers. Consultation and advance planning between various security agencies — including the Secret Service, the responsible security agency from the visiting dignitaries' home countries, privately employed bodyguards, the Metropolitan Police, and even Department of Defense and Central Intelligence Agency personnel — was absolutely necessary to coordinate arrivals and departures and to ensure on-site safety.

context of these brainstorming and troubleshooting sessions may prove invaluable during its course.

These exercises, otherwise known as “what-ifs?” or “planned anxiety,” should include a limited but adequate number of experienced event management personnel, community leaders, trained police officers, insurance company representatives, OLC, and a few fresh-faced recruits from one or all of these fronts to come up with novel ideas, in a collective attempt to predict every possible disaster that might befall the event:<sup>31</sup> freak thunderstorm, day or night-time power outage, bomb threat, fire, assassination attempt, zeppelin crash or other air disaster, stadium or bleacher collapse, and the like. In addition, a brainstorming/troubleshooting session should involve projecting lesser mishaps which could arise and create significant difficulties even if not threats to life or limb: political protest, requests for political asylum by players or spectators from other nations, strikes or other labor disputes (involving — for example — police, transportation workers, food service or stadium employees, or hotel and restaurant workers), to name a few.

The purpose of holding troubleshooting sessions is not to indulge the deepest fears of those responsible for protecting the public or staging a successful event. Rather, the end result of these exercises should be a decisive, clear, written disaster plan which sets forth the following:

- (1) Communications restrictions and procedures: In an emergency situation, only those with strict necessity and direct involvement should utilize radio frequencies. Keep the lines open for the personnel who need to use them.
- (2) Evacuation procedures and prepared public address script for effective execution of the evacuation plan with clear and simple instructions.
- (3) A code word (one that will not occur in the normal course of an event) that, when communicated will alert essential personnel only to the existence of the situation without creating a panic. The code word should be an innocuous one but not related to the event or the nature of the emergency. The word should be dis-

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31. Nothing should be off-limits in this discussion. Who can forget the World Series earthquake in San Francisco in 1989? The Super Bowl disaster movie, based on the novel *Black Sunday* by Thomas Harris? The 1972 Olympic Games in Munich, at which Israeli athletes were killed by a terrorist band? The “fence crushing” incident which resulted in numerous fatalities at a European soccer match?

Even seemingly minor dark clouds can nonetheless override the best-laid plans: the men’s and women’s singles finals at the French Open in 1994 had to be held on the same day because of rain. The troubleshooting sessions should air all these fears and more, with the purpose of actually establishing a disaster plan, because — as the above incidents demonstrate — bad things really happen.

seminated only to department managers and its emergency nature and its secrecy should be stressed. If the Venue Command Center or Communications Control Center issues the prearranged radio call, for example, "All managers, please execute Plan Goldenrod," the disaster plan is implemented automatically.

(4) Establish a chain of command, disseminate it to staff and volunteers, stress its importance, and use it if an emergency arises.

(5) Designate a single media contact location and contact person and remember to include the press contact location in the Press Manual distributed to the media, properly indexed under "Emergency Instructions."

## 2. World Cup Judicial Task Force

In the months and weeks before the opening of World Cup USA 1994 in the District of Columbia, various representatives of the law enforcement and justice communities and OLC for World Cup engaged in extensive study and planning. Foreign service personnel from the United States Department of State as well as from the nations to be represented by teams (and their fans) competing in the final round competition were consulted when circumstances indicated. The result of this collaborative effort were contingency plans for any abnormal increase in arrests or processing of detainees, including emergency weekend court assignments<sup>32</sup> capable of being activated with a single telephone call from any representative who had participated in the judicial task force<sup>33</sup> which issued the plans. The resulting special emergency court contingency order, entitled *World Cup USA '94 Special Assignments: Finding*

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32. Washington was the site of two weekend matches, one of which occurred on Saturday, July 2, 1994 — Independence Day weekend — already one of the busiest weekends of the year in the nation's capital.

33. Representatives of numerous judicial and law enforcement agencies, as well as World Cup OLC participated actively in the planning and implementation of emergency court activation plans. Three "models" for emergency arraignments were developed based on different scenarios and resulting court involvement. In addition to World Cup's attorney, the following agencies were represented and assisted with the design of emergency court models: Deputy Clerk of the Superior Court, Criminal Division, Juvenile Division, Interpreters Services, Pre-Trial Services, Probation Department, Criminal Justice Act administrators and Public Defenders Service (to provide counsel for those requiring legal representation), Court Finance Office, Central Recording, the Office of the United States Attorney (the prosecuting agency in the District), Corporation Counsel (attorneys for the District of Columbia who prosecute juvenile offenses and who serve as counsel for the D.C. Armory Board), Data Processing, Metropolitan Police Department, Youth Services, United States Marshals Service, Administrative Services, Court Public Information Line, and Nursing Services. Fortunately, there were no serious incidents connected with World Cup in Washington that required that any of the contingency plans be implemented.

*and Order*,<sup>34</sup> was issued by District of Columbia Superior Court Chief Judge Eugene R. Hamilton on June 7, 1994.<sup>35</sup>

### 3. Police Involvement in Advance Preparations

In addition, well in advance of the World Cup games, OLC met with the officers of the Metropolitan Police Department ("MPD") who were assembling MPD's Game Day Operations Manual and the duty rosters for each game day. Two hundred fourteen individually-numbered patrol post locations were designated in and around RFK Stadium, and individual officers were assigned to each post from three and one-half hours prior to every match until approximately two hours after the end of the match or whenever the crowd dispersed, whichever was sooner. In addition, each post was associated with a designated responsibility<sup>36</sup> to be performed by the officer on duty. (Of course, ordinary police protection and responsibility continued as usual, World Cup or no World Cup.) OLC asked for, and was granted, the opportunity to address the assembled duty officers at roll call on-site at RFK before each World Cup day of game posting. This provided an important interface for OLC to relay operating instructions to police officers who otherwise would not have been kept up-to-date on enforcement policies in ever-changing circumstances.

In addition, OLC was issued a copy of the MPD Stadium Game Day Operations Manual in its final form. This manual contained each numbered post and the name of the assigned officer on duty for each World Cup match, along with the corresponding chain of command day of game assignments, allowing OLC immediately to identify an officer on duty and to speak directly with an officer's superiors if the necessity arose.

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34. Although the court order was heretofore designated "confidential," on March 31, 1995, Chief Judge Hamilton graciously granted the authors' request to release the court order, allowing its use by the authors in preparation for this article.

35. For her energy, ingenuity, and assistance in spearheading the formulation of the D.C. emergency court plan, and for her aid in obtaining permission to disclose the nature and contents of the final Finding and Order of Chief Judge Hamilton, the authors wish to acknowledge and thank Barbara K. Parks, Deputy Clerk of the District of Columbia Superior Court.

36. For example, "Maintain Order," "Access Control," "Field Access Control," "Monitor and Record Activity Inside Stadium," "Emergency Operations Unit Response," "Missing Persons," "Prisoner Processing," "Vendor Patrol," and "Crime Patrol" are examples of special assignments in the duty rosters for game day posts.

