

THE PENNSYLVANIA STATE UNIVERSITY
SCHREYER HONORS COLLEGE

DEPARTMENT OF LABOR AND EMPLOYMENT RELATIONS

HOW FAR IS TOO FAR: SCOPE OF COMMISSIONER DISCIPLINE OF PLAYER
MISCONDUCT

ALEXA AIN
SPRING 2018

A thesis
submitted in partial fulfillment
of the requirements
for baccalaureate degrees in Political Science and Labor and Employment Relations with honors
in Labor and Employment Relations

Reviewed and approved* by the following:

Douglas Allen
Professor of Practice, Labor and Employment Relations
Thesis Supervisor

Paul Whitehead
Professor of Practice, Labor and Employment Relations
Honors Advisor

* Signatures are on file in the Schreyer Honors College.

ABSTRACT

This paper analyzes the current system of Commissioner Discipline in the National Football League and recommends changes both the League and Players Association should make to the collective bargaining agreement (CBA) before negotiating in 2021. The ultimate decision-maker for the owners of the National Football League (NFL) at the bargaining table is the Commissioner, while the ultimate decision-maker for the players at the bargaining table is the National Football League Players Association (NFLPA). The current system of Commissioner Discipline in the National Football League for handling player misconduct accusations does not grant the players adequate due process rights, as it is a unilateral decision by the Commissioner of the League. This paper utilizes language from the other three major professional leagues collective bargaining agreements, as well as information from the two most recent player discipline cases: Tom Brady “Deflategate” and the Ezekiel Elliott domestic violence accusation. This thesis recommends changes in the collective bargaining agreement, specifically an alteration to Article 46: Commissioner Discipline. This recommendation is a three-person hearing board with a representative from the League, from the Players Association, as well as a neutral-third party, adding greater due process rights for the players, while not entirely eliminating the Commissioner’s decision-making ability.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	iii
Chapter 1 Introduction	1
Chapter 2 History of the Commissioner and Disciplinary Powers	8
Football	10
Baseball.....	16
Basketball.....	21
Hockey	25
Chapter 3 History of National Football League Cases within the Courts.....	30
Chapter 4 The Brady Case “Deflategate”	34
Chapter 5 Ezekiel Elliott Domestic Violence Case	40
Chapter 6 Where Do We Go from Here – How Far is Too Far?	46
BIBLIOGRAPHY.....	52

ACKNOWLEDGEMENTS

I would like to first thank the Schreyer Honors College for always encouraging me to step out of my comfort zone and pursue rigorous, but rewarding challenges. I would like to give special recognition to my many mentors and advisors who guided me throughout my entire Penn State career, especially during this challenging process.

I would also like to thank the School of Labor and Employment Relations for their support, as the faculty and staff have been an integral part of my Penn State experience. Every time I have walked into the office on 5th floor Keller Building, I have been greeted with smiles and questions about how I am doing. Writing a thesis can be strenuous, so having someone smile and ask how your day is going makes a large difference. I would like to especially thank both Doug Allen and Paul Whitehead for their assistance and guidance throughout this process of creating and shaping my thesis.

Lastly, I would like to thank my father for always encouraging me to shoot for the stars, and making my Penn State education a reality.

Chapter 1

Introduction

Founded in 1920, the National Football League has become the largest professional football league in the United States, consisting of 32 teams spread across the country. Football has become a staple in today's world, with a viewer having the ability to flip a channel at any time of the day and find someone either talking about or playing the game. Viewers spend hours analyzing on-the-field content, with the option to instantly replay every moment of the game. Throughout the past ninety-eight years, though, issues other than the rules governing the game have arisen within the sport. These issues often come from players being accused of committing acts of off-field misconduct, ranging from domestic violence and murder allegations to cheating scandals and everything in between. The organization in charge of helping the players embroiled in these controversies is the players union, also called the National Football League Players Association (NFLPA).

Created in 1956, the Players Association serves as the collective bargaining representative of the individual players, as a collective group. The association's purpose is to bargain over the working conditions, hours of work, and wages players receive. Both the Players Association and the National Football League come together to negotiate over these conditions during times of labor negotiations. The bargaining relationship produces a collective bargaining agreement, outlining the rules and procedures governing players, league officials, and owners. When the agreement is set to expire, it prompts negotiations over the rules and stipulations of the game. During times of negotiation, prior to the bargaining agreement expiring, the NFLPA

represents the collective interests of individual players in the league at the bargaining table. It must voice the players' concerns and opinions effectively to gain the best deal possible for them.

On the opposite side of the bargaining table are the owners' team of lawyers and negotiators, led by the Commissioner of the National Football League. Currently, Roger Goodell holds this position, being the ultimate decision maker for the league. The position of commissioner is voted on by the owners, without any input from the players. To become commissioner, one needs to achieve the support of at least twenty-two owners, a two-thirds majority (NFL Owners, 2006). Similar to the NFLPA, the commissioner seeks to achieve the best agreement for the owners, representing their interests to the fullest extent. Over time, the position of commissioner evolved from a position that served the players, fans, and the organization, to more of a CEO-like position over the National Football League, representing the collective interests of their team owners (Easterbrook, 2015).

Bargaining is not a simple practice. The process of achieving a successful agreement for all involved extends past conversations at the bargaining table. First, conversations within each separate organization need to occur to discover the priorities; this is known as intra-organizational bargaining. For negotiations to be productive, both sides need a balance of leadership, resources, and leverage. This thesis will analyze both the League's and the Players Association's use of these three variables and will put forward ways to strengthen them. Leadership is working with others to make something necessary happen that wouldn't otherwise occur. Gaining the support of your constituents is an excellent example of leadership. Resources are the assets used by leaders to create and exercise leverage. Two powerful resources are money and revenue, that can, for example, help an organization withstand a court case, as mentioned later in this paper. Leverage is the ability to make something happen despite opposition.

Sometimes leverage is seen as the most critical factor in negotiation, but without the balance of effective leadership, resources, and leverage, bargaining becomes more difficult and strained.

An issue currently facing the National Football League and the National Football League Players Association involves player misconduct and who should have the power to punish it. The process of how player misconduct is handled lies within each major sports league's collective bargaining agreement: the National Football League (NFL), Major League Baseball (MLB), National Basketball Association (NBA), and the National Hockey League (NHL). Each sports league grants its commissioner a certain amount of power in the deciding of punishments, a topic at the heart of this paper.

All of the professional sports leagues discussed in this paper have a union counterpart. Both the league and the players association hold allegiance to their respective constituents, creating a potential bias when deciding possible discipline for players. In each League, the commissioner wields power over discipline for conduct outside of the game. This creates some problems as the commissioner is the ultimate decision-maker for the owners. Some believe that despite this potential conflict of interest, the commissioner needs to retain his current power, as this is the only way to preserve the league's integrity. This idea of upholding the integrity of the game has been interpreted to apply to adverse actions against players for misconduct off-the-field. These actions may tarnish the reputation of the league, prompting the commissioner to get involved. Most of the time Roger Goodell's two responsibilities of representing the owners and upholding the integrity of the game would not conflict, but some specific player suspensions resulting from cases of extreme misconduct have upset both the players and owners. His decisions might affect how the public perceives the sport, but it also affects players' playing time, as well as the profitability of each team.

One largely publicized and criticized case of player misconduct handled by Roger Goodell has been publicly referred to as “Deflategate.” This nickname references the use of under-inflated balls during the 2015 American Football Conference Championship game, a violation of NFL rules. This game was the last milestone to conquer for either the Indianapolis Colts or the New England Patriots to play in the SuperBowl. Tom Brady and the New England Patriots utilized these illegal balls for the first-half of the game until an Indianapolis Colts’ linebacker noticed something was off. After an investigation, Roger Goodell ultimately handed Tom Brady a suspension of four games (Deflategate Timeline, 2016). Yet, it took Tom Brady over a year to fulfill this punishment, a result of multiple appeals and a court case. The National Football League Players Association supported Tom Brady throughout the entirety of this process, putting in time, energy and financial resources.

One kind of off-the-field misconduct recurring throughout Roger Goodell’s twelve-year term has been domestic and sexual violence. The National Football League has not been exempt from the #MeToo movement facing the nation. Many players over the years, such as Ray Rice, Josh Brown, and Ray McDonald, have been accused of committing domestic violence and have received punishments following an investigation. These accusations of atrocious acts tarnish the League’s image and pressure those in a position of power to punish any and all involved. This burden has created a negative culture in the League, with players sometimes receiving arbitrary punishments months after the original accusation.

The most recent player to be entangled in this type of scandal is Ezekiel Elliott, a running back for the Dallas Cowboys. Back in 2016, he and his girlfriend got into an altercation which allegedly turned violent. As a result, the league investigated, and he was given a six-game suspension. Again, just as Brady did in “Deflategate,” Elliott opposed his suspension with the

support of the Players Association for over a year and a half until finally accepting his punishment (Hardy, 2017). In November 2017, he withdrew his appeal and sat out for the allotted time, rejoining the team in late December. Again, this punishment by Goodell made many upset, especially Dallas Cowboys owner Jerry Jones. In the media, Jones advocated for altering the commissioner's power, creating more questions about the fairness of Goodell's authority. These are just a few examples of individual players speaking out against Roger Goodell's arbitrary punishments.

Lastly, some player actions that fall under the discretion of the commissioner occur on the field, but not during the allotted sixty minutes of play. Recently, players have been kneeling during the national anthem to protest the injustice against African-Americans in this country. Colin Kaepernick, the San Francisco 49ers quarterback at the time, started the trend. This movement has spread across the NFL, as well as to other professional sports leagues. Almost immediately the media picked up this story and ran with it; everyone wanted to voice their concerns and opinions either for or against the demonstration. Many have even questioned if this should fall under Roger Goodell's purview as Commissioner of the League, adding to the controversial nature of his position.

As if the pressure put on the league to respond to these different forms of player misconduct was not enough, viewership of football games has decreased recently. In fact, Sports Illustrated reported that the television ratings are down ten percent from the 2016-2017 football season (Rapaport, 2018). Could this be due to the issues listed above? Or perhaps this could be attributable to those watching the nightly news more, needing updates about the tragedies and events that go on in the world every day? Whatever the reason might be, this could potentially

affect the National Football League's revenue and lead to new demands during negotiations in 2021.

In 2021, the National Football League and the Players Association will come together to bargain over a new collective bargaining agreement. "Article 46: Commissioner Discipline" of the current collective bargaining agreement houses the rules and regulations surrounding the commissioner's authority to discipline players. This article needs serious revision, as it seems neither the owners nor the players are perfectly happy with the current distribution of power. The culture of opposing suspensions handed down by the commissioner in court hurts both the League and the players, creating animosity and tension. However, sometimes the Players Association believes the League has violated the agreement, as certain punishments are seen as inconsistent and lacking due process. This has led the players to head to court and ask the court to deliver a decision. The court, though, often defers to the outcome of any bargained for process, enforcing the punishment the commissioner gave. Court intervention creates a longer and more expensive process for both parties, as the current procedure outlined in the CBA is cheaper and less complicated.

