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# Adolescent Sports Violence—when Prosecutors Play Referee. Making Criminals out of Child Athletes, but Are They the Real Culprits?

The teen-ager was trained to play hockey in a league created, administered, coached and refereed by adults. Like virtually every other kid, he had been playing almost two dozen games a year since he was 6 or 7 years old and pounding opponents for slights – real and imagined. That was the way he saw the game played on television. That was the way he was taught to play, up to, and even including, the second the buzzer sounds. The responsibility to see that this game didn't get out of control was in the hands of grownups. Instead, the coaches ratcheted up the intensity level and the refs swallowed their whistles. Instead of howling for revenge, any of the parents could have gone down to the bench and pulled their son out.<sup>1</sup>

## INTRODUCTION

In a society where winning is rewarded and athletes revered, the atmosphere surrounding youth sporting events is ever-intensifying.<sup>2</sup> And with it, good sportsmanship is increasingly taking a back seat. Down to the youngest level of competitive sport, it is all too often “the worst aspects of anti-social, violent aggression that are emphasized.”<sup>3</sup> Yet, emphasized by whom?

Gone are the days of kids playing stickball in the street, shooting hoops at the neighborhood park or organizing a game of touch football in a backyard. No longer do kids simply make up the rules of the game as it progresses. Rather, adults have asserted a pervasive influence into a realm once confined only by the bounds of a child's imagination.<sup>4</sup> Youth sports have become well

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1. Jim Litke, *Asking a Kid to Take the Fall*, CBS Sportsline, at [http://web1-sf.sport...es/0%2C1169%2C1715056\\_48%2C00.html](http://web1-sf.sport...es/0%2C1169%2C1715056_48%2C00.html) (last visited Oct. 18, 2000) (relating to case of the 15-year-old high school hockey player charged with a crime for conduct that occurred on the ice during a game); see *infra* notes 89-125 and accompanying text.

2. See Michael James & Tracy Ziemer, *Bad Sports: With Cues From Adults, Are Kid Athletes Getting More Aggressive?*, ABCNEWS.com, at <http://www.abcnews.go.com/sections...s/DailyNews/youthsports/00805.html> (last visited Oct. 18, 2000).

3. JON LEIZMAN, *LET'S KILL'EM 2* (1999).

4. See SHANE MURPHY, *THE CHEERS AND THE TEARS: A HEALTHY ALTERNATIVE TO THE DARK SIDE OF YOUTH SPORTS* TODAY 30-32 (1999).

organized and structured miniaturized prototypes of their professional sport counterparts.<sup>5</sup> In many ways, youth sports now find themselves bordering on the edge of an entertainment spectacle for adults' viewing pleasure, rather than camaraderie-building, athletic competition for children's enjoyment.<sup>6</sup> With this comes the problem of misdirected aggression and violence and society's glorification of it.<sup>7</sup> And, prosecutors are beginning to take notice.

With increasing regularity, prosecutors across the United States are being asked to delineate a line between aggressive play and acts of violence that exceed an acceptable level.<sup>8</sup> This includes the once docile province of youth sports.<sup>9</sup> With that, this comment is devoted to violence in youth sports and the issues involved when criminal penalties are brought against child athletes. Part I analyzes the historical ideology behind the rise of youth sports programs in America; which consequently, is important in comprehending the ideals and beliefs that are intended to be fostered under the guise of youth sport.<sup>10</sup> Part II discusses the modern mentality motivating today's youth sports programs. Focusing specifically on how society has begun to steadily distance itself from the true ideals youth sports were initially designed to generate, to a more success-oriented philosophy.<sup>11</sup> Part III analyzes how adults play a major role in fueling the modern sports mentality.<sup>12</sup> Part IV examines when violence intrudes into the realm of youth sports and prosecutors become involved.<sup>13</sup> This is accomplished with an analysis of the case surrounding a 15-year-old boy from Northbrook, Illinois who was charged with two counts of aggravated battery for a cross-check<sup>14</sup> delivered during the waning seconds of a high school junior-varsity hockey game. Part V will discuss the use of legal remedies in an attempt to control violence in adolescent sports and why they

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5. See *infra* notes 30-47 and accompanying text.

6. See Barry Temkin, *Senseless Violence Shouldn't Be Part of Any Game*, CHI. TRIB., Dec. 10, 1999, § 4, at 14, available in 1999 WL 2940439.

7. See *id.*

8. See Ralph Ranalli, *Whose Jurisdiction Is It, Anyway?*, PORT. OR., April 23, 2000, at E12, available in 2000 WL 5396496 (describing how prosecutors struggle with enunciating a line between lawful and unlawful conduct in sport by examining the case of Ben Christensen, a college baseball pitcher who had appeared to intentionally throw a ball at an opponent during warm-ups).

9. See ANGELA LUMPKIN ET AL., *SPORT ETHICS: APPLICATIONS FOR FAIR PLAY* 98 (1994) (detailing how when sport was played informally, without rules, violence was practically nonexistent).

10. See *infra* notes 17-29 and accompanying text.

11. See *infra* notes 30-47 and accompanying text.

12. See *infra* notes 48-86 and accompanying text.

13. See *infra* notes 87-125 and accompanying text.

14. Rule 50 of the NHL rule book states:

A "CROSS-CHECK" shall mean a check rendered with both hands on the stick, and the extending of the arms, while the check is being delivered.

2000 OFFICIAL RULES OF THE NATIONAL HOCKEY LEAGUE, Rule 50 (1999).

do not provide a formidable solution towards the elimination of violent conduct in sports.<sup>15</sup> Finally, Part VI will attempt to formulate a positive and beneficial alternative, other than prosecution, to change the modern mentality and stem the tide of violence.<sup>16</sup> Ultimately, this comment will argue that charging adolescents with criminal penalties for their roles in perpetrating on-the-field violence will be unsuccessful to eliminate the growing nemesis that is violence in youth sports. Indeed as the true offenders are the adults responsible for reinforcing and promoting unsportsmanlike behavior, in pursuit of ever-elusive goals.

### I. IDEOLOGY OF YOUTH SPORTS: HISTORICALLY

The youth sporting experience can be highly seductive.<sup>17</sup> Parents, however, initially involve their children in sports with only the very best intentions in mind.<sup>18</sup> Historically, the ideology of youth sports programs was to kindle these intentions.