#### 4. Rapport between Police and OLC

Establishing mutual credibility and a comfortable give-and-take information exchange between OLC, police officials, and on-the-lines officers depends almost entirely on OLC's individual ability to command the attention, respect, and collegiality of police personnel. The power of such relationships, however, can be an invaluable asset to event managers. As an event gets underway and the time for acting on long-awaited plans becomes short, anything which allows orders or instructions to be carried out more quickly and information to be transmitted clearly and immediately is of immeasurable benefit. Careful choice of OLC, including management's positive assessment of the candidate's personal charisma, intelligence, communication skills, and simple common sense, will increase the likelihood that OLC can ally herself with community leaders and police officials.

#### *C. Local, State, and Federal Law: Keeping to the Straight and Narrow*

During the event and the weeks preceding it, OLC may be called upon to offer guidance across a wide spectrum of issues which could impact the event's success. Undoubtedly, the event must comply with local ordinances, state statutes and regulations, and — as always — federal law. OLC will need to quickly become familiar with and fluent in addressing a variety of applicable law.

For example, OLC should be familiar with the local ordinances — and the likely response of the local authorities — with respect to ticket scalping.<sup>37</sup> Similarly, the trespass laws may be implicated either by indi-

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37. For example, the laws regarding ticket scalping in the nine World Cup venues were as follows:

Boston/Foxboro:	Any resale of a ticket at a price greater than face value is prohibited. Article 12 § 6.8 Foxborough Town By-Laws.
Chicago:	Any sale of tickets at <i>any</i> price on the Soldier Field premises is prohibited unless the seller has a permit. Chicago Park District Code Ch. 7 § C 3a(9). In addition, the City of Chicago prohibits the sale of tickets at a price greater than face value near places of amusement. § 10-8-500 Chicago Municipal Code.
Dallas:	The City of Dallas prohibits the sale of tickets on public property without special permits. § 50-156 Dallas City Code.
Detroit/Pontiac:	The City of Pontiac prohibits the sale of tickets on public property without special permits. Pontiac Code §§ 8-117 and 118. Moreover, state law prohibits any sale of tickets at greater than face value. Michigan Penal Code § 750.465.
Los Angeles/ Pasadena:	Any sale of tickets at a price greater than face value on the licensed premises is prohibited. California Penal Code § 346.

viduals attempting to enter the secured areas without the proper credentials, by “gatecrashers” attempting simply to get inside the stadium without tickets, or even — inadvertently, one would hope — by incursions in or onto nearby private property by event-related persons or equipment. While such incidents usually may be smoothed over with relatively little fuss, OLC will be more effective in dealing with any of these scenarios if she is fluent with the terms of the law.

For purposes of guiding managers in setting (and implementing) liquor control policies, counsel should be cognizant both of (1) laws relating to liquor sales (identification procedures to avoid sale to minors, container restrictions, etc.) and (2) the state of the law in the area of liquor liability. The latter may require a review of the applicable common law as well as statutory law.

Although OLC may not be required to interface with contractors, depending largely on the point in time at which OLC is put into place on-site, she would nevertheless be aware of the contract terms and the background law of contracting in the jurisdiction. A working knowledge of the requirements in force as to minority business participation in contracting, and awareness of the event organizers methods of compliance, is helpful at least, and may lend both credibility and confidence to OLC’s positions on other issues, in particular, employment concerns. Knowledge of the fair employment practices laws of the United States and the state and local governing entities would also be helpful.

#### *D. Constitutional Issues: Protecting the Organization’s Interests by Respecting Individual Rights*

From the beginning of the planning stages, organizers of sport events held in the United States must contend with the limitations of the First Amendment of the United States Constitution.<sup>38</sup> The First Amendment

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New York/ New Jersey:	The resale of tickets without a retail license is prohibited regardless of location. In addition, the resale of tickets at a price greater than \$3.00 above the face value is prohibited regardless of location. 56 N.J. St. Statutes §§ 8-27 and 8-33.
Orlando:	The resale of tickets at a price greater than \$1.00 above the face value is prohibited regardless of location. Florida State Statutes § 817.36.
San Francisco:	Any sale of tickets at a price greater than face value on the licensed premises is prohibited. California Penal Code § 346.
Washington, D.C.:	Any resale of tickets in public is prohibited. 24 D.C.M.R. § 500.5.

Washington MPD personnel routinely arrest anyone whom they see trying to sell tickets on the grounds of RFK stadium. The tickets are confiscated, the subject is detained, then (ordinarily) taken to the station for processing, and then released.

38. The First Amendment to the Constitution provides, in pertinent part:

restricts the power of Congress, and through the application of the Fourteenth Amendment, the power of all American governmental bodies to limit the free expression of individuals. In theory at least, though, the First Amendment does not prevent private entities from restraining persons from free expression on private property.<sup>39</sup> However, First Amendment issues cannot be overcome merely by establishing the event planning committee as a private enterprise rather than a public institution.<sup>40</sup>

As a general rule, the government's ability to regulate speech on public property (streets, sidewalks, public parks, and many sports arenas) is limited by the Constitution. The extent of regulation allowed is inevitably intertwined with the fact-based classification of the arena as a "public forum." The courts have interpreted the First Amendment to permit the government to place time, place, and manner restrictions on speech in public forums, so long as the regulation is "content-neutral," that is, not an attempt to discourage a particular *kind* of speech but actually a restriction on the time, the place, or the means of its dissemination. This looser restriction applies *only* where the government can demonstrate a *significant* government interest in regulating the speech. Even in this circumstance, the entity attempting to regulate speech will bear a heavy burden to demonstrate the validity of any attempt to restrict free expression in a public or even a semi-public forum.

Time-honored American tradition bolsters the Constitution's guaranteed protection of the rights of individuals freely to assemble and freely to express their opinions and ideas. Even in privately-owned and oper-

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Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

U.S. CONST. amend. I. The restriction on the power of the federal government is made applicable to the states (and by extension to local governments) by the operation of the due process clause of the Fourteenth Amendment. *Gitlow v. New York*, 268 U.S. 652 (1925).

39. See *International Soc'y for Krishna Consciousness, Inc. ("ISKCON") v. Schrader*, 461 F.Supp. 714, 717-19 (N.D. Tex. 1978) (city-owned convention center leased to private party and not open to the public was non-public forum).

40. Even a wholly private entity can be considered a state actor for purposes of the constitution if the entity "acts in conjunction with, or obtains significant aid from, state officers acting in their official capacity." LAURENCE H. TRIBE, *CONSTITUTIONAL CHOICES* 250 (1985). In the context of any large scale sport event — even a neighborhood event — the inevitable involvement of the police and the probable involvement of public property (even simply streets and sidewalks) will implicate the restraints of the First Amendment on the private entity. Moreover, a state constitution (rather than the federal constitution) may be interpreted broadly such that a private property owner is not permitted to restrict free expression in the public areas of a privately-owned shopping center. See *Pruneyard Shopping Center v. Robins*, 447 U.S. 74 (1980).

ated arenas, indeed, at any large gathering of individuals in one place, spectators are likely to presume that their expressive activities — within certain limits — will not be restricted.<sup>41</sup> Furthermore, it is almost inevitable that large sport events, as well as the celebrations held in association with them, will occur on premises which at least include public property, where individuals have a guaranteed right to participate in demonstrations, picketing, soliciting, leafleting, and other forms of expression. In this area, as in others, advance planning will be an important factor in staging a safe, conflict-free, yet spirited sporting event.