This thesis will examine the definitions and responsibilities of a professional sports league commissioner, with specific comparisons between the NFL commissioner and his counterparts in the other three major sports leagues. In addition, this thesis will analyze the handling of player misconduct cases by both the commissioner and the National Football League Players Association. This analysis will lead to my conclusion – a new, altered system should be created to handle player misconduct. With the commissioner controlling both punishments and the appeals process, there is potential for arbitrary decision-making and bias which undermines the traditional standard of due process. However, the complete removal of the commissioner

from the process could create confusion and chaos. The owners and players should bargain to achieve a three-person hearing board for a trial period of five years. This hearing board could consist of one arbitrator, as well as a representative from both the League and the Players Association. Both the League and the Players Association will choose who shall represent them on the hearing board, still giving the Commissioner the opportunity to either serve on the hearing board or appoint a hearing officer. Maintaining an influence over player misconduct cases will prevent the commissioner from being completely removed from the process, while also adding a union voice, a crucial addition. This hearing board will be among other suggestions for the parties to foster a stronger working relationship, as a battered and harmful relationship benefits neither side. This thesis will not so much predict the future, as it will state what could potentially ensue based on history, expert opinions and my understanding of the subject. Both sides have the option to bargain as they please, meaning this idea might not come to fruition. But, this solution could benefit both parties and provide a step towards correcting a controversial system. If both sides communicated effectively before reaching the bargaining table and negotiations, they could achieve a reliable solution to a growing problem within the league. Possibly, this will not even influence the bargaining table discussions, as the best solution would be to handle this situation prior to the agreement expiring. Altering the Commissioner Discipline system requires changing the status quo of the bargaining agreement. As a result, the National Football League Players Association will need to execute leverage should the National Football League oppose the idea. However, if both sides decide to continue on this warpath and not come together, negotiations surrounding the topic of Commissioner Discipline will be problematic and jumbled.

Chapter 2

History of the Commissioner and Disciplinary Powers

League Side: Commissioner

The first time the title “Commissioner” was used in a professional league came after some wrongdoing in Major League Baseball (Baseball History, n.d.). In 1920, a gambling scandal erupted within the industry, with eight Chicago White Sox players accused of intentionally losing the 1919 World Series (Andrews, 2014). After the incident, the owners of the MLB appointed Kenesaw Mountain Landis to the position of commissioner in 1921. They felt he would be the perfect fit due to his knowledge of the game and its history. The owners elected Landis in a desperate move to restore the public’s confidence in the integrity of the sport, as the Chicago “Black Sox” gambling scheme had the potential to ruin the entire league. He ruled with an iron fist and worked to maintain the honor of the game following this debacle. The eight players were banned for life, showing Landis took this violation seriously.

Following this scandal, the position of commissioner was born, extending to nearly every North American professional sports league. Landis’s success prompted other major sports leagues to follow suit by quickly appointing or creating the position. This appointment often reduced the freedom granted to the then president of the organization. Had Landis not acted with an iron fist in an attempt to safeguard the integrity of the game, commissioner discipline might not have been born.

While each of the four leagues analyzed in this paper have a commissioner, the powers and responsibilities granted to each vary based on the bargaining agreement. However, all

concede that the commissioner should advocate for the “best interest” of their respective sport and work with the Players Association to uphold the integrity of the game. Still, this has left the commissioner with an authority that cannot be precisely defined, opening the doorway to arbitrary decisions and biased interests.

Union Side: Executive Director

As previously mentioned, the Players Association of every league is responsible for representing the players at the bargaining table, advocating and bargaining for their best interests as efficiently as possible. Those who bargain effectively possess the ability to lead and know when to exercise leverage. Leadership is vital because an organization of divided players not seeing eye to eye is troublesome; not everyone is going to have the same wants and needs. A strong leader organizes all of the requests and helps reach a consensus satisfying all parties involved. These differences are often resolved through intra-organizational bargaining, determining a strategy before entering negotiations. Another complexity of bargaining is knowing when to compromise and when to stand your ground. Exercising leverage plays into this complexity, as it is the power to influence the other side to move closer to an advantageous middle point. The principal administrative officer of the Players Association is the Executive Director, a position voted by the player representatives. The Director is ultimately responsible for signing off on the negotiated agreement; a healthy working relationship between the commissioner and the executive director can alleviate some of the potential issues that arise in this process.

The position of Executive Director is sometimes a former player or someone with a vast knowledge of the particular sport whose players they are representing. The director is even mentioned in some of the collective bargaining agreements, showing very clearly that a

relationship needs to exist between the director and the commissioner. These two leaders dictate the direction of the negotiations to a substantial degree. Without a healthy relationship between them, discussions can become strained and unproductive, benefitting no one. A positive relationship requires effective leadership of both a commissioner and the corresponding association's executive director.

Football

League Side: Commissioner History

As in any new league, the owners in the 1920 American Professional Football Association (two years later renamed the National Football League) wanted a president who would bring credibility to the organization (Ambrose, 2008). By appointing one of the greatest athletes at the time to represent the group, Jim Thorpe, the league gained the necessary buy-in of the players. Although baseball added a commissioner in 1921, the National Football League waited until twenty years later to revise its Constitution in an attempt to align all professional football teams under a single authority.

In 1941, the National Football League formally changed the title of its president position to "commissioner," and appointed Elmer Layden to the post (MacCambridge, 2005). Since then, only five people have served as commissioner of the National Football League. Currently, Roger Goodell holds this position, governed by the National Football League Constitution, the collective bargaining agreement, as well as by some policies owners have added throughout the years. Housed in the National Football League Constitution, last revised in 2006, the procedure for appointment of the commissioner is as follows:

The League shall select and employ a person of unquestioned integrity to serve as Commissioner of the League...All voting requirements and procedures for the selection of or successor to the office of Commissioner shall be determined by the affirmative vote of not less than two-thirds or 18, whichever is greater, of the members of the League. (Constitution and bylaws, 2006).

Back in August 2006, after several rounds of voting to eliminate other competitors, all thirty-two owners unanimously appointed a new commissioner, Roger Goodell, who survived this intense ordeal. Goodell was no stranger to the League, having climbed the NFL corporate ladder from intern to NFL Chief Operating Officer under then-Commissioner Paul Tagliabue (Battista, 2006). Since his appointment, off-the-field player misconduct has plagued his term, prompting his focus on the protection of the NFL's image. Recently, Goodell signed a five-year extension agreement, meaning he will be commissioner during the future negotiations occurring in 2021 (NFL Commissioner, 2017). The collective bargaining agreement, what the League and the Players Association will bargain over in 2021, governs the employment relations of the League and teams as the employers and players as employees. This document needs to evolve as the sport evolves, creating the need to bargain every few years. The last period of bargaining over an agreement ended in 2011, a time plagued by discontent and upheaval. During this time, the owners ended up locking out the players from March 2011 to July 2011, before coming to a new agreement (Volin, 2013). The lockout, though, was not caused by disagreements over

commissioner discipline, but player safety and the division of league revenues under the salary cap between players and teams.

This latest agreement has a ten-year duration, an issue discussed later in this paper. Organizations evolve quickly, and as a result, their governing documents should be reviewed and updated at reasonable intervals. This ten year contract term has left the National Football League and the Players Association at a standstill, with no current avenue existing to resolve the disputes over Commissioner Discipline until bargaining begins. The next collective bargaining agreement should not last more than five to seven years, to prevent a similar problem from happening.

The 2011 agreement describes the current methods available to the League and teams for punishing player misconduct. The current avenues of discipline are suspensions and fines (NFL-CBA, 2011). A player can receive disciplinary action for two types of behavior: i) conduct on the playing field and ii) “conduct detrimental to the integrity of, or public confidence in, the game of professional football” (NFL-CBA, 2011). All three of those terms – “conduct detrimental,” “integrity of,” and “public confidence” are defined by the Commissioner on a case-by-case basis. The collective bargaining agreement, specifically article 46 “Commissioner Discipline,” gives the commissioner a wide berth in deciding player misconduct punishments, reading:

All disputes involving a fine or suspension imposed upon a player for conduct on the playing field (other than as described in Subsection (b) below) or involving action taken against a player by the Commissioner for conduct detrimental to the integrity of, or public confidence in, the game of professional football, will be processed exclusively as follows: the Commissioner will promptly send written notice of his action to the player, with a copy to the NFLPA. Within three (3) business days following such written

notification, the player affected thereby, or the NFLPA with the player's approval, may appeal in writing to the Commissioner (NFL-CBA, 2011).

As a player, the signature at the bottom of your contract binds you to the authority delegated to the commissioner in the collective bargaining agreement. Thus, if a collective group of players wants to see a change in the Commissioner Discipline policies, altering the CBA is the only way to do so.

The process of commissioner discipline begins after a player is accused of participating in one of these two types of behaviors. In the National Football League, the commissioner can assign a punishment, which the player has the opportunity to appeal. The real problem here though is that the commissioner, according to Section 2 of Article 46 *Hearings*, may appoint the hearing officer to listen to the dispute (2011). The article specifically states:

For appeals under Section 1(a) above, the Commissioner shall, after consultation with the Executive Director of the NFLPA, appoint one or more designees to serve as hearing officers...Notwithstanding the foregoing, the Commissioner may serve as hearing officer in any appeal under Section 1(a) of this Article at his discretion (NFL-CBA, 2011).

Thus, this language grants Goodell the power to be the hearing officer on the appeal and therefore determine the facts of "what happened" in the case. By having control over both the appeal and the punishment, the commissioner has one hundred percent authority. This lack of oversight is troubling; why has Goodell been granted so much freedom in deciding player punishment? After analyzing the other three major sports leagues' collective bargaining agreements, we shall see this is not a consistent policy. Thus, questions are forming throughout

the National Football League Players Association and could play an integral role at the bargaining table.

Union Side: Executive Director

The National Football League Players Association originated in 1956 with an aspiration to provide players with formal representation when negotiating terms of the collective bargaining agreement. This quest would take years, with the NFLPA receiving certification by the National Labor Relations Board (NLRB) as a union in 1971 (About NFLPA, n.d.). 1971 also marked the year the first Executive Director of the Players Association was appointed; Ed Garvey worked for the Lindquist & Vennum, the firm that represented the National Football League Players Association, before assuming the position of Executive Director. Two of the most influential Executive Directors the National Football League Players Association has had are Gene Upshaw and DeMaurice Smith.

Gene Upshaw became executive director in 1983, a period of change for the NFLPA (Jacobson, Pendergast, and Alters, 2009). A former player for the Oakland Raiders, Upshaw helped lead the players through a strike in 1987 and years of litigation. These efforts helped the union gain free agency and a more significant share of league revenue, a long-sought win for the players.

The commissioner during much of Gene Upshaw's tenure as Executive Director was Paul Tagliabue, a former lawyer for the National Football League. These two, while often at separate sides of the bargaining table, recognized that nothing productive would come from their meetings if they did not find a middle ground. For example, their ability to compromise allowed for the beginning of free agency for the players and a salary cap which benefitted the owners (About NFLPA, n.d.). The process to achieve these initiatives was not quick or easy, but their

communicative abilities helped aid it along. The execution of strong leadership created a positive dynamic between these two men. In the aftermath of Tagliabue's retirement in 2006 and Upshaw's unfortunate passing in 2008, it seems that the idea of communication between commissioner and executive director began to fall flat.

