

## Regulating Coaches' and Athletes' Behavior Off the Field

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**2007 SPRING SYMPOSIUM  
April 13, 2007**

*“Regulation of Coaches’ and Athletes’ Behavior and  
Related Contemporary Considerations”*

**Topic II**

*“Regulating Coaches’ and Athletes’ Behavior Off the Field”*

**Moderator:**

Jim Rose

**Panelists:**

Dennis Cordell  
Eldon Ham  
Rick Karcher  
John Shukie

**MS. MARTIN:** We are going to get started with our last panel of the day. This is regulating coach and athlete behavior off of the field. We have our earlier panel from this morning, Mr. Ham, Mr. Shukie, Mr. Cordell, and Mr. Karcher. And moderating this topic is Mr. Jim Rose from our local ABC affiliate, so we appreciate his time here, and I will let these gentlemen get started.

**MR. ROSE:** Thank you, Elizabeth. I'm a professional broadcaster, so I speak kind of loud. Can everybody hear me in the back?

(Indicating.)

**MR. ROSE:** Okay, good. First off, welcome and thank you for having me here today. When someone in my line of work gets invited to something like this, we salivate because when we're on the air, all we can talk about is the results and not the cause and effect of what has infected our society and our sports society with the general problems that we have today.

So with that in mind, I'll begin with a little bit of sort of a statement on what's happening in sports today, and I think as you read in the newspapers or watch on television, you either see it on Sports Center or our news or someone else's news, it seems like every day there's somebody getting involved in some sort of criminal activity.

And I'm somewhat of a hardliner. I'm an old military man. Before I got into broadcasting, I was in the Army, so I have a discipline type of attitude to me. And mine is hard and fast in that nothing can perhaps stop this or slow this down other than desperate times deserve desperate measures.

Just lately the NFL Commissioner, Roger Goodell, suspended Adam "Pacman" Jones for a year and Chris Henry for eight games, and they had not in the letter of the law violated what the NFL's policy was because they had not been charged or convicted, but they had violated the ethics and morals clauses of their contracts. And so his decision was hard and fast to suspend these gentlemen one for a year and one for half the season to perhaps send a message to the rest of his players in his league that this is not going to be tolerated anymore.

And here in Chicago the problem that Bears fans are going to have coming up pretty soon is what's going to happen with Terry "Tank" Johnson who is in jail on weapons charges and is serving some time. And the conventional wisdom is that the Commissioner has no choice but to suspend him for a whole season.

So with that in mind, I think we'll get started. And do any of our panelists have anything you want to say for opening statements as far

as the subject is concerned, coaches' behavior and athletes' behavior on and off the field?

**MR. HAM:** Well, Commissioners sending messages, it can be a good idea. But Commissioners who send messages that are too abrupt a punishment just for the message, the quality of it, sometimes open themselves up to a number of things like the arbitrary, capricious, unreasonable standard. Where did that come from? Out of left field. And all the sudden nobody had been suspended over X number of games, you do the Latrell Sprewell and you triple the biggest one or quadruple it in history, and the next thing you know, you're paring it back. So there's always a balancing test. If you send too big a message, you trip over something.

And, frankly, with those guys, not that I'm a proponent of aberrant behavior off the field, but to do this in sort of an ex post facto way does suggest the wrong kind of balance from a fairness standpoint. They need to quash it. They need to change it. They need to fix it. I don't know about the ex post facto part.

**MR. ROSE:** How do they fix it, though?

**MR. HAM:** Well, they can do the same thing but prospectively. Let them know prospectively here are the standards. Let them know what they can expect. Not that I want to blame the leagues, but the players are lulled into feeling that this stuff doesn't count the way that maybe the League would like it to.

But let them know ahead of time. Go ahead and do all that, be tough, the whole season, eight games, whatever it is. That's okay, but let them all know ahead of time going into it what they can expect.

**MR. KARCHER:** I totally agree, by the way, with what you're saying. But before we get to the point of how it should be dealt with, I think the first question that should be dealt with is whether—let's decide first whether it is something that or why it should be dealt with so aggressively if it needs to be. Because we're talking about—we're not talking about on-field conduct anymore. We're talking about something that takes place outside of their business.

I mean, if you think of this as any other industry, typically employers don't get that involved with behavior that occurs outside of the workplace. Typically we let criminal law take care of that.

So the first question is, is it connected to your business and how so that this is a detrimental thing to your business? There's certain off-field misconduct I think arguably we can say right now that it would affect their business. Performance-enhancing drugs, use of illegal performance-enhancing drugs definitely has a direct connection to your business. Gambling, more importantly gambling on your sport has a

direct effect and impact on your product and your business. So why is it that this has such a direct impact on their business I think is the first question to explore.

And we seem, I think, to come to a conclusion or society seems to think that it's a problem that's gotten way out of hand. And I'm not so sure that it's gotten way out of hand if you look at statistics over the years. I'd like to see some data first that there's just way out of hand, off-field misconduct taking place.

I mean, you can think back to 2000 with Ray Lewis, and I've got a whole list of guys in an article here if you want me to give them to you that have been convicted, actually arrested and convicted with violent crimes. And the League has traditionally taken a stance that, hey, there are some problems with this. There are a lot of factual issues. This might not be our arena. There's labor law involved where this is something that obviously the unions have to agree to.

And in this context what's happened just recently with Pacman which is interesting is that the new Commissioner basically said—I mean, he was very smart to do this—got the acceptance of the union through Gene Upshaw and a committee of six players and talked to them, and they all said, yeah, that sounds good. Discipline these guys for—do what you want almost was the message. We need to do something about this. Do what you want, which is almost a change. I have not seen that before from the stance of a union.

**MR. ROSE:** Because I think they see that their livelihood could be affected by this. If the image is sullied, the public acceptance of it then can go down.

I'll give you an example. When was the last time any players from the National Football League were suspended for gambling? It was 1963. It was Alex Karras and Paul Hornung. When was the last time that anybody had been suspended for gambling since then in the NFL? It hasn't happened.

So they brought the hammer down hard on two of their star players, and they solved that problem, so up to this point.

**MR. KARCHER:** Yeah. But I guess what is an interesting question, though, if you look at it from the players' standpoint, if one of your players is in that position and is being subject to a disciplinary action, what is your role technically as an attorney to represent that person?

I understand the League—it's their—the League can make whatever decision they want. They can decide that this is affecting our product or it isn't. I mean, that's their decision. They can want to discipline somebody for a year to send a message.

But the next question is, what should be the union's role, then, I guess in allowing that to take place or not to take place or have certain conditions upon it? What types of conduct are we talking about? What is defined as off-field misconduct? I think that's an important question. If the Commissioner gets to decide what it is, is that a little bit too discretionary on his part?

When John Rucker says all these—makes all these racial slurs in New York against New York fans and the New York Mets, against New York Mets players as well as his own teammate, we hands down can say that that is something that is detrimental to the product. But who gets to decide and define that, what constitutes off-field misconduct?

**MR. ROSE:** Is it the owners because it's their product, and then by proxy is it the Commissioner because he is their agent?

**MR. KARCHER:** Well, labor law would tell you that typically just cause is the standard for disciplining a player, and typically under a just cause standard, you tend to look at or arbitrators tend to look at precedent, what did somebody get disciplined for in this type of situation, what was the sanction, how long was the suspension, and then looking an eye towards rehabilitation with that player, a progressive disciplinary structure with that player. If they've been involved in misconduct before, well, then, let's make it stiffer this time and gradually get more stiffer with the player.

This was a situation where this was unheard of, a one-year suspension. It's never been that long before. They just decided to implement this policy and make Pacman, like somebody said already, almost an example of, hey, we're not — this is a message to the players that this will not be tolerated. Is that appropriate when you're talking about one individual who now has to take the brunt of all this. and he's now—he can't play for an entire year? And somebody at one of the other panels, I think you said that the average career length for an NFL player is three years. That's pretty damaging of a disciplinary action.

**MR. ROSE:** Anybody else on the panel want to weigh in?

**MR. SHUKIE:** What I think is interesting, and you alluded to it, Rick, is where do you draw the line of where why are we regulating even these off-field actions if it's not directly related to what happens on the field. And that is actually where the NCAA as the national association has drawn the line.

So we don't regulate if a guy gets a DWI or if he's involved in a nightclub shooting. The school will generally do something about that. But from a national perspective, we don't put our hands into

that. But we do get involved with gambling violations, with agent relationships.