For the 1984 Olympics in Los Angeles, and again for the nine World Cup venues in the United States in 1994, the organizers designated two special areas, one area adjacent to but along the perimeter of the licensed premises (inside the area designated the “safety zone”) and another area located elsewhere in the host cities, for the exercise of free speech.<sup>42</sup> Special demonstration or “free speech” zones have survived constitutional challenges where the restrictions are the result of significant government interests.<sup>43</sup>

In considering whether a regulation leaves open ample alternative channels of communication, the Court has generally upheld regu-

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41. Some forms of expression are not protected by the Constitution: for example, words that constitute a clear and present danger because they are “likely to produce imminent lawless action,” *see* *Brandenburg v. Ohio*, 395 U.S. 444 (1969); words that constitute “fighting words,” *see* *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942); defamation (with some exceptions); obscene words, *see* *Roth v. United States*, 354 U.S. 476 (1957), as modified by *Miller v. California*, 413 U.S. 15 (1973), are all forms of speech which are not protected by the First Amendment.

42. Courts traditionally have concluded that the existence of an alternative forum adequately accommodates the strictures of the First Amendment: for example, the sidewalks around the Supreme Court building, if they remained available to demonstrators, were a satisfactory alternative forum in *U.S. v. Grace*, 461 U.S. 171 (1983); the availability of a booth inside a fairgrounds, the permissibility of “oral propagation of views,” and access to exterior pathways were acceptable alternatives to allowing leafleting inside the fairgrounds in *Heffron v. ISKCON*, 452 U.S. 640, 655 (1981); restricting public access to the interior walkways of a civic center was permissible if the exterior walkways remained open in *ISKCON v. Schrader*, 461 F.Supp. at 719. However, in the *Pruneyard Shopping Center* case, the sidewalks were *not* considered an adequate substitute for access to the interior of the mall. *Robins v. Pruneyard Shopping Center*, 592 P.2d 341 (Cal. 1979), *aff'd*, 447 U.S. 74 (1980).

43. *See, e.g.*, *White House Vigil for the ERA Committee v. Watt*, 717 F.2d 568 (D.C. Cir. 1983) (demonstration zone outside the White House); *Concerned Jewish Youths v. McGuire*, 621 F.2d 471, 475 (1980) (zone across from Russian Embassy). *But see* *Farber v. Rizzo*, 363 F. Supp. 386, 393-94 (E.D. Pa. 1973) (picketers wrongly excluded from access to audience and media when President Nixon visited Philadelphia); *Schneider v. State of New Jersey*, 308 U.S. 147, 151-52 (1939) (total exclusion from public forum is unconstitutional).



lations which merely limit expressive activity to a specific part of the regulated area or to a limited time frame.<sup>44</sup>

In keeping with such judicial guidance, within the licensed premises consisting of each stadium and its immediate surroundings, organizers hoped to limit crowds by admitting only ticketholders to the immediate premises, and to limit even ticketholders' conduct to peaceful, non-political, non-commercial uncontroversial behavior.<sup>45</sup> Attempting to disseminate and promote such a policy, known as "restrictive access/restricted use" policy, has certain obvious justifications. The organizers, of course, want the event to proceed in a safe and orderly manner. Moreover, the organizers, sponsors, and participants have every reason to try to protect the festival atmosphere and the "spirit" of the event from political controversy. Furthermore, especially in an international context, the organizers may feel compelled to strike a balance between free expression as a tenet of American liberty and sensitivity to the political and social persuasions of their guests from abroad.

Courts have considered such concerns as security, crowd control, and obstruction of view sufficiently serious to justify certain reasonable restrictions on ordinarily protected activities.<sup>46</sup> The Supreme Court stated quite plainly in *Heffron v. International Society for Krishna Consciousness, Inc.*: "As a general matter, it is clear that a State's interest in protecting the 'safety and convenience' of persons using a public forum is a valid governmental objective."<sup>47</sup>

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44. *CCNV v. Turner*, 893 F.2d 1387, 1393 (D.C. Cir. 1990).

45. The reverse side of every ticket to the World Cup USA 1994 soccer matches and to Olympic events for the 1984 Summer Games in Los Angeles contained language intended — first — to reinforce the notion that the Organizing Committee was a private entity which leased the arena for the period of the event and — second — to designate the ticket as a personal license subject to revocation if the holder failed to comply with the terms and conditions set forth on the ticket itself. World Cup tickets bore language prohibiting the ticketholder from carrying or wearing into the premises any material, signage, or clothing bearing political, promotional, or advertising marks or language.

46. *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 808-12 (1984) (traffic flow and aesthetic concerns found sufficient to justify a ban on political signs on lamp-posts and poles which were not public forum property); *ISKCON v. N.J. Sports & Exposition Authority*, 691 F.2d 155, 158-59 (3rd Cir. 1982) (public needs free movement through corridors and parking lot of Meadowlands stadium and racetrack; facility not a public forum); *Heffron v. ISKCON*, 452 U.S. 640, 650-54 (1981) (disruption of crowd control sufficient to justify leafleting ban in subways); *Concerned Jewish Youth v. McGuire*, 621 F.2d 471, 475 (2d Cir. 1980), *cert. denied*, 450 U.S. 913 (1981) (threats of violence against Russian embassy justified restriction of demonstrations to small area); *ISKCON v. City of N.Y.*, 501 F.Supp. 598, 689 (S.D.N.Y. 1980) (risk of violence justified restriction on demonstrations at U.N. headquarters).

47. 452 U.S. 640, 650 (1981). See also *Community for Creative Non-Violence ("CCNV") v. Turner*, 893 F.2d 1387, 1391-92 (D.C. Cir. 1990).

Moreover, as the Supreme Court has emphasized:

[A] regulation of the time, place, or manner of protected speech must be narrowly tailored to serve the government's legitimate content-neutral interests but . . . it need not be the least-restrictive or least-intrusive means of doing so.<sup>48</sup>

Instead, the Court indicated, "the requirement of narrow tailoring is satisfied 'so long as the . . . regulation promotes a substantial government interest that would be achieved less effectively absent the regulation.'"<sup>49</sup>

The problem with such a policy and its enforcement is that many American sports arenas are, by definition, public forums. Organizers of a major sport event cannot rely on the hope of obtaining a court's agreement that — merely by operation of language contained in a lease between the organizers (a private enterprise) and the owner of the stadium or arena (a public entity) — they successfully can transform a stadium or arena that is owned and/or operated by a public entity, including a public college or university, into private property.<sup>50</sup> Put to a test, especially in the speedy context of an emergency hearing on a petition for a temporary restraining order, a policy limiting free expression may not survive a court challenge.

#### *E. Contractual Rights and Responsibilities: Compliance and Reliance*

In planning any sporting event, the need arises for contracts between the organizers and third parties. From as simple a matter as printing application forms for a community 10K run, or renting a billboard to promote the event, to booking a celebrity superstar for entertainment or formulating venue agreements, the potential for misunderstanding between the parties to any agreement militates in favor of bargaining for, firmly establishing, and creating a written memorialization of the fundamental terms of the parties' respective rights and obligations. In the interest of uniformity and consistency, whatever the scale or nature of the event, whether deals can be managed by an individual lawyer on the organizing committee for small-scale activities, a particular law firm for large-scale events such as the Boston or New York Marathon, or an entire legal department established years in advance to create and oversee

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48. *Ward v. Rock Against Racism*, 491 U.S. 781, 798 (1989).