After Gene Upshaw passed away, DeMaurice Smith, previously a trial lawyer, took over the position of Executive Director. An outsider to the Players Association, Smith defeated some notable competitors to eventually be appointed by the players in 2009 (Smith elected, 2009). Just like Goodell, Smith will be returning to the bargaining table in 2021, after recently being reelected to his position (Skiver, 2017). Both of these men will be critical components in negotiations after the expiration of the current collective bargaining agreement, just as Tagliabue and Upshaw were in 1993.

To describe Smith's and Goodell's current relationship as strained would be an understatement. The press has captured every nasty word the two men have said about each other, bringing their private problems into a public spotlight. These contentious issues have existed over the past several years without any improvement, causing both parties to become understandably upset. A factor adding to this standstill could be the expiration date of the collective bargaining agreement. Neither side is presently motivated, much less required, to discuss changing the current bargaining agreement, as the expiration date is so far away. However, with such a long time between negotiations, differences pile up, creating a larger problem at the bargaining table. Despite their best intentions, this public bashing does not resemble strong leadership but instead shows a fractured front which will hinder negotiations and conversations in the future.

Goodell has captured the media's attention more frequently than previous commissioners because of some events grabbing the public's attention. But, even before these incidents and their consequences, Smith gave an interview with *Sports Illustrated* and discussed his relationship with Goodell. In late 2014, Smith categorized his relationship with Goodell as "...fine" and spoke about a lack of transparency. While the word "fine" does not automatically mean they hate each other, it indicates a lack of deference. This lack of respect between the two men sheds light on a relationship filled with cracks and undertones of contention, some visible and others barely beneath the surface. Following the events involving Tom Brady and Ezekiel Elliott, this relationship has only weakened. Until these two men foster a cohesive association, the current system of the commissioner having complete control of player misconduct may never work.

Baseball

League Side: Commissioner History:

When Kenesaw Mountain Landis was named commissioner in 1921, thus granting him the broad ability to discipline players based on the "best interests of the game," he wasted no time in employing his new powers. There was only one time in Landis' twenty-four-year term where his broad authority was legally questioned. In 1931, Landis refused to move a player's contract to a minor league team, upsetting the owner of the St. Louis Browns. In retaliation, the owner filed a lawsuit questioning Landis's power. Ultimately, the court held that the commissioner had the power to decide what was in the "best interest" of the League in the case *Milwaukee American Association v Landis* (Reisndorf, 1996). It emphasized that the commissioner had, "an almost unlimited discretion in the determination of whether or not a

certain state of facts creates a situation detrimental to the national game of baseball” (Reisndorf, 1996). While the court decided this in 1931, baseball has taken active steps within the past 80 years to restrict some of the commissioner’s power.

Since Landis, the office of Commissioner at Major League Baseball has seen its fair share of changes in leadership. Ten people have held the position of commissioner, with Robert Manfred currently holding that post. Before this, Manfred was the Chief Operating Officer of Major League Baseball under then-Commissioner Bud Selig (Baseball History, n.d.) In baseball, to become commissioner, you need a three-fourths super-majority from the team owners. Again, just as in the National Football League, the players do not have any say in who becomes commissioner. When Manfred was elected, it was the first time in nearly forty-six years that a contested election had taken place (Rob Manfred, 2014).

The Major League Constitution, originally adopted as the Major League Agreement on January 12, 1921, sets out the functions of the Commissioner of Baseball (Major League Constitution, 2005). It is from here, and the collective bargaining agreement, that the commissioner receives some of his power. Article II houses most of this authority, stating the commissioner has the ability:

To investigate, either upon complaint or upon the Commissioner’s own initiative, any act, transaction or practice charged, alleged or suspected to be not in the best interests of the national game of Baseball...to impose such penalties as are hereinafter provided (Major League Constitution, 2005).

The penalties players may be subjected to range from a simple reprimand to temporary or permanent ineligibility. The commissioner also has the power to determine “what preventive, remedial or punitive action is appropriate” and if taking such action is necessary against either teams or select individuals (Major League Constitution, 2005). This language is similar to the National Football League’s Collective Bargaining Agreement, granting the commissioner the opportunity to punish those potentially harming the league’s image.

Recently, the Major League Baseball Players Association and the Major League Baseball organization came together to negotiate over a new collective bargaining agreement. This new legally binding contract will last from 2017-2021 – only five years. This is half the length of the current NFL collective bargaining agreement. When the media reported on the negotiations, both during bargaining and after, there was minimal mention of commissioner discipline. Instead, discussions focused more on draft-pick compensation and home-field advantage for the All-Star game.

Over time, the collective bargaining agreement in baseball evolved to a more independent determination of discipline, adding new regulations on the commissioner’s power. The document started to move from the unilateral imposition of discipline by the commissioner to an arbitration system, creating a system with due process and fairness for players. While there are still circumstances where a player must appeal through the commissioner, cases of off-the-field misconduct now go to an Arbitration Panel (MLB-CBA 2017). This panel shall either be an impartial arbitrator, or a “tripartite panel so empowered and composed of the impartial arbitrator and two-party arbitrators, one appointed by the [Players Association], the other appointed by the [League].” (MLB-CBA, 2017). The Commissioner is able to participate on the panel as the League arbitrator. One interesting facet of this system, however, is either the League or the

Players Association may terminate the appointment of the impartial arbitrator or arbitrators. The panel is responsible for hearing both the Major League Baseball and Major League Baseball Players Association perspectives. Following this, the board delivers their conclusion about the validity of the discipline being appealed. The system removes bias from the process, while still allowing the commissioner to participate in the hearing and uphold the integrity of the game. Most perceive this system positively; no real issues came forward during the tenure of the last collective bargaining agreement, where this program of grievance arbitration was also in effect.

Union Side: Executive Director

The creation of the Major League Baseball Players Association was not the first attempt to unionize baseball players. In the period stretching from 1885 to 1946, there were several attempts to form a union (MLBPA History, 2016). Conceived in 1953, the MLBPA did not become a recognized union until 1966. 1966 also marked the year Marvin Miller, formerly an economist for the United Steelworkers of America, became the first executive director of the Players Association. Miller's leadership led to the negotiation of the very first collective bargaining agreement in professional sports (MLBPA History, 2016). This milestone is yet another example of how much baseball has done for the world of collective bargaining in sports. Moving forward, Miller's leadership in uniting the players aided in the removal of the Reserve Clause and marked the start of true free agency. Without unification on this topic, free agency might not have been achieved. Miller held the players' respect, a significant factor in being an effective leader.

The reserve clause was struck down in 1975, after Peter Seitz delivered the most important labor arbitration decision in baseball, and potentially all of sports. For years baseball club owners had restricted players moving from club to club, restraining the players' ability to

gain a larger salary or change teams. Today, this ability to renegotiate a contract and change teams is called free agency, something that did not exist in the early 1970s for baseball players. Two pitchers, John Messersmith and Dave McNally, helped start and progress the movement of players wanting free agency, when they filed a grievance challenging the reserve clause. Ultimately, Peter Seitz, a neutral third party, resolved this dispute and nullified baseball's reserve clause, a huge win for the players (Abrams, 2009). Years prior to these pitchers bringing forth this grievance, Miller had insisted on including grievance arbitration in the collective bargaining agreement, the forum that would ultimately enforce an end to the reserve clause in baseball. This leadership aided the Players Association and future players greatly, impacting the future of baseball.

While the 1970s had its share of work stoppages and grievance arbitration cases, the current collective bargaining agreement will mark twenty-seven years of uninterrupted labor peace (Brown, 2016). Tony Clark, the current Director of the Major League Baseball Players Association, and Rob Manfred, the Commissioner for Baseball, have helped achieve this impressive milestone. These men operate with open communication, fostering a positive relationship and productive dialogue. This bond did not just grow overnight; for the past twenty years, their predecessors put in significant effort to cultivate a positive working relationship. Don Fehr held the title of Director from 1985-2009. Next came Michael Weiner, who held the position until his battle with cancer ended in November of 2012. Fehr and Weiner had vastly different leadership styles, with Weiner having qualities of tranquility and serenity in the office, while Fehr lived off the motto of getting as much done as possible at all costs. Despite their differences, the transition was smooth, with Weiner negotiating the 2011 collective bargaining agreement without having a work stoppage. The leadership styles of the past executive directors

and commissioners in baseball, while noticeably different, have enabled these two organizations to stay out of the courtroom, unlike the National Football League and its Players Association.

Basketball

League Side: Commissioner Power:

The merging of the National Basketball League and the Basketball Association of America in 1949 created the National Basketball Association (NBA is born, n.d.). The organization maintained a system of having a President as the League's chief executive, before moving to a commissioner system in 1967 (Monroe, n.d.). Transitioning from President of the NBA to Commissioner, J. Walter Kennedy worked tirelessly to improve the league while in this position. During his tenure as commissioner, he helped double the size of the league and increased the television revenue to more than nine million dollars, the equivalent of today's thirty-eight million dollars (Rogers, 1977). His leadership style was authoritative, enforcing all of the league's bylaws and rules to the utmost extent.

Larry O'Brien succeeded Kennedy in the role of commissioner, serving the team owners from 1975 until his retirement in 1984 (Monroe, n.d.). David Stern, an attorney who had worked with the league since 1966, transitioned into the role of commissioner in 1984, following O'Brien's retirement. Stern participated in several matters that ended up shaping the sport, such as the arrival of free agency and the introduction of a salary cap. But, he also faced issues that did not occur at the bargaining table, but rather on the basketball court. One incident of player misconduct came in 2004, during a Pacers-Pistons game (Price, 2014). The game was about to end, and a fight broke out on the court between some players. Once the fight was broken up by

officials, a fan decided to join in on the action and threw a drink onto a player. This commotion caused a brawl between both players and fans (Price, 2014). Two days later, David Stern announced the suspension of seven players from the league (NBA announces suspensions, 2004). Stern came forward to defend his decision of suspending players, stating that “the actions of the players involved wildly exceeded the professionalism and self-control that should be fairly expected from NBA players.”

Currently, Adam Silver holds the title of commissioner. Silver entered the League in 1992, previously serving as the NBA Deputy Commissioner and the Chief Operating officer until taking over the position of Commissioner from Stern in 2014 (Armour, 2014). Silver publicly admitted his yearning to improve the image of the sport, when taking over this role, working to remove any perceived impropriety that threatened the league. This parallels Goodell’s intentions when he entered the office of Commissioner in 2006, after serving various roles in the National Football League office. Recently, Silver helped achieve a new collective bargaining agreement, in conjunction with the National Basketball Players Association.

The National Basketball Association’s Commissioner receives his power from both the NBA Constitution and the Collective Bargaining Agreement. Under Article 24 of the Constitution, it outlines that for a commissioner to be elected, they must gain an affirmative vote of at least three-fourths of all the Governors (Constitution and Bylaws NBA, 2012). A National Basketball Association Governor can be an owner, director, officer or other authorized employee. In addition, the constitution gives the commissioner the right to investigate charges, to have final jurisdiction in any dispute involving two or more members of the association, and to impose penalties if his judgment is in “the best interests of the association” (Constitution and Bylaws NBA, 2012). The constitution continues, granting the Commissioner “the power to

suspend a Player, Coach, Member, Owner, or other person subject to the Commissioner's jurisdiction for a definite or indefinite period and to impose such fines and other penalties..." (Constitution and Bylaws NBA, 2012).

