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UNDER MOUNTING PRESSURE: A HISTORY OF MEDIA INFLUENCE ON MAJOR LEAGUE BASEBALL STEROID POLICIES

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Abstract

This research is interested in the relationships among media coverage, governmental legislation and Major League Baseball's anabolic steroids testing policies. An analysis of patterns of media coverage, legislation, and adoption of tougher penalties are explored, followed by an analysis of specific legislation in an attempt to identify its specific goals and target populations. The paper first analyzes recent Supreme Court cases and current federal legislation to determine if Congress acted legally in investigating Major League Baseball. Beginning in the mid-1980s with the surfacing of these media reports and ending with baseball's toughest policy implementation in 2005, it then tracks the pattern of media coverage influencing the enactment of tougher penalties in baseball. Finally, it will examine the goals and justifications of a specific piece of legislation, the Clean Sports Act of 2005. Because anabolic steroids remain a problem among teenage and amateur athletes, this revisitation of the issue from a communications perspective will allow administrators to more efficiently combat the problem and media professionals to more effectively cover it.

Keywords: Major League Baseball, anabolic steroids, Congress, Clean Sports Act

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Introduction

On October 16, 2004, *San Francisco Chronicle* reporters Mark Fainaru-Wada and Lance Williams reported on a secret audio conversation. In the conversation, Greg Anderson, trainer of San Francisco Giants outfielder Barry Bonds, stated that Bonds had been using anabolic steroids provided by the Bay Area Laboratory Co-Operative (BALCO). Anderson then named numerous other Olympic and professional athletes BALCO had provided with steroids, a report which triggered a media frenzy surrounding the widespread use of anabolic steroids in Major League Baseball (MLB). After years of reporting on the BALCO case, Fainaru-Wada and Williams published *Game of Shadows* in 2006. Through observations and interviews, the book detailed the BALCO scandal until the laboratory was federally busted. Partly due to intense media coverage and subsequent federal legislation, Major League Baseball (MLB) instituted its most stringent anabolic steroids testing policy in 2005.

This research is interested in the relationships among media coverage, governmental legislation and MLB's anabolic steroids testing policies. Increasingly, concentrated media coverage of steroids in sports and among teenage athletes has prompted Congress to enact legislation creating tougher federal penalties for steroids violations. Legislation has lengthened the list of illegal substances, in turn causing baseball to strengthen its internal testing policies. Congress has repeatedly targeted adolescents, citing a link between use by professional athletes and subsequent abuse among teenage populations. Investigations by Congress have raised questions regarding the legality of government intervention with MLB, a private enterprise. This research analyzes whether Congress was indeed within its legal means to investigate baseball. It then outlines patterns of media coverage, legislation, and adoption of tougher penalties, and examines an example of proposed legislation in attempt to identify its specific goals and target populations.

The issue, although seemingly fading, remains timely because anabolic steroids are a problem for not only professional sports and athletes, but are being used in increasing numbers by teenage and amateur athletes as well. A 2005 survey of American high school students revealed that 4.8 percent reported using steroids without a prescription (Eaton et al., 2005), and a 2008 survey conducted jointly by the National Institute on Drug Abuse, the National Institutes of Health and the U.S. Department of Health and Human Services reported that as many as 1.2 percent of *eighth-grade* students reported using steroids (Johnston, O'Malley, Bachman, & Sculenberg, 2009). Use has been associated with a wide range of short and long-term negative health effects. Short-term effects range from acne and development of female breast tissue in men to psychological issues such as increased aggression and irritability (National Institute on Drug Abuse, 2000). Steroid abuse has also been associated with heart attacks, strokes and other cardiovascular diseases (National Institute on Drug Abuse, 2000).

The first section of the paper will analyze recent Supreme Court cases and current federal legislation to determine if Congress acted legally in investigating baseball. Section II, beginning in the mid-1980s with the surfacing of these media reports and ending with baseball's toughest policy implementation in 2005, will track the pattern of media coverage and legislation influencing the enactment of tougher penalties in baseball. Finally, section III will examine the goals and justifications of a specific piece of legislation, the Clean Sports Act of 2005.