49. *Id.* at 799 (quoting *United States v. Albertini*, 472 U.S. 675, 689 (1985)). See also *CCNV v. Turner*, 893 F.2d at 1392.

50. As explained in detail below, in *Thate v. D.C. Armory Board*, 804 F. Supp. 373 (D. D.C. 1992), the District Court had ruled, long before the arrival of the World Cup, that RFK stadium is a public forum.

the contracts of a major international competition such as the Olympic Games, all contracts should be handled by a single entity to the extent possible.

As with any such categorical statement, exceptions will surely occur. Situations will arise which call for the creation of a contract without the assistance or review of the Legal Department or one's General Counsel. But the likelihood of a serious complication altering the course of the planned event is significantly reduced if the organizers set up one primary mechanism by which contracts are made which can bind the organizing committee. Only when an agreement *must* be formulated virtually instantaneously should a contract be entered into by anyone other than a representative of this primary contracting office or officer.

Even in a carefully planned and well-executed event, snags and unforeseen circumstances arise that call for an immediate solution and must be dealt with by OLC. In this age of information technology, provided that personnel are available from headquarters' legal department to accomplish the task, there is no reason why even emergency contracts cannot be quickly reviewed and approved if OLC is competent to draft an agreement or modify an agreement that should be changed. The essential deals — star performers, stadium agreements, venue concessions, merchandising, sponsorships, television rights — will have been worked out months or years in advance. But it's the details, the seemingly pica-yune arrangements that one puts on the back burner that crop up later to cause headaches and tend to create extra unnecessary work for management and staff.

OLC should have the relevant contracts in hand well in advance of the event so that she can develop a working understanding of the terms of each agreement. Armed with this knowledge, OLC will be well situated to offer on-the-spot advice regarding the advisability of a particular action in view of the potential interpretation of the contract in the event of a lawsuit.

#### *F. Anticipation of Litigation: Recordkeeping and Preservation of Evidence*

OLC is ideally postured to make a visual record of the day-of-game events, especially with the assistance of a volunteer skilled in the use of video recording.<sup>51</sup> Even an amateur video made by OLC alone can suc-

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51. Typically, spectators are not permitted to bring video cameras into the licensed premises where major sporting events are held. Hence, while official videographers are in place to record the details of competition and document the event for posterity, there are details that

cessfully memorialize not only the general festivity and atmosphere of the event, but weather conditions, decorative elements, commercial activity, seating vantage points, signage, and other circumstances which could ultimately become relevant in a legal dispute.

In the context of a large-scale event, the administration and especially the Legal Department likely will have devised an internal procedure for responding to, handling, and reporting incidents of any nature which may give rise to insurance coverage or legal liabilities, or other situations that require immediate resolution to ensure efficient execution of the event.<sup>52</sup> Accurate and consistent incident reporting procedures can serve to protect the organizers from unnecessary liability and is a useful means of disseminating information to headquarters and management staff, so as to ensure consistent operations and response to emergencies.

OLC may serve as the Incident Coordinator as well, fulfilling the multiple functions of initial response,<sup>53</sup> investigation, and reporting. The Incident Coordinator ("IC") serves as the liaison between all parties involved in incident reporting and response. He or she should determine how serious the incident is and the appropriate level of intervention.<sup>54</sup>

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— while seemingly unimportant in the larger scheme of things — may be crucial in determining the outcome of a lawsuit. These details are the intended target of OLC's video record.

52. The following are examples of "incidents" requiring reporting and investigation:

- (1) Staff or volunteer suffers physical injury or illness related to event-related duties.
- (2) Personal injury or property damage to third party caused by event-related activity or personnel.
- (3) Physical damage to, loss, or theft of event organizers' property, or property leased, borrowed, rented or contracted to organizers.
- (4) Auto property damage and or physical injury caused in accident involving event-related vehicle.
- (5) Threats to security, spectator violence, personnel problems, facility or equipment malfunction, ticket scalping, spectators' ticketing complaints, marketing or merchandise infringement, unauthorized concessionaires, trespassing, or other difficulties while event organizers have possession of and responsibility for the licensed premises.
- (6) Breach of contract by event organizers or other parties.
- (7) Complaints concerning organizers' employment practices.
- (8) Broadcasting or media problems.

53. The Incident Coordinator should determine the appropriate response to the particular situation, including security control, medical intervention, police involvement, legal counsel (if the Incident Coordinator and OLC are not the same individual), or other means of handling the incident.

54. For this reason in particular, management should choose as Incident Coordinator an individual who has demonstrated an ability to function well in a crisis and to remain calm and even in dealing with others. Perhaps equally important is the capacity to exert power without becoming protective of that role, since a "territorial" attitude in the person of the Incident Coordinator will hinder rather than promote the dissemination of information.

The IC informs the appropriate persons about the incident, documents the occurrence by interviewing witnesses and retrieving and completing an incident report form, and collecting all available information from witnesses and participants.<sup>55</sup> Moreover, the IC reports incidents directly to the Insurers when appropriate and continues to serve as management's liaison to the insurance companies. In particular, if OLC and IC are not the same individual, incident reports in all cases should be reviewed by OLC before the facts of the incident are entered into a computerized report.

Still photographs and witness statements also constitute evidence that OLC can efficiently obtain and preserve, serving as the conduit of information to management (both local and national if necessary). A well-chosen lawyer may similarly be ideally suited for the role of liaison to police and insurance personnel in connection with accidents or casualty losses caused — for example — by weather, fire, or theft. In addition, OLC's familiarity with the personalities and functions of the individuals on the management team will serve her well, in the event of a genuine emergency, in directing and coordinating the initial response, properly documenting the incident, and providing timely notice to the insurance carriers.

Another critical advantage to having a lawyer's participation in the function of communicating information to those who need it, including management, headquarters personnel, and insurers, is that an attorney is trained not only in what to say but in what not to say. Armed with such training, a well-placed and carefully chosen OLC will refrain from speculating — whether in speaking or in writing about a particular incident —

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55. World Cup USA 1994, Inc., at the suggestion of a particular OLC, printed their Incident Report forms on quarter sheets of ordinary 8½" x 11" paper which were then glued in pads of 50 which fit comfortably in the uniform pockets of all management staff. In this way, every person authorized to collect information on reportable incidents had reporting forms on hand in case an incident occurred in his or her presence.

The incident report included spaces for the following information: date; venue; severity (critical, significant, or minor); incident type (automobile, concessions (food), concessions (novelty), facilities, fan incident, medical/injury, merchandise infringement, property damage, property theft, security/accreditation, ticketing, or other); time of incident; location of incident; description; and resolution/action. The report included spaces for witness' statements. If a staff member was involved, the report asked "What was the Staff member doing at the time of the injury?". If there was a physical injury, the report asked for the injured person's description of the injury and attitude of the victim and for comments in addition to the aid given. If a vehicle was involved, the report asked for information on the vehicle. If property was damaged or stolen, the report asked for a description of the damages and an estimate of the value. If the incident was insurable, the report asked the venue incident coordinator to submit a claim to the insurance company.

and from offering opinions regarding causation and liability, but instead will carefully relay the necessary facts without ascribing fault.