The collective bargaining agreement addresses the commissioner's authority over Commissioner Discipline, specifically under Article XXXI – "Grievance and Arbitration Procedure and Special Procedures with Respect to Disputes Involving Player Discipline." The agreement has a specific Player Discipline Arbitrator, should a player wish to appeal a fine handed down by the commissioner that is more than \$50,000 or a suspension of twelve games or less (NBA-NBPA CBA, 2017). If the dispute involves a fine of \$50,000 or less or a suspension of twelve games or less, the commissioner will be responsible for the discipline of the player. However, if the dispute warrants a Player Discipline Arbitrator, they will be selected as follows:

The Player Discipline Arbitrator shall be selected by agreement between the NBA and the Players Association, and shall be (i) a person with experience in professional basketball...or (ii) an attorney with experience as a private arbitrator/mediator...In the event that the NBA and the Players Association cannot agree on the identity of the Player Discipline Arbitrator, each party shall simultaneously serve upon the other a list of the names of five (5) individuals meeting the criteria set forth in this Section 9(a)(5)(d) and shall alternate in striking names from such list until only one (1) remains...(NBA-NBPA CBA, 2017)

The addition of a neutral third party provides a check on the commissioner, making sure cases have no bias or self-interest.

Union Side: Executive Director:

The National Basketball Players Association (NBPA) is the union for professional basketball players in the NBA. Its mission is to “ensure that the rights of NBA players are protected and that every conceivable measure is taken to assist players in maximizing their opportunities and achieving their goals, both on and off the court (NBPA About, n.d.). The NBPA achieves this through negotiating for the best deal at the bargaining table and through educating players about opportunities available to them. Founded in 1954 and formally recognized in 1957, it is the oldest players union of the four major professional sports leagues.

The successful transition to a new 2017 collective bargaining agreement is attributable to Michele Roberts, the Executive Director of the NBPA, and Adam Silver, Commissioner for the NBA. This agreement will run through the 2023-2024 season, with the ability to invoke an opt-out clause and early negotiations in 2022. Again, just as in baseball, commissioner discipline and grievance arbitration did not see any complaints or changes from the previous bargaining agreement.

Michele Roberts has been in the role of Executive Director since 2014, taking it over from Billy Hunter. Roberts, a trial lawyer, became the first woman to lead a male professional sports league union, defeating two other candidates for the job (Berger, 2015). In her short time in the players association, Roberts has developed a healthy working relationship with Silver. For example, Roberts and Silver came together in September 2017 to reach out to players saying they supported player efforts in building stronger and safer communities, referencing the “take a knee” protests occurring in the National Football League (Youngmisuk, 2018). Throughout their time working together, Silver and Roberts have communicated positively and effectively. While

the new CBA has been recent, neither party has stated anything negative about the other person in the media either before or after they bargained over it.

2011 marked a time of labor disagreement in basketball, when, after failing to create a new CBA, the owners chose to lock out the players. The lockout lasted 161 days, the second-largest lockout in the NBA (McCann, 2016). A lockout is a form of leverage, as the owners showed that they were willing to forgo the season if certain demands did not get added to the agreement. In hindsight, though, the lockout was not catastrophic for one side and brilliant for the other. While the owners did lower the players share of revenue in the salary cap, both the owners and players ended up significantly making more money in the years following, resulting from the recent influx of broadcasting deals. Rather than repeating the same mistakes as their predecessors, Silvers and Roberts in 2017 exercised leadership to achieve a deal that satisfied both parties. They communicated before the agreement expired on what changes and alterations needed to be made to the agreement, avoiding both a lockout and a strike.

Hockey

League Side: Commissioner Power:

Hockey is unique among the other three professional sports; it has had only one person serve as its Commissioner – Gary Bettman. Slow to establish the position of commissioner, the National Hockey League waited until 1993 to overhaul the President position. Bettman has served this community for twenty-five years now, with both positive and negative events occurring during his tenure. Bettman has helped expand the league since becoming

commissioner, working to significantly increase hockey's overall revenue (Wyshynski, 2018).

However, many have called out Bettman for his authoritarian leadership style.

Since 1993, owners have locked out the players three times. Gary Bettman served as commissioner in all three of these instances. The first lockout in 1994 sparked discussions of loosening the free agency system and the salary cap. This lockout occurred just one season after Bettman had joined the league, and it lasted for 104 days, causing a shortened season and some upset fans (McIndoe, 2014). In 2004, the collective bargaining agreement expired, and no one agreed on what the new agreement should entail. Again, the owners locked out the players, and months later Bettman announced the cancellation of the entire season. This cancellation was the first and only season-long lockout for any of the four U.S. professional sports leagues (2004 NHL Lockout, 2014). Shortly after the announcement, negotiations sped up, and both parties reached a consensus in July 2005. A new 6-year collective bargaining agreement came from the negotiations, with the main feature being the team payroll cap (Staudohar, 2005). Hockey did not learn its lesson come 2012, though, with another owner lockout occurring at the expiration of the collective bargaining agreement. The continuous inability to bargain over a new agreement while avoiding a labor stoppage indicates a lack of communication between the commissioner and Executive Director of the Players Association.

The commissioner of the National Hockey League receives some power from the collective bargaining agreement between the National Hockey League and the National Hockey League Players Association. The current contract will last from 2012 to 2022, a period of ten years. Article 18 – A: Commissioner Discipline for Off-Ice Conduct outlines the proceedings for player misconduct and the jurisdiction the commissioner has. It grants them the ability to expel, suspend, or impose a fine on a player, should the commissioner find that the player violated a

league rule (NHL-NHLPA CBA, 2012). After an alleged player misconduct incident and an investigation, the commissioner holds a hearing to determine punishment. Following this, the player has the opportunity to appeal the punishment to an impartial arbitrator. The independent arbitrator must be a member of the National Academy of Arbitrators and follow a specific standard of review when hearing commissioner discipline appeal cases (NHL-NHLPA CBA, 2012):

“...whether the Commissioner’s determination was supported by substantial evidence and was not unreasonable based on the following considerations: (i) the facts and circumstances surrounding the conduct at issue; (ii) whether the penalty was proportionate to the gravity of the offense; and (iii) the legitimate interests of both the Player and the League (NHL-NHLPA CBA, 2012).

While the most recent period of bargaining did reveal some key issues, such as the dividing of league revenue between owners and players and player contract term limits, the commissioner discipline system did not receive much attention.

Union Side: Executive Director:

Just as in the other three professional sports leagues, hockey has a players union, responsible for helping to voice the collective concerns of the players. Founded in 1967, The National Hockey League Players’ Association has represented players at times of negotiations and through the three lockouts mentioned above. The first executive director to serve the players union was Alan Eagleson. While Eagleson created a legacy in the National Hockey League, his

criminal activity of fraud and embezzlement hurt many players (Reznik, 2017). Eagleson would leave the league in 1991, even before a commissioner ever existed in the League.

Bob Goodenow succeeded Eagleson, seeking to restore respect to the office of Executive Director. He led the players through a successful strike in 1992, gaining the union the essential resource of player marketing rights (Dater, 2012). While this was before the founding of the commissioner, it showed successful leadership and knowledge of resources, two essential aspects of bargaining. Goodenow aided the players through the 1994-1995 and 2004-2005 lockout before resigning in July 2005. After Goodenow, the NHLPA would again be plagued by misconduct accusations, with the new Executive Director, Ted Saskin, resigning after just two years in the position. The Players Association desperately needed a strong leader to get them through these dark times.

It took two more years before a strong leader would emerge, with the NHLPA eventually hiring Don Fehr, the previous executive director of the Major League Baseball Players Association. Since 2010, Fehr has fought for the players, never accepting less than what he felt they deserved. In 2012 this was put to the test, as the owners locked out the players after the collective bargaining agreement expired. The owners and Gary Bettman came in with tough demands, wanting to add qualifications for becoming a free agent while also reducing the players' revenue percentages under the salary cap (Sources: NHL, 2012). Fehr decided to fight this, working in the best collective interests of the players; while he recognized there would be compromises, he still maintained the players' cooperation and support. He invited any player who wanted to attend a bargaining session, to come free of charge. Many players took him up on this offer, creating faith in the bargaining process.

Overall, hockey has seen its fair share of issues in the past twenty years. However, it is important to note, while it had turmoil, it managed to form a neutral arbitration system for the players to appeal Commissioner Discipline decisions, reducing the potential for arbitrary decisions. Yet, the National Football League, which has seen a similar number of problems, has not successfully addressed independent authority over player discipline. Other types of arbitration systems in the four above mentioned leagues, such as salary or workers compensation arbitration, are neutral, so why should this be any different?

Chapter 3

History of National Football League Cases within the Courts

It is evident from the comparison to the other Leagues that Roger Goodell has the most authority in deciding the fate of player misconduct. Two players, Tom Brady and Ezekiel Elliot, have recently decided to stray from the appeals system created in the collective bargaining agreement and asked a judge to overrule Goodell's decisions. While the union felt this would be an exertion of leverage, the court ultimately referred to the bargaining agreement, upholding the punishments given to them. Player misconduct is not the only topic the players wanted a judge to intervene in. History will show that since the founding of the Players Association, players have asked a court to step in. This continual reliance on the court system to evaluate decisions within the League suggests the idea that both the owners and the players should consider re-evaluating commissioner power during 2021 negotiations.

In 1957, the Players Association took a case to court that dealt with a player wanting to change teams due a family problem. Bill Radovich, a former Detroit Lion, was the first player to take the National Football League to court, pursuing a case under anti-trust law. Radovich argued that football is interstate commerce, due to the broadcast of games across state lines and other various factors (About NFLPA, n.d.). The owners, assuming that they would receive an exemption just as baseball had, decided not to negotiate outside of court. This proved to be a crucial mistake, as the case of *Radovich v NFL* (1957) determined the National Football League was subject to anti-trust laws. Anti-trust laws are regulatory statutes in place to ensure fair competition exists in certain markets. Radovich sued under anti-trust law to prove that owners

could not collude to boycott him from the league. Following this case, the owners knew that, should they deny players certain rights, another anti-trust lawsuit could be filed. The players exerted leverage in this case, and it paid off, receiving certain concessions from the owners, creating a benefit plan starting retirement benefits for players, including hospitalization, medical, and life insurance (About NFLPA, n.d.).

The players returned to court again in 1976 to argue against the Rozelle Rule, under the court case *Mackey v National Football League*. The Rozelle Rule and “reserve system” dealt with what is considered today to be free agency, the ability of a sports player to join any team at the expiration of their contract. The system prevented players from signing to another team unless their original team traded the contract or released the player from his contract (Dominique, 2017). This created a hefty cost for all involved, almost negating any benefit of gaining a free agent. However, in 1976, the players emerged victorious, with the court finding the owners guilty of violating both federal labor and antitrust laws (About NFLPA, n.d.).

