

# Special Report: Assaults on Sports Officials

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## **SPECIAL REPORT: ASSAULTS ON SPORTS OFFICIALS\***

### **I. INTRODUCTION**

Sports participation has become a part of American life. Today, sporting events have become further ingrained into the consciousness of society due to the constant exposure they are given. For example: one-quarter of the USA TODAY newspaper is devoted to the sports section; ESPN has three different channels devoted entirely to sports; and sports talk radio stations can be found in every major American market. In essence, people no longer participate in sports merely for the pure enjoyment of the game. At almost every level sports have become a major business with large amounts of revenue involved. It is through this spectrum that sports participation must be viewed.

Similar to other businesses, sporting events have components essential to their survival. The most basic component would be the players or participants. There must be coaches in order to guide the players and lead them to their goals. Fans are also necessary at the higher levels of sports participation in order to pay for tickets and merchandise to help finance the salaries of the players, coaches, and other expenses associated with the sport. Finally, and in some sense most importantly, there must be officials to enforce the rules of the game and judge potential disputes between participants on the field.

Sports officials act as the on-field judges for their respective sports. They are brought in from the outside, as supposedly neutral participants who have no stake in the outcome of the game.

For purposes of comparison, in a court of law, justice is presumed to be blind, able to distinguish between two sides based only upon the facts provided in a particular case. A judge is then to render a decision based on the facts presented, coupled with his interpretation of the results under the law. Sports officials are similar to these legal judges. Sports officials are presumed to be blind to the differences of the two competing sides. The sports official renders his or her judgment based on what he or she views as occurring on the field of play, and his or her interpretation of the rules of the game. Usually, a decision made by an official during a game should be unreviewable.

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\* The author has been a registered basketball, baseball, and softball official in the Wisconsin Interscholastic Athletic Association (WIAA) since 1990, and a registered volleyball official since 1992. He has seen many different sporting contests from an official's viewpoint, but thankfully, he has not witnessed an official being assaulted first-hand.

When sports officials act in what could be called their "judging" capacity they should be afforded protection from assaults and other negative reactions by participants, coaches, and fans. Unfortunately, in most states, this does not seem to be the case. "Kill the Ump," has become more than just a taunt by some disgruntled fans. In fact, certain players, coaches, and fans have engaged in actions in which it seemed as if they were indeed trying to "Kill the Ump."

This phrase has lead to a disturbing trend in the United States over the past few years. This trend at its foundation shows a lack of respect for the authority exemplified by a sports official. Of course, this lack of respect is symptomatic of a general lack of respect for many authority figures including; sports officials, police officers, and teachers.<sup>1</sup>

Year after year, reports of attacks on sports officials are increasing.<sup>2</sup> In reaction to this problem, ejections of coaches and players have also increased. For example, "Texas has recorded 100 ejections of adult coaches from the games of players in grades seven to 12, twice last season's total. In Florida, 333 players were thrown out of high-school football games in 1996, up from 277 in 1995 and 212 in 1994."<sup>3</sup>

Ron Foxcroft, chairman of the National Association of Sports Officials (hereinafter "NASO"), has been officiating basketball games for the past thirty-three years, the last seventeen in the NCAA Division I ranks. Mr. Foxcroft is hoping to put a halt to the trend of assaults on officials.<sup>4</sup> Foxcroft states, "I'm concerned about the lack of respect by society towards authority in general and towards sports officials in particular."<sup>5</sup> Foxcroft also states that "[t]his year alone, [1997] we're tracking assaults on 13 officials who have suffered head injuries, broken jaws. It's disturbing and sordid because these are not isolated incidents. They're all too common, and it's creeping into Canada."<sup>6</sup>

## II. THE PROBLEM AT THE AMATEUR LEVEL

Assaults on sports officials at the amateur level usually fall into three general categories: those committed by players; those committed by

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1. Robert Lipsyte, *Officials Fear 'Kill The Ump' Is No Longer Joke*, SEATTLE TIMES, Feb. 9, 1997, at D5.

2. *Id.*

3. *Id.*

4. Kathryn Korchok, *Ref Blowing Whistle on Violence 'Lack of Respect by Society Toward Sports Officials'*, TORONTO STAR, Jan. 12, 1997, at C5.

5. *Id.*

6. *Id.*

coaches; and those committed by fans. The following is an overview of the problem in each of these three categories.

### A. Assaults By Players

One of the newest and most frightening trends is that many officials are being assaulted by players. A look at the headlines of almost any major newspaper reveals situations where a player, or players, have assaulted an official. What follows is a brief description of several incidents which have made the news within the past three years:

- 1) On October 20, 1995, Ken Smotrys, a football official, was working a high school football game in California.<sup>7</sup> Shortly after the second-half kickoff, he was punched by a player from one of the teams.<sup>8</sup> Mr. Smotrys suffered swelling and a cut below his left eye.<sup>9</sup>
- 2) In January of 1996, a high school wrestler head-butted a wrestling official during a match in Washington.<sup>10</sup> The official, Bob West, was unconscious for about thirty seconds.<sup>11</sup> West suffered from a headache and a sore neck.<sup>12</sup> The wrestler was charged with fourth

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7. Bill Topp, *Incident in Black and White*, REFEREE, Feb., 1996, at 36.

8. *Id.* In this instance, the two schools competing were Beverly Hills High, with a mixture of minority and white players and Centennial High, a mostly black team. Ken Smotrys is a white official. There was a racial undertone to this incident which had begun before the game. The Centennial coach claimed that his players had been called names as they got off the bus, however, the officials could not do anything about this because their jurisdiction had not yet begun. *Id.*

The kickoff to start the second half began the incidents which lead to the assault. A Beverly Hills player had been tackled and was trying to get up when he was pushed back to the ground by Kumasi Simmons, a player from Centennial High. Smotrys ran over to break the play up and as he was running to the spot of the tackle he brushed into a different Centennial player, Vincent Brooks. Smotrys yelled at Simmons to stop it and get away from the pile. The two sides separated and went to their respective huddles. Seconds later, Simmons went over to where Smotrys had lined up for the next play and punched him. *Id.*

9. *Id.*

10. *Prep Wrestler Punished For Head-Butting Referee*, REFEREE, June 1996, at 19.

11. *Id.* Bob West, a 20 year veteran wrestling official, had penalized Chad Hildebrandt for head-butting his opponent in the first period. In the third period, after Hildebrandt had been pinned, he pushed his opponent. West got between the two and told them that that was enough. Hildebrandt then head-butted West. Hildebrandt was dismissed from the team and suspended from school because of the incident. *Id.*

Hildebrandt, who was 17 at the time of the incident, was charged with fourth degree assault and was to be prosecuted as a juvenile. West would have liked to have seen him charged with third degree assault which was a Class C felony and punishable by up to five years imprisonment and up to a \$10,000 fine. West also considered pursuing civil remedies against Hildebrandt. *Id.*

12. *Id.*

degree assault and faced a maximum penalty of two years probation and thirty days in jail.<sup>13</sup>

- 3) On August 15, 1995, Richard Wolff, a baseball umpire, was attacked by Lou Aceto, a seventeen-year-old baseball player, during the seventh inning of a championship playoff game.<sup>14</sup> Aceto plead guilty to assault charges and was sentenced to six months of probation.<sup>15</sup>
- 4) Sammy Hancock, a softball umpire from Winston-Salem, North Carolina, was attacked and beaten after a game in which he had officiated.<sup>16</sup> He was attacked by several players from the team from which he had ejected a player.<sup>17</sup>
- 5) On July 20, 1996, Eric Erickson, a football official, was working a semi-pro Mid-Continental Football League game when he was blind-sided by a linebacker.<sup>18</sup> Erickson was taken to a hospital where he was treated for severe contusions, pulled neck muscles, and numbness in his arms and shoulders.<sup>19</sup>
- 6) On May 22, 1996, Steve Hughes, a basketball official, was knocked unconscious during a game by a seventeen-year-old basketball

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13. *Id.*

14. *N.J. Teen Sentenced In Umpire Assault*, REFEREE, July 1996, at 14.