And also, people will say, well, they're not—student athletes are just athletes. But also the minimum academic standards, what's happening off the field on that end, so make sure they're actually getting credit for courses and that sort of thing.

So we as an association have taken that stance where the schools and the ADs and the presidents have not wanted to give the power of discipline on off-field actions that don't have anything to do with sports to the NCAA, and they want to deal with it on a more local level.

I think it's easier, and I think this gets back to what we talked about earlier this morning, it's easier for the NFL with 32 teams to actually levy discipline because they know the players so well, and they can actually just from a logistical perspective it's easier for them to keep track of who's being arrested and where and why.

But I think with the NCAA, it maybe doesn't get as much flack when a student athlete is involved because the schools are the ones who are charged with providing that discipline, and they generally do a pretty good job of it. But that's just my personal opinion.

**MR. CORDELL:** What happens in the NFL, it's not a surprise to teams when players like Pacman Jones get in trouble. Guys are known as drug guys or—NFL teams know a lot of information, background information on the players that come into the League, who they hang out with, what they've been arrested for in the past. I mean, they know about high school stuff. They do a lot of research on these guys, and it's not a surprise when these guys get in trouble with authorities.

What I can't believe, and this is one of the things I mentioned earlier today is that there are moral clauses in every coach's contract, and it's one of the things that I really try to negotiate. These guys are humans, and they are going to make mistakes. But one of the things that is in most contracts is that you just have to be charged—you don't even have to be charged but you have to be associated with a crime. That's what we're seeing with Pacman. He hasn't been convicted of anything, and yet he's getting suspended for a full year giving up—I think his salary is 1.6, something like that, million dollars, and he's not allowed to work out with the team.

So I kind of look at what happened to Maurice Clarett, and you see where he is at this point in his life. Okay, he made some mistakes. But had the NFL not come down and try to make an example out of him for challenging their rule, he could have gone to fight in Iraq but

couldn't go play in the NFL. he wouldn't have been in a situation where he needed to take—or wouldn't have been susceptible to taking money from a gangster out in L.A., that sort of thing and gotten involved with what he did. It doesn't excuse his actions, but I think when these guys who their whole lives, especially the athletes, the young athletes, like a Pacman Jones, he's only been in the League for two years, or Clarett, their lives have been football. They've been told you're the greatest. You're the best ever, et cetera, et cetera. When you take that away from them, even when guys who've had a ten-year career and are more mature, they have a real hard time not playing football. They have a hard time giving it up.

And to take it away from a guy for something—punishing him—Pacman Jones isn't going to be able to visit his team facility or work out. The likelihood of him getting in more trouble, in my opinion, just greatly increases when you suspend him for a full year.

**MR. ROSE:** Well, is it a character issue, then? Is it a societal character issue? Because in my 35 years doing sports in Berlin, Germany; Providence, Rhode Island; and Syracuse, New York; and 25 years here in Chicago, I have noticed a perceptible drop in the level of character of many of these athletes.

Is it part of our society, I mean, to the point where some of them are just plain disrespectful of everything? Is it because they've been given so much so fast? Is it because we live in a society that is so celebrity and monetarily driven that it drives them, as you said, they get all these things and they expect these things, to act in the ways that they do?

I mean, in some cases—let's just take Tank Johnson's situation. I could excuse one or two times with the gun situation but three times? And after the second time you go with your best friend, who is going to take the rap for you for the guns, and you take him to a nightclub, and he gets shot in front of you, and you run out. I mean, at some point in time, it's got to stop.

And perhaps maybe I'm overblowing the situation, but desperate times deserve desperate measures. And I think that's why the Commissioner has answered this question the way he has in the treatment of Pacman Jones and Chris Henry.

**MR. CORDELL:** But I think—Rick mentioned earlier he'd like to see some statistics. I'd like to see what—we're talking about 1,600 men from ages—in the NFL at least from ages 22 to, say, 35. I wonder what the statistics are for the general population of males that age group who get in trouble with the law and that sort of thing.



We hear about Pacman Jones, but he's 1 out of 1,600. I think it's a real small percentage of guys who actually do get in trouble.

**MR. KARCHER:** I pulled out this article from my files. It's a 2000 article from the ABA Journal. It's actually really interesting to read it right now in this time frame of 2007 because they were kind of complaining about it then, too, all of the off-field misconduct in 2000 even. And here are a sampling of the recent headlines it says.

First, they talked about Ray Lewis when he was charged with murder, and his sentence got reduced or whatever. Carolina Panthers' wide receiver, Rae Carruth, charged with murder in the shooting death of his pregnant girlfriend. Green Bay Packers' tight end, Mark Chmura, 31, arrested in April on a charge of sexually assaulting his 17-year-old babysitter at a prom party. Florida State wide receiver, Peter Warrick, a stand-out college football player charged in October with grand theft in a scheme in which more than \$400 worth of clothing was purchased for 21 bucks. Charlotte Hornets' guard, David Wesley, who was charged with reckless driving and drag racing in a January car crash. Dallas Stars' goalie, Ed Belfour—it goes on and on. Arizona Diamondback's pitcher, Bobby Chouinard, whatever, however you pronounce the last name.

The bottom line is I think that I want to see some statistics that it's out of hand now and what is—because the Commissioner's stance back then was that he didn't feel it was an image problem at that point. And at that point in time, they were basically suspending players for a couple games or whatever. And it's just a different—it's just a different view I think today. Maybe a new Commissioner has something to do with it.

But some of the problems that I see are, as we just said, he hasn't been convicted. There are due process issues here that while—some things to consider. There are a lot of factual issues. We don't know what took place there. The Commissioner doesn't have subpoena power. All he did was his own investigation and came to a conclusion that Pacman should be suspended for a year. He doesn't have the ability to bring in witnesses to compel testimony.

And conversely, now, in the criminal charge with Pacman, the State now can subpoena the NFL and get their internal investigation and possibly use it against him in the criminal lawsuit. I think that's another factor that probably should be thought about.

What are the appeal rights when the Commissioner did this? My understanding is that the appeal right is to go to the Commissioner again for a lesser sentence.

**MR. ROSE:** Right, after ten games and if you've shown good behavior between now and the tenth game of the season. Now, Pacman took a step toward that. He's going back to West Virginia, to Morgantown, West Virginia to try to finish his degree. So maybe that's part of the process of him cleaning up his act, so to speak.

**MR. HAM:** While we're comparing eras, too, by the way, one factor to keep in mind is that I think that in years past, and by that I mean more than 20, maybe even back into the '50s when the Yankees were in their heyday with Mantle and Berra and those guys. When athletes got in trouble then, it got swept under the rug.

**MR. ROSE:** Yes, it did.

**MR. HAM:** You can't say that those wild and crazy nutcases who made up the New York Yankees in those years didn't get into trouble on a daily basis. But it all got swept under the rug, and everybody was happy with that. They played the game.

**MR. KARCHER:** They didn't have Fox News back then —

**MR. ROSE:** Or MSNBC.

**MR. KARCHER:** —to put Babe Ruth every night with his women and drunk or whatever —

**MR. ROSE:** All overstuffed with hotdogs and beer.

**MR. KARCHER:** Exactly.

**MR. ROSE:** But it was sophomore stuff where they'd go to a bar, you know, Mantle and some of his—Maris never went. Maris went back to his hotel room. But Mantle would go with his friends to a bar, and the baddest thing they would do is pick up the waitress and hold her over their head and pass her around and then put her down and have more beers or whatever, nothing criminal. They weren't pulling out guns and shooting people or doing some of the stuff—taking \$81,000 into a strip club to see what people were going to do and throwing it in the middle of the air, and somebody shoots somebody for it.

So it is a sign of the times. I mean, like I said, I did some general research and looked back in the '50s, the '60s, and the '70s, and there really wasn't much happening like it is today in the late '90s and in this century to where players were doing criminal activities.

I mean, the biggest one in the '90s that I could remember around here was Scottie Pippen had a gun on the front seat of his Range Rover, and there was a big stir made out of that. But because he didn't do anything wrong with it or whatever, nothing happened.

**MR. KARCHER:** Well, I think it's—if there's a conviction, I don't think there's a debate. It's all speculation—I mean, it's all allegation

is what it is at this point. He hasn't been convicted of anything. And the old policy was with the NFL that they had to have a conviction or its equivalent really under —

**MR. ROSE:** Now I think it's—in the player's contract it is charged or questioned about it. And with Pacman, it wasn't one or two times. It's been ten times. There have been ten situations that he's been in over the last two years, and I think that's what the Commissioner cited.