Section I

Congress' ability to investigate and regulate MLB stems from both federal laws regulating steroid use and several Supreme Court decisions upholding baseball's antitrust exemption. Congress enacted the Controlled Substances Act in 1970 as Title II of the Comprehensive Food and Drug Act. The Act created five schedules of controlled substances based on three criteria: their potential for abuse, accepted medical uses in the U.S., and potential to cause physical and psychological dependence. Schedule I drugs or substances are the most serious, with "high potential for abuse," "no currently accepted medical use," and a "lack of accepted safety for use of the drug or other substance under medical supervision" (Controlled Substances Act, 1970). Although not listed among the Act's controlled substances, existing laws still required prescriptions from licensed physicians to obtain steroids.

The first legislation to specifically target anabolic steroids was the Anti-Drug Abuse Act of 1988, passed as an amendment to the 1938 Federal Food, Drug, and Cosmetic Act in which



Congress authorized the United States Food and Drug Administration (FDA) to oversee food, drugs and cosmetics. The Act set forth specific criminal penalties to further limit the trafficking of steroids and targeted those who “distribute or possess anabolic steroids with the intent to distribute for any use in humans other than the treatment of disease based on the order of a physician” (Anti-Drug Abuse Act, 1988). Steroid trafficking had been specifically targeted for the first time in this Act, and media reports detailing increased steroids usage among high school and college athletes was a major factor in Congress’ continuing concern. Hearings were held to determine if steroids should be listed among the list of controlled substances in the Controlled Substances Act. Ultimately, lawmakers decided they should be classified as controlled substances, resulting in the Anabolic Steroids Control Act of 1990.

This law took effect on February 27, 1991, and placed steroids in Schedule III of the Controlled Substances Act. It was another direct and more potent attack on the sale and use of anabolic steroids. Schedule III substances have “potential for abuse less than drugs or other substances in schedules I and II,” and must have “a currently accepted medical use in the United States.” Lastly, “abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence” (Controlled Substances Act, 1970). With this listing came tougher penalties as well. Possession of illegally obtained anabolic steroids now carried a maximum penalty of one year in prison and a minimum \$1000 fine for a first offense (Controlled Substances Act, 1970, 844). Also, a first trafficking offense carried a maximum penalty of five years in prison and a fine of \$250,000 (Controlled Substances Act, 1970).

The Controlled Substances Act was again amended in 2004 with the adoption of the Anabolic Steroid Control Act of 2004. This bill sought to clarify the existing definition of anabolic steroids and provide additional educational outlets. Sponsor and current Vice President Joseph Biden, who at the time served as a Democratic Senator of Delaware, introduced the bill in May 2004 to the Senate. It passed the Senate by Unanimous Consent and the House without objection, and President George W. Bush then signed the bill into law in October of 2004. The Act redefined “anabolic steroids” to mean “any drug or hormonal substance chemically and pharmacologically related to testosterone” and added 32 new substances to the list (Anabolic Steroid Control Act, 2004). Although steroids had been banned under the Anabolic Steroids Control Act of 1990, many new substances were developed that were not technically considered steroids under the existing definition. These “precursors” remained legal to purchase in the United States at the time and were among the 32 new substances added to the list in 2004 (Anabolic Steroid Control Act, 2004).

The House Report for the Act of 2004 stated that its purpose was to “prevent the abuse of steroids by professional athletes. It also addressed the widespread use of steroids and steroid precursors by college, high school, and even middle school athletes” (H.R. Rep. No. 108, 2004). This attempt to target and protect young people is a theme that has continuously occurred and will be discussed further in Section III. Through this legislation, the federal government can regulate the possession, sale and trafficking of anabolic steroids.

Established in 1927, the Committee on Oversight and Government Reform investigates all levels of government agencies and activities. It is the main investigative committee in the U.S. House of Representatives and is concerned with federal programs and any matters with federal policy implications. The Committee can therefore investigate the use of anabolic

steroids in federal programs, but MLB, as a private enterprise, would not fall within the scope of the Committee. The Supreme Court therefore had to supply the final ingredient.

MLB has operated throughout its existence under an antitrust exemption. In three cases, *Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs* (1922), *Toolson v. New York Yankees* (1953), and *Flood v. Kuhn* (1972), the Supreme Court has given Congress, not the court system, the authority to remove or uphold this exemption and, in turn, regulate baseball. Congress has never enacted legislation removing this exemption.