15. *Id.* According to Wolff's attorney, Aceto struck Wolff over a disputed call. Wolff had not been notified of Aceto's hearing and thus had no input in the sentencing because according to New Jersey law, the victim and his legal counsel are not notified in juvenile cases. Local umpires were outraged at the punishment and claimed that it was a mere "slap on the wrist." *Id.* In New Jersey, judges are allowed to consider imposing tougher sentences on people who commit assaults when a sports official is involved, however, this could not be imposed here because the offender was a juvenile. *Id.*

16. *Umpire Won't Let Attack Intimidate Him*, REFEREE, Nov. 1996, at 17.

17. *Id.* Hancock was assaulted by several members of the softball team which had to forfeit the game which he had been working. The team was required to forfeit the game when he ejected one player and the team did not have enough players to continue to play the game. *Id.*

Hancock was attacked as he was walking to his car after the game. The players followed him, surrounding him, and proceeding to beat and kick him. As a result, Hancock suffered a dislocated shoulder and cuts and bruises over most of his body. *Id.*

18. *Football Official Rammed By Player*, REFEREE, Nov. 1996, at 18.

19. *Id.* The game between Toledo and Southern Michigan had been characterized by cheap shots and trash talking. The Toledo team had been assessed 13 penalties for 136 yards, of which, 75 of the yards were for personal fouls. With about a minute left in the game, the Toledo bench was heard chanting, "Hit the Ref." So, a Toledo linebacker lowered his helmet and charged into Erickson at full speed. The whole incident was captured on videotape. *Id.*

The officials forfeited the game. League officials fined the team and expelled the player. Shortly after the incident, the team disbanded and is no longer a member of the league. Erickson initiated civil proceedings and the police began investigating but had yet to file any criminal charges. *Id.*

player.<sup>20</sup> Although the youth knocked Hughes unconscious, almost inciting a riot, he was only sentenced to four days of community service.<sup>21</sup>

- 7) In October 1996, an ex-Canadian Football League (hereinafter "CFL") player, punched Bob Lindley, a football official, in a Hamilton Touch Football Association game.<sup>22</sup> The player, Less Browne, was sentenced to twelve months probation, 100 hours of community service, and must attend anger management counseling.<sup>23</sup>
- 8) During a football game on October 25, 1996, Dennis Finck, a football official, was assaulted by Joshua Fleckenstein, an eighteen-year-old player.<sup>24</sup> Finck had ejected Fleckenstein for fighting with an opposing player.<sup>25</sup> Fleckenstein was originally charged with fourth degree misdemeanor assault, but the charges were dropped after he apologized to Finck and promised to complete twenty hours of community service and to undergo sixteen hours of anger management counseling.<sup>26</sup>

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20. *Ref Beaten; Judge's Sentence Draws Criticism*, REFEREE, Sept. 1996, at 12.

21. *Id.* During the last minute of the blowout game, Hughes and the player collided. The player pushed Hughes with his clenched fist and knocked him over. The player then stood over the top of Hughes, "trying to provoke something." *Id.* Hughes gave the player a technical foul. The player then became outraged and overturned the scorer's table. The gym director called the police and the player left the gym. *Id.*

The officials tried to finish the game. Unbeknownst to them, the player had returned to the gym. He blindsided Hughes, knocking him to the floor. Approximately 100 people poured onto the court and a melee ensued. Hughes was knocked unconscious. He also suffered from head and neck contusions and a swollen jaw. *Id.*

Hughes was unhappy with the punishment that the judge handed out and planned to pursue a civil suit against his attacker. *Id.*

22. *Ex-CFL Player Punches Ref In Touch Football Game*, REFEREE, Jan. 1997, at 16.

23. *Id.* The incident occurred as the teams were lining up for a conversion attempt. Browne went up to Lindley and told him that he wanted to talk to him after the game. Lindley said that he felt threatened and considered ejecting Browne. Instead, he told Browne's team captain to remove Browne from the game. (Lindley was trying to give Browne a break because if Browne would have been ejected, he would have had to miss the next game.) Browne reacted to this by charging Lindley and punching him. The hit dislodged Lindley's hearing aid and bruised his chin. *Id.*

24. *High School Player Sentenced For Ref Assault*, REFEREE, Feb. 1997, at 16.

25. *Id.* Fleckenstein attacked Finck after he had intervened to stop a fight between Fleckenstein and an opposing player. Fleckenstein punched Finck four or five times before another official could subdue Fleckenstein. Finck was not seriously injured, but he was afflicted with headaches for a few days after the incident. *Id.*

Finck stated that he was unhappy with the way that the school system was handling the incident. There were thoughts of declaring Fleckenstein permanently ineligible, but this would be meaningless as he was a senior and would not have any playing eligibility left. *Id.*

26. *Id.*

- 9) On November 8, 1996, Allan Bainter, a football official in New Mexico, was assaulted during a game by Gilbert Jefferson, an eighteen-year-old player who had been ejected for fighting (National Federation rules mandate that officials eject any player who fights.)<sup>27</sup> A grand jury dismissed felony charges against Jefferson but indicted him on misdemeanor aggravated assault charges.<sup>28</sup> These charges carried the possibility of up to one year in jail and a fine of up to \$1,000.<sup>29</sup>
- 10) In February of 1996, hockey referee Brian Carragher was beaten by players on the hockey team of the University of Moncton Blue Eagles.<sup>30</sup> The incident occurred after a controversial goal ended the hockey game between the University of Moncton and the University of Prince Edward Island. Carragher was repeatedly punched in the head and body, and speared in the groin with a stick. After the Moncton goaltender started the assault, the assistant coach, Patrick Daviault, and several other players joined in the attack. Eventually, Daviault removed a metal mooring from the net and threw it into a pane of glass in front of the goal judge, shattering glass everywhere.<sup>31</sup>

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27. *High School Football Ref Knocked Out*, REFEREE, Feb. 1997, at 14.