Finally, OLC is the primary connection between the event organizers and their "outside counsel team." The Outside Counsel team is a lawyer or group of lawyers familiar with the structure and purposes of the event and conversant in the issues involved in the major contracts, but which becomes activated as the litigation response team only in the event that an incident leads to some action in the courts. OLC will not likely represent the organizers before the court, at least where facts are disputed, because of the ethical bar against an attorney acting as both counsel and a witness in the same matter.<sup>56</sup>

#### IV. AREAS IN WHICH OLC SHOULD BE A MAJOR PLAYER

The organizers create specialized departments and choose department managers to whom responsibilities for the various aspects of a major sporting event are delegated. Staging a large-scale sports competition creates a wide variety and a monumental number of tasks which together add up to an almost incomprehensible amount of human effort. Just as certain responsibilities are appropriately delegated to OLC for handling, there are other areas for which another manager is ultimately responsible but in which OLC should have a significant role. The role of senior management in these areas is to ensure that OLC is included in the planning for the event as early as possible and is a visible and active participant from the earliest stages, not only so that counsel can become conversant and knowledgeable about the organization and its purposes, but — equally as important — so that the management team and other staff and volunteers have an opportunity to recognize OLC and to become familiar with her function in the organization. In this section we examine the areas where OLC should be allowed to maintain a high profile in order that management personnel, other staff, and volunteers begin to appreciate OLC as a resource and to bring ques-

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56. See, e.g., MODEL CODE OF PROFESSIONAL RESPONSIBILITY EC 5-9 (1980), which states:

Occasionally a lawyer is called upon to decide in a particular case whether he [or she] will be a witness or an advocate. If a lawyer is both counsel and witness, he [or she] becomes more easily impeachable for interest and thus may be a less effective witness. Conversely, the opposing counsel may be handicapped in challenging the credibility of the lawyer when the lawyer also appears as an advocate in the case. An advocate who becomes a witness is in the unseemly and ineffective position of arguing his [or her] own credibility. The roles of an advocate and of a witness are inconsistent; the function of an advocate is to advance or argue the cause of another, while that of a witness is to state facts objectively.

tions and difficulties to counsel before problems rise to the level of legal controversies.

### A. *Training: The Best Defense*

OLC is an invaluable participant in staff and volunteer preparation and training. At any general orientation of staff or volunteers, or both, OLC should be introduced and given an opportunity to speak to the assembled personnel. An initial encounter of this nature is an ideal chance for OLC to establish a profile of professionalism, authority, and approachability among staff and volunteers, allowing members of the event community to identify her as an individual who is there to assist them and provide guidance when they face decisions which may have long-ranging consequences. Furthermore, a short introductory presentation by OLC is a wonderful forum for educating staff and volunteers about issues important to every member of the staff: risk management, incident handling protocols, chain of command, and the potential impact every representative of the event can have on its ultimate success.

Every manager on the event team will make decisions on a routine basis that can create or defeat liability for the organizers. Moreover, nearly every person involved in the staging of a major event will be presented with opportunities to prevent or lessen the chances of an occurrence that could detract from the event's success. Facilitating the interaction of OLC with the management team enhances the likelihood that managers will seek out OLC, consult her concerning the legal ramifications of particular decisions, and report any difficulties to OLC for further handling if necessary. As a general rule, the manager of a department affected by an incident should inform OLC about *any* important development, if only to protect the organizing entity in case the particular incident evolves into a legal dispute or otherwise requires the assistance of counsel.

One of OLC's major roles is to examine the surroundings and the occurrences in real time, attempting to uncover potential difficulties before they happen, thereby preventing the problem instead of having later to solve it. OLC, if motivated, dynamic, and personable, can instill in the whole event staff a similar sense of responsibility for this same attentiveness and foresight. Along with creating a positive sense of ownership and comraderie, the development of an easy interchange between OLC and other staff presents an ideal opportunity for teaching staff the importance and necessity of creating, maintaining, submitting, and preserving accurate and thorough incident reports according to a formal procedure. A free exchange of ideas focused on incident reporting al-

lows for an important dialogue and tends to further the understanding that OLC should be “in the loop” when any minor difficulty shows signs of escalating.

### *B. Trademark and Copyright Protection*

Keeping straight the numbers and different roles of the numerous entities engaged in marketing and sponsorship activities can be dizzying. In the context of a large-scale event, the Organizing Committee will likely have employed an attorney — or even a law firm — specializing in intellectual property law. OLC should spend some advance time learning what the master plan for protecting trademarks entails, and should familiarize herself with the attorneys who are charged with this task, developing a comfortable working knowledge of rights and owners, “Marks” protection strategy, and the personalities involved in the trademarks and copyrights connected with the event.

Ideally, there will be blanket court orders in place before the event is underway, allowing enforcement personnel to seize counterfeit merchandise, to escort unlicensed vendors and concessionaires off the premises, and to issue “cease and desist” letters or notices in the event of ambush marketing or other unfair competition situations.

Nevertheless, OLC is likely to be a participant in trade and copyright protection matters in any number of ways. First, OLC — by definition on-site at the premises — will have an intimate knowledge of the stadium or arena, the structure, and the layout of the premises. For this reason, OLC can assist the intellectual property counsel in the effort to secure blanket court orders in anticipation of infringement situations, appearing before the court if necessary to provide information and answer the court’s inevitable questions about the physical plant where the event is scheduled to be held. Drawings, blueprints, photographs, and other visual aids will assist the court in understanding the nature of the need for marketing protection. Establishing a working rapport with intellectual property counsel well in advance of the event will enhance OLC’s usefulness to the intellectual property lawyers and her ultimate effectiveness in assisting the court.

Second, because OLC is by definition on-site, she may be the first point of contact for an individual staff member who witnesses an act which violates the trademark or copyright interests of the event itself or its marketing associates. OLC is in a better position to assess the level of severity of the infringement and to recommend a particular response to maintain consistency.



OLC is well-placed to monitor practices such as ticket scalping, unauthorized selling of merchandise by unlicensed vendors, unauthorized use of protected marks, ambush marketing, and other activities infringing on the sponsors' and organizers' intellectual property rights. She is the ideal person to keep Headquarters apprised of the incidence of such activities and to brief staff repeatedly, with regular updates, on the appropriate responses to trademark and copyright infringements.

### *C. Information Management*

As Heraclitus said in the fifth century B.C., "Nothing endures but change."<sup>57</sup> That circumstances are constantly in flux is clear; that information about circumstances both in the moment and as they evolve must nevertheless be communicated to those with the need to know is the basis of another focus of OLC's efforts on behalf of the organizers of a large sporting event. In any situation where large numbers of people are collected in a single location and for a common purpose, events will develop in unexpected directions. Matching a fact-intensive task with a legal mind will serve the goal of an efficient creation of a useful record for whatever purposes a record may be required.

#### 1. Incident reports

An incident report as explained above, is the written memorandum recording the occurrence of an event which a staff member makes a judgment should be recorded and reported to supervisory personnel. Failing to have OLC review incident reports before the reports are finalized creates a risk that legal terms of art<sup>58</sup> may be utilized inadvertently by the individual making the report, terms which may come back to haunt the organization in future disputes.

#### 2. Notice to Insurers

Another information management task which should be filtered through OLC is any notice to insurers of a potential claim. As a factual matter, even seemingly minor incidents should be brought to the attention of insurance carriers, since minor incidents may have larger consequences than are immediately apparent. Again, the language used in

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57. HERACLITUS, *DIOGENES LAERTIUS*, Book IX, § 8.