In 1922, the Supreme Court ruled baseball exempt from the Sherman Act, a federal statute aimed at limiting cartels and monopolies. After the Federal League, an independent professional baseball league in direct competition with the Major Leagues, folded in 1915, many major league teams bought out the Federal League's defunct teams. No major league team, however, bought out or compensated the Baltimore Terrapins. The owner of the Terrapins alleged that the major leagues intended to impose a monopoly upon the baseball business (*Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs*, 1922). He claimed that MLB destroyed the Federal League by buying teams or inducing all teams to leave the league except Baltimore. Consequently, the owner filed a lawsuit asking the Supreme Court to rule that MLB should be subject to the Sherman Act.

The United States Constitution gives Congress the authority to regulate commerce with foreign Nations and among the states and Indian tribes. The plaintiffs claimed MLB fell under this definition. If subjected to the Sherman Act, baseball's reserve clause would be unconstitutional. The reserve clause in MLB stated that upon expiration of a contract the player's rights still were property of the team. A player therefore had no power to negotiate contracts with other teams and was obligated to negotiate a contract with the same team. This clause often came under attack for antitrust violations and was the centerpiece of later cases. In a unanimous decision, the High Court ruled that the nature of baseball qualifies it as *not* engaging in interstate commerce.

The Court's opinion, written by Justice Oliver Wendell Holmes, acknowledged that competitions within the game require "repeated traveling on the part of the clubs, which is provided for, controlled and disciplined by the organizations..." (*Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs*, 1922). This travel inevitably crossed state lines. However, interstate travel is not essential, but incidental (*Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs*, 1922). Baseball games, according to Holmes and the Court, are exhibitions and state affairs. Because all revenue is generated from the actual games, not travel, the interstate travel required for the playing of MLB games is not an essential aspect of baseball. The Court's ruling therefore continued baseball's antitrust exemption, leaving the power to change it in the hands of Congress. The case served as precedent until 1953, when *Toolson v. New York Yankees* (1953) again brought the question before the Supreme Court.

Toolson v. New York Yankees (1953) attacked MLB's antitrust exemption directly through its reserve clause. George Earl Toolson pitched for the Newark Bears, a minor league affiliate of the New York Yankees, in 1949. Toolson believed his talents warranted a major league career but baseball's reserve clause prevented him from negotiating contracts with other teams. The Yankees owned all rights to Toolson and refused to add him to their roster. The Newark Bears folded in 1950 and Toolson was assigned to another Yankees affiliate in the

minor leagues, to which he refused to report. He then filed a lawsuit in the district court in Los Angeles, claiming that baseball should not be exempt from antitrust laws because the reserve clause is a restraint of trade.

Both the district court and the Ninth Circuit Court of Appeals ruled in favor of the defendant New York Yankees, relying on the precedent of *Federal Baseball Club* (1922). The case then moved to the Supreme Court, which voted 7-2 and, in a one paragraph per curiam opinion, affirmed the decision by invoking *stare decisis*. The Court reasoned that in the 31 years since *Federal Baseball Club* (1922), the ruling had been under consideration by Congress but no legislation had been passed removing the exemption, indicating an implicit desire to keep baseball exempt. As a result of this inaction, baseball had “been left for thirty years to develop, on the understanding that it was not subject to existing antitrust legislation” (*Toolson vs. New York Yankees*, 1953). The Court also established that changes to the exemption should occur through legislative action, not court decisions. The inaction on the part of Congress and baseball’s development under an antitrust exemption were enough for a Supreme Court affirmation of *Federal Baseball Club* (1922). Justices Harold Burton and Stanley Reed dissented in the ruling. Burton argued that certain aspects of baseball, including huge crowds traveling across state lines, broadcasting revenues and recruitment of players outside the country qualified baseball as interstate commerce. Burton also wrote that baseball never addressed the question of, if in fact baseball were characterized as interstate commerce in *Federal Baseball Club*, would it still be exempt from antitrust laws, but only ruled that baseball was not interstate commerce.

In 1972, the issue was brought before the Court for the third time in *Flood v. Kuhn*. Curt Flood began his major league career in 1956 with the Cincinnati Reds, was traded to the St. Louis Cardinals in 1958 and, at the age of 31, was again traded from St. Louis to the Philadelphia Phillies in 1969. He was not consulted about the trade and given no say in the trade’s details. Flood therefore asked the Commissioner of MLB at the time, Bowie Kuhn, to be made a free agent and given the opportunity to negotiate with another team. The request was denied. He then filed a lawsuit in the federal court for the Southern District of New York against Kuhn, MLB, and the 24 major league teams. In the suit, Flood challenged the reserve clause and charged “violations of the federal antitrust laws and civil rights statutes, violation of state statutes and the common law...” (*Flood vs. Kuhn*, 1972).