28. *Id.* During the game in which the incident occurred, Jefferson was penalized in the first half for swearing. He was then ejected, in the second half, for fighting. However, Jefferson was not ejected immediately after the fight, due to an oversight. Four or five plays later, the officials realized that he should have been ejected and told him that he would have to leave the game. *Id.*

Bainter went to Jefferson to inform him that he would have to leave. At that time, he needed to be restrained by his teammates and pulled off the field. On his way off the field, Jefferson took off his helmet and threw it. Bainter flagged him for an unsportsmanlike conduct penalty, and Jefferson broke free from his teammates and charged Bainter. *Id.*

According to witnesses, Jefferson ran about 35 yards at full speed and hit Bainter between the shoulders flipping him over and landing him on his head. Bainter was out cold. Bainter said that he was in and out of consciousness for about 12 hours. He still suffers from spells of dizziness and headaches, and often forgets who people are. *Id.*

Jefferson claimed that he blacked out from anger and did not remember what he had done. Jefferson has since been suspended from Wingate High School, a Navajo boarding school run by the government. Albert Hale, president of the Navajo Nation has blamed the coaches, officials, and the school for the incident claiming that there was too much emphasis being placed on winning. However, Bainter believes that this is just another example of someone not wanting to take responsibility for his own actions. *Id.*

29. *Id.*

30. Curtis Stock, *Attack On Ref Doesn't Surprise Bears*, EDMONTON J., Feb. 28, 1996, at C3. The University of Moncton is located in Canada. The incident occurred after a controversial goal ended the hockey game between the University of Moncton and the University of Prince Edward Island. *Id.*

31. *Id.*

- 11) In a more recent case, a Des Moines Dragons forward (of the International Basketball Association), Rosell Ellis, charged forty feet across the basketball court in order to attack one of the basketball officials who were working the game between the Dragons and the Wisconsin Blast, on January 17, 1998.<sup>32</sup> Ellis, who was fifth in the league in scoring at the time of the incident, fought through three teammates in order to put referee Bob Shavey in a full nelson after Shavey had called him for a second technical foul.<sup>33</sup> Ellis was finally pulled off of the referee by his coach, as security guards assisted, and was escorted to the locker room before the game resumed.<sup>34</sup> As a result of his actions Ellis received a three game suspension which was imposed by his team.<sup>35</sup>

These stories present a mere sample of the disturbing trend. There are literally tens of thousands of sporting events (amateur and professional) which occur every year in the United States alone—one can only speculate as to in how many of these contests a sports official is assaulted.

Admittedly, in some of the examples, the offending players faced criminal charges—however, these charges are usually minimal. This lack of punishment may be because the authorities involved do not see the assaults as serious criminal actions. Moreover, in most cases, the perpetrators of these crimes were teenagers who did not have criminal records and, therefore, may have received lighter treatment.

Part of the problem stems from the lack of comprehensive and effective laws to take care of these types of situations. The existing criminal laws for assault and battery are only effective if they are known to the potential perpetrators and carry a large enough deterrent effect. This problem will be expanded upon later on in this report.

### *B. Assaults By Coaches*

Equally as disturbing, although not as frequent, are assaults by coaches. A vast majority of the time, these assaults occur because the coach believes that the official has made an incorrect call which has hurt his team. And honestly, an official's decision can be incorrect, but that

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32. Paul Nelson, *Ellis Issues Apologies: Dragons' Star Awaits Team, League Sanctions*, DES MOINES REG., Jan. 19, 1998, at 3.

33. *Id.*

34. *Id.*

35. Paul Nelson, *Dragons Suspend Ellis for 3 Games*, DES MOINES REG., Jan. 20, 1998, at 1.

does not justify a physical attack upon the official. In either instance, the coach may become upset and let his or her anger control his or her actions. What follows are examples of these assaults by coaches:

- 1) During a basketball game in early February of 1996, basketball officials, Brian Sizemore and David Wolfe were attacked and beaten by the coach and players from a teenage team.<sup>36</sup> The two officials had called off the game when the coach, James Pouncy, earned his second technical and an automatic expulsion from the game, and there appeared to be no one left to coach the team.<sup>37</sup>

Minutes after being escorted from the gym, the coach 'came flying back at a dead sprint toward us,' Mr. Wolfe recalls. 'I tried to stop him. But he tackled Brian. I tried to get Mr. Pouncy off Brian. That's when I got hit in the head with a metal folding chair.' . . . Mr. Sizemore was kicked, punched and scratched, drilled in the head with a basketball and decked by a folding chair. He's a walking welt. . . It was worse for Mr. Wolfe. Four chipped teeth, one broken nose and a possible fractured jaw. 'I won't know for sure about the jaw,' he says through a stuffed nose, 'until I get my X-rays back.'<sup>38</sup>

This attack occurred as about 100 people watched from the stands.<sup>39</sup> Only four individuals tried to help the officials.<sup>40</sup> Most people were afraid to get involved.

- 2) In Philadelphia on February 11, 1995, a basketball official, Anthony Holmes, was beaten by coach Harold Alexander after a game involving 12-year-old basketball players.<sup>41</sup> Holmes is seeking compensation for his injuries and lost wages in a civil suit, and jail time for the coach who instigated the assault in a criminal trial.<sup>42</sup>

It must be noted that no matter what an official's decision is, in most cases, half of the individuals involved will disagree with it. This is a re-

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36. Cliff Radcliff, *Ref Beatings In Ky. Become Spectator Sport*, CINC. ENQ., Feb. 9, 1996, at B01.

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Basketball Ref Beaten; Criminal, Civil Charges Follow*, REFEREE, June 1996, at 18.

42. *Id.* The injuries that Holmes sustained during the attack included a concussion, a fracture near his eye, and ligament damage in his right shoulder. Holmes also said that players laughed at him and taunted him while he was being beaten. *Id.*

Holmes rejected a plea bargain because he wanted this case to go to trial. He stated that, "[a] message must be sent that these type of actions towards basketball officials will not be permitted." *Id.*

flection of the nature of sports. In a sporting event there are two sides in competition with one another. Referees are present in order to try to make this competition as fair as possible, and to make sure that the competition is played according to the rules of the game. However, referees are human, they are not infallible. They will make mistakes. In the end, "[t]he most valuable lessons offered by sports, however, might be learning that things aren't always 'right' and fair, that there's injustice lurking out there. . . In a world of increasing equivocation, sports mandates decisiveness, and that should be reassuring."<sup>43</sup>

One is left to wonder what kind of example the coaches are setting for their players. These situations present coaches of youth sports who have gone too far. These coaches, who have been entrusted to show the next generation how to properly handle themselves on the field of competition, are teaching America's youth the wrong lesson.

This type of behavior may be spreading. Possibly, coaches watch or read about one attack on a sports official and see that nothing of consequence happens to the perpetrator. As a result they are less apt to control themselves in a similar situation. After all, they will be back coaching in a short period of time, while the official whom they attacked will probably never work another one of their games. In fact, that official may be afraid to ever work another game, or in the alternative, his efficiency in working a game may be altered because of his fear of being attacked again. Moreover, other sports officials will know which coach has attacked another sports official, which may affect the way in which they themselves officiate their games.

### C. *Assaults By Fans*

Also joining in on the assaults are the fans. The fans may be the most difficult category to control. In theory, fans are beyond the control of teams and leagues. The only form of punishment that a team or league can impose on a fan is to not allow the fan to attend any future games. Unfortunately, this type of punishment is not always successful and only occurs after an official has been assaulted. Examples of these fan assaults include:

- 1) Following a Pop Warner football game on October 11, 1996, Bob Eakins, a football official, was attacked in a darkened parking lot after he had waited for more than a half an hour to collect his game

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43. Barry Mano, *When 'Kill the Ump' Took On New Meaning*, N.Y. TIMES, July 28, 1991, at 22.

check.<sup>44</sup> He and his partner, Alan Fowler, were attacked by five fans.<sup>45</sup> Fowler stated that he recognized that some of the attackers were relatives of the coach who had been ejected from the game for using vulgar language.<sup>46</sup>

- 2) On December 22, 1995, basketball official, Rick Gloe, was attacked after a game that he had worked in Oshkosh, Wisconsin.<sup>47</sup> He was attacked by an angry parent who was unhappy with the officiating throughout the game, while he was changing in the official's locker room.<sup>48</sup> The parent, Randy Wade, pushed his way through the other official and the athletic director in order to get to Gloe.<sup>49</sup>
- 3) On February 8, 1996, basketball official Mike Van Lieshout was attacked by James Blask, the District Attorney for Lincoln County, Wisconsin, following a sophomore basketball game.<sup>50</sup> Blask was unhappy with many of the calls made by the officials during the game. In April of 1996, Blask was charged with disorderly conduct and obstruction of an officer for the attack which occurred on Van

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44. *Youth Football Official Attacked, Then Charged With Assault*, REFEREE, Jan. 1997, at 15.