In the late 19th to early 20th century,<sup>19</sup> coinciding directly with the United States' revolution which transformed the nation into a blossoming urban-industrialized society, came the rise of organized sports programs for children, conducted by adults.<sup>20</sup> The transformation into a "new society" was thought to have bludgeoning effects on the strength of the family as a nurturing institution.<sup>21</sup> With one or both parents increasingly working outside of the home and children becoming more segregated from the workforce and enrolled in school and educational programs, the need for an effective vehicle to

15. See *infra* notes 126-61 and accompanying text.

16. See *infra* notes 162-67 and accompanying text.

17. MURPHY, *supra* note 4, at 83.

Parents experience a rush of positive emotions when their child triumphs, a deflating sense of emptiness when they lose. This emotional process can become almost addicting. Instead of focusing on the child's goals, parents can get caught up in seeking more experiences where they can feel that rush of positive emotions. They can begin to focus on their own fantasies for their child – fantasies of success, fame, and recognition.

*Id.*

18. See *id.* "Children are encouraged to participate in organized youth sports programs because these programs are thought to promote such fundamental values as character, teamwork, determination, and commitment." *Id.* at 10.

19. See generally BENJAMIN G. RADER, *AMERICAN SPORTS: FROM THE AGE OF FOLK GAMES TO THE AGE OF TELEVIEWED SPORTS* 98-115 (3d ed. 1996) (detailing the emergence of adult-managed youth sports programs during the 1890-1920 era).

20. See DAVID LYLE LIGHT SHIELDS & BRENDA JO LIGHT BREDEMEIER, *CHARACTER DEVELOPMENT AND PHYSICAL ACTIVITY* 177-8 (1995). This was a largely new development, for it was basically unknown before this time for adults to become involved in the play experiences of children. MURPHY, *supra* note 4, at 30.

21. See RADER, *supra* note 19, at 98.

socialize and instill culturally valued traits became keen.<sup>22</sup> This environment provided a fertile ground for the introduction of a new "character-building philosophy."<sup>23</sup> Sport, in turn, began to gain recognition and became accepted as a character-building social practice.<sup>24</sup> A cult of athleticism thus began its rise, and steadily began to flourish, as a viably accepted surrogate to manage the abundance of spare time adolescents had now been experiencing.

Amidst the economic and social change of the nation and its increased concerns on traditional child-rearing practices, adult-directed youth sports programs were looked to for guidance.<sup>25</sup> In response, organizations such as the Young Men's Christian Association (YMCA) and the Playground Association of America began to fashion theories of play devoted to promoting wholesome values and principles such as cooperation, self-sacrifice, obedience, and character development.<sup>26</sup> Natural progression led to more team-oriented, competitive sports programs emulating and rivaling the athletic environment of their professional counterparts.<sup>27</sup> Despite moving beyond the more individualized play programs fashioned by organizations such as the YMCA and becoming more team and competition-oriented, the credo of these programs remained true to their predecessors. According to *Pop Warner's Official Rules*, the program was established to "inspire youth, regardless of race, creed or national origin, to practice the ideals of sportsmanship, and physical fitness."<sup>28</sup> Likewise, Little League Baseball's goal is stated in the program's agenda *The Mission and Management of Little League Baseball*: "By espousing the virtues of character, courage, and loyalty, the Little League Baseball program is designed to develop superior citizens rather than superior

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22. See SHIELDS & BREDEMEIER, *supra* note 20, at 177-78; RADER, *supra* note 19, at 98-99.

[S]eparation of teenagers from the general work force undermined a traditional source of socialization. Instead of numerous causal contacts with adults through early work experience, youths now spent most of their time in school with other youngsters or in leisure activities that were unsupervised by adults.... The abundance of unmanaged spare time that younger adolescents increasingly enjoyed was a cause of deep concern for parents and youth observers alike.

*Id.*

23. "The 'character' sport was supposed to develop a compliant yet 'masculine' set of virtues well-suited for the workplace." SHIELDS & BREDEMEIER, *supra* note 20, at 178.

24. *Id.* at 177-78.

25. See RADER, *supra* note 19, at 113.

26. See generally *id.* at 100-13 (detailing the rise of organized theories of play to more team-oriented sports programs); see also MURPHY, *supra* note 4, at 30-32.

27. Two of the first and most famous organizations designed to promote "wholesome" values in a controlled and structured environment emulating professional sports leagues were Pop Warner Football in 1930 and Little League Baseball in 1939. MURPHY, *supra* note 4, at 31.

28. JEFFREY A. MARGOLIS, *VIOLENCE IN SPORTS: VICTORY AT WHAT PRICE?* 36 (1999).

athletes.”<sup>29</sup> Gradually however, the tide began to shift and youth sports slowly began to embrace a new mentality.

## II. THE MODERN MENTALITY: MINIATURIZED BIG LEAGUES

With adults now involved, children's play, once the domain of neighborhoods and imaginations, were evolving into scaled-down facsimiles of professional sports.<sup>30</sup> While initially organizations attempted to stem the tide and adhere to the ideal that “games should be both non-spectator-centered and conducive to the physical, mental, and moral maturation of their young charges,” the characteristics of the professional sports model began to assert its dominant influence.<sup>31</sup> Before long, nearly every sport at the adult level was complete with a miniaturized counter-part at the childhood level.<sup>32</sup>

The rise of competitive youth sports programs<sup>33</sup> brought with it blossoming parental involvement and an increase in overall intensity.<sup>34</sup> “We [the parents] organize children's leagues, give them uniforms, hand out trophies, set up play-offs and All-Star games, [and] send them to ‘bowl’ games.”<sup>35</sup> Much more is now being invested in the outcome of the game, rather than upon the physical and psychological development of the child participants.<sup>36</sup> The old credo emphasizing skills, values, and “develop[ing] superior citizens rather than superior athletes” has given way to the more blasé approach focusing on who won, what was the final score, and who scored the most goals or had the most points.<sup>37</sup> We thus see erosion of the rationale and the moral and physical ethos behind the initial rise of organized youth sports. What is being left behind are youth leagues that have assimilated the realm of

29. *Id.*

30. See RANDY ROBERTS & JAMES S. OLSON, WINNING IS THE ONLY THING: SPORTS IN AMERICA SINCE 1945 215-16 (1989); see also RADER, *supra* note 19, at 326-30.

31. RADER, *supra* note 19, at 326-27.

32. In addition to Pop Warner and Little League, programs such as Pee-Wee Hockey and Bidy Basketball were developed using their professional counterparts as a model. See MURPHY, *supra* note 4, at 31.