58. For example, terms such as "fault," "negligent," "careless," and "cause" should be avoided. The facts should be related without speculation from the writer as to what particular act or oversight led to what consequences.

notice to insurers can have repercussions that a person not experienced in the insurance or legal fields may fail to recognize.<sup>59</sup>

In theory, if the organizers lease the premises for purposes of staging the event, the organizers take possession of the property for a period of exclusive use. At the outset of that period, senior management should walk through the premises with a representative of the owner of the facility. OLC can be a valuable participant in this exercise, to create a written or videotaped record of the condition of the premises at the time of transfer of possession. Similarly, OLC should be present when possession is transferred back to the facility owner. OLC in this way serves as a repository of information about who bears responsibility for the existence of certain conditions in the event that such conditions give rise to legal claims.

### 3. Public address script

The public announcements made on the grounds of large sporting events may seem unimportant, unnecessary, or even detrimental to smooth operations. But the public announcement system may be a boon when information is changing rapidly or spectators must be advised of special restrictions they may have overlooked. OLC should review the script before its broadcast to ensure that it is factually accurate, contains adequate forewarning of the conditions of entry (for example, where video-cameras, sticks or poles, noisemakers, coolers, glass containers, or other items are prohibited from being brought into the premises), and directs spectators to lockers or other conveniences. The script should be measured for and freed of gender-specific or otherwise discriminatory language or implication.

### 4. Press relations

Staff should be made aware as part of the training process that most are not authorized to speak with members of the media. Interfacing with reporters should be specifically assigned to a press officer, and the press officer should clear any prepared statement with OLC before it is delivered to the press. This is another area where filtering the language of a particular statement through an attorney may prevent the inadvertent use of legal terms of art, which may create liability where there is none present.

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59. As with incident reporting, notice to insurers should be relayed without conclusory language; nothing in the notice letter should suggest fault, causation, negligent or reckless conduct, or other legal conclusion.

#### *D. Security*

OLC will have a great deal of interface with Security Managers and private security personnel employed by the organizers of any large scale sporting event. Because private security officers, who are charged with ensuring the safety and well-being of spectators and the general public, obtain their direction from within the organization, it is essential that the security guards be introduced to OLC and instructed that she is the repository of information concerning the appropriate responses to particular situations. As is explained in detail elsewhere in this article, circumstances change quickly in the context of any large-scale event, and the proper response for purposes of mitigating the liability of the event's organizers may change from one hour to the next. OLC, as the individual who serves as liaison to the courts and law enforcement community concerning changing circumstances, can quite easily handle a similar function in advising private security personnel on how certain security incidents should be handled.

Moreover, as in so many situations in the context of a large-scale sporting event, an individual with legal training and experience will bring to the table a slightly different perspective than may be found among other personnel. This factor may contribute additional troubleshooting techniques and incident prevention simply because the lawyer's mindset is on avoiding legal liability and controlling the quantity and severity of harm when liability cannot be avoided. In roundtable planning sessions and up-to-the-minute decisionmaking, the attorney's perspective is a valuable addition to the discussion.

One way OLC can serve the interests of the event's Security Department is by informing security when events transpiring in other departments may have a direct impact on the need for security to respond or at the very least institute a plan for handling the situation when and if the need arises. For World Cup events, security was necessarily quite strict. As previously stated, Washington hosted heads of state, members of various royal families, and entertainment industry celebrities at every match. While a small circle of Department Managers and a handful of individuals from each of their staffs, once issued their official World Cup credentials, were allowed to retain custody of those credentials during the course of the five games, by far the vast majority of staff and volunteers were required to go through the tedious process of picking up their credentials at the start of the day's work and turning in their credentials at the close of the day. It was a hot and tiresome exercise; no one was enthusiastic about the ordeal, but maintaining the process kept closed a potential security gap.

### *E. Employee Relations*

As previously stated, OLC must be cognizant of the applicable fair employment practices laws in the jurisdiction whose law governs the venue employees. The District of Columbia, for example, is the home of the D.C. Human Rights Act,<sup>60</sup> one of the broadest, most expansive employment discrimination statutes anywhere. An employee cannot be subjected to negative job action or employment discrimination in the District based on classifications as esoteric as sexual orientation, physical appearance, or family responsibilities.<sup>61</sup>

As in any employment context, situations may arise in sport and event management that call for a judgment concerning the nature of the agency relationship between an employee and an employer. Under what circumstances is the organization liable for the negligent or wrongful acts of its employees? This question, whether answered according to ordinary principles of agency law or controlled by the terms of the employment contract, may significantly impact an organization's profitability.

OLC's role in this regard is to provide training, advice, and frequent reminders of exactly where managers and organizers may be acting independently, and where their actions may bind the organizational entity. In the event of a legal controversy, the factfinder will want to know, for example, whether the person committing the alleged wrongful act was "advancing the employer's business" at the time the act occurred.<sup>62</sup> The employer may not escape liability even if the organization does not condone the employee's act, or had directly ordered the employee not to act in the particular manner that caused the harm alleged.<sup>63</sup>

OLC may be called upon to conduct crash courses for managers where OLC suspects that certain acts of employees have the potential to create liability on behalf of the organization. Torts such as negligent hiring, negligent retention, or negligent serving of alcohol to an intoxicated person who later caused harm to another, and negligent entrustment of an automobile, all present areas where OLC may be required to advise managers to act or to refrain from acting in particular ways.

## V. THE OLC'S PERSPECTIVE

The job of OLC for a major sporting event is a demanding one. It requires more preparation than one anticipates. Over and above the de-

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60. D.C. CODE ANN. §§ 1-2501 to 1-2557 (1981).

61. D.C. CODE ANN. § 1-2501.

62. *See, e.g.,* *Houston Transit Co. v. Felder*, 208 S.W.2d 880 (Tex. 1948).

63. *See, e.g.,* *Grant v. Singer Mfg. Co.*, 77 N.E. 480 (Mass. 1906).

mands of learning the detailed terms of the applicable contracts, the layout of the facility, and the structure of the organization, the candidate should not be averse to conducting her own mini-bar review of the law of all relevant jurisdictions. Only with this review will OLC be competent and prepared to provide on-the-spot advice on which the event managers can safely rely.

There is no match, however, for the rewards the task can offer. OLC is truly on the front lines. Little or no time is spent behind a desk, and even advice rendered by telephone is delivered on the run. OLC may have the opportunity to interface with event managers, sport and entertainment celebrities, and community leaders. She will certainly make a wealth of contacts that will serve her well for years to come. Her own profile in the community will be boosted, as she comes to know police, emergency, and court personnel and to develop a working rapport. She is likely to come to know the management personnel and general counsel of the facility where the event is held.

But more important than all of these is that the job is fun! It is a test of one's competence, fluency in the law, confidence in one's judgment, and ability to handle high-stress situations. One would be hard pressed to name another position in the legal field that presents as concentrated and challenging an experience in as short a time.

#### *A. Requirements for Optimum Job Performance*

Based on the experience of OLC for World Cup in Washington, certain technological conveniences may make the difference between efficient and organized accomplishment of the required tasks on the one hand and a lot of frustration and inefficiency on the other. Typically, the venue will issue OLC an electronic pager at a minimum. In this way, managers can contact OLC at any time during the weeks and months approaching the event with immediate questions and concerns.