45. *Id.* Five men approached the officials in the parking lot after the game. One of the men pushed Eakins who put his hand up to fend off the attack. Then, another man punched him in the face, knocking him to the ground. He was kicked in the ribs while he was on the ground. He suffered neck injuries, bruised ribs, and a sore jaw. While he was in the hospital receiving treatment, the Carson City Sheriff's department issued him a municipal citation for fighting. *Id.*

46. *Id.*

47. *Invasion of Officials' Lockerroom Costs Fan*, REFEREE, July 1996, at 17.

48. *Id.* Gloe was in the shower when he heard someone yelling at his partner Tim Joly and Oshkosh School District athletic director Terry Wojahn. Gloe went out to see what was going on when he saw Wade trying to push his way in the door. Wade was also yelling and threatening the other two men. The door was slammed shut but, he was able to shove it back open. As the three men tried to remove him from the room, Wade threw a punch that hit Gloe in the face. They wrestled him out of the room and called 911. *Id.*

Wade was suspended from attending any Oshkosh North basketball games for six weeks. (He missed a total of 19 games because his daughter was a member of the girls' varsity team.) The District Attorney chose to punish Wade by putting him on a "deferred punishment program." For his actions, Wade was placed on two years probation; fined \$300; required to write a letter of apology to the referees, the athletic director, and the schools; and he was required to participate in anger management counseling. Also, if he is involved in another incident during the time of his probation, the charge for the December 22 incident will be upgraded to a felony and could mean a prison term. *Id.*

49. *Id.*

50. *D.A. Accused of Accosting Ref*, REFEREE, May 1996, at 14. Van Lieshout was trying to make his way to the dressing room after he had finished working the basketball game. Blask was walking alongside of him and berating him. Van Lieshout was walking a few feet in front of Blask, when according to witnesses, Blask squared up and shoved Van Lieshout hard with both hands into the wall. *Id.*

Lieshout.<sup>51</sup> Blask was eventually removed from his office by the governor of the state of Wisconsin as a result of the incident.<sup>52</sup>

- 4) On October 26, 1996, after a semipro football game in Massachusetts, Fred Simm, a football official, was punched by a fan as he was walking to his car.<sup>53</sup> Assault and battery charges were filed against the fan.<sup>54</sup> During the New England Football League game, Jackson and another man had been taunting Simm from the sidelines. "(The fans) stood on the sidelines yelling, 'We're going to get you — the guy in the middle with the mustache,'" Simm said. He thought that they were singling him out because he was the one marking off the penalties.<sup>55</sup>

Fan assaults on officials can become the most dangerous type of assaults for officials to deal with. The danger is heightened because these assaults normally occur after the game is over away from other individuals and participants. Often these assaults occur in groups, where the official is assaulted by multiple attackers. If an assault occurs out of the view of anyone else, it is difficult to escape serious injury and to prove who the attackers were.

### III. THE PROBLEM AT THE PROFESSIONAL LEVEL.

#### A. Introduction.

Americans, as a whole, watch many hours of television. They create heroes out of movie stars and sports figures. This is especially true with young children. By the time that they become adults, many children have watched numerous hours of television and have dreamed about being like their heroes. Often these children choose sports stars as their

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51. *D.A. Charged For Ref Assault*, REFEREE, Sept. 1996, at 14. In addition to being charged with disorderly conduct, Blask was also charged with obstructing an officer. After the game, Blask had given false information to officers who were investigating the incident. *Id.*

52. *Governor Fires District Attorney After Ref Assault*, REFEREE, Nov. 1996, at 12. The governor fired Blask after an investigation conducted by Gordon Baldwin, a law professor at the University of Wisconsin-Madison. The investigation's report recommended that Blask be relieved of his duties because of a "casual attitude toward, if not disregard of, the truth." *Id.*

Blask had continued to claim that the assault was accidental even when a reputable bystander saw it as deliberate. Blask was sentenced to probation for one year, ordered to make a public apology, and to receive counseling for aggressive behavior. He was also required to make a \$500 contribution to the Merrill High School's athletic program. *Id.*

53. *Fan Faces Trial For Punching Football Official*, REFEREE, Feb. 1997, at 18.

54. *Id.* After the game, Simm and one of his partners were walking to their car when Jackson and the other man approached them. "They hollered at us as we were walking away," Simm said. "We just ignored them. But then one ran up and punched me." *Id.*

55. *Id.*

heroes. As the commercial says, they want to grow up and, "be like Mike."<sup>56</sup>

The problem with emulating sports heroes is that people, especially young children, also try to emulate them when they act in a negative fashion. If the sports hero is not punished for his negative actions, publicly and severely, people believe that the sport heroes' negative actions are all right to emulate. Thus, verbally and physically bashing officials has become socially acceptable, because the public at large has seen a number of professionals get away with this type of behavior.

Mau Cason, a Chicago Public School League official, has witnessed a wide range of actions from coaches and players directed at officials. He blames some of the antics and problems which occur at the high school level on the actions of professional athletes.<sup>57</sup>

The spotlight example set by basketball's Rodman and Nick Van Exel or baseball's Roberto Alomar or football's Bryan Cox is rapidly rolling down to the college, high school and even recreation league level. . . It undercuts his authority, and his ability to keep players corralled inside the rules of the game. It declares an open season on the 'zebras' of all sports baseball, football, basketball, soccer and wrestling. At all levels.

Beyond the boundaries of the playing field, this escalation of physical and verbal abuse speaks to the sunset of sportsmanship and civility, the celebration of violence and all-consuming victory, the intensification of unrealistic expectations and undue pressures that spell an end to a game being played for a game's sake.<sup>58</sup>

### *B. Assaults on Officials*

There have been several major incidents in the past few years in which an official has been assaulted by a professional athlete. These incidents have almost exclusively occurred within the National Basketball Association (hereinafter "NBA"). The incidents and penalties, or lack thereof, have been nationally broadcast time and again. It is clear that these incidents are having a profound influence upon the public in general. They show that it is all right to attack an official because if you do, you will only face a minor punishment.

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56. This refers to one of the popular National Basketball Association (NBA) television commercials. In the commercial, which advertises Gatorade, NBA superstar Michael Jordan is shown playing basketball with the background singers singing "If I could be like Mike."

57. Jim Nesbitt, *Refs Try to Blow Whistle on Rising Tide of Anger*, STAR-LEDGER, Jan. 6, 1997, at 001.

58. *Id.*

- 1) On March 16, 1996, Dennis Rodman head-butted a referee after the referee had ejected Rodman from the Bulls' game with the New Jersey Nets.<sup>59</sup> For the incident, Rodman received a six-game suspension and a \$20,000 fine.<sup>60</sup>
- 2) On April 9, 1996, after being ejected, Nick Van Exel began to leave the floor, changed his mind and rushed back toward the official who had just ejected him.<sup>61</sup> Van Exel threw his forearm into the official's chest, knocking him onto the scorer's table.<sup>62</sup> Van Exel received a seven game suspension, along with a \$ 1,000 fine for the ejection and a further \$ 25,000 fine.<sup>63</sup>
- 3) Less than two weeks later, after publicly denouncing what his teammate, Nick Van Exel had done, Magic Johnson of the Los Angeles Lakers, shoved an NBA official during a game after a questionable non call.<sup>64</sup> For his actions, Johnson received a three-game suspension and a \$10,000 fine.<sup>65</sup>
- 4) On December 19, 1996, Charles Barkley and Clyde Drexler of the Houston Rockets, assaulted referee Jack Nies.<sup>66</sup> Barkley was fined \$7,500 for poking Nies' nose and drawing blood during an argument in a loss to San Antonio. Drexler received a \$5,000 fine for bumping Nies. Both also received automatic \$1,000 fines for being ejected.<sup>67</sup> Barkley received a two game suspension while Drexler was suspended for one game.<sup>68</sup>

Major League Baseball (MLB) and the National Football League (NFL) have not witnessed the same proportion of these types of problems.