The district court denied Flood a preliminary injunction, reasoning that baseball “is on higher ground” although he was granted an early trial. The Major League Baseball Players Association, a union consisting of Major League players, unanimously supported Flood in the case while baseball, in its own defense, argued that the reserve clause was an essential element of the game and was necessary in protecting against huge salaries and maintaining a level playing field. The district court ruled in favor of baseball, ruling that “clearly the preponderance of credible proof does not favor elimination of the reserve clause...even plaintiff’s witnesses do not contend that it is wholly undesirable.” Several former players testified on Flood’s behalf, including Jackie Robinson and owner Bill Veeck, but did acknowledge that some version of a reserve clause was necessary. Nevertheless, Flood appealed to the Court of Appeals for the Second Circuit which affirmed *Federal Baseball Club* (1922). The case was then brought to the Supreme Court.

The Court again upheld the *Federal Baseball Club* (1922) and *Toolson* (1953) precedents by a 5-3 margin, although for a different reason. Justice Harry Blackmun included a notable

change in his majority opinion, writing that “professional baseball is a business and is engaged in interstate commerce” (*Flood vs. Kuhn*, 1972). The Court acknowledged in the case for the first time that baseball is no different than other sports that had not been granted exemptions and was “an exception and anomaly” (*Flood vs. Kuhn*, 1972). This conclusion was still not enough, however, for the Court to overrule *Federal Baseball Club* (1922) and *Toolson* (1953). The hesitance to overrule the precedents stemmed from the lack of Congressional action on the matter. The Court did not want to change what had not been acted upon by Congress in over 50 years. Blackmun wrote, “we continue to be loath...to overturn those cases judicially when Congress, by its positive inaction, has allowed those decisions to stand for so long...” (*Flood vs. Kuhn*, 1972). The Court affirmed the ruling, reasoning that although MLB was in fact engaging in interstate commerce, changes to its antitrust exemption should be made through Congressional legislation, not through the courts. In two dissents, Justices Douglas, with whom Justice Brennan concurred, wrote that he regretted having joined the majority in *Toolson* (1953). He wrote that *Federal Baseball Club* (1922) should now be overturned and baseball not be exempt from antitrust laws. Justice Marshall also dissented, joined by Brennan, and wrote that baseball should fall under antitrust laws unless Congress decided otherwise. Justice Powell took no part in the case. To this day, this ruling has not been overturned. The three cases of *Federal Baseball Club* (1922), *Toolson* (1953), and *Flood* (1972) therefore solidify Congress’ ability to investigate and regulate MLB through legislation.

Section II

Media reports and coverage of steroids scandals, including the BALCO scandal, have influenced Congressional action, and Congressional authority, combined with same increased media pressure, resulted in more stringent testing policies in baseball.

The pattern began largely in the mid-1980s as media reports of anabolic steroids in sports began to skyrocket, including increasing stories of steroid abuse among high school and college athletes. At the time, steroids were not illegal and no testing policies existed in Major League Baseball, but reports still began to surface of widespread drug use in baseball and other sports. The U.S. government took notice of these reports and in 1985 assembled a Task Force with members from the U.S. Department of Justice, the Food and Drug Administration and the Federal Bureau of Investigation to investigate and prosecute black market steroids dealers. By 1990, the Task Force had taken legal action 125 times in 27 states. Congress continued to be wary of steroids and by 1988 specifically attacked them for the first time by passing the Anti-Drug Abuse Act of 1988. Fearing the legislation not powerful enough, the Anabolic Steroids Control Act of 1990 listed steroids as Schedule III controlled substances, a pattern which would continue.

Sensing the threats after the passing of the Anabolic Steroids Control Act, MLB commissioner Fay Vincent himself addressed steroids for the first time in 1990, issuing a memo to every team warning that steroids would be included among the list of banned substances. The memo stated, “the possession, sale or use of any illegal drug or controlled substance by major league players or personnel is strictly prohibited...including steroids” (Epstein, 2009). The memo did not outline a specific steroids testing policy and no player could be tested for any substance without probable cause. The memo did, however, represent the genesis of a growing trend.