I really don't think that he's going to have much recourse because his attorneys haven't contested anything. They've accepted it, and they're going to move on and roll through it.

**MR. KARCHER:** I don't think there's much they can do, is there? What can they do would be the question.

**MR. ROSE:** What you just said, there's no conviction here so —

**MR. KARCHER:** What would they do, though? My point is, is if the union agreed to this process, which they have, the new Commissioner got the consent of the union as well as the advisory panel of six players, whoever those six players are —

**MR. HAM:** Is that really binding, though? It's helpful but is it binding? Do those guys really change the rules just by saying, okay, it's all right with us?

**MR. KARCHER:** Well, it's the equivalent of actually—yeah, it's the equivalent of actually having a collective bargaining if they've agreed to it, you know, they've consented to it. It would be hard for the union or whatever to say —

**MR. ROSE:** But wouldn't they have to have a union meeting and have all 1,600 members vote on it?

**MR. HAM:** Yeah.

**MR. KARCHER:** Now, that's an interesting question.

**MR. HAM:** Right. I mean, they can all sit around and say we agree with it, that's fine, but —

**MR. ROSE:** Well, see, the sad thing is that what a lot of people don't know is that all the players in the League were polled. I think 80 percent of them responded, and 80 percent of the 80 percent that responded said you've got to be harsh with this. We've got to in effect save our game. So if we do have a meeting, let's go to Las Vegas and have one. No, not Las Vegas. Let's go to Denver and have a—they did have a League meeting in Las Vegas many years ago, an association meeting. But if they did, the vote was going to be he was finished for that year. They were going to—the players were going to vote that if the players union backs it up more than 50 percent, so he's done.

**MR. KARCHER:** Yeah. I mean, it would be very difficult, and I don't know what grounds Pacman would have to challenge this because if the union signed off on it, the union is speaking on behalf of all of the players as a whole.

**MR. ROSE:** Right.

**MR. KARCHER:** And so no individual is—I mean, with the exception of maybe a breach of the duty of fair representation. It's a very difficult standard to meet. He would have to show that what the union agreed to and how he was treated was arbitrary, discriminatory or in bad faith, a very difficult standard to meet here or in any situation.

So I really don't know. The usual alternative or right of recourse is to appeal, appeal the decision, and in football the appeal goes to the Commissioner. In baseball the appeal would go to a neutral arbitrator.

**MR. ROSE:** Right.

**MR. HAM:** You can file a lawsuit, though, once you get done with that.

And I think the best argument is the arbitrary one. For the same reason that Latrell Sprewell, although it was an arbitration, got his one-year suspension reduced to most of a year arbitrary.

**MR. KARCHER:** I see your point there.

**MR. HAM:** Like, the Commissioner just makes this up. Pete Rose actually had his case against Bart Giamatti won on the basis of prejudging Pete's case, but he had to back off because of a whole lot of other things that happened. So it's possible.

Having said all that, though, I agree with the 80 percent of the 80 percent. They probably really ought to be doing something. You're in the entertainment business.

**MR. ROSE:** Right.

**MR. HAM:** It's not like any business, and it's analogous to movie stars or TV. If a late-night talk-show host were to be deemed a child molester, he's probably going to get fired from the show even though it has nothing to do with his performance on the show. So the image kind of changes the perspective here a little bit.

**MR. ROSE:** Here's a very interesting question now to take it one step further. What happens if the Commissioner only suspends Terry Tank Johnson for four games or eight games and not a whole season? And here's a man who has been convicted, is in jail, what happens? Does Pacman Jones then come back and say, wait a minute, I've never

been convicted of anything and you sent me down for a year, and you gave him four games or eight games?

**MR. KARCHER:** Yeah, I think that's exactly what—that would definitely strengthen his argument that it's arbitrary at that point. I think, though, that the Commissioner is setting a precedent here. It's just that he jumped so far to make it a year, and now it's like here's the starting point. I'd be surprised if Tank got less than a year.

**MR. ROSE:** Would you agree that perhaps he would give him a year, maybe more?

**MR. KARCHER:** Yeah. I think that arguably the starting point could be a year's suspension. It would be hard to go less—as you're saying, it would be hard for him to go less than a year.

**MR. ROSE:** Well, then I'm going to win a ten-dollar bet with Jeff Blanzky because Blanzky thinks —

**MR. KARCHER:** That's all you bet was ten dollars?

**MR. ROSE:** He thinks it's going to be four games. Well, what I did was I was so sure, knowing I was coming to this panel today, I was so sure that I would win that I gave him ten-to-one odds.

**MR. KARCHER:** Oh, boy.

**MR. ROSE:** So if he wins, it was a hundred dollars I had to give him, but I'm going to get ten bucks.

**MR. HAM:** The Commissioner's knee-jerk reaction might have put him in a hole a little bit, though, because, right, now where does he go? If the standard is one year for whatever Pacman's conduct was, what do you do with a guy that's convicted of a—now you're stuck with it.

**MR. KARCHER:** If Pacman appeals to the Commissioner, he could always say, yeah, I was a little harsh and reduce it or whatever.

**MR. ROSE:** And change it.

**MR. HAM:** By the way, you can take the Commissioner's argument and use it against him, too, because by making this statement that he wants to send this big loud message, it doesn't take much to twist that a little bit, and what you hear is, yeah, guys, I am stepping out of the norm, I did make this up on the fly, and I do have a motive other than just disciplining that guy. And so it sounds arbitrary. He's announcing it's arbitrary. Yeah, I made it up. Here we go.

**MR. ROSE:** The only thing is the Commissioner never said that. It was news reporters who came on, people like me, who said this is a message that the Commissioner is sending, and so the general public interpreted it as the Commissioner said that this is the message.

**MR. HAM:** That's actually a good point. He didn't say it.

**MR. ROSE:** He did not say it, and he's a very smart man. He obviously wouldn't be Commissioner of the National Football League after Paul Tagliabue without being a smart guy. By saying this is it, and there are going to be no questions about it, goodbye, and that's what he did. So it's a very, very interesting dynamic.

**MR. HAM:** They do sometimes trip.

**MR. ROSE:** Yeah.

**MR. HAM:** Twenty years ago I had a case representing Richard Dent against the NFL. Dent got suspended for refusing to take a drug test. The long and short of it was when the NFL, with all the lawyers that they hired, had implemented their drug policy way back when, they forgot to read their own bylaws. The NFL bylaws said you could never ever suspend a player without a prior hearing. And when they implemented the drug policy, it said you could suspend a player without a hearing on a second violation, et cetera, et cetera. And so they didn't mesh, and Dent ended up winning his case because of that. Now, I imagine they fixed the —

**MR. ROSE:** Yeah, they changed the wording.

**MR. HAM:** But just because they do this stuff doesn't mean they can't make mistakes, and they do. They trip over these things once in a while.

**MR. CORDELL:** We talked about this being a knee-jerk reaction and maybe the League needs to act respectively.

I don't know if you guys are aware, but the League does in association with the Players Association, they do a rookie symposium each year for all the incoming rookies in the NFL, and they send them on I think it's a three- or four-day trip. They usually do it in Southern California where they do—they have a lot of speakers. A lot of former players come in and talk to them. They do kind of role playing, and sort of, hey, here's some of the situations that you're going to encounter as a professional athlete and here are ways to deal with them. I know they've been doing it for probably eight or nine years now I think.

So there are steps that the League and the Players Association are taking towards preventing some of these issues, and that's one of them there.

Also, every team now has, what do they call them, a player development person on staff which is not a coach. It's not an administrator. It doesn't have any say over who gets hired or fired. He's basically a liaison between the team and the players hoping that he can be someone who can help out in situations, be a friend to the players, maybe

not somebody who is going to rat on them for what they're doing but be an advisor to help them out. And every team now has one, and it's only been over the last few years that teams are starting to hire these guys. But now every team in the NFL at least has what they call a player development guy that kind of keeps track of the players and what they're doing.

**MR. KARCHER:** Do you really think that this off-field misconduct really does hurt the image of the product? I mean, does the fan really care so much?