33. It is estimated that between twenty and thirty million children participate in organized nonschool sports programs, and as many as ten million compete in interscholastic sports. See *id.* at 31-32.

34. See *id.* at 31 (“Dads became coaches, officials, and administrators in the burgeoning youth leagues, and Moms became car pool and transportation organizers.”).

35. THOMAS TUTKO & WILLIAM BURNS, WINNING IS EVERYTHING AND OTHER AMERICAN MYTHS viii (1976) (describing how the winning is everything mentality is steadily engulfing the youth sports culture).

36. See RADER, *supra* note 19, at 329.

37. See William Nack & Lester Munson, *Out of Control: The Rising Tide of Violence and Verbal Abuse by Adults at Youth Sports Events Reached its Terrible Peak This Month When One Hockey Father Killed Another*, SPORTS ILLUSTRATED, July 24, 2000, at 86; see *supra* note 29 and accompanying text.

professional athletics – miniaturized big-leagues<sup>38</sup> – where winning is becoming a much more important distinction than merely participating and being part of a team.

As youth sports become more of a spectacle, bordering on entertainment rather than athletic competition,<sup>39</sup> a new philosophy has evolved. Success is now seemingly determined by status at the top, one's win-loss record providing the primary basis for a judgment relating to successful achievement.<sup>40</sup> While "[a]ll sports are inherently competitive, hence conducive to the arousal of some aggression and violence,"<sup>41</sup> elevation of the "success" goal has seen erosion of old sports ethos.<sup>42</sup> Consequently, this erosion has "simultaneously increased the tendency of players to play roughly within the rules and to use illegitimate violence in pursuit of success"<sup>43</sup> We as society, in turn, legitimize, condone and reinforce hard-nosed and aggressive, even violent conduct of athletes, as acceptable behavior.<sup>44</sup> Often times, outrageous displays of aggression overshadow the competition.<sup>45</sup> Aggression thus breeds more aggression.<sup>46</sup> It's almost as though violence itself is

38. See ELDON E. SNYDER & ELMER SPREITZER, *SOCIAL ASPECTS OF SPORT* 53 (Neil J. Smelser ed., Prentice-Hall 1978).

39. See Temkin, *supra* note 6.

40. See EDWARD J. SHEA, *ETHICAL DECISIONS IN SPORT: INTERSCHOLASTIC, INTERCOLLEGIATE, OLYMPIC AND PROFESSIONAL* 131 (1996) (examining the evolution of the winning is the only thing doctrine of competitive sport).

41. Eric Dunning, *Social Bonding and Violence in Sport*, in *QUEST FOR EXCITEMENT*, 224, 227 (1986).

42. *Id.* at 230-31 (using the sport of rugby as an illustration).

43. *Id.* at 231; see also SHEA, *supra* note 40, at 138-39. The inclusion of the word "only" in the doctrine of winning is the only thing, buttresses the statement, "the end justifies the means." *Id.* at 138. Ultimately, to achieve the end of winning, there is no obligation to be honest, truthful, and obedient to the rules of the game. *Id.* If adherence to the aforementioned qualities can produce winning performances, they will be applied. *Id.* at 139. However, if adherence does not produce desired results such qualities will be abandoned for whatever qualities will achieve winning results. *Id.* If deceit, cruelty, and injustice are effective, then it will be seen as proper to employ them. *Id.*

44. See LUMPKIN ET AL., *supra* note 9, at 100.

45. As the old adage goes, "I went to a fight the other night and a hockey game broke out." Linda S. Calvert Hanson & Craig Dermis, *Revisiting Excessive Violence in the Professional Sports Arena: Changes in the Past Twenty Years?*, 6 SETON HALL J. SPORT L. 127, 138 (1996). Crowd support for legal and illegal violence contributes to an escalation of tensions that may result in athletes crossing the line between orderly continuation of the game and the encouragement of violence. SNYDER & SPREITZER, *supra* note 38, at 130.

46. See Edgar W. Shields, Jr., *Intimidation and Violence By Males in High School Athletics*, ADOLESCENCE, Oct. 1, 1999, at 503 (examining verbal intimidation, physical intimidation, and physical violence in high school athletics, by both program and sport).

Although many players do not feel comfortable with the amount of violence in their sports, they have generally come to accept it....[T]hose playing contact sport accept rule-violating behavior and certain forms of violence, and as the amount of contact increases in a sport, so does this

becoming a sport. Violence that can strongly be attributed to one factor – an overemphasis on winning.<sup>47</sup> This ambivalent, blasé attitude then permeates down to the youth.

### III. WINNING AT ALL COSTS: FUELING THE VIOLENT TENDENCIES

“Winning... is like drinking salt water; it will never quench your thirst. It is an insatiable greed.”<sup>48</sup>

Children learn by example.<sup>49</sup> The manner in which adults who oversee and organize youth sport circumscribe whether or not children, within the program, display sportsmanlike behavior.<sup>50</sup> By placing an overemphasis on winning, and moving substantially away from the true intention of youth sport, perception of what is appropriate or acceptable behavior becomes blurred.<sup>51</sup> This leads athletes to resort to aggressive, sometimes violent, tactics in order to gain a strategical advantage to win.<sup>52</sup> As Mike Messner, co-author of the book *Sex, Violence, and Power in Sports: Rethinking Masculinity*, recognizes that “routine use of violence against others to achieve an athletic goal doesn’t come naturally at all,” rather it in fact, “require[s] a great deal of encourage-

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acceptance. *Even players who do not like violence may reluctantly use it as a way of maintaining or improving their position on the team, as well as popularity with spectators. Athletes in contact sports learn early that they may be evaluated on not only their physical skills, but also their ability to use violence. They may be encouraged to engage in violent behaviors by peers and teammates, and sometimes by coaches and parents.*

*Id.* at 504 (emphasis added).