Over the next decade, media reports on steroids in sports continued to dominate news coverage. San Diego Padres general manager Randy Smith told the *Los Angeles Times* in 1995 that “we all know there’s steroid use, and it’s definitely become more prevalent...I think it’s 10 percent to 20 percent. No one has any hardcore proof, but there’s a lot of guys you suspect” (Nightengale, 1995, para. 6). In the same article Padres outfielder Tony Gwynn, a fifteen-time All-Star who retired in 2001, estimated that 30 percent of players were using steroids. An unnamed American League general manager said, “I wouldn’t be surprised if it’s closer to 30 percent...we had one team in our league a few years ago that the entire lineup may have been on it” (Nightengale, 1995, para. 7). On May 15, 1997, baseball Commissioner Bud Selig, in response to this coverage, reissued Vincent’s 1990 memorandum to every major league team. Again, however, baseball implemented no testing policy (Epstein, 2009).

In 1998, Associated Press sportswriter Steve Wilstein reported finding a substance colloquially known as Andro in the locker of St. Louis Cardinals star Mark McGwire. Andro, short for androstenedione, was a steroid precursor developed after the Anabolic Steroids Control Act of 1990. At the time it was found in McGwire’s locker, it was banned by neither Major League Baseball nor federal law, but was among the 32 new controlled substances added in the Anabolic Steroid Control Act of 2004. Because the 1998 season featured a home-run race between McGwire and Chicago Cub Sammy Sosa that resulted in both players breaking the long-standing single-season home record, the media unsurprisingly capitalized on the story.

In 2001, feeling pressure from these reports, MLB implemented the first testing policy in its minor leagues. The policy subjected all players not on the major league roster to random anabolic steroids tests, as well as tests for methamphetamines and other drugs such as cocaine and marijuana. Penalties under this testing policy were a 15-game suspension for a first positive test, 30-game suspension for a second positive, 60-game suspension for a third positive, one year for a fourth positive, and a lifetime ban from baseball for a fifth positive test. Congress did not view this policy as tough enough, largely because the testing did not apply to major league players. One year later, in April 2002, Senator John McCain advised baseball and the Major League Baseball Players’ Association that a strict new testing policy must be negotiated during the next collective bargaining agreement.

Also in 2002, *Sports Illustrated* broke a story outlining the rampant use of anabolic steroids among major league players, calling the game a “pharmacological trade show” (Verducci, 2002, para. 7). In the article, former major league player Ken Caminiti admitted he won the 1996 National League Most Valuable Player award while on steroids. Caminiti said that rampant drug use in baseball was not a secret and that at least half of players were using. In the same article, major league veteran Chad Curtis estimated that 40 to 50 percent of major leaguers used steroids (Verducci, 2002). One year later in 2003, The Associated Press broke another story in which New York Yankees pitcher David Wells estimated that “25 to 40 percent of all major leaguers are juiced. But that number’s fast rising” (Associated Press, 2003). The pattern continued, and in 2002 after the outbreak of these stories, MLB negotiated its first steroids policy. Through this policy the league would first implement a series of anonymous “survey tests” to determine if steroids were in fact widespread in the game. The policy subjected each player to one random test. According to the terms of the policy, if more than five percent of these survey tests were positive for banned substances, formal testing and penalties would then be instituted the following year. Out of 1,438 survey tests

administered, MLB commissioner Bud Selig announced that five to seven percent of these tests were positive, a total of 104 positive tests. The names linked to these 104 positive tests were leaked to the media, most recently in February 2009. The names included the New York Yankees' Alex Rodriguez, former player Sammy Sosa, the Boston Red Sox David Ortiz and Los Angeles Dodgers' Manny Ramirez. The alarming number set initiated mandatory testing in 2003, for the first time in MLB history. Despite its prominence, this first policy featured very light penalties, with a first positive test resulting in medical treatment and future tests. Also, a second, third or fourth positive test resulted in a 15-day suspension with a one-year suspension for a fifth positive test. Because Congress repeatedly recommended Olympic-style testing in which athletes are tested five times per calendar year, these were hardly the strict penalties Congress intended. Nevertheless, it was a start, and a start influenced in part by the media.

Because of the weak penalties, Congress continued its pressure on MLB. Along with the implementation of the Anabolic Steroid Control Act of 2004, the investigation into BALCO continued and in 2005 MLB again created a tougher, but still somewhat weak testing policy. Players received a ten-day suspension for a first positive test, 30 days for a second positive, 60 days for a third positive and one year for a fourth positive test. Also, the league released names after one positive test and included random off-season testing of players with no maximum number. Although still weak for a 162-game season, the newly implemented policy had its intended effect, with only 12 players testing positive out of 1,183 tests administered in 2004.