**MR. ROSE:** I think if your team is losing, yeah.

**MR. KARCHER:** Thank you.

**MR. HAM:** Yeah, you're right. That's true.

**MR. ROSE:** I think if your team is losing, yeah.

**MR. KARCHER:** But if your team is winning, do they really care? I don't know.

**MR. ROSE:** Well, let's talk about the situation in San Francisco.

**MR. KARCHER:** Okay.

**MR. ROSE:** And say what you want to say about Barry Bonds, but from the information that I have and the information that leaked from the Grand Jury, he has done steroids to get where he is to hit however many home runs that he has done. Victor Conte testified that the substance that was in the cream and the clear was a steroid-based product, and Barry Bonds has admitted under oath that he took the cream and the clear.

Now, here is a guy who is going to maybe in the next three or four months, he's only got 20-some home runs to go, 22 to break the greatest record, the most revered record in all the sport, and that's the home run record.

Hank Aaron has already gone on record, and he's been very diplomatic about it and said, no, I will not be there to see him do this, when in the past other home run kings—other record breakers have had the person whose record they're going to break in the stands or whatever. Obviously Hank didn't because Babe Ruth was dead when it happened.

But in this case, Barry Bonds has come under such public scrutiny, and in San Francisco they still think he's a God even though we know he took the steroids because he has admitted so.

**MR. SHUKIE:** I think if it was Ken Griffey, Jr., though, let's say he was breaking it, they would get a much larger national audience. People in San Francisco still love Barry because he's in San Francisco. But I think if Barry decided to sign with someone else, you'd see a lot

of people turning coats, and they wouldn't like Barry anymore. But now he's on their team, you root for him.

But MLB will lose—they would have made a lot more money if it was someone else. And if someone else breaks it, in five years let's say A-Rod keeps playing at the pace of breaking it, and there's not the allegations surrounding him, which maybe there will be some day—this is coming from a Red Sox fan.

**MR. ROSE:** Okay. Now we know why.

**MR. SHUKIE:** I think they are going to want someone to break Barry Bonds' record as soon as possible.

**MR. ROSE:** Exactly.

**MR. SHUKIE:** Because they're not going to get the same amount as they got when Cal Ripkin broke Lou Gehrig's record. That is going to get a lot more positive air play. This is negative. It's going to be a black mark, I think, until it's broken which I think won't be that long.

**MR. ROSE:** So what do we do as a society, what do we have our legislators do to stop this I'm calling it a nosedive right into the abyss of lack of character that has happened in sports? Because that's what it's been. What do we do about that?

**MR. HAM:** I'm not sure it's legislators, and it might be some function of what's starting to happen just if it happens in a little more of a measured way. But the leagues are going to have to understand that the tarnish is on them. Eventually that will go to the image and to the bottom line and all the rest of it, and it probably does need to get cleaned up.

And even if it is technically the same, if you look at the numbers and you make the case that it's no different than 20 years ago, in my opinion it's still not acceptable, and it's still susceptible to turning the audience off.

A little bit like, I think I alluded to this this morning just in passing, but in the 1970s, the NBA was where these leagues don't want to be, where the public perceived it as just a big mess of thugs that they wanted nothing to do with and didn't go.

**MR. ROSE:** And drug addicts. That they were just guys who were just coming to the games high on marijuana or whatever, and that's all it was perceived as. And how did they turn that around? They changed their image around. Along came Bird and Magic. Dr. J had been there all along, but because of the image that they had, they couldn't bring his goodness out. And then after that came Michael Jordan, and it went from here to the stratosphere.



**MR. HAM:** Plus a tough Commissioner who kept everything under control.

**MR. ROSE:** Right. Yes. Larry O'Brien started it, and David Stern finished it.

So that's where it comes to. I think it really does lie in the hands of the people who control the game, and that's the owners because the owners hire the Commissioner. Whether you want to agree with it or not, the Commissioner is nothing more than a tool for the owners.

**MR. KARCHER:** Well, I mean, what makes it complicated when you bring up the legislation piece of it, I mean Congress got involved in the steroid issue and probably more than they should have.

I think that what's complicated by this is the labor law aspect, and it does work. The system works. I mean, you've got the League negotiating with the union over what steroid policy is going to be in place. You also have the ability of the Commissioner to act in the best interest of the game, which Bud Selig has done by hiring an investigator, former Senator Mitchell, to get involved in it, and we're all waiting for those results. And maybe Barry won't be able to finish his home run

**MR. ROSE:** Does it seem like they're delaying it until this thing is over?

**MR. KARCHER:** I don't know. I'm not commenting on that entire piece. I'm just sort of throwing it out there. But that Bud Selig does and has—you know, is acting in the best interests of the game by doing that. And I think the system is working okay. I think that this other area of off-field misconduct, which is less connected to the sport itself when somebody is involved in a bar fight or whatever it is, it's not as connected as performance-enhancing drugs are.

And in any of these situations, you can't just jump to the conclusion that the person did it. I mean, they deserve their day in court. However that fairness as best as it can be taken place in the League setting, that needs to work itself out I think.

**MR. ROSE:** In college sports, as you mentioned, the NCAA lets the teams decide what kind of punishment is going to take place or so on and so forth. Many of these players who are pros come from the colleges. With the exception of the Jamar Smith thing that happened down in Illinois, which was an auto accident, and I believe that the kid was — maybe had one or two beers or whatever it was and got confused, you don't really hear that much about college athletes getting into trouble.

**MR. CORDELL:** I think you've got the Duke case.

**MR. ROSE:** But what was that?

**MR. CORDELL:** And look at what happened to those guys. I mean, you were talking about a conviction. I mean, these three guys, look at their lives. Everybody knows who they are as being the guys, regardless that it's thrown out now, they are the guys on the Duke lacrosse team who were involved in this incident because it became national news. I mean, how much have they lost? It's hard to quantify that because they're college athletes. But obviously they've been damaged, extremely damaged and thrown off the team immediately when —

**MR. ROSE:** How about the coach?

**MR. CORDELL:** Well, and the coach as well.

**MR. ROSE:** Does he have a civil lawsuit? I mean —

**MR. CORDELL:** I know he's up at Bryant College now in Rhode Island.

**MR. ROSE:** Yeah. But, I mean, does he have some sort of—he did nothing wrong. All he did was coach these guys, that's it. He did nothing wrong, and they dismissed this man. What happens to him now? I mean, he does have another job, but I mean, being the coach of the Duke Blue Devils and the Bryant University Eagles or whatever they call themselves, that's a different —

**MR. CORDELL:** Well, actually, what most coaching—I mean, almost every coaching contract the team reserves the right to fire without cause, so they can fire you. You just walk in and that's what happens. Most of the time you get fired for losing.

**MR. ROSE:** But you get your contract paid.

**MR. HAM:** But that's cause.

**MR. ROSE:** He did not get his contract paid.

**MR. CORDELL:** Right. And what his argument can be is that he was fired without cause at this point and try to get—now, he's got to mitigate his damages, which he's done now by taking another job. Obviously he's probably not getting paid at Bryant what he was at Duke.

**MR. ROSE:** Right.

**MR. CORDELL:** But that's where he would be able to come out.

**MR. ROSE:** And his reputation has been damaged, and that's priceless.

**MR. CORDELL:** Yeah. It's what happened to Mike Price at University of Alabama as well talking about college. If you guys aren't familiar with that, he hadn't actually—and this is what happens a lot of times in college athletics especially in football. Teams will hire a

coach, but because it's recruiting season, they'll send the coaches out on the road, and the contracts won't get done until about now. I'm still working on a couple college coaching contracts as we speak.

So Price was hired as the head coach of Alabama. He gets—I don't know, was he convicted? I don't know. He wasn't even convicted. He was caught in a room with I guess a couple girls from the strip club and was then fired. And this is conduct detrimental to the University of Alabama. It made the program look bad according to the University of Alabama, and he loses out on what was agreed to be probably 30-some million dollars, something like that. And because he hadn't actually signed a contract, he didn't have anything in writing, he really didn't have much recourse. He filed a suit, but was it dismissed?

**MR. SHUKIE:** I think so.

**MR. CORDELL:** I think it was dismissed. But that's a situation where in my opinion his agent didn't necessarily do a great job. And as an agent, you've got to try to protect your coach as much as possible. And had he had a contract in place, he would have had some sort of recourse at least.

And granted, what he did, does that really affect his coaching ability or winning games, probably not. And probably—well, I don't know how old he was, 45 years old. I mean, how many 45-year-old guys do that same thing. It's just when you're under the scrutiny of sports, you're kind of held to a higher standard.