Once OLC has moved to an office at the site of the event (at the same time that other managers move to trailers or whatever temporary office facilities have been arranged on the licensed premises), the office should be equipped with the basics necessary for conducting business in the mid-1990's: multiple telephone lines, with one line dedicated to data communications and at least two lines to enable teleconferencing. A computer station is essential, although a laptop computer may be even more convenient as it allows for OLC's freedom of movement without a concomitant loss of access to data files. The computer station or laptop should be networked with the event's primary computer system, at least in so far as it allows for electronic mail and transfer of data files to re-

mote locations and other venues. A fax machine, although it may seem unnecessary — and is in fact redundant if OLC's computer has facsimile transmission and reception capabilities — is sometimes the only way of transmitting or receiving the information in its most useful form. Finally, a printer, either dedicated or networked among several offices, is necessary to OLC's adequate performance. Support staff are unnecessary and may even hinder OLC's functioning. OLC should be a visible, active, and a participating member of the management team. The less interference between staff or volunteers and OLC, the better.

During the active phase of the event, when the competition is under-way, OLC should be issued a portable cellular telephone with at least one backup battery and recharging system. In addition, on game days, OLC should have and use a two way radio and headset.<sup>64</sup> She should constantly monitor the channel used for communications to and from the Venue or Event Command Center and should intervene — using a different channel assigned to her for communicating with Command — when a situation warrants her attention. OLC should receive training and practice in radio protocol if she is not already proficient and confident in use of the radio.

For evidence collection purposes, OLC must have access to a video camera and a still camera. For monitoring fan signage, for observing developing incidents, and for security purposes, binoculars are an invaluable addition to her equipment list.<sup>65</sup>

64. Crowd noise during a major sport event makes working without a headset virtually impossible.

65. Although the supply pack was her own creation and not issued to other OLCs, OLC in Washington stocked a fanny pack, the strap of which was a useful "parking place" for beeper, cordless phone, and two way radio handset, with the following items, all of which she used in fulfilling her responsibilities during the games and in being as much as possible an ambassador for the fun of the event:

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|-----------------|---|
| Scissors:       | for taking down signs that were commercial in nature or otherwise violated sign policy and in order to relocate particular banners that had to be moved because they obstructed sightlines or security views; |
| Pocketknife:    | same purposes;  |
| Poncho:         | small folding plastic poncho for warding off sudden downpours;  |
| Twine/cord:     | for rehangng signs that were relocated or for assisting fans in concealing <i>parts</i> of signs that violated policies but were otherwise acceptable, and (once) tying a balloon to a toddler's wrist;       |
| Duct tape:      | for assisting with signs, repairing a child's sneakers, and all the other multitudinous uses of this particular product;  |
| Trading pins:   | for convincing small children that they were having a wonderful time despite the heat and roar of the crowd and for general fun and good times.   |
| Business cards: | in order to allow people to contact her for any reason after the events.  |

### *B. Professional Ethics*

A critical issue and one which deserves the attention of an article in itself, the question of "who is OLC's client?" is a difficult and a constant one in the context of a multifaceted sporting event involving many different people and entities. In many of the situations described herein, OLC must conduct a thorough if rapid analysis of where her responsibilities and duties actually rest. For example, if an event employee is involved in an automobile accident in an event vehicle, OLC must explain to the employee and the transportation manager that the potential exists for a conflict between the interests of the employee and those of the organization. If liability for the injuries of another party were to become an issue, OLC may be ethically bound to argue that the employee was acting beyond the scope of his or her authority when the accident occurred, in an effort to avoid the organization's vicarious liability for the employee's wrongful act.

## VI. WRAP-UP

Another important aspect of OLC's function to the organization will be carried out when the event — from the public's perspective at least — is over. The teardown phase is often as important as the preparation phase and the event itself from the standpoint of legal consequences, and an organization and its counsel would be unwise to neglect it or pay it less attention than the closing phase of a major event deserves.

First, from the moment the closing ceremonies end and the crowd disperses, the organizing committee is in possession of a wide variety and a large quantity of equipment from the most technical to the most mundane, which must be disposed of. Much of the technical equipment — including computers, pagers, telephones, fax machines, copiers, sophisticated timing devices, cameras, televisions, video recorders, and more — as well as office equipment can be sold after the event to staff, other sports organizations, schools, businesses, and surplus stores.<sup>66</sup> Whatever remains unsold can be donated to worthy charities to further promote the good will of the event in the host community. Second, OLC will

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66. One task for OLC in advance of any after-event sale is to prepare a bill of sale clearly setting forth the required terms of the Uniform Commercial Code, if any, in the local jurisdiction. A bill of sale expressly disclaiming the usual warranties should accompany every transaction. Each item must be sold "as is" without recourse to the selling entity, which is not likely to continue in existence for any significant period of time after the tear down phase has been completed. The existence of the customary warranties applicable to a sale of goods could seriously hamper the organization's dissolution.

continue to monitor and attend as necessary to the disassembly of any alterations carried out at the arena by the organizing entity, until OLC is satisfied that the property can be transferred back to the care and control of the owners or the stadium authority. A second and final stadium walkthrough, with the appropriate video, still photography, and written record, should be conducted with the participation of the event management staff, their counterparts representing the facility, and OLC. OLC should adequately document any alterations that have not yet been restored to their original condition, or which are intended to remain as improvements to the arena, in the course of the official transfer of control of the premises.

Finally, OLC is perfectly positioned to make a valuable contribution to the event archives and the historical record. Major sporting events become a part of our collective history and tradition. During the close-out phase of the event, OLC should prepare an after-action report, an official memorandum of her recollections, records, documents, and conclusions about the event. This after-action report should be tailored to three primary audiences. These are, first, the Executive Director of the venue at which OLC served and in which she actively participated. OLC's effectiveness will have had an important impact on the success of the event *at that arena*. OLC's first duty is to the subset of the larger entity that the Executive Director for that venue heads. Therefore, the first and foremost target audience for the after-action report should be the first in command for the venue or facility. Secondly, the after-action report is the essential summary of the duties *as carried out* by OLC and as reported to the General Counsel. The organization's continued existence and the dissolution of the larger umbrella organization will be overseen by the General Counsel. OLC's final report should tie up all loose ends and close any legal doors that remain open after the tear down phase is completed at the venue.

Finally, OLC should understand that the after-action report can be a valuable tool for any organization entering the same venue or the same host community to sponsor and stage a major sport event. Her thorough and clear summary of the preparation stage, the event itself, and the wrap-up can serve as a blueprint for the event managers, preventing the necessity of reinventing the entire protocol for a subsequent event.

## VII. THE IDEAL CANDIDATE FOR OLC

There are many qualities to be looked for in choosing a candidate to provide on-the-spot legal representation for a major sporting event. Some of these can be gleaned from the text of this article; others are



matters of common sense. The following personal profile outlines particular characteristics that will allow OLC to accomplish the tasks required of her as smoothly, efficiently, and pleasantly as possible.