This still did not satisfy lawmakers. As the media intensified its coverage, Congress called for Olympic-style testing with the Clean Sports Act of 2005. This legislation differed from the previous acts in that it threatened to directly regulate the game through the federal government. Following this threat, MLB negotiated its toughest policy and current standard in November of 2005. The current policy still falls short of Olympic-style testing, but has a 50-game suspension for a first positive test, 100-game suspension for a second positive and a lifetime ban for a third positive test.

Section III

Section III analyzes the Clean Sports Act of 2005, a proposal presented to the Senate by John McCain and to the House by Tom Davis prompting baseball to implement its toughest anabolic steroids testing policy. Both bodies referred the bill to the Committee on Commerce, Science, and Transportation for hearings, but the act did not make it past this step.

The published purpose for the Act was "to establish minimum drug testing standards for major professional sports leagues" (Clean Sports Act, 2005). McCain and other sponsors made clear that the goal of the bill "is to protect the integrity of professional sports and...the health and safety of our Nation's youth, who...see professional athletes as role models." McCain stressed that because "...our nation's kids look to professional athletes as role models and take cues from their actions," what is at "stake here is not the sanctity of collective bargaining agreements, but rather the health and safety of America's children" (Clean Sports Act, 2005).

This rationale was not new in Congressional legislation. In a 2004 hearing before the Subcommittee on Crime, Terrorism, and Homeland Security, Subcommittee Chairman Howard Coble of North Carolina used the same logic, stating that because steroid use among

teenagers is “glamorized” by professional athletes, “the message adolescents are receiving, I fear, is that the use of performance-enhancing drugs is necessary to compete...this message is not only at the college and high school levels...but middle school students have not become immune to the peril of steroid abuse” (Anabolic Steroid Control Act, 2004).

The Clean Sports Act declared that steroid use by minors is a problem of “national significance” (Clean Sports Act, 2005) due to their particular vulnerability to adverse effects including “stunted growth, scarring acne, liver damage...and an increased propensity to demonstrate aggressive behavior, commit suicide, and commit crimes” (Clean Sports Act, 2005). The language also claimed that a link, not unlike that between media coverage and subsequent testing policies, exists between use of anabolic steroids in professional sports and the same substances by adolescents and teenagers. Therefore, stronger standards for professional sports would in turn reduce use among teenagers and “help return integrity to professional sports” (Clean Sports Act, 2005).

This deduction has often been disputed. Denham (2007) argued that McCain relied on “drama rather than hard evidence” (p. 383) when he cited the voices of grief-stricken parents whose children were negatively affected by steroids as cause for new legislation. He wrote that Congress “failed to mention why existing legislation, namely the Anabolic Steroids Control Act of 1990 and the Anabolic Steroid Control Act of 2004 had failed to substantially curb steroid use” (Denham, 2007, p. 383). While this legislation may indeed lower anabolic steroids use in baseball and other professional sports, it leaves “little reason to believe that...will lower teen use, for many teenagers use steroids for cosmetic purposes” (Denham, 2007, p. 387).

Yet this bill in itself was an attempt to correct the fact that those two bills had not substantially or sufficiently curbed use by attacking the steroid problem through professional sports. Ideally, the legislation would curb use among teenagers, and as these teens grow older, use will remain low. Hoffman et al. (2008) surveyed 3,248 random students representing grades 8-12 in 12 states. The survey found that 20 percent of those surveyed suggested that professional athletes *would* influence their decision to use anabolic steroids (Hoffman et al., 2008). When asked whether use by professional athletes would influence their friends’ decisions to use, that number jumped to 50 percent (Hoffman et al., 2008). Teenagers’ attitudes and intentions regarding steroids are in part affected by exposure to media coverage of use among professional athletes, and attacking the problem at its core would undoubtedly be as or more effective than nibbling at the periphery.