We talked about role models today. Just because the athletes and coaches are in the spotlight, do they really become role models? And I think when we deal with stuff like this, we hold them to that standard when maybe we probably shouldn't.

**MR. ROSE:** But don't we have a responsibility being given X amount of resources well and above and beyond what the average person would give to have a comfortable lifestyle? I mean, we see this now in MTV with the homes. I can't remember the name of it.

**MR. CORDELL:** Cribs.

**MR. ROSE:** Yeah. What's the name of the show again?

**MR. CORDELL:** Cribs.

**MR. ROSE:** Yo, MTV Cribs, okay. And you see these guys living in the lap of luxury. Don't they have a responsibility to society to maintain some sense of decorum so that we can continue the society to go on as a whole?

**MR. KARCHER:** That's too subjective.

**MR. CORDELL:** Yeah, I think that is. Just because somebody makes money doesn't mean that they need to be a different type of person.

The way we always look at the money thing, like I mentioned, people were more upset with T.O. because he wanted more money, and I think it's sort of a double standard when you go from labor to the teams.

In the NFL what happens every year is that teams will come to a player who is set to make more money this upcoming season. If he didn't perform up to where they wanted, they're saying we're going to cut you or require you to take less money. And the player has the decision, okay, either I take less money or I'm going to get cut.

Well, T.O. did the same thing that teams do every single year. He outperformed his contract and said, hey, you're going to pay me more, or I'm going to sit out. Well, nobody wants to hear that argument.

**MR. ROSE:** Right.

**MR. CORDELL:** Every fan is fine with the team. Now, where does that money go? Is that money going to reduce ticket prices? No, the owners are going to keep that money. Ticket prices are—every ticket—every NFL team has their salary cap covered before they sell one ticket. It's covered by the TV, the national TV deals.

So it's naive to think that this money would come back to the fans in some way. Either the owners are going to make it or the players are going to make it. And as a union working for them and working for the coaches, what we always try to fight for is what's fair.

You know, if Bill Gates goes out and the product he creates generates billions of dollars, if he created it, does he have to only take one percent of that because he generated so much money? No. I mean, he deserves to make what he makes. And that's kind of—and I don't think just because you make more money, you're held to a higher moral standard.

**MR. KARCHER:** But what's interesting is that the reality is that the general consensus in the public is that these guys make too much money to be playing a sport that is fun, and, oh, on the side, they're getting in trouble, too. What's wrong with these people? Maybe it was when they weren't making this kind of money, we didn't feel that way as much.

**MR. CORDELL:** That's true.

**MR. KARCHER:** Maybe back in the day with Babe Ruth and Ty Cobb and all these guys, you know, they don't make much money.

They've got a job on the side, too. We don't feel sorry for these guys. They have stresses. Go out and party and do what you want.

This general theme of athletes make too much money carries over into everything. You can read court cases where a player is suing for violation of their right of publicity, and the court comes out, for example, with Tiger Woods and says, well, he doesn't have a right to some guy—I'm getting off the subject here, but it's this money thing. The court actually comes out and says, well, he doesn't have a right of publicity here when somebody is selling a painting of him because he makes a lot of money in so many other ways. Let this painter have some money. I mean, what does that have anything to do with anything in terms of the law or why we should decide whether he has a right of publicity in his name and likeness in a painting of himself.

**MR. HAM:** That's a good point. The money isn't technically relevant, but because of so much money and the public's perception of it, it makes that image issue more fragile.

**MR. KARCHER:** No question.

**MR. HAM:** So they're less tolerant and quicker to pull the plug and quicker to be judgmental.

**MR. KARCHER:** Yes, that's right.

**MR. HAM:** And so that's why the League's image is a little more in danger now because they already have money issue problems with image anyhow, all of them.

**MR. KARCHER:** Right. And you combine it with the fact of being exposed to it—we talked about this on the other panel—24 hours a day. The Duke lacrosse case was in our face all the time in the press.

I don't want to pick on the NCAA here but —

**MR. SHUKIE:** We're used to it. It's fine.

**MR. HAM:** Go for it.

**MR. KARCHER:** What if the gambling statistics of student athletes were presented on Fox 24 hours a day? You'd be overblown right now. I mean, some of the statistics and the surveys that have come out with student gambling is mind-boggling. And you're talking about something that really affects the integrity of the sport.

I'm going to throw out some statistics since we've got some more time here, and we'll change the subject. Starting in 1996 the NCAA conducted an infraction survey. The survey revealed that 3.7 percent of student athletes reportedly wagered on games in which they played. 3.7 percent. This is a survey to the student athletes.

**MR. SHUKIE:** That we administered.

**MR. KARCHER:** Yeah, so he knows about this.

Furthermore, nearly 26 percent of student athletes indicated that they gambled on other college sports besides their own.

In 1996 the University of Cincinnati conducted a survey directed at student athletes that basically found the identical percentages, which is interesting, 26 percent and 4 percent of student athletes gambling on games in which they played.

The University of Michigan did a study, and it was worse. It revealed that nearly 72 percent of all student athletes had gambled in some fashion during their college career. When asked about betting on games in which they participated, providing inside information, or fixing a game, over 5 percent of male student athletes said yes.

Now, they don't have any incentive to lie, by the way, on that student athlete survey. If there's any incentive to lie, that number is inflated because they might be concerned that they're going to get trouble. I mean, they're definitely not going to say—it's definitely not lower than 5 percent. I think if anything, it's higher.

In 2003, to make it a little bit more recent, the NCAA conducted the most comprehensive study to date. The NCAA—it was a national study on collegiate sports wagering and associated behaviors. This was a huge study in which the NCAA requested data from 2003 individual sports teams around the United States. Basically 21,000 student athletes from all NCAA divisions were subject to the survey involving both Division 1, Division 2, and Division 3. The study showed that 35 percent of male student athletes reported betting on any sporting event which is a violation of the NCAA rules. 20 percent of student athletes bet on any collegiate sports.

According to the study, 2.3 percent of the student athletes were asked to affect the outcome of the game. One percent of respondents from the sport of football actually admitted to taking money to perform poorly in a game. 1.6 percent of student athletes in football claim they know someone who received money to play poorly in a game. Approximately 2 percent of basketball and football players were asked to affect the outcome of the game in return for money. Nearly 3 percent of student athletes reported giving inside information about a game in return for money.

Now, if that was reported on the news, I think the public would have a huge problem with this.

**MR. ROSE:** We did a huge story at Northwestern where Dennis Lundy had admitted that he had—or they found evidence with some of the other players that he had fumbled at the goal line against Iowa.

**MR. KARCHER:** That's right. I remember that.

**MR. ROSE:** And he fumbled at the goal line against Iowa and affected the outcome of the game and their season, the Wildcats' season.

**MR. KARCHER:** I think from a—I think it's understandable. I mean, these student athletes are not—unlike professional players, they're not making lots of money. There is an incentive obviously to make money especially an easy way. Why isn't that heavily scrutinized more than it is, and maybe you're going to tell us the answer.

**MR. SHUKIE:** First of all, we're doing a new study in 2007, so every four years we do it. But I don't think the numbers are going to go down, to be honest with you. I think if anything the general gambling is going to go up because of ease of access to Internet online gambling over the past four years. So I don't think we're going to see numbers go down in that.

And I think—I live with those numbers. I've got those kind of in my head at all times, and I don't know why it doesn't get scrutinized more. I think people may have this idealistic view of college athletics that these kids are doing it — they're always doing it for the love of the game. Even when in the past two weeks there has been a point-shaving scandal that came out in Toledo football.

**MR. KARCHER:** Right.

**MR. SHUKIE:** The Don Imus thing, which —

**MR. ROSE:** Overshadowed it.

**MR. SHUKIE:** —overshadowed it, and the Final Four overshadowed it. I mean, it really hasn't gotten much play outside of the Toledo area and Midwest and Vegas. It really doesn't get much national news. And to me, it's huge. Maybe it's my bias.

**MR. KARCHER:** I think it shows the power of the press, though.

**MR. ROSE:** Absolutely. There's no question about that.

I mean, in the Imus situation, the Duke lacrosse players, the decision by the North Carolina State Attorney General was going to come down, and then the Imus thing happened, and every newscast in America on every cable station led with the Imus thing. And then, oh, by the way, the Duke lacrosse players. So you're right.