47. See Hanson & Dernis, *supra* note 45, at 136-37.

48. TUTKO & BURNS, *supra* note 35, at 2. “There are never enough victories, never enough championships or records. If we win, we take another gulp and have even greater fantasies.” *Id.*

49. See *Emphasizing Sportsmanship in Youth Sports*, at [http://www.educationalworld.com/a\\_curr/curr137.shtml](http://www.educationalworld.com/a_curr/curr137.shtml) (last visited Oct. 8, 2000) [hereinafter *Emphasizing Sportsmanship*] (originally published in SPOTLIGHT ON YOUTH SPORTS, a publication of The Institute for the Study of Youth Sports). “Children learn moral behavior from engaging with others, watching the behaviors of others, and/or being taught ethical behavior. Sportsmanship attitudes and behaviors are learned in a like manner.” *Id.*

The Institute for the Study of Youth Sports at Michigan State University was founded in 1978 by the Michigan Legislature. *Id.* The objective of the Institute is to “research the benefits and detriments of participation in youth sports; to produce educational materials for parents, coaches, and administrators; and to provide educational programs for coaches, officials, administrators, and parents” *Id.*

50. See *id.*

51. See *id.*

52. See *id.*



ment from others.”<sup>53</sup> According to Messner, this is corroborated by studies of young hockey players: “[T]he combination of violent adult athletic role models and rewards from coaches, peers, and the community for the willingness to successfully use violence creates a context in which violence becomes normative behavior.”<sup>54</sup> As Messner’s words suggest, overaggressive parents, win-at-all-cost coaches, and poor role models in professional sports may in turn be making child athletes more aggressive and violent. If true, should we hold our youth entirely responsible when sportsmanship no longer is the first priority and violence invades the youth sporting culture?

#### A. THE PARENTS

Overzealous parents are the focus of a principle amount of the criticism concerning organized youth sports programs.<sup>55</sup> Sports competition involves a “great deal of narcissistic appeal” to which “parents are very susceptible” when the competition involves their own child.<sup>56</sup> Parents increasing are getting caught up in the notion of winning-at-all-costs, often letting their emotions get the best of them, causing them to act impulsively and irrationally. Verbal taunts and abuse, vile language and even physical attacks are becoming increasingly more prevalent at youth sporting events.<sup>57</sup> Just a few of the examples include: After a hockey game for eleven and twelve year olds a father struck his son’s coach in the face with two hockey sticks, after complaining during the game that his son had not improved all season; Following a Little League game, a father who was coaching his son’s team beat up the manager of the opposing team, after the assailant had earlier been ejected for verbally disrupting the game; A police officer was convicted of corruption of a minor and solicitation to commit simple assault for giving two dollars to a 10-year-old Little League pitcher to hit an opposing batter.<sup>58</sup> All the while, this is occurring under the watchful eyes and impressionable minds of the children.

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53. MICHAEL A. MESSNER & DONALD F. SABO, *SEX, VIOLENCE & POWER IN SPORTS: RETHINKING MASCULINITY* 91 (1994).

54. *Id.*

55. See SYNDER & SPREITZER, *supra* note 38, at 47-48. “Parental interference is considered the main impediment to realizing the aims of Little League, Pony League, and other organized programs of this type.” *Id.* (quoting Jim Brosnan, *Little Leagues Have Big Problems – Their Parents*, THE ATLANTIC MONTHLY, March 1963, at 117-20).

56. MURPHY, *supra* note 4, at 11; see also *supra* text accompanying note 17.

57. See generally Nack & Munson, *supra* note 37, at 86 (detailing recent cases in an epidemic of verbal harassment and physical violence by parents at youth sporting events. Emphasis of the article focused upon the case of hockey father who killed another hockey father over a disagreement about rough play at their sons’ hockey practice.).

58. See *id.* at 88.

Children's sports are in many respects becoming less of a game and more an extension of their parents' lives.<sup>59</sup> Youth athletics are not designed as a forum to provide adults with an opportunity to vicariously live out unfulfilled ambitions and fantasies of years passed. Sport must serve the child's needs, not the parent's fantasies.<sup>60</sup> Increased emphasis placed upon winning, the constant pushing to achieve "success," is not ultimately attending to the child's needs. When parents focus on sport and winning in these terms (that being as a means of realizing external goals), they are viewing youth sports much as they would their adult endeavors.<sup>61</sup> Increased pressure to win, in turn, makes children fearful of losing.<sup>62</sup> This consequently increases the probability or tendency that children will employ unfair, unethical, and unsportsmanlike behavior in the quest to seize the glory and prestige that is at the end of the winning rainbow.<sup>63</sup>

#### B. THE COACHES

Vince Lombardi, legendary coach of the Green Bay Packers, is often credited with coining the oft-quoted sports maxim, "Winning isn't everything. It's the only thing."<sup>64</sup> Lombardi himself however, claimed years later, that he was misquoted and had actually said, "Winning isn't everything – but making the effort to win is."<sup>65</sup> Striving to win, encouraging effort, hard work, and teamwork is the essence of youth sports.<sup>66</sup> Yet all too often, coaches are unable or unwilling to see past the winning-is-everything mentality.

The best-intentioned efforts by parents and many of the potential positive values and benefits of youth sports can be either bolstered or come unraveled at the hands of the coach.<sup>67</sup> Coaches occupy a position second only to parents

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59. See *id.*

60. Douglas E. Abrams, *Sportsmanship: Must Parents Learn From Kids?*, THE RECORD (Northern New Jersey), July 12, 2000, at L7.

61. See Michael A. Clark, *Winning! How Important Is It in Youth Sports?*, SPOTLIGHT ON YOUTH SPORTS, at <http://ed-web3.educ.msu.edu/ysi/SpotlightF94/winning.html> (last visited Oct. 8, 2000) (article from The Institute for the Study of Youth Sports, for information concerning the Institute see *supra* text accompanying note 49).

62. TUTKO & BURNS, *supra* note 35, at 79.

63. See Sigmund Loland, *Fair Play: Historical Anachronism or Topical Ideal?*, in ETHICS & SPORT 79, 95 (Mike McNamee & Jim Parry ed. 1998).

64. TUTKO & BURNS, *supra* note 35, at 4.

65. *Id.*

66. See Clark, *supra* note 61.

67. See TUTKO & BURNS, *supra* note 35, at 155. Too few coaches employ a coaching philosophy that keeps a child's emotional needs and development foremost in mind. *Id.* Imbued with the professional model they "harass the umpires and officials, shout at their players, give them inane pep talks, belittle their mistakes, administer punishment drills, and in general display the symptoms of someone who's only goal is to win." *Id.* (emphasis added). Coaches place

and guardians in influencing youth and instilling character attributes during a child's formative years.<sup>68</sup> Consequently, coaches play a significant role in reinforcing aggression and supporting intimidating and violent performances.<sup>69</sup> Oftentimes coaches feel the necessity during the "pre-game psychological preparation" to build up feelings of hostility and aggression in their players, directed squarely at the opposition.<sup>70</sup> While such methods of inspiration may be an effective means of arousing emotion, it additionally provides motivation to employ hostile and violent means to achieve victory.<sup>71</sup> When coaches subscribe to this method of motivation, they must in turn be the parties bearing the responsibility for the violent tendencies, which are more likely to occur as a result.<sup>72</sup> At the youth level, the most effective and successful coaches are not those with the best win-loss record or those who have won most championships; rather, the best coaches are those treat each child as an individual, who displays concern, understanding, and patience for the child's development and well-being.<sup>73</sup> A philosophy which is all too often overlooked and downplayed, in favor of a Lombardi-type winning-is-the-only-thing approach.