Conclusion

The media can influence not only those whose role models are covered, but also those in charge of the role models themselves. Section I explored the legality of Congress and the Committee on Oversight and Government Reform’s investigating MLB by analyzing their attempts to regulate anabolic steroids through the Controlled Substances Act of 1970 and the Anti-Drug Abuse Act of 1988. The Controlled Substances Act has been amended twice. First, the Anabolic Steroids Control Act listed anabolic steroids as Schedule III controlled substances and later, the Anabolic Steroid Control Act of 2004 added 32 precursors and several other substances to the list of banned steroids. This federal regulation is combined with the Supreme Court ruling in *Federal Baseball Club of Baltimore v. National Baseball Club* (1922) that exempted baseball from antitrust laws, its subsequent upholding in *Toolson*

v. *New York Yankees* (1953) and, despite the ruling that baseball does engage in interstate commerce, an affirmation in *Flood v. Kuhn* (1972).

Section II traced the history of media reports influencing the enactment of tougher penalties in baseball from the mid-1980s to 2005. Section III showed how the Clean Sports Act of 2005 targeted teenagers by citing the link between media exposure of professional athletes using steroids to the likelihood of use among adolescents. This topic is of extreme significance due to the ongoing nature of anabolic steroids investigations in MLB, negative health effects associated with abuse of the substances, and increasing pervasiveness of the sports media.

MLB and the MLBPA's being subject to antitrust laws would allow the government to directly regulate its steroids policies, and associations have therefore taken action following legislative and negative media coverage to protect their public images. Also, whether intended or not, the influence of the media has repeatedly surfaced in both the outing of BALCO and the discovery of dozens of other players testing positive for steroids, and has caught the attention of legislators, who have in turn passed laws inducing MLB to act. Although sports themselves can be a displacement activity for the negative effects of media exposure, teenagers may feel increasing pressure to use anabolic steroids because it is the only way to become the major leaguers they see in the media – whether or not it is for a positive test.

References

- Anabolic Steroid Control Act of 2004, Pub. L. 108-358, 118 §1661 (2004).
- Anti-Drug Abuse Act of 1988, Pub.L. 100-690, 102 § 4181 (1988).
- Associated Press (2003, February 27). Boomer Bombshell. Retrieved from http://sportsillustrated.cnn.com/baseball/news/2003/02/27/wells_drugs_ap/
- Clean Sports Act of 2005, S. 1114, 109th Cong. § 2 (2005).
- Committee on Oversight and Government Reform, About the Oversight Committee. Retrieved from http://oversight.house.gov/index.php?option=com_content&view=article&id=2227&Itemid=35.
- Controlled Substances Act of 1970, 21 USC § 812 (1970).
- Denham, B. (2007). Government and the pursuit of rigorous drug testing in major league baseball: A study in political negotiation and reciprocity *International Journal of Sport Management and Marketing*, 379-395.
- Eaton, D., Kann, L., Kinchen, S., Ross, J., Hawkins, J., Harris, W., Lowry, R., McManus, T., Chyen, D., Shanklin, S., Lim, C., Grunbaum, J., & Wechsler, U.S. Department of Health and Human Services, Youth Risk Behavior Surveillance (2006)
- Epstein, D. (2009, February 16). The rules, the law, the reality: A primer on baseball's steroid policy through the years, *Sports Illustrated*, 23-28.
- Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs, 259 U.S. 200 (1922).
- Flood v. Kuhn, 407 U.S. 258 (1972).



- Hearing on S. 1114 Before the Senate Committee on Commerce, Science and Transportation*, 109th Cong., 2 (2005) (statement of Sen. John McCain).
- Hearing on H.R. 3866 Before the Subcomm. on Crime, Terrorism, and Homeland Security of the Comm. of the Judiciary of the House of Representatives*, 108th Cong. (2004) (statement of Howard Coble, Chairman, Subcomm. on Crime, Terrorism, and Homeland Security).
- Hoffman, A., Faigenbaum, N., Ratamess, R., & Jie, K. (2008). Nutritional supplementation and anabolic steroid use in adolescents. *Medicine and Science in Sports and Exercise*, 40, 15.
- H.R. Rep. No. 108-461 (2004).
- Johnston, L., O'Malley, P., Bachman, J. & Schulenberg, J. (2007) *Monitoring the future: National results on adolescent drug abuse: Overview of key findings, 2006*. Bethesda, MD: National Institute on drug abuse, NIH Publication Number 07-6202.
- Nightengale, B. (1995, July 15). Steroids becoming an issue. *Los Angeles Times*, pp. A1, B5.
- Pub. L. No. 100-690 § 2401, 102 Stat. 4181 (1988).
- Toolson v. New York Yankees, 346 U.S. 356 (1953).
- U.S. Department of Health and Human Services (2000). National Institute on Drug Abuse, Research Report: Anabolic Steroid Abuse.
- Verducci, T. (2002, June 3). Totally juiced. *Sports Illustrated*, 96, 41-47.