**MR. SHUKIE:** Yeah. On page 6 we had the point-shaving scandal. I mean, those numbers, you know, obviously they give me good job security but —

**MR. KARCHER:** So what do you do about this, then? What's the answer? This is difficult obviously to monitor, number one, and then enforce, number two.

**MR. SHUKIE:** I mean, what we do for monitoring, I talked about this last night a little bit, we actually work with people in the gambling

industry. That's something that is new since that study came out. The previous regime at the NCAA really saw any gambling—any sports gambling we're against wholeheartedly, and we'll support any legislation that's going to get rid of gambling on sports in Vegas. And Vegas said why would you want to do that? We're here to say we're the only ones who really have an idea of what's going on, and we know what happens with point spreads and whatnot.

And Senator McCain had actually put forth some legislation to make any sports gambling illegal anywhere in the U.S., and when that failed, I think the higher-ups kind of came to the feeling that, you know, Vegas is right. They're not going anywhere, so why don't we use them as a resource.

So we actually do work with them, and recently over the past one or two years, we actually have a company that we consult with who does monitor point spreads for us. They monitor where the money is coming in, why it's coming in. If a point spread goes a certain number of points in either direction, we find out about it. We know why. It may be as simple as the quarterback was found to be injured or there may be no explanation, and that's when we kind of get a little more nervous about it.

From enforcement, the good thing about gambling cases versus the other violations is that if you have a point-shaving scandal, it's not just an NCAA violation. The FBI is the one who broke the Toledo scandal. So you actually have law enforcement with subpoena power versus us without it. So from an enforcement perspective, *ex post* it's good when you actually have those people on your side. But it is difficult to prove.

And if you go back to the mid-'90s when Arizona State had a basketball point-shaving scandal with Steven "Headache" Smith, he actually scored his career high in the game that he was shaving points. It was a very difficult thing to prove. They watched the tape over and over again, and I've seen the tape. He scored 35 points. But at the end of the game, he lost by 7 instead of 9, and he made \$100,000.

**MR. ROSE:** Oh, my goodness.

**MR. SHUKIE:** But what happened was the first game it was just him and his campus bookie that were going to run it. And it was just them, and he made a bunch of money on it. The second time someone found out about it actually up here in Chicago, found out about it all the way down in Arizona. And then you get some criminal elements involved, and by the time they hit the fourth game, it was pretty much common knowledge within the organized crime gambling syndicate that they were going to shave points in this game, so everyone put



their money into it. So all of a sudden on a random Arizona State/USC Thursday night basketball game, they're getting more than they get for an NFL playoff game in money.

**MR. HAM:** Big money.

**MR. SHUKIE:** And so right like that, it sets bells and whistles off, and on the FBI comes in. And I think when that happened 10 years ago, even 12 years ago, the NCAA wasn't as well equipped as it is now to kind of react before that happens and get an earlier warning that it's going to happen or something's going on, something's fishy.

So we opened up lines of communication with people in Vegas, and the people in Vegas, they to the ends of the earth will say they're not involved in any offshore gambling, but they know what's going on out there, too. So we're not too naive to think that all of the gambling that happens in the world is happening in Nevada. I mean, it happens online and whatnot.

So it's definitely an up-hill battle, and it's so easy to get away with. And student athletes will see it. This is where our education comes in. As much investigation as I do, I go out and I do education. I go to the teams, and I actually go with FBI agents to the regional basketball tournaments and present to the teams there and say—you know, just give them a heads-up to avoid certain types of people. And we go before the season starts obviously, too, because it's not just going to happen at the Final Four.

So we give the education and let them know on the front end, hey, there's people out there who are betting millions of dollars on your games. Just be aware of it that it's out there. And they take the education pretty well, and I think with the Toledo incident, too, it's going to really bring home some of the education I try to give.

When I go talk to student athletes, they say, well, I don't know anyone in organized crime. I don't gamble. This won't happen to me. But it happened to a kid who went —

**MR. KARCHER:** I don't gamble?

**MR. SHUKIE:** Yeah.

**MR. KARCHER:** Seventy out of—what was the number—70 percent or whatever are gambling.

**MR. SHUKIE:** Well, 70 percent—that number was 70 percent that gambled. That included lottery tickets and scratch-offs I believe.

**MR. KARCHER:** Oh, it does?

**MR. SHUKIE:** It was 35 who gambled on sports. So the 65 percent are saying I don't do any of this, and a lot of people don't even equate the bracket pool or whatever.

But I'm going to say, well, this happened at a MAC football school which is about as low in Division 1 football as you can get. It's still on the board in Vegas. It was a guy who met a guy at a cell phone store, just happened to run into him. They recognized him as a football player, wined and dined him, and it happened to a guy who is just your normal guy on a lower Division 1 football team, so it could happen to you. So at least I can use that as education, and people will hopefully pay heed to it.

But I think when kids aren't making any money beyond if they get their scholarship paid, it's easy when they see it as a victimless crime. I don't have to lose. I just have to not win by a certain amount of points, and I get money, and I can do this and I can do that, and no one gets hurt. That's kind of the thought process, and it's hard for us to drill into that and say, well, you might want to remember that it's also a federal offense, and they lose track of that.

**MR. HAM:** How do you monitor the officials? That has to be a similar issue, right?

**MR. SHUKIE:** Officials really do affect the game more even. So we actually do background checks, criminal. We outsource for all the background checking on all officials who do any championships. So we couldn't do every single game throughout the season, but some conferences do, will do all the conference games as well.

But anyone who does hockey championship, baseball, now football bowl games and the NCAA tournament, that's when there's this—even if they have a large amount of debt, that's something that pops up because it generally can be an indicator of other things. So at least they're flagged, so we check them out.

**MR. KARCHER:** 3 to 5 percent, if that is a true number, and it's probably higher than that based on what I said earlier, two things I guess. One, there should be a lot of convictions or whatever you want to call it of this, and more importantly, how does that affect the public's image of collegiate sports?

As you said, it's viewed as the pure game, and if you've got 5 percent actually betting on their own team, it seems like a high number.

**MR. SHUKIE:** And I can't explain why that doesn't get more press.

**MR. KARCHER:** Yeah.

**MR. SHUKIE:** Around March every year we get press calling asking about the tournament, what we do with that. But those numbers are out there. It's not like we—we don't sit back and hide it. It's a public survey.

**MR. KARCHER:** Oh, no, it's right there.

**MR. SHUKIE:** When it came out I think in 2003, it got a little bit of buzz. And, wow, those numbers are high, and it's an NCAA survey. It's not University of Michigan or University of Cincinnati doing it. It's the NCAA with their I think it was 21,000 student athletes who took the survey.

**MR. KARCHER:** And why is the question. I mean, why does performance-enhancing drugs get more press than that issue right there? 5 percent or more are betting on their own sport.

**MR. ROSE:** I think because in performance-enhancing drugs the majority of it is in professional sports where people, they have a rabid feeling about their team. They pay a lot of money—I mean, not that you don't pay a lot of money to go watch a college game, but you're paying ten times more money to watch an NFL game in person than you would a college game.

And I think the celebrity aspect of it. There's so much publicity of professional sports that I think the people see it—is it part of our society that says—you know, a part of the human psyche that says we've got to see somebody doing wrong and then just jump on them? It could be that.

**MR. SHUKIE:** It's easier to see, too. You don't have to be a scientist to see Barry Bonds' head get bigger or Sammy Sosa. They actually literally, their bodies just got bigger. When someone's shaving points, the only people who really have any clue as to what's going on are the people who are gambling on the game.

**MR. ROSE:** Right.

**MR. SHUKIE:** And that's a fairly small subset—well, maybe not. It's a subset of the general population, and it's not a subset that generally wants to go talk about how they're gambling on the game if they're big-time gambling.

**MR. ROSE:** But I also think in this case here, especially with baseball, that home run record, that thing was—it's only been—well, Babe Ruth set it and then Hank Aaron broke it, and that's it. I mean, in almost a hundred years of baseball, that's the—and when you have perhaps maybe other athletes complaining about it, and perhaps maybe it was the Congressional hearings that have really elevated it because that was on for three or four days. It was carried on ESPN. All the major networks showed it. I mean, you could walk down the street and ask somebody about it, and they'd have an opinion about it. Whereas with college gambling, I didn't even know about the Arizona situation or the Toledo, and I'm in the news business. So I think it's this aura of celebrity that has to do with so much scrutiny on performance-enhancing drugs.