Both the Radovich and Mackey case demonstrate that change does occur in the status quo of the league, but it requires leadership, leverage, and resources. Leadership because, without the support of the players, the union does not have the strength to support an expensive court case. Leverage because it is a risk to file a court case; things would be radically different within the League had either of these cases been decided in favor of the owners. Lastly, you need resources, especially when filing a court case. These cases cost lots of money and time; if you cannot withstand the case and run out of monetary resources, you become weak. The union could not afford to look weak during these times, so all three characteristics needed to be present.

In 2011, years of labor peace ended between the National Football League and the Players Association, with Goodell announcing a player lockout following the expiration of the

collective bargaining agreement. This was the first pure lockout in the NFL, as in previous years the players would strike and the owners would respond with a lockout. The Players Association responded by renouncing and disclaiming the bargaining relationship. This strategic move of ending the bargaining relationship with the League allows the players to pursue a case under antitrust litigation and file a class-action claim (NFL locks out players, 2011). Multiple big-name players joined together to file an antitrust suit against the League, with players such as Peyton Manning, Drew Brees, and Tom Brady pledging their support (About NFLPA, n.d.). The union knew recognizable players would capture public support, as well as other members of the Players Association in this trying time. With an appeals court reversing the District Court's injunction of the lockout, the Brady case ended up helping the owners. After court-ordered mediation sessions and discussion on topics such as salary cap, free agency rules, and other issues, a deal was negotiated and signed – the 2011 collective bargaining agreement.

Clearly, the Players Association, throughout the years and under various leaders, has chosen not to rely just on labor law protections and collective bargaining, but to head to court. In the past, the union has been successful at winning significant anti-trust litigation cases, but not the cases challenging Roger Goodell's authority over player misconduct punishments. Why after all of these instances, then, would the National Football League Players Association not pursue a third-party system for handling player misconduct? There are a few answers to this question. One, in order to gain anything at the bargaining table, a compromise will need to take place. Looking at the example of player misconduct, if the union were willing to fight for a neutral third party in handling these cases, what would they be willing to give up? The process of achieving free agency and health benefits for players, things we look at today as necessary in professional sports, was a long and hard-fought battle. Two, in the past the executive director and

Commissioner of the National Football League have had a much stronger relationship. Gene Upshaw and Paul Tagliabue maintained collegiality and respect for one another, even during law suits and multiple negotiations. Some have criticized this relationship, but it can be argued it helped both the Players Association and the owners, as Tagliabue and Upshaw listened to one another. The lack of a solid relationship between Smith and Goodell hinders this progress. Lastly, perhaps the union did not realize how large of an issue this would become until the Tom Brady “Deflategate” case and the Ezekiel Elliott domestic violence case. It is only now that they realize court cases may not be the appropriate course of action and that change needs to occur.

Chapter 4

The Brady Case “Deflategate”

A court case the National Football League Players Association decided to pursue in 2015 ended up involving one of the most famous players in the league: Tom Brady. Throughout this highly-publicized event, questions involving Goodell’s arbitrary decision-making arose from both the players and some of the owners. This prompted the National Football League Players Association to follow the case and push it through the court system. As mentioned earlier, the incident in question took place during the 2015 American Football Conference Championship Game. An Indianapolis Colts linebacker intercepted a pass from quarterback Tom Brady and noticed something was off with the ball. This interception sparked accusations that Brady’s footballs were under-inflated, a violation of the National Football League rules. Almost immediately, a media storm began, with everyone reporting about a possible investigation and sanctions. The National Football League tapped an investigator, and five months later a report was released stating that the New England Patriots knew they were circumventing the rules (Deflategate Timeline, 2016). The investigator behind the investigation, Ted Wells, while a prominent attorney, had a history with the National Football League. This caused the union to become upset, as questions about impartiality began to surface. Before serving as the lead investigator on the “Deflategate” scandal, Wells has helped get to the bottom of other football rule violation cases, such as the Miami Dolphins bullying scandal just one year prior (Incognito, 2014). This was the first of many issues the Players Association had with the handling of the case.

Following the release of the report and the resulting punishment, the National Football League Players Association announced Brady would be appealing his suspension. When

announcing Brady's intent to appeal, the Players Association added a request for a neutral arbitrator (NFLPA appeals, 2015). This right is clearly written out in the collective bargaining agreement:

For appeals under Section 1(a) above, the Commissioner shall, after consultation with the Executive Director of the NFLPA, appoint one or more designees to serve as hearing officers... Within three (3) business days following such written notification, the player affected thereby, or the NFLPA with the player's approval, may appeal in writing to the Commissioner. (NFL-CBA, 2011)

Despite this request, an NFL spokesperson confirmed not even a day later that Commissioner Goodell would be presiding over the appeal of the suspension. When asked why the commissioner chose to hear the appeal, the spokesperson referenced the 2011 collective bargaining agreement, as it grants him this power – "...the Commissioner may serve as hearing officer in any appeal under Section 1(a) of this Article at his discretion" (NFL-CBA, 2011).

In a previous case, just three years prior, Roger Goodell decided to appoint Paul Tagliabue, a former commissioner for the National Football League, as the hearing officer. The case Tagliabue presided over is today called "Bountygate," where Saints coaches and Players were accused of giving cash rewards for injuring players from 2009-2011 (Reed, 2017). Following an investigation into the claim, Goodell announced that some players involved would be suspended for varying periods and the Saints organization would receive a hefty fine. The Players Association grew unhappy with this punishment and filed a grievance stating Goodell had no authority to punish these players. After some back and forth, one specific player appealed

his case within the National Football League and asked that Goodell recuse himself (Reed, 2017). Tagliabue was appointed as the officer and ended up vacating all the player suspensions, stating that “My affirmation of Commissioner Goodell’s findings could certainly justify the issuance of fines” but not of suspensions. This appeal ended up hurting the league as the assigned punishment was vacated. Perhaps when it came time to handle the Tom Brady “Deflategate” case, Goodell did not want the same thing to happen. This may have had an impact on his decision to be the hearing officer in this case.

One month after the NFL spokesperson announced Goodell would be the hearing officer for the case, the appeals process began. There were over ten hours of testimony and various facts discussed (Deflategate timeline, 2015). Five days later, on July 28, 2015, the National Football League announced Brady’s four-game suspension would stand. Sensing a violation of player rights and being unhappy due to the lack of a neutral arbitrator, the National Football League Players Associations filed a court case, just as they have done in the past. The players won in the District Court in September 2015, with the judge saying Roger Goodell went too far in affirming Brady’s punishment (Neumeister, 2015). One critical issue laid in the idea that the National Football League Players Association were unable to call a witness, as that witness was acting as the neutral arbitrator – Roger Goodell. Goodell maintained a presence throughout the entire case, and the union wanted to question him. Their right to call witnesses lies in the bargaining agreement, but they were denied this opportunity. Another issue came with the fact that this was the first time a player was awarded a punishment for misconduct due to having a general awareness of someone else’s wrongdoing. The collective bargaining agreement does not outline this protocol, yet Goodell, when asked the reasoning for awarding punishment, indicated his duty to “protect the integrity of the game” (Deflategate timeline, 2015).

Almost immediately after the U.S. District Court ruling, the National Football League filed an appeal with the Second Circuit U.S. Court of Appeals. In April 2016, three judges ruled in favor of the League, upholding the punishment Goodell gave to Brady. The court did not mention the decision was unbiased, but rather stated this broad authority was awarded to him in the collective bargaining agreement, a legally binding contract that the court gave deference to (Reyes, 2016). While the U.S. District Court Judge had made valid points about the Commissioner's power being too broad and no over-sight mechanism existing, the Appeals Court noted it was up to the two bargaining parties to create their dispute resolution system, not the legal system. Tom Brady and the Players Association were not willing to quit, filing an appeal for a second hearing less than a month after the reinstatement of punishment (Deflategate timeline, 2015). Following the denial of the appeal, Brady announced in July 2016 that he would accept his punishment and sit out for the allotted four games. This acceptance took place more than a year and a half after the incident had occurred.

The real issue of this case was the power of the commissioner to punish player misconduct, rather than an issue revolving around the air quality of footballs. DeMaurice Smith used this case and the Tom Brady name to show the other players within the Players Association that he would fight for them. This exercise of leadership could prove useful in 2021, should the players need to execute any leverage at the bargaining table against the owners. In fact, certain big-name players took to the media following the Deflategate scandal to address Goodell's broad authority. Aaron Rodgers, the current quarterback for the Green Bay Packers and former SuperBowl Most Valuable Player, came forward in 2016 stating he would be interested in joining the labor discussions that occur prior to bargaining. He specifically stated that players should be asking for an independent arbitrator to rule on player misconduct, rather than

commissioner Roger Goodell. DeMaurice Smith's time and energy during the "Deflategate" case might not have paid off for Tom Brady, but it could potentially impact the bargaining table years later, helping to gain a third-party hearing officer for player misconduct cases.

Another reason this case could have progressed as long as it did can be attributable to another, previously mentioned, "Brady Case." By signing his name onto that 2011 lockout case, Tom Brady had paid a favor to the Players Association. Without the support of the players, the organization would fall flat. Without the players contributing their dues, their names, and images for licensing, the organization would not be as successful as it is currently. Financial gains are a huge resource for the Association, enabling them to spend the money on lawyers and other legal experts to withstand these long, drawn-out court cases. In addition, the Brady name draws a lot of attention from not only other players but fans. It makes people listen to their dispute and potentially creates buy-in from different audiences. By the union sticking by Brady through the tough time of the earlier case, it showed solidarity, arguing for fairness in player misconduct cases.

While the aftermath of this case helped to strengthen bonds within the union, it only created more dissension between Roger Goodell and DeMaurice Smith. While these men have never explicitly stated that they do not get along, it would be extremely difficult to say they rival the relationship Gene Upshaw and Paul Tagliabue had, their predecessors. In an interview with GQ magazine, DeMaurice Smith compared the owners and Goodell to a sovereign stating:

...But if you're a king, you never want to negotiate. [The NFL Owners'] interest is always to have things their way. We represent the interest of the good guys...And our

interests sometimes are in other directions than just money (Skipper, 2017).

This blatant announcement that the owners have differing priorities than the Players Association hints at cracks in the foundation of their relationship. While both organizations have different constituents, their missions don't differ greatly – sign off on the best bargaining agreement for those you represent. Later in 2017, DeMaurice Smith accused Goodell of lying about communication around the NFL Personal Conduct Policy (DeMaurice Smith, 2017). Goodell claimed he would work with the Players Association to implement the programs in the most effective way, yet Smith quickly shut this down. He continued to say that he does not “...have the luxury of trust...” with the current commissioner. Not having a level of trust between the two largest decision-makers at the bargaining table in 2021 will help neither party.

The decisions that Goodell made during the “Deflategate” case not only hindered the relationship between him and the Players Association, but the public as well. When it came time for the Commissioner to award the Vince Lombardi trophy to the Robert Kraft, following the New England Patriots winning the fifty-first SuperBowl, the entire stadium erupted with boos. Fans were clearly upset at some of the actions that had progressed the year prior, specifically those handled by Roger Goodell. Goodell entered the position of Commissioner with the idea of improving the NFL's image, yet some of the actions he takes are now being critiqued, with rumblings of bias emerging in the League. The actions he took to supposedly “uphold the integrity of the game” were backfiring, which may be why, when another case of player misconduct emerged, Goodell appointed someone else to hear the appeal. But, this did not stop the NFLPA from filing a lawsuit alleging the NFL's disciplinary process was fundamentally unfair.