### C. PROFESSIONAL ATHLETES

Children attempt to emulate professional athletes who excel in their particular sport.<sup>74</sup> Unfortunately, this propensity of youth to imitate professional sports stars also embraces unsportsmanlike behaviors.<sup>75</sup> Young athletes discover at an early age that in order to get noticed and succeed in competition, aggressiveness and intimidation reign, when skill and talent are insufficient.<sup>76</sup> When violent and aggressive tactics employed on the field by adults are

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winning and championships ahead of the psyches of their young charges, operating under a notion that no one player is more important than the team. *Id.*

68. See JOHN DEVINE & CLIFF GILLIES, *VICTORY BEYOND THE SCOREBOARD* 3, 107 (1997); see also TUTKO & BURNS, *supra* note 35, at 155-57 ("He [the coach] is, in fact, like a third parent, a strong adult role model who can have a marked bearing on the child's life.")

69. Hanson & Dermis, *supra* note 45 at 137.

70. See Robert Corran, *Violence and the Coach*, in *PSYCHOLOGY IN SPORTS, METHODS AND APPLICATIONS* 129, 130 (Richard M. Suinn ed., 1980); see also Hanson & Dermis, *supra* note 45, at 137.

71. See Corran, *supra* note 70, at 129, 130.

72. See *id.* at 130.

73. See TUTKO & BURNS, *supra* note 35, at 157.

74. Daniel R. Karon, *Winning Isn't Everything, It's the Only Thing. Violence in Professional Sports: The Need for Federal Regulation and Criminal Sanctions*, 25 IND. L. REV. 147, 148 (1991). "One has only to watch a youth hockey game, where the players raise their sticks after a goal, or youth football, where youngster's 'spike' the ball in the endzone after a touchdown, to see miniature professionals at work." TUTKO & BURNS, *supra* note 35, at 47.

75. See Shields, *supra* note 46 at 504-05.

76. See LEIZMAN, *supra* note 3, at 97-98; see also Hanson & Dermis, *supra* note 45, at 137.

perceived by children to elevate and advance the athlete, they are likely to be repeated, regardless of the consequences.<sup>77</sup>

Professional sports stars are glorified by the media and contrary to the belief of certain athletes,<sup>78</sup> are revered by the fans. Especially their youngest fans. In today's era of professional sports, the victorious are rewarded with multi-million dollar contracts and lucrative endorsement packages.<sup>79</sup> Many times violence becomes a legitimate means to achieving the ends. With increased pressure to succeed and the high premium placed on victories, athletes are often left resorting to aggressive and violent stratagem to win.<sup>80</sup> The media in turn glamorizes this violent conduct.<sup>81</sup> This conduct is further condoned and perpetuated by the fans that continue to purchase tickets, watch games on television, and follow their favorite teams. All of this is done without as much as a second thought given to child athletes who may be observing:

Beyond a doubt, in their pursuit of million dollar or more contracts, many aspiring, young athletes will push the intimidation factor to, and beyond, its limit. If they see that the limit allows what would, off the playing field, be criminal behavior, at least some of them will engage in imitative behavior of the injuriously high-stick swinger or the bat-wielding, beaned hitter.<sup>82</sup>

When professional athletes take an ambivalent approach towards violence, it encourages the same disinterested attitude to permeate from youth athletics.<sup>83</sup> As discussed in *Part V*, rarely are criminal sanctions ever brought against professional athletes, even in some of the most egregious acts of violence.<sup>84</sup> And yet by allowing such blatant incidents of violent conduct to become invisible and escape criminal culpability, it sends an unacceptable

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77. See LUMPKIN ET AL., *supra* note 9, at 100.

78. Nike, a few years back, rattled some individuals with its stark television ad, in which Charles Barkey quipped, "I am not a role model." DENNIS PERRIN, *AMERICAN FAN: SPORTS MANIA AND THE CULTURE THAT FEEDS IT* 175 (2000). The concept of the ad being that athlete's jobs are to play their sport to the best of their ability, and others such as parents and teachers, should be looked to for inspiration and guidance. See *id.*

79. LUMPKIN ET AL., *supra* note 9, at 100; see also Jonathan H. Katz, Note, *From the Penalty Box to the Penitentiary—The People Versus Jesse Boulerice*, 31 RUTGERS L.J. 833, 834 (2000).

80. See Hanson & Dernis, *supra* note 45, at 136-39 (causing and motivating forces behind violence in sport).

81. "Without a doubt, though [sic], the electronic and print media glamorize and publicize violence because of its sensationalism." LUMPKIN ET AL., *supra* note 9, at 100

82. LEIZMAN, *supra* note 3, at 63.

83. Karon, *supra* note 74, at 148.

84. See *infra* notes 126-61 and accompanying text.

message to the adolescent participants in sport.<sup>85</sup> Athletes are role models for children.<sup>86</sup> And if the professionals are revered, rather than remanded, for their aggressive play, should society sanction children who engage in the same form of behavior?

#### IV. THE BAD ACT: FROM CHILD ATHLETE TO CONVICT

While staggering effects of youth sports violence are being dealt with across the country, the seriousness of these incidents is perhaps no greater than what occurred on November 3, 1999, in Gurnee, Illinois.<sup>87</sup> That night two lives would be forever changed in what is considered the first action of its kind taken against an adolescent for violence behavior committed during the course of a youth game.<sup>88</sup>

##### A. THE ACT

Emotions were high and the intensity level up.<sup>89</sup> This, after all, was the first meeting between the two rivals since the previous season, when

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85. See LEIZMAN, *supra* note 3, at 63. The message being, that punishment does not apply to criminal behavior, as long as it is committed during the course of athletic competition. *Id.*

86. Karon, *supra* note 74, at 148.

87. See Carol Felsenthal, *Shattered*, CHICAGO, May 1, 2000, at 94, available in 2000 WL 12180779 (detailing the events that transpired that night in a junior-varsity hockey game, which left one youth paralyzed and another charged with aggravated battery).