Look at the Tim Montgomery situation where he was part of the BALCO thing. I think he just pled guilty to some sort of loan fraud or something that was involved in all of that. So why didn't that get as much scrutiny as this Barry Bonds situation has been getting? It's sexy.

**MR. HAM:** And the gambling is one step removed from performance alteration. So performance-enhancing drugs by definition are altering some performance in some way.

The gambling is one step removed. If you have 80 players on a football team, 5 percent bet on their team, that's 4 guys. Maybe that's influencing what's happening. Maybe it isn't. Maybe they're all betting on their team to —

**MR. KARCHER:** I would say just the opposite. I would say it's more detrimental, gambling on your sport than performance-enhancing drugs. It's definitely going to affect the outcome of that game, whereas you —

**MR. HAM:** I don't think it's definite. The performance-enhancing drug by definition affected something, otherwise, it wouldn't be performance enhancing.

**MR. KARCHER:** Well, but that's speculation, though.

**MR. HAM:** I think what you're trying to say is that the harm could be greater, and I think I would agree with that if that's what you're saying. But I'm trying to explain why the public doesn't freak out about it more because it's a step removed. It's just not a direct correlation. I can see the correlation. I'm not arguing that. The potential is there. But the public doesn't seem to get bent out of shape about it.

**MR. KARCHER:** And I don't understand—I guess I don't understand that. I mean, Barry Bonds on steroids, if he did in fact take steroids, may or may not help him hit a home run in a particular game or not. He might strike out three times, and he might have hit the home run regardless of whether he was on steroids or not.

If Barry Bonds bets on his game, it's over. I mean, he made that team lose.

**MR. ROSE:** However, in Barry Bonds' case, though, he only has three opportunities, maybe four depending on how long the game goes at the plate to—and he's at a complete competitive disadvantage because it's the hardest thing in sports to do is to hit a round object with a cylindrical object, a bat and a ball.

Now, if he's out in right field—I mean, left field, and it's the bottom of—he's on the road, and it's the bottom of the ninth, and the Giants are up 3 to 2, and they've got two men on and some guy—men on

second and third and some guy hits a ball to him that he could easily catch, and he drops the ball and two runs score and they lose the game, and he bet on the game for his team to lose, then that's a completely different situation.

So I think it's a helluva lot harder. But in his role as a person who even though you've a right to your opinion that you say you don't know if he took it. I'm saying he did because he admitted it. He admitted it.

**MR. KARCHER:** No, I'm saying —

**MR. ROSE:** His performance is enhanced because from age 20 to age 31, Barry Bonds hit I think 302 home runs. From age 31, when your career is going down, when your physical gifts are going down as a hitter, he hit 400 and I think it's 27 home runs to date right now.

**MR. KARCHER:** Okay.

**MR. ROSE:** And the majority of those home runs came in the last five to six years, and he's almost—he's 41.

**MR. KARCHER:** There's a lot of players that are under speculation of having taken steroids. Barry Bonds on the spectrum is probably one that tends to lean towards he did it. Now, there's a whole bunch of players —

**MR. ROSE:** Now, wait a minute. Wait a minute, Rick. There's evidence. There's a woman involved that said man this guy had a satchel, and this is what he took.

**MR. KARCHER:** I don't know whoever the woman is, but here's the thing. He hasn't tested positive—whatever.

Here's the point that I wanted to raise. Also, the fact that maybe Barry Bonds and Mark McGwire in their later years happen to hit more home runs is because they have incredible plate discipline that they've gotten over the years. If you watched Mark McGwire in his younger years, he doesn't know what he was swinging at. He was swinging at balls all over the place and struck out an unbelievable amount of times.

The less you strike out, the more chances you have to hit home runs. And later on in your career—Barry Bonds has the most unbelievable eye at the plate I've ever seen. I mean, he is so disciplined. Nobody can touch him in that regard, and performance-enhancing drugs have nothing to do with that.

Cecil Fielder, you know how many times he struck out when he hit 51 home runs or whatever he did that year? Does anybody speculate that he ever took steroids? But I tell you right now, if he had Barry

Bonds' discipline at the plate, you know how many home runs he probably would have hit that year when he hit 51 if he —

**MR. ROSE:** He would have broke the record.

**MR. KARCHER:** He'd probably be in the 80s or 90s that season in home runs. So I'm not as convinced about performance-enhancing drugs in baseball, I'm sorry, as much as everybody else is.

**MR. HAM:** Of course, if you're on roids, you can slow your swing down a little and make contact better and still have enough power to put it over the wall. So there's always two arguments.

**MR. KARCHER:** Well, if you have a long swing and you're slowing your swing down with steroids, you're not going to hit the ball.

**MR. HAM:** I did notice—I mean, we're getting far afield here.

**MR. KARCHER:** We are.

**MR. HAM:** It's entertaining to argue. But Sammy Sosa's last year with the Cubs, I don't think outside of the movies I've ever seen anybody with such comical wild swings at pitches in the dirt. And I decided for myself that if he was on steroids before and wasn't then, he probably had to start his swing earlier. He probably had to make up for whatever was going on. Because I've never seen a guy swing at pitches to the feet and miss them by 2 feet as often as he did that year.

**MR. KARCHER:** I don't know. The philosophy used to be that you didn't want to be too bulky. I mean, it wasn't that long ago. In the late '80s I was playing, and there was the philosophy that if you got too big, that hurt you. You wanted to have longer limbs and more agility in your swing and smoothness.

I don't think any of this stuff can be proven in terms of what is the right answer. There are guys that are—I'm not so sure that the bulk is what allows you to hit home runs.

**MR. HAM:** I don't remember the stats, but if you look at how many 50 home run seasons there were, let's say, before 1990—something in Major League Baseball, it's a really small number. And then the ten years after that, it's six times that.

**MR. ROSE:** Well, Sammy Sosa is the only guy to hit 60 home runs 3 years in a row, okay. I mean, guys before, they just weren't as big. They just weren't. And now the theory about being too muscular or whatever to me is out the window because these balls are flying. They juice the ball up.

I think during the Sosa—after the strike and people got charged up with the home run craze with Sosa and McGwire, I think the ball might have been a little lively, but you've still got to make contact. And that ball was—I mean, Sammy was hitting 400-, 410-, 420-foot

home runs. McGwire was hitting them out of Bush Stadium. I mean, they were just gone.

**MR. KARCHER:** And the guy who has hit the most home runs ever, nobody is speculating whether he took steroids so —

**MR. ROSE:** It's about —

**MR. KARCHER:** Hank Aaron.

**MR. HAM:** He never hit 50 in a season.

**MR. ROSE:** Were they around?

**MR. KARCHER:** They guy who hit the most home runs ever that everybody is trying to beat apparently never took steroids.

**MR. ROSE:** Was it prevalent when he was —

**MR. KARCHER:** There were—not the level of steroids —

**MR. ROSE:** Right.

**MR. KARCHER:** —but there have always been things—drugs that people have taken, whether you're talking about greenies. Throughout the course of time, there's been performance-enhancing stuff.

**MR. ROSE:** Well, I mean, Babe Ruth 715 home runs. and we know it was alcohol fueled.

**MR. KARCHER:** So should speculation of steroid use take them off the Hall of Fame?

**MR. ROSE:** I would say no in Hank Aaron's case because they weren't as prevalent as they are today.

**MR. KARCHER:** No. I'm talking about all of the allegations of steroid usage. Mark McGwire, should he not be in the Hall of Fame because of it?

**MR. HAM:** Yep.

**MR. ROSE:** Well, I think in McGwire's case, it hasn't been proven that he took them. We can speculate all we want.

**MR. KARCHER:** It hasn't been proven that anybody has taken them.

**MR. ROSE:** Well, Barry Bonds admitted that he used the cream and the clear.

**MR. KARCHER:** Oh.

**MR. ROSE:** I'm sorry? Under Grand Jury testimony that was leaked.

**MR. HAM:** If you apply the Olympic standard, if you take anything intentionally, unintentionally, it gets in there by doctor's prescription, by accident or whatever, you're gone for two years. So, I mean, he's actually gotten a better run at it than most.

**MR. ROSE:** I think Barry Bonds will get in the Hall of Fame. If I had a vote, I mean, as much as I'd hate to do this, I probably would have to vote him in because he's an outstanding baseball player that I think steroids made even better. But without the steroids, I think he still could have been in the Hall of Fame.