Chapter 5

Ezekiel Elliott Domestic Violence Case

Less than two years after the 2015 American Football Conference Championship Game and the resulting “Deflategate” case, another player would receive punishment from Roger Goodell for accused player misconduct – Ezekiel Elliott. These cases, while similar, have one significant difference – Elliott’s actions have absolutely no connection to on-the-field performance, while Brady’s conduct occurred partly on the field. Furthermore, Elliott’s case is unique, as his accuser first reported her assault before the 2016 National Football League Draft, where Elliott was selected to play for the Dallas Cowboys (Hardy, 2017). Following this disclosure, police spoke with Elliott, who stated any of his actions were in self-defense. After a medical examination revealed no signs of injury and since no other witnesses came forward, police did not have sufficient evidence to file charges (Farmer, 2017). However, the National Football League operates under a different standard, not relying on the pressing of charges to pursue a player misconduct investigation and possible suspension or expulsion.

The National Football League has a Personal Conduct Policy which applies to owners, coaches, players, and other team employees, game officials, and league office employees (NFL Personal Conduct Policy, 2016). In addition to the collective bargaining agreement and the constitution, this policy grants the commissioner the ability “to address and sanction conduct detrimental to the league and professional football” (NFL Personal Conduct Policy, 2016). This type of conduct is one that alienates the fans and has a negative consequence for the victim and offender (NFL Personal Conduct Policy, 2016). The document explicitly states that the owners, players, coaches, and other league officials are held to a higher standard than not being found guilty of a crime, that everyone must act lawfully and promote the values of the National

Football League. If suspected of violating this policy, you will be subject to an investigation and leave with pay. Following an investigation into an accusation, the player may be subject to discipline. Regarding violations of the Personal Conduct Policy that involve actions such as criminal assault, domestic or family violence, or sexual assault involving physical force, the document outlines explicitly a punishment of a suspension of six-games, should it be a player's first offense. The policy also only provides the right to appeal to the commissioner.

Roger Goodell, the current National Football League Commissioner, would cite this policy after sanctioning Ezekiel Elliott with a six-game suspension. While one might say, if the NFL found evidence that he committed domestic violence against his accuser, it stated he would receive this punishment, it is not that simple. Following the initial report of abuse, Elliott's alleged victim came forward at the end of July, a few months after Elliott had signed with the Dallas Cowboys, to report five more instances of violence (Hardy, 2017). The police investigation found bruises on her arms, which she claimed Elliott gave her. However, in September 2016, the Columbus prosecutor's office, the jurisdiction where the alleged incidents occurred, announced no charges would be filed against Elliott (Thomas, 2017). One interesting point to note is that Ohio mandates the couple must be living together if one files domestic violence charges against their attacker. Law enforcement could not confirm whether or not Ezekiel Elliott and his girlfriend at the time lived together. However, in the Personal Conduct Policy, nothing is stated about residency when sanctioning players to discipline involving domestic violence misconduct.

The National Football League conducted an independent investigation following the end of the law enforcement investigation. During this inquiry, more evidence came forward, such as text messages between the accuser and her friends. This investigation began in September 2016

but did not conclude until August 2017, almost one year later. The League announced on August 11th, 2017 the choice to suspend Ezekiel Elliott for the first six games of the 2017 season, stating they determined Elliott had been physical with his accuser during the week of July 17th (Hardy, 2017). The letter explaining the suspension cited all of the data in the case and the reason for the decision: more than a dozen witnesses, photographs, and text messages. Ezekiel Elliott's attorneys stated they would fight this suspension, believing the National Football League's findings were inaccurate and erroneous (Hardy, 2017).

Mayhem started to ensue almost immediately amongst the National Football League and the Players Association, with insults flying on a national scale from both organizations. In an already contentious situation, the NFL pushed this further by releasing a statement about how the NFLPA spread derogatory remarks about Ezekiel Elliott's accuser to the media. Quickly, the NFLPA responded, hitting on the NFL's hypocrisy and lack of credibility (Stites, 2017). This accusation of hypocrisy comes from the past cases of domestic violence within the league. Both Ray Rice and Josh Brown, previous players in the National Football League, received allegations of domestic violence. The National Football League investigated both incidents, but the players received different punishments. The Players Association argued that Elliott should not be treated more harshly due to the League's negative image following these two previous cases; Elliott did not have a voice or a decision in those incidents, so it should not hurt him today.

Elliott officially filed his appeal on August 15th, 2017, with his lawyers focusing on the credibility of his accuser, saying she misled investigators about the series of events that ensued (Hardy, 2017). Rather than presiding over the appeal as he did in "Deflategate," Goodell appointed Harold Henderson as the arbitrator. Henderson, the former chairman of the NFL's management council executive committee, had also served as an arbitrator in the Greg Hardy and

Adrian Peterson player misconduct appeals cases (Archer, 2017). Before Henderson delivered his judgment, Elliott filed a lawsuit to vacate the suspension results from the appeals process, claiming a League conspiracy to hide critical information (Hardy, 2017). The NFL filed a motion to dismiss the lawsuit, stating this case had no validity since a decision had not been rendered at the time they filed. Ultimately, Henderson claimed that Commissioner Roger Goodell followed the process for imposing judgment “step by step” (Brinson, 2017). Less than three days later, a judge granted an injunction, blocking Elliott’s suspension, stating he did not receive a fair hearing (Hardy, 2017). Again, only a month later, once the NFL and the NFLPA delivered their arguments to a circuit court, the injunction was dismissed due to a lack of jurisdiction. The Appeals Court ruled that the NFLPA had filed with the district court prematurely, as Henderson had yet to announce the outcome of the appeal (Hardy, 2017). The NFLPA still wanted this case to be heard in court, refiling the injunction in a New York Court. Again, a different judge sided with the NFL, denying any request for a preliminary injunction. It was not until November 15th, 2017 and multiple appeals later, that Ezekiel Elliott announced he would not appeal his suspension anymore and that he would serve his full six-game suspension.

Goodell often gets called out for being too involved in the cases he presides over, particularly the “Deflategate” Tom Brady case in 2015. In this instance involving Ezekiel Elliott, Goodell did not participate in the investigation portion, with four external individuals acting to find evidence either supporting or denying Elliott’s engagement in physical violence against his accuser (Thomas, 2017). However, some dispute arose in his choice of appointing Harold Henderson to serve as the independent arbitrator. While not a current league employee, this was not his first hearing involving player misconduct. Since 2008, Henderson has handled over eighty player appeals, which the union has objected to adamantly (Florio, 2017). Others argue

that Henderson is independent, pointing to his track record of sometimes altering the suspensions rendered by the commissioner, such as in the Greg Hardy case. However, the changing of one suspension in the past does not automatically equate to a neutral third party.

Just as in the Tom Brady “Deflategate” case, Ezekiel Elliott’s court battle transitioned from a domestic violence player appeal to the union fighting for a different system of player justice than the one currently outlined in the collective bargaining agreement. The union wants player rights protected, and feels the current system does not allow for that to happen, because of the amount of authority the commissioner possesses. Another interesting facet of this case came from an owner. Surprisingly Jerry Jones, the owner of the Dallas Cowboys, grew upset with the outcome of the Ezekiel Elliott case, claiming that Roger Goodell was given too much power in the case. Many questioned this response because the punishment resulted in Elliott missing some crucial games (Lyles, 2017). Players are a source of income for owners like Jerry Jones, but a suspension affects the ability to win games and make it to the coveted SuperBowl, thus creating tension and problems for a team. In short, some player misconduct punishments sometimes end up hurting owners, significantly. Interestingly, though, some owners, per an anonymous report, pressured Goodell to suspend the running back, showing owners do not tolerate domestic violence and want the negative stigma detached from the League (Brinson, 2017). Or, were owners speaking out to help the team’s program, since Elliott not playing left room for other clubs to make a power play and take the division or conference? No matter what decision transpired, multiple people would remain unhappy.

Jerry Jones’s vocal admission against Goodell’s exercise of power opens up the opportunity for the Players Association to capitalize on this, as they know certain owners are unhappy with the current system. Public records documenting this criticism exist, as some

owners speak to the media frequently about this subject. This opens up two pathways to change this current system of totalitarian control by the commissioner. One is that the owners and players could participate in conversations prior to reaching the bargaining table about how to best handle this issue. By resolving this issue early, both sides could save time and money, allowing the opportunity to bargain over other pressing matters. With three more years until the expiration date of the CBA and the new conversation surrounding kneeling during the national anthem, rectifying one subject early will pay off in the long run. However, should the owners not be open to this discussion, it opens up the opportunity for the players to utilize leverage at the bargaining table. Without a united group of owners, bargaining will become jumbled, and the players will have the power in the situation, should they maintain the uniform front that has been presented to the public. Overall, this case is another example of how cracked the current system of commissioner discipline is, with almost everyone upset to some degree about the outcome.

Chapter 6

Where Do We Go from Here – How Far is Too Far?

The union defends multiple cases of player misconduct, fighting for due process rights of players under the collective bargaining agreement. The focus of the union is not the action or actions the player has potentially committed, but rather the due process rights granted throughout the investigation and appeal of the punishment. The current system of Commissioner Discipline hinders the players, as the commissioner holds all the authority over the process. This system hurts the owners, as well, as sometimes the decision the commissioner makes affects the team's profitability and playing time. While this sometimes might be the correct course of action, the commissioner's responsibility is to represent the owners at the bargaining table. These two responsibilities can conflict, creating more problems than needed.

When an accusation is brought forward regarding misconduct, an investigation ensues. The investigation and current procedure outlined in the bargaining agreement grant the commissioner the discretion to make the rules, punish the potential wrongdoing, and review those punishments, should a player pursue an appeal. This unilateral practice does not guarantee the player due process and fair treatment, a problem both owners and players are coming to realize. The flood of recent litigation, combined with the analysis of other leagues' collective bargaining agreements, shows that Commissioner Roger Goodell currently holds too much power in the reviewing of appeals. Re-evaluating Article 46: Commissioner Discipline at the bargaining table to include an independent arbitration procedure, with a clear and defined

system, would resolve these problems. Until this issue is addressed and altered in the bargaining agreement, no resolution will result.

In previous cases, the court has stated they will not rule on the fairness of the commissioner's power nor the arbitrator's impartiality. However, both the district courts in the Tom Brady and Ezekiel Elliott cases stated the commissioner's authority was "too broad." While this comment by the district court does not change the decision of the appellate court dismissing the case, it is worth noting. The current football collective bargaining agreement does not expire until 2021, meaning some years remain before one will know if changes to the contract will occur. This paper's primary focus is not to predict the future or how this process will transpire, but instead to put forward a best solution that could potentially benefit both parties – The National Football League and the National Football League Players Association.