88. See Mike Robinson, *Teen Charged in Hockey Collision*, ABCNEWS.com, at <http://www.abcnews.go.com/sections/us/DailyNews/hockey991208.html> (last visited Oct. 18, 2000); see also *Youth Hockey Player, 15, Charged After Opponent Seriously Hurt On The Ice* [hereafter *Seriously Hurt*], STAR TRIB. (Mpls. – St. Paul), Dec. 9, 1999, at 16A, available in 1999 WL 7521275 (“[E]xperts on sports say they do not know of any criminal charges being filed in a youth sports event” against a juvenile for conduct committed during the course of game).

There have been have other cases of violence in youth sports that have been prosecuted, but most involved conduct committed during fights or outside the realm of game play. For a list of violent incidents by kids at youth sporting events, see James & Ziemer, *supra* note 2. A 17-year old was arrested on felony and misdemeanor assault charges for allegedly kicking a coach and injuring an opposing player with a kick to the head during a fight. *Id.* A high school wrestler pleaded guilty to fourth-degree assault charges for head-butting an official during a match. *Id.* A 13-year-old football player was charged with assault after a free-for-all involving players and parents. *Id.*

There has been one case in which high school senior, Tony Limon, starter for the San Antonio High School basketball team, was sentenced to five years in prison for elbowing an opponent in the face during a game. See Felsenthal, *supra* note 87. Limon, however, was 18 years of age at the time, so no longer a juvenile, and was already on probation for burglary charges, which contributed to the harshness of his sentence. See *id.*

89. According to a witness, taunts were exchanged throughout the game, punches were thrown, and a coach walked onto the ice to “harangue” the officials. See Litke, *supra* note 1; see also Rummana Hussain, *Hockey Player Accepts Deal For Paralyzing Foe*, CHI. TRIB., Aug. 8, 2000, § 2, at 1, available in 2000 WL 3694495. Ultimately, 16 penalty infractions would be called in the game. *Id.*

Glenbrook North had beaten New Trier to win the Illinois State Junior-Varsity Hockey Championship in Chicago's United Center.<sup>90</sup> On this night, the Rinkside Sports Arena in Gurnee was the site of the rematch.<sup>91</sup>

From inception, the game action was fierce and hotly contested. Throughout the game, one player in the middle of much of the action was New Trier's Neal Goss.<sup>92</sup> According to a witness, near the start of the third period, Goss was in the offensive zone skating towards the net when he collided with the Glenbrook North goalie.<sup>93</sup> Thereafter, a Glenbrook North player joined the fray. A scuffle ensued and punches were exchanged.<sup>94</sup> Both Goss and his combatant were ultimately penalized for their part in the melee.<sup>95</sup>

Then, with seven minutes and fifty seconds remaining in the third period of the bitterly fought 4-4 contest, Goss scored what was the tie-breaking goal.<sup>96</sup> Goss' goal ultimately went on to become the winning goal as New Trier went on the score twice more, putting the game out of reach.<sup>97</sup> The game's final score was however secondary, as it was in the waning seconds of the contest when the aggressiveness intensified, nastiness ensued and stories conflict.

According to a civil suit filed on behalf of Neal Goss,<sup>98</sup> Glenbrook North coach Adam Young, had throughout the course of the game "persistently heckled," incited and rallied his players to "take special action" against Goss.<sup>99</sup> Additionally, the suit alleges that the game officials "did nothing to cool down the ever-increasing emotional intensity [of the game]."<sup>100</sup> "Special action,"

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90. See Hussain, *supra* note 89. Ice hockey unlike other high school sports is not conducted under the Illinois High School Association. *Id.* Rather, the Amateur Hockey Association of Illinois oversees it. *Id.* While each team wears their schools' names on their jersey, teams are not sanctioned by the high schools whose names they use. *Id.*

91. *Id.*

92. See Felsenthal, *supra* note 87. Neal Goss was co-captain of New Trier's junior-varsity hockey team. *Id.* He has been described as a "feisty player" who "worked hard and skated aggressively" and "typically earned his share of penalties." *Id.*

93. *Id.*

94. *Id.*

95. As a result of the scuffle Goss received a four-minute penalty, his opponent received five minutes in the penalty box. *Id.*

96. *Id.*

97. New Trier won the rematch between the two schools by a final score of 7 to 4. *Id.*

98. On December 6, 2000, Neal Goss and his father, Robert, filed a civil lawsuit against the player who injured Neal; Glenbrook North coach Adam Young; the Northbrook Hockey League, which sponsors the Glenbrook North team; the Illinois Hockey Officials Association; and the Amateur Hockey Association of Illinois. Robinson, *supra* note 88. The suit seeks unspecified monetary damages of more than \$50,000 from each defendant. Barry Temkin, *Plea Expected in Goss Trial - Paralysis Case's Effect on Sports Uncertain*, CHI. TRIB., Aug. 6, 2000, § 3, at 1, available in 2000 WL 3693943.

99. Robinson, *supra* note 88.

100. *Hockey Crimes it's a Contact Sport. Kids Sometimes Get Hurt. But Fouls Are Not Felonies* (Editorial), THE POST-STANDARD (Syracuse, NY), Dec. 17, 1999, at A16, available in 1999 WL 4718723. According to Alan Kray, president of the Northbrook Hockey League,

then did indeed ensue. It is uncontroverted that as the remaining seconds ticked off the game clock both Goss and the Glenbrook North player who would eventually injure Neal were on the ice.<sup>101</sup> A father of one of the New Trier players, who was in attendance recalls that with approximately 20 seconds remaining: "I witnessed the [Glenbrook North] boy's stick come up and hit Neal across the face right after the puck was dropped. All the stick did was hit his facemask, so [it had] no effect on Neal at all, and it wasn't like he whacked it hard. But it was deliberate."<sup>102</sup> Goss retaliated by pushing the Glenbrook North player.<sup>103</sup> Neither player however received a penalty for their part in the incident.<sup>104</sup> What occurred next is subject to conflicting interpretations.