**MR. HAM:** Yeah.

**MR. KARCHER:** So is that the standard that the voters, the writers should use? I've always questioned that.

**MR. ROSE:** I'm not sure. A lot of them use their own personal—a lot of them—like, in their dealings with the players, a lot of players that they've had very good dealings with, they'll be more apt to say, yeah, I'm voting for him. Or a guy like Steve Carlton, even though he did get in on the first ballot, there were a lot of baseball writers who just could not stand him, but they had to vote him in because of his obvious talent on the field. It has to do with what you do on the field, not with what you do in the courtroom.

**MR. KARCHER:** What do we have, 15 minutes?

**MR. ROSE:** Yes, we've got to get some questions in here. We're rambling on here.

Yes, young lady in the back, go ahead.

**SHELLYE TAYLOR:** Yes. To bring it back to a legal aspect, I was just wondering as far as—I know we've discussed the behavior outside and how the League should look at that. But what about just in general how the law seems to work in athletes' favor? Like, the things that they do that a normal person would do seem to always kind of—you were discussing someone had it was ten times, and just now it's going to go further.

I think that's a major problem that I see, just athletes in general. I don't know if they just have really, really good lawyers or that the law just says, well, you're an athlete, and for stars, too, you're an athlete, you're a star, whatever, we'll let this go, or the League has that much power? What's going on there?

**MR. ROSE:** Before we get to the legal folks that can talk about this, let's just talk about the Duke lacrosse situation. Reade Seligmann said he was shocked. He didn't know that this kind of treatment existed in America. I don't know where he's been, but he's talking about—and Reade said if I didn't have a mother and a father basically that had the money to provide me with a legal team to adjudicate this, I'd have been in huge trouble as if someone who did not, who had a public defender or couldn't afford a good lawyer.



**MR. HAM:** Just an observation. I think it looks like we used to underreact, and now we overreact. The underreact part is, for example, and this might be part of where your question is going, the free passes and the fact that the athletes don't hear the word "no" very often creates a lot of problems. That may have been behind whatever else you may think of the O.J. Simpson case. One of the things that came out was the cops were called all the time and they went out there all the time, and all the time they never did anything. So O.J. did get the idea that he was sort of above something without even getting to the point of whether he did it, didn't do it. He certainly got plenty of free passes.

Then you get now where people knee-jerk back from those kinds of days, and they see the lacrosse players. They're blown out before anybody even has a chance to say what happened.

So two wrongs don't make a right I guess is what I'm trying to say. Either one is detrimental.

**MR. ROSE:** I think, Rick, we were talking earlier, the media in this country over maybe the last ten years has really affected how the law is I don't know if decided or enforced or whatever just by the coverage that has been out there.

**MR. KARCHER:** There's no question. And it really is frustrating when I watch it on the news because the news has already convicted people in every form. They've already convinced us that this is what took place. And then we talk about it that, oh, I can't believe that happened, and we all just assume that they did it.

So part of my reaction to what your question is, is that how do we even know? Maybe Pacman should get off when he's tried and he's got representation. We don't know all the facts. We don't know anything about that night when he was there and what he did and what his involvement was or anything. All we know is that there was some sort of a fight there, and a gun went off, and that's all we really know. So we need to let the system work that out.

Now, the flip side is I do understand your point in that arguably athletes do receive a lot of free passes in society in a lot of ways that regular people in society do not, and we could go on and on. Even when they get admitted into college, there are breaks made for athletes with respect to their academics as opposed to being treated the same with all the rest of the student body.

Even when student athletes have been involved and have been charged with crimes and even been convicted and then come off probation, West Virginia recently admitted some guy in a school who had

actually served time. I guess—I mean, it's an interesting point. Why give them that free pass?

I guess the answer to it is that everybody deserves a second chance, too. Maybe this would be good for him that if he comes into a collegiate environment to get an education, the whole idea of rehabilitation and give him a second chance.

And I think schools a lot of time are caught in that balancing act of what do we do in this situation, especially with the pressure to win. I mean, get the best players out on the field, and maybe we can win and we can control this guy's behavior even though it happened in the past. We'll fix it. He'll be under our watch, and everything will be okay, and a lot of schools wouldn't even take him. We see those examples all the time.

**MR. CORDELL:** Yeah. I think the most important thing is if the team is winning, the fans are going to be happy.

Probably the most interesting night I've ever had in my career involved sitting around in a hotel room with a former Dallas Cowboy who was just relaying—he was in the glory days of the Cowboys in the early '90s when the teams were winning the Super Bowl. He said that Jimmy Johnson came into the team and told them that, fellas, if we win here, we can get away with anything in Dallas. We heard about the cocaine house and the prostitutes, yeah, that stuff happened. And he told me story after story about horrible things that guys did and just got away with because the police came in, saw who it was and swept it under the rug.

So what I think it comes down to is society wants winners. No college coach gets fired because he doesn't graduate enough players. He gets fired for losing. And I think our society is so focused on winning, that's why coaches get fired, and that's why players get cut, et cetera. And I think that's what it comes down to.

**MR. ROSE:** Any other questions?

**ELIZABETH MARTIN:** John, I know that the athletes have to sign some type of agreement before they can play as far as gambling and all those sorts of things. Do you ever prosecute the athletes based on those signed contracts?

**MR. SHUKIE:** Sure. And they have to sign an affidavit saying that they won't gamble on the games. But, I mean, when it comes down to it, they may be signing it along with other paperwork at the beginning of the season that they don't pay attention to.

But, yes, we've had cases where we found out a kid had gambled, and yeah, they had signed the affidavit. It's just another piece of the

puzzle. I mean, at that point that acts more as just a, hey, this is what the rule is so you know about it and you're put on notice. At the end of the day, if we have the evidence, there's a lot more that we have than just their affidavit. But yeah, it's more just to put them on notice.

**MR. ROSE:** Does the NCAA, though, prosecute them if they've broken that law by signing that agreement?

**MR. SHUKIE:** Right. The minimum — there's actually mandated minimum penalties. If you bet on your own team or a team at your own school and it's proven, you're automatically permanently ineligible to participate and still play athletics. You're done. The school, I guess if they wanted to, could honor your scholarship, but you couldn't participate.

So, yeah, there are penalties. Unlike most NCAA penalties where there's some kind of play in the joints, there really isn't on gambling. It's just flat out if you bet on your team or you bet on one of your school's teams, you're done.

**MR. HAM:** The question reminds me of another point. We could go down to the high school level. High schools do make an effort to regulate off-court, off-field conduct. Because in high schools they've got all kinds of rules. You're not supposed to be drinking, you're not supposed to do this, that, and the other thing. They can't enforce that really under school law unless you're doing it at school.

Except the high schools around here that I know of get all the students to sign a pledge. They sign something that says, yes, I agree that if I do any of this stuff, even if it's off campus on my own time at night, wherever, you can discipline me, throw me off the team and all the rest, which actually has started to beg new problems because of MySpace, YouTube and all that. You get pictures of kids doing just that, and then the next progression, you get fraudulent pictures of people getting put into situations where they really weren't there. Now what do you do?

**MR. ROSE:** That's another can of worms.

**MR. SHUKIE:** I think it gets back to a point you made earlier, Jim, about why don't we see all these scandals happening with college athletes. And one thing you hear a lot, and no one really follows up on it is so-and-so athlete is sitting out because they violated team rules. They never say what it is.

**MR. ROSE:** Right.

**MR. SHUKIE:** But he violated team rules. It could have been something like missing a meeting, or it could have been something where he did it very egregiously, but they for a number of reasons,

one, dealing with students' privacy rights, they don't say what happened. So colleges are very adept at kind of sweeping things under the rug.

But I think when you're on a college campus, let's say you're at—I'll throw Virginia Tech out there. I'm trying to think of a very rural place where you're really the only thing that's there, I still think you have a little bit of that Yankees and the '50s mentality where we're just going to—the local paper—I mean, the town is the university.

**MR. ROSE:** Right.

**MR. SHUKIE:** So we're not going to really call out the student athlete who got a D.U.I. We're not going to put that on the police blotter and put it on the front page. I think you still have some of that. It gets back to the idealistic point in my view.

**MR. ROSE:** I think we have time for one more question. Anyone? No, okay.

Gentlemen, thank you very much. It's been a pleasure. I enjoyed talking with you. Thank you.

(Applause.)