Recently, both baseball and basketball agreed to a new collective bargaining agreement, without any lockout or strike. Both the league and the respective union participated in substantive discussion prior to the agreement running out, allowing for productive and effective discussion over changes to the legal document. If the National Football League and the Players Association could mirror this practice, discussing alterations to "Article 46 – Commissioner Discipline" before the end of the collective bargaining agreement, there is a more significant potential for a change to be made that benefits both sides. While some might argue bargaining becomes most effective when all of the issues are on the table, this strategy will not benefit the League nor the Players Association. By rectifying this article prior to formal bargaining procedures, both parties will be able to focus on more pressing matters that involve intense negotiations and compromise.

Effective bargaining requires strong leadership and communication. Roger Goodell and DeMaurice Smith were both re-elected to their positions, with voting members knowing negotiations would be starting soon. These two men need to come together and produce productive conversations for changes in the commissioner discipline system to come to fruition quickly and efficiently, as the commissioners and executive directors did in baseball and basketball.

Owners and players stand to gain something from a three-person arbitration hearing board, with a representative from the owners, a representative from the players and a neutral third-party arbitrator being present. The establishment of a set procedure for the resolution of player discipline disputes will prevent either side from needing to fight about the arbitrariness of hearing officers. In the National Football League collective bargaining agreement, under “Article 43: Non-Injury Grievance, Section 6: Arbitration Panel,” a process exists where a player may appeal a dispute to a panel of four arbitrators (NFL-CBA, 2011). If this system already exists for other disputes, why should player misconduct cases be treated any differently? This will unify the National Football League collective bargaining agreement to be consistent for all grievances, while also creating a procedure similar to the other three major sports leagues. As a result of this, football players will be granted more freedom from the unilateral imposition of discipline they are currently facing.

The owners and the League state the reason for the commissioner’s control in the deciding of player misconduct punishment rests on his duty to “uphold the integrity of the game.” However, throughout the past five to ten years, the NFL Commissioner’s office has been scrutinized for the handling of these cases and in the decisions on punishments. One way Major League Baseball combats the upholding the integrity of the game ideal is by granting the

Commissioner the ability to **still** decide punishments for conduct occurring on the field or in the clubhouse, without appeal from the player. This proposed change to Article 46: Commissioner Discipline in the collective bargaining agreement is meant to apply to actions players participated in off-the-field. Just as in Major League Baseball, the Commissioner and National Football League Compliance Team will be able to sanction players to punishment and fines for actions occurring on the field.

While the complete removal of the commissioner from this process could create upset and pandemonium, this three-person hearing board will still allow the commissioner to maintain some influence over discipline for player misconduct accusations in the best interests of the NFL. At the same time, it grants players fundamental rights in the process. The current system of disciplinary review is inefficient, as demonstrated by the “Deflategate” and Ezekiel Elliott lawsuits. A three-person hearing board might alleviate the number of lawsuits reaching the court, preventing the waste of time and money in the future.

Both parties will also gain the opportunity to tackle other pressing issues in the National Football League, rather than spending extensive amounts of time, money and energy on fighting this issue in the courtroom. If the system of commissioner discipline is to change, the court have made it clear the alterations will have to occur at the bargaining table. In 2021, other discussions will need to occur besides commissioner discipline, such as players kneeling during the national anthem, revenue splits, health care issues or an extended playing schedule. Since the collective bargaining agreement had a lifetime of ten years, many issues other than commissioner discipline could arise before the expiration in 2021. This also leads to another recommendation – neither side should advocate for a ten-year expiration date again; it does not allow the sport nor the governing relationship to evolve with the changing times. If both parties executed leadership, by

putting aside their differences and uniting both the owners and players on this issue, the matter of commissioner discipline has the potential to be resolved even before the collective bargaining agreement expires in 2021.

However, as stated above, this paper is just a recommendation about the best decision for the owners and players. One problem that might arise in achieving this system is the NFLPA's statement about a lockout in 2021. The union has been stating since 2011 that the players need to save their money and resources to withstand a potential lockout in 2021. This open announcement of preparing for a lockout sends an unambiguous message to the league and sets a clear tone for how negotiations will proceed in the future. To push it even further, DeMaurice Smith stated "We [are] preparing for war" when asked in February 2018 about 2021 negotiations (Wilner, 2018).

Given the Union's blatant statement of its plans to unite all of their players, the owners might come together and develop a strength internally. Although Jerry Jones and other owners previously spoke negatively about the commissioner's power to the media, three years remain before the collective bargaining agreement expires. This time grants the owners the chance to unite wholly on this issue, and potentially force the players to make concessions before accepting a new independent player misconduct appeal provision in the new collective bargaining agreement.

On the other hand, if the union continues to educate their constituents and prepare for what's to come at the bargaining table, lengthy litigation cases can be avoided. Owners grow upset at the continuous need for the union to sue over every decision the league has made. With the union stating they are prepared to negotiate at the bargaining table, the owners might respond

positively, taking the request seriously and heeding their proposition for an independent player misconduct appeals process.

The current NFL disciplinary structure for player misconduct cases gives the NFL Commissioner discretion to make the rules, punish the misconduct, and review those punishments. This authority needs a checks and balances system, and the best way to do so, while not entirely shutting out the commissioner, is a three-person hearing board. The other three major sports leagues do not receive as many accusations of player misconduct as the National Football League has, and they maintain an independent appeals process for these cases. To avoid a “war” and a potential lockout or strike, the NFL and the NFLPA must come together to rectify this situation. If not, who’s to say what will occur after expiration of the current collective bargaining agreement in 2021? Therefore, the most beneficial way to rectify the current issue of Article 46: Commissioner Discipline is for both the Players Association and the League to carefully exert their leadership, leverage and resources, prior to the agreement’s expiration, and potentially avoid causing further damage to an already cracked relationship.

BIBLIOGRAPHY

- About NFLPA. (n.d). Retrieved January 28, 2018, from <https://www.nflpa.com/about/history>
- Abrams, R. (2009). Arbitrator Seitz sets the players free. *Baseball Research Journal*. Retrieved February 23, 2018, from <http://sabr.org/research/arbitrator-seitz-sets-players-free>
- Ambrose, R. (2008). The NFL makes it rain: Through strict enforcement of its conduct policy, the NFL protects its integrity, wealth and popularity. *William Mitchell Law Review*, (34)3, 1069-1113. Retrieved January 28, 2018.
- Andrews, E. (2014, October 09). The black sox baseball scandal, 95 years ago. Retrieved January 28, 2018, from <http://www.history.com/news/the-black-sox-baseball-scandal-95-years-ago>
- Archer, T. (2017, August 16). NFL accuses union of Ezekiel Elliott leaks, union says NFL is spreading “lie”. Retrieved March 01, 2018, from http://www.espn.com/nfl/story/_/id/20359661/harold-henderson-hear-ezekiel-elliott-appeal
- Armour, N. (2014, April 29). Who is new NBA Commissioner Adam Silver? Retrieved March 18, 2018, from <https://www.usatoday.com/story/sports/nba/2014/04/29/who-is-adam-silver/8474983/>
- Baseball history: Commissioners. (n.d.). Retrieved January 28, 2017, from http://mlb.mlb.com/mlb/history/mlb_history_people.jsp?story=com_bio_1
- Battista, J. (2006, July 30). Lifetime spent preparing for top job in the NFL. Retrieved January 28, 2018, from <http://www.nytimes.com/2006/07/30/sports/football/lifetime-spent-preparing-for-top-job-in-the-nfl.html>
- Berger, K. (2015, June 02). NBPA makes history with election of Michelle Roberts as executive director. Retrieved February 02, 2018, from <https://www.cbssports.com/nba/news/nbpa-makes-history-with-election-of-michele-roberts-as-executive-director/>
- Brinson, W. (2017, September 06). Ezekiel Elliott arbitrator says he can’t “second guess” Goodell, but he has before. Retrieved March 01, 2018, from <https://www.cbssports.com/nfl/news/ezekiel-elliott-arbitrator-says-he-cant-second-guess-goodell-but-he-has-before/>

- Brown, M. (2016, December 03). Breaking down MLB's new 2017-21 collective bargaining agreement. Retrieved January 28, 2018, from <https://www.forbes.com/sites/maurybrown/2016/11/30/breaking-down-mlbs-new-2017-21-collective-bargaining-agreement/#6fb3ffc611b9>
- Constitution and Bylaws of the National Basketball League. (2012, May 29). Retrieved February 02, 2018, from <http://prawfsblawg.blogs.com/files/221035054-nba-constitution-and-by-laws.pdf>
- Chandler, R. (2014, September 10). A brief history of NFL commissioner controversies. Retrieved January 28, 2018, from <https://www.sportsgrid.com/real-sports/nfl/a-brief-history-of-nfl-commissioner-controversies-1920-to-today/>
- Dater, A. (2012, August 27). Vindication for Bob Goodenow? Retrieved February 18, 2018, from <https://www.si.com/nhl/2012/08/27/nhl-lockout-bob-goodenow>
- Deflategate timeline: After 544 days, Tom Brady gives in. (2016, July 15). Retrieved January 27, 2018, from http://www.espn.com/blog/new-england-patriots/post/_/id/4782561/timeline-of-events-for-deflategate-tom-brady
- DeMaurice Smith: Roger Goodell "lied" about conduct policy collaboration. (2017, August 19). Retrieved February 11, 2018, from http://www.espn.com/nfl/story/_/id/20388690/nflpa-head-demaurence-smith-says-roger-goodell-lied-working-union-conduct-policy-2014
- Demovsky, R. (2016, September 01). Packers' Aaron Rodgers: Players should demand arbitrator in next CBA talks. Retrieved February 11, 2018, from http://www.espn.com/nfl/story/_/id/17442557/green-bay-packers-quarterback-aaron-rodgers-welcome-more-active-role-next-collective-bargaining-agreement-talks
- Dominique, A. (2017, April 12). NFL History: The road to free agency. Retrieved February 11, 2018, from <http://bleacherreport.com/articles/18183-nfl-history-the-road-to-free-agency>
- Easterbrook, G. (2015). *The Game's Not Over: In Defense of Football*. New York, NY: PublicAffairs.
- Farmer, S. (2017, August 11). NFL suspends Cowboys' Ezekiel Elliott for six games after yearlong domestic violence investigation. Retrieved March 01, 2018, from <http://www.chicagotribune.com/la-sp-cowboys-elliott-suspension-20170811-story.html#nt=featured-content>
- Florio, M. (2017, August 17). Harold Henderson isn't a truly impartial arbitrator. Retrieved March 01, 2018, from <http://profootballtalk.nbcsports.com/2017/08/16/harold-henderson-isnt-a-truly-impartial-arbitrator/>
- Hardy, S. (2017, August 29). "A comprehensive timeline of Ezekiel Elliott's domestic violence case." Retrieved January 27, 2018, from

<https://www.sbnation.com/2017/8/29/16151642/ezekiel-elliott-timeline-domestic-violence-police-report-nfl-suspension-appeal>

Incognito, others tormented Martin. (2014, February 15). Retrieved February 11, 2018, from https://www.espn.com/nfl/story/_/id/10455447/miami-dolphins-bullying-report-released-richie-incognito-others-responsible-harassment

Jacobson, R. R., Pendergast, T., & Alters, S. (2009). *Gene Upshaw* (Vol. 72). Detroit, MI (Cenage Learning)

Lyles, H., Jr. (2017, October 31). Jerry Jones thinks Roger Goodell is overcorrecting with the Ezekiel Elliott suspension. Retrieved March 01, 2018, from <https://www.sbnation.com/2017/10/31/16581230/jerry-jones-ezekiel-elliott-roger-goodell-suspension>

MacCambridge, M. (2005). *America's game: The epic story of how pro football captured a nation*. New York: Anchor Books.