In the waning seconds of the game, as Goss idled a foot or so from the boards, playing the puck with his skates, the same Glenbrook North player skated from across the ice approaching Goss.<sup>105</sup> As the buzzer sounded,<sup>106</sup> the Glenbrook North player raised his stick horizontally with both hands and cross-checked<sup>107</sup> Goss from behind causing him to careen head-first into the boards.<sup>108</sup> As Goss lay injured on the ice, the Glenbrook North player allegedly uttered, "That's what you get for messing."<sup>109</sup>

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"[I]t was a very intense game." Megan O'Matz, *Teen Charged With Battery in Hockey Hit, Intent to Injure is Cited, Foe Paralyzed From Check*, CHI. TRIB., Dec. 8, 1999, § 1, at 1, available in 1999 WL 2939369.

101. See Felsenthal, *supra* note 87. This is not the same player Goss had had his early confrontation with and because he is only 15 years of age, and has been charged as a juvenile, his name has not been released. *Id.* The Glenbrook North player has been described as "the smallest player on his team," who was "not known for his aggressiveness" but who "really hustled, [he gave] 110% all the time." *Id.* In fact, in 40 games played the previous season, he had been assessed only one two minute penalty. *Id.*

102. *Id.*

103. See Hussain, *supra* note 89.

104. *Id.*

105. See Felsenthal, *supra* note 87.

106. This fact is subject to a great deal of dispute amongst the parties involved and the witnesses. According to prosecutors and witnesses for the New Trier side, "It's our conclusion that the incident occurred after the buzzer, after the game was over, which was a significant factor." O'Matz, *supra* note 100. However, as the Glenbrook North side sees it, "It happened within the context of the game." *Seriously Hurt*, *supra* note 88. Additionally, according to John Hoppe, former teammate of the Glenbrook North boy, he doubts the boy ever heard the buzzer or had any idea of how many seconds were left because, "We're taught not to pay attention to that." (emphasis added). Felsenthal, *supra* note 87.

107. Felsenthal, *supra* note 87. For a definition of cross-check, see *supra* note 14 and accompanying text.

108. Felsenthal, *supra* note 87.

109. *Id.* According to Lake County prosecutor George Strickland, Goss himself and several witnesses claimed to have heard the taunt, calling it a clear indicator that the Glenbrook North player intended to inflict injury, not merely play hockey. *Id.* But see Robinson, *supra* note 88. Jeffery Steinback, the boy's attorney, claims the prosecutor's comments are "a wholesale distortion of the truth;" see also Felsenthal, *supra* note 87. Goss' teammate Ladd

The cross-check fractured Goss' fourth cervical vertebrae.<sup>110</sup> Doctors have said that the paralysis is permanent and Goss will forever be in a wheelchair, a quadriplegic with little or no use of his arms or any facility below his chest.<sup>111</sup>

The Glenbrook North player responsible for delivering the cross-check received a match penalty<sup>112</sup> along with an automatic 30-day suspension and faces additional AHAI hearings regarding the possibility of further penalties.<sup>113</sup>

#### B. THE AFTERMATH

On December 7, 1999, Lake County State's Attorney Michael Waller made the decision to charge the 15-year-old Glenbrook North juvenile with two counts of aggravated battery.<sup>114</sup> According to George Strickland, chief of Lake County's criminal division, three factors prompted the impending prosecution. First, he "believe[d] the evidence [was]... clear that the defendant [15-year-old Glenbrook North hockey player] intended to harm the victim [Neal Goss]."<sup>115</sup> Second, he "believe[d] there [was]... credible

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Solomon, who was also on the ice at the time of the incident, additionally claims that he heard no taunts or comments directed towards Neal, as he lay on the ice. *Id.*

110. Jody Goldstein, *Acts of Violence in the Sporting Arena Increasingly Are Finding Their Way Into the Courtroom. Where Is the Line Drawn Between Sport and Crime*, HOUS. CHRON., May 7, 2000, at 1, available in 2000 WL 4297240.

111. *Id.* According to Neal Goss, "What has been lost forever is the naivete that is entitled to a 16-year-old, the notion that life will always be there for the taking, the belief that the world is a good place." Lucio Guerrero, *Hockey Player Gets Probation for Late Check*, CHI. SUNTIMES, Oct. 27, 2000 at 3.

112. See Temkin, *supra* note 98. Rule 29 of the NHL rule book states: A "MATCH" penalty involves the suspension of a player for the balance of the game and the offender shall be ordered to the dressing room immediately. A substitute player is permitted to replace the penalized player after (5) minutes playing time has elapsed when the penalty is imposed under Rule 43 – Attempt to Injure or Rule 52 – Deliberate Injury of Opponents.

2000 OFFICIAL RULES OF THE NATIONAL HOCKEY LEAGUE, Rules 29, 43, & 52 (1999).

113. Temkin, *supra* note 98.

114. See 720 ILL. COMP. STAT. ANN. 5/12-4 (West 1999). Aggravated battery occurs when:

- (a) A person who, in committing a battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement commits aggravated battery.
- (b) A person who, in committing a battery commits aggravated battery if he either:
  - (1) Uses a deadly weapon other than by the discharge of a firearm.

*Id.*

See Temkin, *supra* note 98. The offender was charged with two counts of aggravated battery; one for intentionally causing harm, and one for use of a deadly weapon, a hockey stick. *Id.*

115. Felsenthal, *supra* note 87.



evidence that it happened after the game and not in the context of the game."<sup>116</sup> Finally, "the victim [was] so egregiously injured."<sup>117</sup> Yet, according to the Glenbrook North player's attorney, Jeffery Steinback, prosecutors were wrong to treat the incident as criminal behavior. He stated, "It's obvious this isn't a crime. What's being responded to is a tragic incident."<sup>118</sup>

After initially denying the two counts of aggravated battery (which carried with them a maximum penalty of confinement in a juvenile institution until age 21)<sup>119</sup> the defendant avoided trial by entering an Alford plea<sup>120</sup> on August 7, 2000.<sup>121</sup> Under the plea agreement, prosecutors reduced the charge to simple battery,<sup>122</sup> which carries a maximum penalty of a year in prison.<sup>123</sup>

"There are consequences for these actions, whether you're a good person or not. The piper must be paid," were the words of Lake County Judge John G. Radosevich as he sentenced the now 16-year-old hockey player on October 26, 2000.<sup>124</sup> Judge Radosevich sentenced the juvenile to two years probation, ordered him not to participate in any contact sports during that time, and required that he serve 120 hours of community service at facilities that care for persons who have suffered paralysis.<sup>125</sup> Thus, one chapter in this tragic story was brought to a close. This case holds a mirror up to the problems surrounding violence and criminality in sports, especially youth sports, but is it giving off a reflection that we would like to see?