The only recent example in these two leagues was in MLB and did not even involve a typical physical assault. On September 27, 1996, Roberto Alomar of the Baltimore Orioles spit in American League umpire

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59. *NBA Refs Accosted In Separate Incidents*, REFEREE, June 1996, at 15.

60. *Id.*

61. Lowell Cohn, *NBA Should Take Its Cue From Soccer*, PRESS DEMOCRAT SANTA ROSA, CA, Apr. 11, 1996, at C1.

62. *Id.*

63. Frank Litsky, *Van Exel hit hard by NBA*, MILWAUKEE J. SENT., Apr. 11, 1996. As a result of his suspension Van Exel suffered a loss of \$ 161,000 in salary.

64. Jackie MacMullan, *First Rodman, Then Van Exel, Now Magic: Why All The Official Bashing?*, SPORTS ILL., Vol. 84 No. 16, Apr. 22, 1996, at 69.

65. *Id.*

66. *NBA Suspends Barkley, Drexler // Players Also Draw Fines*, STAR-TRIB., Dec. 21, 1996, at 02C.

67. *Id.*

68. *Id.*

John Hirschbeck's face while arguing a disputed called strike.<sup>69</sup> The umpire, John Hirschbeck, had thrown Alomar out of the game, but Alomar continued to dispute the called third strike.<sup>70</sup> Eventually, Alomar charged out of the dugout and needed to be restrained by his manager Davey Johnson.<sup>71</sup>

Alomar received a five game suspension from the American League for this incident, however, he appealed the suspension and was allowed to play the last two games of the season pending the appeal.<sup>72</sup> The baseball umpires union's executive board was so upset over the incident that it voted to walkout on the opening day of the playoffs. The umpires wanted the suspension to take effect immediately.<sup>73</sup> Alomar's disciplinary hearing had originally been scheduled for the next season, but because of the umpires threatened strike, it was moved up to that week.<sup>74</sup> The umpires did not strike, but in response to this situation, they threatened a "no tolerance" stance, throughout the post-season, involving any altercations with players or managers.<sup>75</sup> Major League Baseball's response was to threaten the umpires with a lawsuit if they unilaterally changed the rules.<sup>76</sup>

In the end, Alomar did get the five game suspension, but it did not take effect until the next season. He was free to participate in the playoffs.<sup>77</sup> After this incident occurred many sports officials were disgusted.<sup>78</sup>

The suspensions and fines handed out by professional leagues are often of negligible effect. Fines that range in the thousands of dollars matter little to professional athletes whose yearly salaries are in the multi-million dollar range. Suspensions that range from five to ten games result in miniature in-season vacations for these athletes. These are not deterrents to stop athletes from attacking officials. In fact, they may encourage some athletes who are more than willing to incur these penalties in order to prove their point to the officials.

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69. Lipsyte, *supra* note 1, at D5.

70. David Ginsburg, *Alomar's day ends well*, MILWAUKEE J. & SENT., Sept. 29, 1996, at 1.

71. *Id.*

72. *Id.*

73. Tom Haudricourt, *Umpires vote to walk out over Alomar; They plan to boycott playoffs after incident*, MILWAUKEE J. & SENT., Oct. 1, 1996, at 1.

74. Michael Bauman, *Baseball's image hurt once again*, MILWAUKEE J. & SENT., Oct. 2, 1996, at 1.

75. Tom Haudricourt, *Sports*, MILWAUKEE J. & SENT., Oct. 3, 1996, at 3.

76. *Id.*

77. Lipsyte, *supra* note 1, at D5.

78. *Id.*

#### IV. DEALING WITH THE PROBLEM

There are several alternatives available to try to stop these assaults on sports officials.

##### *A. State Laws That Protect Sports Officials*

Many states do have statutes in effect that can be used to punish the athlete, coach, or fan who assaults a sports official. Frequently, the assaults that have been described above went through the criminal courts. The problem is that these assaults keep occurring. The laws are not deterring individuals from committing assaults on sports officials. In many instances the punishments are small compared to the severity of the crimes. The following is a listing of the types of statutes that could apply at the state level.

- 1) In Wisconsin the battery law states that "[w]hoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of a Class A misdemeanor."<sup>79</sup> A Class A misdemeanor is punishable by up to nine months imprisonment and up to a \$10,000 fine or both.<sup>80</sup>

Wisconsin has decided that physically assaulting certain individuals, merits a more severe punishment. Therefore, laws were enacted to protect these individuals, such as; law enforcement officers, fire fighters, parole agents, aftercare agents, witnesses, jurors, etc.<sup>81</sup> Unfortunately, at this time the list does not include sports officials.

- 2) In Arkansas, the law that protects sports officials is simple and straightforward. It deals with abuse of athletic contest officials and makes it a Class A misdemeanor to strike or otherwise physically abuse a sports official.<sup>82</sup>

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79. WIS. STAT. ANN. § 940.19(1) (West 1995).

80. *Id.* at § 939.51.

81. *Id.* at § 940.20 (West 1995). The crime of committing a battery on one of these groups of individuals has been enhanced to a Class D or Class E felony in Wisconsin. The penalty for a Class D felony is up to five years imprisonment and up to a \$10,000 fine or both. The penalty for a Class E felony is up to two years imprisonment and up to a \$10,000 fine or both. The enhanced penalties provide for substantially more incarceration time. Also, if a person is convicted of a felony, in Wisconsin, he can no longer possess a firearm. *Id.* at § 941.29.

82. ARK. CODE ANN. § 5-13-209 (Michie 1995).

5-13-209 ABUSE OF ATHLETIC CONTEST OFFICIALS.

Any person, with the purpose of causing physical injury to another person, who shall strike or otherwise physically abuse an athletic contest official immediately prior to,

- 3) The state of California doubles the penalty for an assault committed upon a sports official. A regular assault, in California, is punishable by a one thousand dollar fine and six months in the county jail.<sup>83</sup> An assault committed against a sports official is punishable by a fine of two thousand dollars and one year in the county jail.<sup>84</sup>
- 4) The Delaware law provides for a progressive punishment for those who are repeat offenders. Any person who is found guilty of assaulting a sports official for the first time, shall be guilty of a Class A misdemeanor.<sup>85</sup> A second or subsequent conviction will result in the person being guilty of a Class G felony.<sup>86</sup>
- 5) Louisiana's law protecting sports officials is more limited in its coverage. The law only covers athletic officials working interscholastic

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during, or immediately following an interscholastic, intercollegiate, or any other organized amateur or professional athletic contest in which the athletic contest official is participating shall be guilty of a Class A misdemeanor.

*Id.*

83. CAL. PENAL CODE § 241 (West 1996).

84. *Id.* at § 243.8.

§ 243.8 BATTERY AGAINST SPORTS OFFICIAL; PUNISHMENT; DEFINITION

(a) When a battery is committed against a sports official immediately prior to, during, or immediately following an interscholastic, intercollegiate, or any other organized amateur or professional athletic contest in which the sports official is participating, and the person who commits the offense knows or reasonably should know that the victim is engaged in the performance of his or her duties, the offense shall be punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(b) For purposes of this section, 'sports official' means any individual who serves as a referee, umpire, linesman, or who serves in a similar capacity but may be known by a different title or name and is duly registered by, or a member of, a local, state, regional, or national organization engaged in part in providing education and training to sports officials.

*Id.*

85. DEL. CODE ANN. TIT. 11, § 614 (1996).

§ 614 ASSAULT ON A SPORTS OFFICIAL.

(a) Any person who intentionally causes physical injury to a sports official who is acting in the lawful performance of duty shall be guilty of a class A misdemeanor. Upon conviction for a 2nd or subsequent offense under this section, such person shall be guilty of a class G felony.

(b) For purposes of this section, the words 'sports official' shall mean any person who serves as a referee, umpire, line judge or in any similar capacity in supervising or administering a sports event, and who is registered as a member of a local, state, regional or national organization which provides training or educational opportunities for sports officials.

*Id.*

86. *Id.*

games and is silent as to officials working intercollegiate and professional contests.<sup>87</sup>

- 6) The Montana law regarding assaults on sports officials includes sports officials at all levels amateur or professional.<sup>88</sup> There is also a section dealing with negligently assaulting an official, and a section devoted to putting an official in apprehension of bodily injury.<sup>89</sup>
- 7) The New Jersey statute regarding assaults on officials is included with the statute on assaults of police officers, correctional employees, public servants, firemen, and sports coaches and managers.<sup>90</sup>

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87. LA. REV. STAT. ANN. § 14:34.4 (West 1996).

§ 34.4. BATTERY OF A SCHOOL ATHLETIC CONTEST OFFICIAL

A. (1) Battery of a school athletic contest official is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a school athletic contest official.

(2) For purposes of this Section, 'school athletic contest official' means any referee, umpire, coach, instructor, administrator, staff person, or school board employee of any public or private secondary school while actively engaged in the conducting, supervising, refereeing, or officiating of a school sanctioned interscholastic athletic contest.

B. (1) Whoever commits the crime of battery of a school athletic contest official shall be fined not more than five hundred dollars and imprisoned not less than fifteen days nor more than six months without benefit of suspension of sentence.

(2) The court, in its discretion, may suspend the imposition of the sentence and place the offender on probation with the condition that he shall serve two days in jail or perform five days of community service work. Failure to successfully complete the community service work, as determined by the supervisor of the program to which he is assigned, may result in revocation of probation.

*Id.*

88. MONT. CODE ANN. § 45-5-211 (1995).

45-5-211. ASSAULT UPON SPORTS OFFICIAL

(1) A person commits the offense of assault upon a sports official if, while a sports official is acting as an official at an athletic contest in any sport at any level of amateur or professional competition, the person:

- (a) purposely or knowingly causes bodily injury to the sports official;
- (b) negligently causes bodily injury to the sports official with a weapon;
- (c) purposely or knowingly makes physical contact of an insulting or provoking nature with the sports official; or
- (d) purposely or knowingly causes reasonable apprehension of bodily injury in the sports official.

(2) A person convicted of assault upon a sports official shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

*Id.*

89. *Id.*

90. N.J. STAT. ANN. § 2C:44-1 (West 1996).

The person's status as a sports official is considered an aggravating circumstance by the court and is to be considered when imposing sentence on an offender who assaults a sports official.<sup>91</sup>

- 8) The North Carolina statute groups assaulting a sports official with misdemeanor assaults, batteries, and affrays, and provides a specific section dealing with assaulting a sports official.<sup>92</sup> The statute covers sports officials who work every conceivable athletic event, because it includes a clause which states that, "[a] 'sports event' includes. . .any other organized athletic activity in the State."<sup>93</sup>

2C:44-1. CRITERIA FOR WITHHOLDING OR IMPOSING SENTENCE OF IMPRISONMENT

a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

. . .

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority; the defendant committed the offense because of the status of the victim as a public servant; or the defendant committed the offense against a sports official, athletic coach or manager, acting in or immediately following the performance of his duties or because of the person's status as a sports official, coach or manager. . .

*Id.*

91. *Id.*

92. N.C. GEN. STAT. § 14-33 (1996).

§ 14-33 MISDEMEANOR ASSAULTS, BATTERIES, AND AFFRAYS, SIMPLE AND AGGRAVATED; PUNISHMENTS.

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class 1 misdemeanor if, in the course of the assault, assault and battery, or affray, he:

. . .

(9) Commits an assault and battery against a sports official when the sports official is discharging or attempting to discharge official duties at a sports event, or immediately after the sports event at which the sports official discharged official duties. A 'sports official' is a person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. A 'sports event' includes any interscholastic or intramural athletic activity in a primary, middle, junior high, or high school, college, or university, any organized athletic activity sponsored by a community, business, or nonprofit organization, any athletic activity that is a professional or semiprofessional event, and any other organized athletic activity in the State.

*Id.*

93. *Id.*

- 9) The statute in Oklahoma provides for significantly more jail time for anyone convicted of assaulting a sports official than for anyone simply convicted of assaulting an ordinary person.<sup>94</sup> The jail time increases from 30 days (for anyone convicted of assault) to 90 days (for anyone convicted of assault and battery) to one year (for anyone convicted of assault and battery to a sports official).<sup>95</sup> The fine is the same for an assault and battery of a sports official and an ordinary person (\$1,000).<sup>96</sup>
- 10) The Pennsylvania statute regarding assaults on sports officials defines sports event and sports official and states that anyone guilty of assaulting a sports official is guilty of a misdemeanor of the first degree.<sup>97</sup>

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94. OKLA. STAT. ANN. TIT. 21, § 644 (1996).

§ 644. ASSAULT—ASSAULT AND BATTERY—DOMESTIC ABUSE

A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

*Id.*

§ 650.1. ATHLETIC CONTESTS—ASSAULT AND BATTERY UPON REFEREE, UMPIRE, ETC.

Every person who, without justifiable or excusable cause and with intent to do bodily harm, commits any assault, battery, assault and battery upon the person of a referee, umpire, timekeeper, coach, official, or any person having authority in connection with any amateur or professional athletic contest is guilty of a misdemeanor and is punishable by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

*Id.*

95. *Id.*

96. *Id.*

97. PA. CONS. STAT. ANN. TIT. 18, § 2712 (West 1996).

§ 2712. ASSAULT ON SPORTS OFFICIAL

(A) OFFENSE DEFINED.—A person who violates section 2701 (relating to simple assault), where the victim is a sports official who was assaulted during a sports event or was assaulted as a result of his or her acts as a sports official, is guilty of assault on a sports official.

(B) GRADING.—ASSAULT on a sports official is a misdemeanor of the first degree.

(C) DEFINITIONS.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

‘SPORTS EVENT.’ Any interscholastic athletic activity in a junior high school, high school, college or university in this Commonwealth or any other organized athletic activity in the Commonwealth, including a professional or semiprofessional event.

‘SPORTS OFFICIAL.’ A person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach.