First, OLC should know the sport. Ideally, the attorney chosen as OLC will have a working knowledge of the sport to be showcased in the facility or venue to which she is assigned. It is not necessary that OLC be an expert, but the ability to answer questions quickly and accurately will put her in a better position to act as an ambassador on behalf of the event to civic leaders and law enforcement authorities in the larger community with whom she must interface. In addition, as OLC performs her responsibilities on game days, she is a very visible presence both inside the arena and on the premises. She will inevitably be speaking with a wide variety of people, making decisions, and solving problems. Observers may ask her for information because she appears to be in a position of authority. A knowledge of the sport underway will serve her in good stead, and will allow her to better serve her client.

OLC should be a person who can command respect. In a visible position, interfacing with the courts and civic leaders, briefing the police and private security personnel, and — when necessary — questioning a decision made by the Executive Director or other Managers, OLC should be capable of swaying an audience without resorting to shouting or wheedling. She should be able to get the attention of a group of intelligent and busy people by demonstrating her competence underscored by her confidence. She should not be averse to public speaking and should be prepared to offer sensible and reliable legal opinions on issues as they arise and to argue for her clearly, logically, concisely, and authoritatively.

OLC should be perceptive and smart. She may have only one chance to solve or head off a problem and she will have to think and respond quickly to ever-changing circumstances. Sometimes, the most intelligent response is no response at all; OLC should have the capability to ascertain when no response is called for and the forbearance to stifle the urge to respond in a counterproductive way.

OLC should be soft-spoken (when appropriate and possible), calm and polite (always), and one who uniformly treats others with dignity and respect. OLC will probably be dealing with spectators, staff, law enforcement personnel, and others, often when they are angry, justifiably or otherwise, and for any number of reasons. She should be prepared to think quickly on her feet, to defuse potentially unpleasant situations, and to restore calm when the need to pacify presents itself.

OLC should possess good listening and mirroring skills; she should be able to understand what others mean when they speak to her and to reflect back to the speaker what she heard. Listening and mirroring are perhaps the two most important abilities in effective communication. The listener who hears, understands, and can repeat in her own words what the speaker is trying to convey creates in the speaker the sense that the listener is sympathetic to his point and allied with him. The sense that he is being understood goes a long way toward soothing the speaker's distress, especially when he is frustrated and angry.

OLC will require a fine and accurate memory. She will be called upon to carry out a variety of requests and orders without consulting notes or handbooks, and to reconstruct events on paper some time after they occur.<sup>67</sup> Related skills that will serve OLC well in the role are the power of storytelling and correct but concise reporting.

What specialty should the client look for in a lawyer? The specialty is less important in the choice than the size of the event, the enthusiasm of the attorney, the client's pocketbook, and the lawyer's willingness to serve pro bono for the event. Provided that the event's size warrants employing on-site counsel, the ideal choice is an attorney who has an eye for fine detail but will not lose sight of the larger picture. The best person for the job may be someone who will enjoy the prospect of troubleshooting, of preventing problems before they develop, of playing out the "what if?" scenarios and dreaming up sensible responses to imagined crises. One experienced in contract drafting will be capable at handling the tasks presented. However, a litigator will likely have more experience in thinking quickly under pressure.

Finally, but perhaps most important of all, OLC ought to be enthusiastic, personable, and fun. The lucky attorney who serves as OLC will be out of the office for an extended period of time. She will be spending long, often hot, physically demanding, and stressful hours with her colleagues on the venue management team, as well as long, sometimes dull, sleepy, uneventful hours in planning meetings with community leaders and law enforcement personnel. A sense of humor and a spirit of fun,

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67. OLC for World Cup USA 1994 in the Washington venue carried the smallest available spiral-bound memo pad (the kind reporters always carry in the movies) at all times. Each task, whether self-imposed or ordered, and each item which OLC believed merited a more detailed written record, OLC jotted down — using a only few key words — on a single sheet of the memo pad. As each task was completed or report completed, OLC took great satisfaction in ripping the relevant page from the pad. Although crude and woefully low-technology, OLC had created a reliable reminder system that — for the two months of on-site responsibilities — operated flawlessly with a total expenditure of less than \$7.50.

combined with a genuine commitment to promoting the sport or event she represents, will go a long way toward keeping the lid on spots where tempers might flare and brewing difficulties boil over. In addition, a pleasant and spirited OLC, like any enthusiastic and highly visible member of the team, naturally adds energy and good will to the entire organization.

#### VIII. ENGAGING A LAW FIRM

There are some advantages to employing the services of a single law firm to staff the various venues and arenas in a multi-location event. First, if the firm has participated in an event in the past, they may have a depth of experience unavailable elsewhere, and an advantage over competing law firms based on their pre-existing knowledge of the field. Second, training may be more easily accomplished in a group of attorneys who are already part of a cohesive unit, who know — or at least are already identified with — each other and are accustomed to relying on the expertise or advice of their colleagues. Furthermore, a large firm may offer a depth and breadth of experience underlying those who operate as OLC for the organization in the event that a knotty problem should arise.

Finally, the possibility exists that some pro bono or discounting of fees, or both, can be negotiated if the organization's other outside legal work is handled by the same law firm. If the firm does not suggest such an arrangement, the organization should certainly raise the issue at the outset of any attorney-client relationship. At worst, the firm may refuse to offer any pro bono services or price breaks, and the organization then faces the choice of accepting the terms set by the firm or taking its business elsewhere.

There are countervailing arguments, however, for *not* entering into a single attorney-client relationship with the proverbial mega-firm. The most noteworthy of these is probably cost: a smaller firm with a lower overhead will almost certainly have comparatively lower rates. An organization is less likely to experience quite the same level of "sticker shock" when it learns the going hourly rate for attorneys' time in the smaller firm. In addition, a small-to-medium-sized law firm may afford more flexibility in terms of allowing its attorneys to commit themselves to a single client's work for an extended period, an essential requirement for the "total immersion" OLC services contemplated in this article.

Finally, to the extent that the opportunity presents itself, employing an attorney or law firm who has been — or provided — OLC in the past for a comparable event, or someone who works closely with such an in-

dividual or firm, may provide the best and most cost-effective option available. The organization will gain from the attorney's experience in countless ways, many of which are intangible but no less beneficial than the attorney's direct experience in similar situations in the past. An experienced on-site event legal counsel will have learned from the mistakes made the first, second, or tenth time in the role, and not from mistakes necessarily attributable to the attorney. To the extent that a bright, competent, and attentive student can ever learn from observing others' missteps and false starts, a bright, competent, and attentive attorney will have learned what *not* to do and what *not* to say as much as she will have absorbed the affirmative aspects of the role of OLC. In addition, the organization will have the benefit of the wisdom and recommendation of previous event managers as to the quality of service and the positive impact provided by the attorney in her capacity as OLC. And perhaps most critical of all, the organization will know it is gaining the counsel of an attorney who enjoys the role, who is committed to the promotion of sporting events, and who has invested part of herself in the sport and event management field.

#### IX. CONCLUSION

In any sport event, small or large, the need exists for an on-site legal counselor who will provide objective and considered advice concerning management's ongoing imperative actions and decisions. Including OLC as an active participant in management's inner circle can be a major factor in preserving the event's financial viability, public accountability, and ultimate success. As Jim Dalrymple, general manager of RFK Stadium in Washington, DC so emphatically states, "Hiring an on-site legal counselor is a very cost-effective investment." To be effectual, however, it is important that OLC build and understand organizational as well as political relationships, be familiar with local, state, and federal laws as they impact event activities and venues, and most of all, exercise sound judgment in reacting to potentially negative liability-producing situations.