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116. *Id.*

117. *Id.*

118. *Seriously Hurt*, *supra* note 88. "Now, if he had followed him into the parking lot, it would be another matter. Something terrible happened to a young boy, something terrible and tragic. But that doesn't make it criminal," according to Steinback. Litke, *supra* note 1.

119. See O'Matz, *supra* note 100.

120. A guilty plea entered into by a defendant in connection with a plea bargain, without actually admitting guilt. See *North Carolina v. Alford*, 400 U.S. 25 (1970).

121. See Hussain, *supra* note 89. The defendant's attorney claims that his client's decision to enter the plea was the most logical means to end the "seemingly endless series of painful moments." *Id.* "This was the wisest course of action under the circumstances, given the alternatives." *Id.*

122. 720 ILL. COMP. STAT. ANN. 5/12-3 (West 1999). Criminal battery is defined as follows:

- (a) A person commits battery if he intentionally or knowingly without legal justification and by any means
  - (1) causes bodily harm to an individual or
  - (2) makes physical contact of an insulting or provoking nature with an individual.

*Id.*

123. *Id.*

124. Guerrero, *supra* note 111.

125. *Id.*

## V. ASKING A CHILD TO TAKE THE FALL: LEGAL REMEDIES TO CURB VIOLENCE

There is no denying that what transpired during the November 3, 1999, game at the Rinkside Sports Arena was an extremely tragic and unforeseen occurrence.<sup>126</sup> Fates collided, and two young lives were undoubtedly changed forever. It is unfortunate, however, that an incident such as this is needed to open people's eyes to the ever-growing nemesis that is violence in youth sports. There is opportunity for change, but we should ask ourselves whether we should as a society, make criminals out of adolescent offenders. After all, we are the same society that feeds this intensity and aggression, encourages the win-at-all cost mentality, and reinforces the violent demeanor found so prevalently throughout youth sports today.

### A. WHERE IS THE LINE?

Children are victims of a culture of sports violence perpetuated by adults. When kids' sports were just games, violence was practically nonexistent.<sup>127</sup> As adults became involved, and games slowly changed from informal exercises into more formalistic semblance's of professional adult sports, so too grew the increased emphasis on winning.<sup>128</sup> With this fixation on winning evolved a propensity to employ aggressive, sometimes violent, tactics, all in an effort to achieve success.<sup>129</sup> In this ultimate quest for success, athletes generally are given little, if any, guidance as to what separates hard, aggressive play from that which is criminal.<sup>130</sup> This is especially true in youth sports.

The pure nature of competition and rivalry, inherent in all sports programs, arouses a certain level of emotion and aggressive-drive. Battery defined briefly as "the unlawful application of force to the person of another,"<sup>131</sup> naturally occurs, in some form or another, in nearly every contact sport. This is the same "battery" that jurisdictions have criminalized for hundreds of years.<sup>132</sup> Yet criminal prosecutions for sports participants are exceedingly rare.<sup>133</sup> There are several examples of egregious acts of sports

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126. See *supra* note 89-113 and accompanying text.

127. See LUMPKIN ET AL., *supra* note 9, at 98.

128. See *id.*; see also RADER *supra* note 19, at 326-30.

129. See Hanson & Dernis, *supra* note 45, at 136-39.

130. See Ranalli, *supra* note 8.

131. Karon, *supra* note 74, at 152 (quoting WAYNE R. LAFAYE & AUSTIN W. SCOTT, CRIMINAL LAW 685 (2d ed. 1986)).

132. See Goldstein, *supra* note 110.

133. Barbara Svoranos, comment, *Fighting? It's All In A Days Work On The Ice: Determining the Appropriate Standard of a Hockey Player's Liability to Another Player*, 7 SETON HALL J. SPORT L. 487, 500 (1997); see also Karen Goldberg Goff, *Violence in Sports Tough Call For Courts: Brutal Hockey Hits Might Be Criminal*, WASH. TIMES (D.C.), Feb. 17,

violence that never featured criminal penalties. In 1977, there was a National Basketball Association brawl in which the Los Angeles Lakers' Kermit Washington punched Houston Rockets' Rudy Tomjanovich in the face, breaking Tomjanovich's nose, jaw and skull. Tomjanovich spent five months in the hospital, and had his face surgically rebuilt. Washington was never charged with a crime. In 1997, Mike Tyson's heavyweight title fight with Evander Holyfield ended when Tyson bit off a piece of his opponent's ear. Tyson never faced criminal charges.<sup>134</sup>

The requirement that the battery be "unlawful" is the key to comprehending why sports violence is often treated as noncriminal.<sup>135</sup> Sports violence seems to often be classified by society and prosecutors as "lawful" behavior.<sup>136</sup> Consequently, behavior that on the street would be criminal becomes legal on the field because the "unlawful" requirement has been negated.<sup>137</sup> Occasionally, however, on-the-field behavior is so egregious that it transgresses the bounds of conduct that is considered lawful within the rules of the games.<sup>138</sup> The problem in bringing criminal prosecutions against athletes then becomes drawing a line between conduct that is inherent within the rules of the game and conduct that is criminal.<sup>139</sup> "Clearly [there] is a line beyond which we do not expect the players to go."<sup>140</sup> Unfortunately the location of the line is all within the mind – that of the athlete's and the prosecutor's.<sup>141</sup> If prosecutors, adults, and professional athletes have a difficult time making the distinction between what is acceptable within the bounds of a sport, how can we expect young athletes to make the same distinction?<sup>142</sup>

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1999, at A1, available in 1999 WL 3078199 (examples of some of the most egregious acts of sports violence that never featured criminal charges or were unsuccessfully prosecuted).

134. See Goff, *supra* note 133.

135. Karon, *supra* note 74, at 152.

136. *Id.*

137. *Id.*

138. *Id.*

139. *Id.*

140. This according to David M. Rogero, chairman of the Florida Bar's Entertainment, Arts and Sports Law Section. Bruce Lowitt et al., *Drawing Line Between Foul and Crime: Sports is Having a Tough Time Policing Itself*, COM. APPEAL (Mem., TN), at D1, available in 2000 WL 4440715.

141. See *id.*

142. See Mark Emmons & Steve Fryer, *Pros' Brawls are Foul Ball, