



2012 NFL DRAFT
APRIL 26 – 28



STREET & SMITH'S
SBJ **SBD** **SportsBusiness**
JOURNAL

SBJ/April 9-15, 2012/Opinion

Proactive approach by NFL can put bounty issue to rest

Published April 9, 2012, Page 18



**RAMSEY
POSTON**

When NFL Commissioner Roger Goodell announced aggressive fines and penalties for the New Orleans Saints and their coaches and executives for a bounty scheme in which players were rewarded for injuring opponents, he was laying the groundwork for the league's legal defense. Make no mistake: Goodell's announcement was strategic communications at work and done with a nervous eye toward the league's legal vulnerabilities.

Whether he went far enough remains in question.

The bounty situation has been a major problem for the NFL on multiple levels. It was an affront to Goodell's most important mission: player safety. Bounty programs threatened to eliminate some of the league's biggest stars. That's bad for business. But perhaps the biggest headache is that, if argued in court or Congress, bounty programs could be ruled unlawful. The legal aspect invites messy lawsuits and disruptive investigations, which are even worse for business.

The legal threats include: state and federal law enforcement investigations; attorneys for ex-players claiming their clients' careers were prematurely ended; and congressional hearings. Sen. Dick Durbin (D-Ill.), who is a member of the powerful Senate Judiciary Committee, has already called for a hearing on the topic to determine whether bounties in sports should be considered a crime.

In its own probes, the NFL amassed a ton of evidence, including 18,000 documents. They would all be in play if legal action were taken, potentially exposing an especially ugly side of the NFL.

How ugly? Just look at the NHL imbroglio involving Todd Bertuzzi and Steve Moore. In 2004, Bertuzzi, who played for the Vancouver Canucks, punched Steve Moore of the Colorado Avalanche, breaking his neck. Bertuzzi was criminally charged and pleaded guilty to assault in Canada.

Moore, whose career was ended by the blow, filed multiple suits against Bertuzzi and the Canucks in Canada

for loss of income and aggravated damages. In response, Bertuzzi filed counterclaims and sued his former coach, Marc Crawford, claiming Crawford had ordered him to take out Moore. Although Bertuzzi later dropped his claims against Crawford, this episode could be just a taste of how convoluted things could get for the NFL if litigants began firing shots in U.S. courts.

In scandal post-mortems, three questions are asked most often: What did you know? When did you know it? What did you do about it? The NFL's extensive investigation and subsequent announcement on March 2 dealt with the first two questions. The league's penalty announcement on March 21 attempts to address the third. The league press release includes a massive amount of information about the investigation and its findings. It reads, dare I say, like a defendant's legal response seeking summary judgment.

The severe penalties levied by the NFL speak to very specific audiences, namely players and coaches along with potential litigators and investigators. This is a smart move. The league's message was strong and conveyed the fact that bounties are serious offenses that can get you thrown out of the league.

But an unnerving question remains: Did the NFL put a stake through this scandal's heart? The league's investigation does not appear to have looked beyond the Saints organization. When asked — and it will be during congressional hearings — the league will need to answer credibly about what was happening among the other 31 teams.

Overlooking the rest of the league at a minimum invites criticism from media that it wore blinders in conducting its investigation. Some of the commentary already reflects that skepticism. Since the story initially broke, there have been dozens of players who have said bounties are common. Really? The NFL needs to know to what extent and be prepared for a closer examination. The NFL may not want to know what lies beneath, but better to find out now instead of in court or during congressional hearings.

Another potential vulnerability is that the penalties, suspensions and fines are reactive and don't really cover preventative measures. It is important for the NFL to also look forward and take steps to ensure this never happens again. Some preventative steps will provide greater education among players and coaches and buttress any legal defense that the NFL might make to demonstrate it is doing all it can to eliminate bounties.

To that end, Goodell should take the opportunity to announce the following additional steps that will serve the league well down the road during congressional hearings and in the event of other investigations or lawsuits:

- An independent investigator will be retained to conduct a full-scale review of bounty schemes in the NFL and provide a report of findings and recommendations.
- The NFL, with the full support of the NFL Players Association, will adopt a zero-tolerance policy for bounties resulting in the most severe of penalties, including lifetime bans.
- The NFL will announce an education program for all players and coaches underscoring the seriousness of player safety and sportsmanship.
- The NFL will provide lines of communications to allow players to quickly and anonymously report any bounties or other violations of NFL rules that compromise player safety.

The NFL has been fortunate to have a number of big headlines that deflect attention, at least to some extent, from the bounty problem. However, it is possible that the Saints are just the tip of the bounty iceberg, and the NFL needs to be ready for additional painful collisions with reality.

Ramsey Poston (rposton@tuckahoestrategies.com), former managing director of corporate communications for NASCAR, is president of Tuckahoe Strategies, which specializes in crisis and litigation communications.

Related Topics:

[Opinion](#)

[Return to top](#)