- 11) The West Virginia statute regarding assaults on officials allows for relatively small penalties as compared to the states previously discussed.<sup>98</sup> The statute penalizes an offender who assaults a sports official with a fine between \$50-\$100 and between one to thirty days in jail.<sup>99</sup> Anyone who commits a battery against a sports official is fined between \$100-\$500 and one to thirty days in jail.<sup>100</sup> The statute was enacted in 1966, but was current through 1996.<sup>101</sup>

This overview of the various state laws demonstrates that some states have considered the problem of assaults on sports officials and have decided to try to do something about it. Unfortunately, not enough states have enacted legislation to stop the spread of assaults on sports officials. Moreover, of the states that have enacted specific legislation to deal with the problem, not all of them deal with it severely enough.

The sad reality seems to be that the reason these laws were enacted was because there was a severe assault on a sports official in that state. This major incident gained a lot of publicity and public outrage then created enough pressure on the state legislators to force them to take action.

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The term includes a trainer, team attendant, game manager, athletic director, assistant athletic director, president, dean, headmaster, principal and assistant principal of a school, college or university.

*Id.*

98. W. VA. CODE § 61-2-15a (1996).

§ 61-2-15a ASSAULT, BATTERY ON ATHLETIC OFFICIALS; PENALTIES.

(a) If any person commits an assault as defined in subsection (b), section nine [§ 61-2-9 (b)] of this article, to the person of an athletic official during the time the official is acting as an athletic official, the offender is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than one hundred dollars, and imprisoned in the county jail not less than twenty-four hours nor more than thirty days.

(b) If any person commits a battery, as defined in subsection (c), section nine [§ 61-2-9(c)] of this article, against an athletic official during the time the official is acting as an athletic official, the offender is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned in the county jail not less than twenty-four hours nor more than thirty days.

(c) For the purpose of this section, 'athletic official' means a person at a sports event who enforces the rules of that event, such as an umpire or referee, or a person who supervises the participants, such as a coach.

*Id.*

99. *Id.*

100. *Id.*

101. *Id.*

It is not enough that each state must wait for one of its sports officials to be seriously attacked or beaten before its government takes action to stop this practice. States must take pre-emptive strikes against those who would attack a sports official, to prevent these incidents from occurring in the first place.

*B. Punishment in The Professional Leagues.*

The NBA has encountered the most instances of assaults on sports officials. Therefore, a more thorough analysis of its collective bargaining agreement is helpful in order to determine what punishment may be available to discipline those who assault the officials.

The NBA Collective Bargaining Agreement (hereinafter "NBA-CBA") does not contain any provision which deals directly with players assaulting officials.<sup>102</sup> However, the NBA-CBA does contain a section dealing with player conduct.<sup>103</sup> This section delineates the fines that a team may impose upon a player for that player's actions.<sup>104</sup> The provision also references the Uniform Player Contract (hereinafter "NBA-UPC"), which explains other actions that the player may be fined for.<sup>105</sup>

There are two sections of the NBA-UPC which could be used to punish a player who assaults an official. The first is in paragraph sixteen of the NBA-UPC which deals with the termination of the players' contract.<sup>106</sup> Under this provision, a team may terminate a players' contract if the player:

(I) at any time, fail, refuse, or neglect to conform his personal conduct to standards of good citizenship, good moral character

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102. NBA COLLECTIVE BARGAINING AGREEMENT, Sept. 18, 1995.

103. *Id.* Art. VI, § 1, at 38.

104. *Id.* What follows is the listing of fines that a team may impose upon a player, as explained in the NBA-CBA:

(a) By \$1,000 for each missed (training or Regular Season) day of practice (for the first two such missed practices), and by \$2,500 for each missed practice thereafter;

(b) By \$4,000 for each missed Exhibition Game;

(c) By 1/82nd of the player's Current Cash Compensation for each missed Regular Season or Playoff game;

(d) By \$1,000 for each missed promotional appearance required in accordance with Article II, Section 7(b) and paragraph 13 of the Uniform Player Contract;

(e) By \$10,000 for failing to attend the Rookie Transition Program; and

(f) By \$5,000 for failing to attend any other programs designated as mandatory by either the NBA or the Players Association (*e.g.*, HIV and substance abuse education programs), the designation of which by either party shall be subject to approval by the other, which approval shall not be unreasonably withheld.

105. *Id.*

106. *Id.* at A-12.

(defined here to mean not engaging in acts of moral turpitude, whether or not such acts would constitute a crime) and good sportsmanship, to keep himself in first class physical condition or to obey the Team's training rules[.]<sup>107</sup>

In using this provision, a team might find that an assault on an official was in violation of this clause and thus be justified in terminating that player's contract. Admittedly, as a result of the Latrell Sprewell situation, an actual termination may be impossible.<sup>108</sup>

The other section which could be used to punish a player is paragraph thirty-five of the NBA Constitution (which is excerpted and added to the NBA-UPC).<sup>109</sup> Under this provision, the Commissioner of the NBA has the authority to suspend or fine any player who does any of the following:

(d) If in the opinion of the Commissioner any other act or conduct of a Player at or during an Exhibition, Regular Season, or Playoff game has been prejudicial to or against the best interests of the Association or the game of basketball, the Commissioner shall impose upon such Player a fine not exceeding \$25,000, or may order for a time the suspension of any such Player from any connection or duties with Exhibition, Regular

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107. *Id.* at A-13.

108. The Latrell Sprewell case did not involve an attack on an official. Latrell Sprewell attacked his coach P. J. Carlesimo and threatened to kill him. The NBA suspended Sprewell for one year, which cost him \$6.4 million in salary. His team, the Golden State Warriors then terminated his contract, rather than give into his demands to be traded. Sprewell filed a grievance and this case went to arbitration. The arbitrator decided that the league imposed suspension was appropriate, however, he overturned the termination of Sprewell's contract. The arbitrator stated that:

There has never been a case of contract termination in the history of the NBA for a physical assault or a one-year suspension for such conduct or, it appears from the record, in the sports of baseball and football. In the case of the NFL, joint action by a team and the League is prohibited as a matter of contract. Although there is no specific contract provision in the NBA, as I have found, the evidence indicates that there is no history of both the League and a team imposing discipline for the same violent conduct, on or off the court. This speaks to the issue of fairness, as I see it. The major cases of violence in the NBA that were brought to my attention all involved discipline by the NBA itself and not a team. In the instant matter, the two disciplines together are unprecedented, as well as the severity of each, with respect to an act of violence. Given the magnitude of the Warriors' earlier discipline of the Grievant on December 1 and the NBA having become dominant in the investigatory process after that, I am unable to sustain the termination of the Grievant's contract as meeting a standard of just cause. (Internal citations omitted.)

Opinion and Award, In the Matter of National Basketball Players Association on behalf of player Latrell Sprewell and Warriors Basketball Club And National Basketball Association, at 100 (John D. Feerick, Grievance Arbitrator March 4, 1998).

109. *Id.* at A-19.

Season, or Playoff games, or he may order both such fine and suspension.

(e) The Commissioner shall have the power to suspend for a definite or indefinite period, or to impose a fine not exceeding \$25,000, or inflict both such suspension and fine upon any Player who, in his opinion, shall have been guilty of conduct that does not conform to standards or morality or fair play, that does not comply at all times with all federal, state, and local laws, or that is prejudicial or detrimental to the Association.<sup>110</sup>

These sections seem to be the sections under which the players who have assaulted officials in the past, have been penalized. These sanctions, however, seem inadequate.