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MANAGEMENT WHITEPAPER

Research Problem

The first section of the paper will analyze recent Supreme Court cases and current federal legislation to determine if Congress acted legally in investigating baseball. Section II, beginning in the mid-1980s with the surfacing of these media reports and ending with baseball's toughest policy implementation in 2005, will track the pattern of media coverage and legislation influencing the enactment of tougher penalties in baseball. Finally, section III will examine the goals and justifications of a specific piece of legislation, the Clean Sports Act of 2005. This research is interested in the relationships among media coverage, governmental legislation and MLB's anabolic steroids testing policies. This article would most likely be useful to administrators who are interested in becoming more well-versed in Congressional legislation about steroids, and the media coverage that influenced it, at the professional level so they can more effectively combat the problem at the high school and college level where steroids are most deadly.

Issue

The issue, although seemingly fading, remains timely because anabolic steroids are a problem for not only professional sports and athletes, but also teenage and amateur athletes as well. A 2005 Centers for Disease Control and Prevention survey of American high school students revealed that 4.8 percent reported using steroids without a prescription, and a 2008 survey conducted jointly by the National Institute on Drug Abuse, the National Institutes of Health and the U.S. Department of Health and Human Services reported that as many as 1.2 percent of eighth-grade students reported using steroids. Use has been associated with a wide range of short and long-term negative health effects. Short-term effects range from acne and development of female breast tissue in men to psychological issues such as increased aggression and irritability. Steroid abuse has also been associated with heart attacks, strokes and other cardiovascular diseases. Congress' ability to investigate and regulate MLB stems from both federal laws regulating steroid use and several Supreme Court decisions upholding baseball's antitrust exemption. By examining these laws and concurrent media coverage of steroids in baseball, this paper hopes to increase responsibility in both media coverage and regulation of anabolic steroids at all levels.

Summary

The article first explored the legality of Congress and the Committee on Oversight and Government Reform's investigating MLB by analyzing their attempts to regulate anabolic steroids through the Controlled Substances Act of 1970 and the Anti-Drug Abuse Act of 1988. The Controlled Substances Act has been amended twice. First, the Anabolic Steroids Control Act listed anabolic steroids as Schedule III controlled substances and later, the Anabolic Steroid Control Act of 2004, added 32 precursors and several other substances to the list of banned steroids. This federal regulation is combined with the 1922 Supreme Court ruling in *Federal Baseball Club of*

Baltimore v. National Baseball Club that exempted baseball from antitrust laws, its subsequent 1953 upholding in *Toolson v. New York Yankees* and, despite the ruling that baseball does engage in interstate commerce, a 1972 affirmation in *Flood v. Kuhn*. The article then traced the history of media reports influencing the enactment of tougher penalties in baseball from the mid-1980s to 2005. Finally, it showed how the Clean Sports Act of 2005 targeted teenagers by citing the link between media exposure of professional athletes using steroids and the likelihood of use among adolescents. This topic is of extreme significance due to the ongoing nature of anabolic steroids investigations in MLB, negative health effects associated with abuse of the substances, and the increasing pervasiveness of the sports media. MLB and the MLBPA's being subject to antitrust laws would allow the government to directly regulate its steroids policies, and associations have therefore taken action following legislative and negative media coverage to protect their public images. Although sports themselves can be a displacement activity for the negative effects of media exposure, teenagers may feel increasing pressure to use anabolic steroids because it is the only way to become the major leaguers they see in the media – whether or not it is for a positive test.

Analysis

The article has two major implications. First, it provides an understandable overview of the impact of Congressional legislation on Major League Baseball steroid policies. Second, it shows how influential the media can be in bringing about both legislation and policies. While both are beneficial in their own right, the goal of this article is, by providing this overview, to allow for sports administrators at the college and high school levels to more effectively deal with the problem of steroids where it is the most deadly, among the young.

Discussion

This article is useful for not only sports administrators, but also media professionals. Too often, communications research overestimates small experimental findings while ignoring its more impactful, and seemingly obvious, sociological and ideological influences. An understanding of how the media impacted Congressional legislation and Major League Baseball steroid policies will allow administrators to more efficiently combat the problem, and media professionals to more effectively cover it.