Major League Baseball Players Association History. (2016, June 29). Retrieved January 28, 2018, from http://www.mlbplayers.com/ViewArticle.dbml?ATCLID=211042995&DB_OEM_ID=34000

Major League Constitution of the Major League Baseball Association. (2005). Retrieved January 28, 2018, from <http://thesportsesquires.com/wp-content/uploads/2014/05/MLB-Constitution-2005.pdf>

McIndoe, S. (2014, September 03). The often forgotten 1994 NHL Lockout. Retrieved February 10, 2018, from <http://grantland.com/the-triangle/the-often-forgotten-1994-nhl-lockout/>

MLB Collective bargaining agreement, 2017-2021. (2017). Retrieved January 28, 2018, from <http://www.mlbplayers.com/pdf9/5450407.pdf>

Monroe, M. (n.d.). NBA: The Commissioners. Retrieved February 02, 2018, from <http://www.nba.com/history/commissioners.html>

NBA announces suspensions from Pistons-Pacers game. (2004, November 22). Retrieved February 02, 2018, from http://www.nba.com/news/pacers_pistons_041121.html

NBA is born. (n.d.) Retrieved February 02, 2018 from <http://www.history.com/this-day-in-history/nba-is-born>

NBA-NBPA Collective Bargaining Agreement. (2017, January 19). Retrieved February 02, 2018, from <http://3c90sm37lsaecdwtr32v9qof-wpengine.netdna-ssl.com/wp-content/uploads/2016/02/2017-NBA-NBPA-Collective-Bargaining-Agreement.pdf>

- NBPA About and History. (n.d). Retrieved February 02, 2018 from <https://nbpa.com/about/>
- Neumesiter, L. (2015, September 03). Judge sides with Brady on “Deflategate,” NFL appeals. Retrieved February 11, 2018, from <https://pro32.ap.org/article/judge-sides-brady-deflategate-nfl-appeals>
- NFL Collective bargaining agreement, August 4, 2011. (2011). Retrieved January 28, 2018, from <https://nflabor.files.wordpress.com/2010/01/collective-bargaining-agreement-2011-2020.pdf>
- NFL Commissioner Roger Goodell signs five-year extension. (2017, December 06). Retrieved January 28, 2018, from http://www.espn.com/nfl/story/_/id/21691975/nfl-commissioner-roger-goodell-signs-contract-extension
- NFL Constitution and bylaws of the National Football League. (2006). New York: NFL.
- NFL locks out players, who file suit. (2011, March 12). Retrieved March 18, 2018, from <http://www.espn.com/nfl/news/story?id=6205936>
- NFL owners elect Goodell as new commissioner. (2006, August 09). Retrieved January 27, 2018, from <http://www.espn.com/nfl/news/story?id=2543783>
- NFL Personal Conduct Policy (2016). Retrieved March 01, 2018, from <http://static.nfl.com/static/content/public/photo/2017/08/11/0ap3000000828506.pdf>
- NFLPA appeals Patriots QB Tom Brady’s four-game suspension. (2015, May 14). Retrieved February 18, 2018, from http://www.espn.com/boston/nfl/story/_/id/12887452/nflpa-appeals-four-game-suspension-new-england-patriots-quarterback-tom-brady
- NHL-NHLPA Collective Bargaining Agreement. (2012, September 16). Retrieved February 10, 2018, from http://www.nhl.com/nhl/en/v3/ext/CBA2012/NHL_NHLPA_2013_CBA.pdf
- Price, S. (2014, November 19). How “Malice at the Palace” changed 6 NBA careers. Retrieved February 02, 2018, from <https://www.sbnation.com/2014/11/19/7246943/malice-at-the-palace-anniversary-pacers-pistons-ron-artest>
- Rapaport, D. (2018, January 04). NFL TV Ratings down nearly 10% from last season. Retrieved January 27, 2018, from <https://www.si.com/tech-media/2018/01/04/nfl-tv-ratings-decline-ten-percent-colin-kaepernick-thursday-night-football>
- Reed, J. (2017, April 12). Reviewing the complete timeline of NFL, Saints Bountygate scandal. Retrieved February 20, 2018, from <http://bleacherreport.com/articles/1441646-reviewing-the-complete-timeline-of-nfl-saints-bountygate-scandal>
- Reinsdorf, J. M. (1996). The powers of the commissioner in baseball. *Marquette Sports Law Review*, 7(1), 211-255. Retrieved January 28, 2018, from

<http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1171&context=sportslaw>

- Reyes, L. (2016, April 25). Federal court has reinstated the NFL's four-game suspension of Tom Brady. Retrieved February 11, 2018, from <https://www.usatoday.com/story/sports/nfl/2016/04/25/tom-brady-nfl-suspension-reinstated-federal-court-deflategate/83497072/>
- Rob Manfred next MLB commissioner. (2014, August 14). Retrieved January 28, 2018, from http://www.espn.com/mlb/story/_/id/11354603/rob-manfred-voted-next-mlb-commissioner-according-reports
- Rogers, T. (1977, June 27). Walter Kennedy, 64, of NBA is dead. Retrieved February 02, 2018, from <http://www.nytimes.com/1977/06/27/archives/walter-kennedy-64-of-nba-is-dead-walter-kennedy-of-nba-is-dead.html>
- Reznik, S. (2017, April 11). Alan Eagleson: The hockey fail king. Retrieved February 10, 2018, from <https://thehockeywriters.com/alan-eagleson-hockey-fail-king/>
- Skipper, C. (2017, January 10). DeMaurice Smith on battling Roger Goodell and whether NFL football can ever be safe. Retrieved February 11, 2018, from <https://www.gq.com/story/demaurence-smith-on-nfl-goodell-and-cte>
- Skiver, K. (2017, September 20). DeMaurice Smith unanimously re-elected as executive director of NFLPA. Retrieved January 28, 2018, from <https://www.cbssports.com/nfl/news/demaurence-smith-unanimously-re-elected-as-executive-director-of-nflpa/>
- Smith elected to head NFLPA. (2009, March 16). Retrieved January 28, 2018, from <http://www.espn.com/nfl/news/story?id=3983760>
- Staudohar, P. D. (2005). The hockey lockout of 2004-05. *Monthly Labor Review*, 23-29. Retrieved February 10, 2018.
- Stites, A. (2017, August 16). NFL and NFLPA went to Twitter to trade insults about Ezekiel Elliott's suspension. Retrieved March 01, 2018, from, <https://www.sbnation.com/2017/8/16/16157916/nfl-nflpa-twitter-insults-statement-ezekiel-elliott-suspension-appeal>
- The 2004 NHL lockout: A light look back at a dark day. (2014, September 15). Retrieved February 10, 2018, from, <https://www.si.com/nhl/2014/09/15/2004-nhl-lockout-look-back-at-dark-day>
- Thomas, J. (2017, August 18). Ezekiel Elliott's suspension and appeal, explained. Retrieved March 01, 2018, from <https://www.sbnation.com/2017/8/18/16141526/ezekiel-elliott-suspension-appeal-explained-nfl-domestic-violence>

- Volin, B. (2013, July 21). NFL owners destroyed the players in CBA negotiations. Retrieved January 28, 2018, from <https://www.bostonglobe.com/sports/2013/07/20/nfl-owners-destroyed-players-cba-negotiations/ia3c1ydpS16H5FhFEiviHP/story.html>
- Vrentas, J. (2014, November 21). Confusion, mistrust, frustration, anger. Retrieved January 28, 2018, from <https://www.si.com/2014/11/21/nflpa-player-discipline-demaurence-smith-eric-winston-interview>
- Wilner, B. (2018, February 01). NFLPA boss: "We prepare for war" over new labor agreement. Retrieved March 11, 2018, from <http://www.chicagotribune.com/sports/football/ct-nflpa-war-over-new-labor-agreement-20180201-story.html>
- Wyshynski, G. (2018, February 01). Bettman's legacy: The good, the bad and the ugly of Gary Bettman's 25-year NHL tenure. Retrieved February 01, 2018, from, http://www.espn.com/nhl/story/_/id/22273439/good-bad-ugly-gary-bettman-25-year-nhl-tenure
- Youngmisuk, O. (2018, January 11). Adam Silver, Michelle Roberts to tour National Civil Rights Museum. Retrieved February 02, 2018, from http://www.espn.com/nba/story/_/id/22031472/nba-commissioner-adam-silver-nbpa-executive-director-michele-roberts-tour-national-civil-rights-museum-part-events-honor-mlk

ACADEMIC VITA

EDUCATION

The Pennsylvania State University
College of the Liberal Arts

Schreyer Honors College, Paterno Fellows Program

Bachelor of Arts, Political Science

Bachelor of Arts, Labor and Employment Relations

Thesis: Commissioner Discipline in the National Football League

University Park, PA
Graduated: May 2018

RELEVANT EXPERIENCE

DLA Piper, Global Law Firm

Summer Intern

Baltimore, MD

Summer 2016

- Generated new filing system relating to offices in Puerto Rico, Baltimore, Philadelphia, and Wilmington
- Coordinated schedules and meetings between staff members and the Chief Financial Officer
- Audited online employee-hiring system and updated accordingly to improve consistency in practices

University Park Undergraduate Association

Judicial Board Justice

University Park, PA

Spring 2016 – Present

- Presided over all legislative branch internal conflicts and actions
- Drafted internal bylaws, policies, and governing documents to ensure fairness within the elections code
- Monitored election procedures, processes, and assessed violations accordingly

Penn State Panhellenic Council

Judicial Board Justice

University Park, PA

Spring 2016 – Fall 2016

- Conducted fair and unbiased hearings to mediate intra-sorority conflicts
- Assisted the Executive Board in dealing with recruitment responsibilities
- Created and maintained proper documentation for future judicial boards to reference

LEADERSHIP EXPERIENCE

Sisters on the Runway

Vice President

University Park, PA

Spring 2017 – Present

- Executed a fashion show with all proceeds going towards the Centre County Women's Resource Center
- Maintained communication with various student organization leaders on campus
- Negotiated contracts with outside vendors to reserve space for event, provide food to attendees, and similar event needs

Penn State Panhellenic Council

Vice President of Wellness

University Park, PA

Spring 2017 – Spring 2018

- Pioneered the Body Project, a body acceptance program shown to decrease likelihood of eating disorders
- Advocated for the Greek women's community and raised awareness regarding all wellness issues
- Collaborated with 10 other executive board members to govern over 5,000 Greek women

HONORS & ACTIVITIES

Stand for State Ambassador

- Successfully completed the Bystander Intervention program training

State of State Conference

- Selected to speak about diversity and inclusion on Penn State's campus

Jewish Leader Fellow

- Invited to participate in the discussion of the blending of Judaic values with leadership, ethics, and standards