As was stated previously, MLB has not had the same types of assaults upon officials (not withstanding the Roberto Alomar incident). However, Baseball did have provisions in its 1990-1993 Collective Bargaining Agreement which would have covered these types of actions. Article XII of the agreement, entitled "Discipline" would have been the appropriate section whereby the Club, the League, or the Commissioner could have punished a player who assaulted an umpire.<sup>111</sup>

The NFL has had even fewer incidents involving players assaulting referees. However, had the NFL needed to punish a player for such an incident, it could have done so under the current NFL Collective Bargaining Agreement (hereinafter "NFL-CBA"). There are two sections in the current NFL-CBA which deal with player discipline.<sup>112</sup> These sec-

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110. *Id.*

111. See BASIC AGREEMENT BETWEEN THE AMERICAN LEAGUE OF BASEBALL CLUBS AND THE NATIONAL LEAGUE OF BASEBALL CLUBS AND MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION of Jan. 1, 1990, Art. XII, at 33. This section essentially deals with whether there is just cause to discipline a player, however, it seems to be purposely vague as to the exact definition of "just cause." The pertinent section is as follows: "The Parties recognize that Player may be subjected to disciplinary action for just cause by his Club, League or the Commissioner. Therefore, in Grievances regarding discipline, the issue to be resolved shall be whether there has been just cause for the penalty imposed." *Id.*

112. See NFL COLLECTIVE BARGAINING AGREEMENT 1993-2000, Art. VIII & Art. XI. Article VIII deals specifically with the discipline that a club may impose upon a player in the terms of how much money the club may fine a player for certain acts. These acts include: being overweight (\$50 per pound, per day); being unexcused and reporting late for training camp, meetings, practice, curfew, transportation, an appointment with a doctor, and a promotional activity (\$200); losing, damaging, or altering equipment (\$200 plus the costs for repairs or replacement); throwing a football into the stands (\$200); loss of all or part of a playbook (\$1,000); ejection from a game (maximum of \$2,000); and conduct detrimental to the club (maximum fine of one week's salary and/or a suspension without pay for up to four weeks). *Id.*

Article XI deals specifically with the penalties which the commissioner of the league may impose. It provides the grievance procedures which the players must follow along with the

tions contain the provisions under which a team and the league may punish a player.

The penalties provided for under each of the leagues respective collective bargaining agreements are simply inadequate. They are monetary in nature and pale in comparison to the vast amounts of money that today's professional athlete receives. As Charles Barkley said, "I don't care about \$10,000. The money goes to a good cause. So I look at it in a positive light. I got my money's worth. I definitely got my money's worth."<sup>113</sup>

There may be a number of reasons for the lack of proper penalties in these professional leagues. Initially, the leagues may not see that the increase in these types of assaults is important or frequent enough to merit large fines or long suspensions. For example, drug use and gambling receive high priority as problems to be dealt with by the professional league offices. There have been a number of professional athletes who have been subject to long term suspensions due to drug use or gambling on games.<sup>114</sup> A focus on this behavior may send the message that it is more important to avoid drugs or to not bet on games than it is to not physically attack an official. Admittedly, these problems are serious. However, physically assaulting an official should be equally as important.

The professional leagues could also be afraid of losing star players for long periods of time, longer than the current length of these suspensions. If a league started handing out year long suspensions for attacking an official, it could run the risk that it may lose a star player for a year and could be hurt financially because of decreases in fan support.

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relevant time limits; that players may have representation during this process; who pays the costs; where the fine money will go; and that there shall only be one penalty (meaning that both the club and the commissioner shall not be able to punish a player for the same action). *Id.*

113. *Barkley is fined \$10,000; He called official 'gutless' after ejection from game*, MILWAUKEE J. & SENT., Mar. 31, 1998. This incident did not involve Barkley physically attacking an official. This incident stemmed from Barkley calling the official gutless after a game in which the official, Jack Nies, had ejected Barkley. This may demonstrate that the players have a casual attitude toward paying fines that are imposed upon them as punishment for inappropriate actions toward officials. As for Barkley's comments, under the NBA-CBA, ART. VI, § 2, at 39, the fines which the NBA collects are to go to charities if the player does not file a grievance as a result of the suspension or fine.

114. Pete Rose was banned for life from Major League Baseball because of his gambling activities. Steve Howe and Roy Tarpley were suspended for life, on more than one occasion, from Major League Baseball and the National Basketball Association, for their extensive drug usage.

In the NBA for instance, if the league were to suspend an athlete who physically assaulted an official for an extensive period of time, the league would have lost a number of its top players in the last few years. Dennis Rodman would have been gone from the Bulls for more than a few games, Nick Van Exel would have missed extensive time with the Lakers, and Charles Barkley and Clyde Drexler would have missed even more time with the Houston Rockets. Maybe the league could stand to lose players of a lesser caliber for a period of time, but to lose players of this caliber would be very costly, not only for these teams (in the terms of wins and losses, box office draw, and television revenue) but for the league as a whole.

Finally, some professional leagues may be afraid or unable to punish players severely, because of the strength of the players' unions and the ambiguous nature of the collective bargaining agreements. Players' unions are certainly more powerful than officials' unions, as was clearly evidenced in the Roberto Alomar and Latrell Sprewell situations. After all, the fans pay to see the players play, not to see the officials officiate.

### C. Other Solutions

There is a growing trend toward players, coaches, and fans assaulting sports officials. This problem needs to be stopped before it gets out of control (assuming that it is not already too late). "Poor officiating — or officiating that is perceived to be biased — is no justification for physical violence. Or for any form of assault. At any level of play."<sup>115</sup>

One way to crack down on the violence is for the leagues to get tougher. Recreational, high school, and college leagues should have a no tolerance rule. A no tolerance rule simply states that the league or governing body does not tolerate an assault by a player on an official. If a player or coach were to assault an official, that individual would be banned from the league. The ban could be a lifetime ban or it could simply last for the remainder of the current season. If the ban were only for the current season, the player or coach would be allowed to participate the next season, assuming that the player still had eligibility left. If a player or coach would receive a subsequent ban for assaulting an official, that player or coach would then receive the lifetime ban from the league.

Professional leagues should try to deter players and coaches from assaulting officials by handing out more severe penalties. This would then

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115. *No Rough Stuff: Zero Tolerance is the Only Way to Handle Violence Against Sports Officials*, CALGARY HER., Mar. 27, 1996, at A14.

ensure that the fans, especially young children, realize that it is not acceptable to attack an official, even if it may seem like he is 'working a bad game.'

Fans who assault an official should be banned from attending future events. If the players, coaches, and fans were aware of the punishments for assaulting an official and knew that they would be strictly enforced, maybe they would realize that it would not be in their best interest to strike an official after the official "blew a call" in their mind. After all, hitting an official is presumably not going to change the call itself.

All states need to enact legislation in order to increase the punishment for assaulting an official. Sports officials play an important role in society. They do a thankless job for minimal compensation. Many officials participate out of a sheer love of the game and to teach children who play the game the valuable lessons that can be learned through participating in sports. These lessons include that of sportsmanship, working as a team, and working within the rules of the game to achieve a common goal. Many of the better officials are getting out of working games because they fear for their safety and feel as if they are fighting a losing battle. Sports officials need protection in order to do their jobs in a safe environment. That protection needs to come from the states.

Furthermore, states that have statutes to protect sports officials must enforce those laws more stringently. States that do not have specific laws to protect sports officials either need to enact special laws, or try to enforce existing assault and battery laws on individuals who attack sports officials. Enhanced penalties for assaulting a sports official may be able to act as a deterrent and keep individuals from assaulting a sports official, because currently, nothing seems to have slowed this trend.

## V. CONCLUSION

Fans, coaches and players must realize that mistakes, even by officials are part of the game. Leagues and other sports governing bodies must step up to punish those who assault officials for any reason. Otherwise sports may begin to lose the competent officials they have who fear for their safety if they make any mistake.

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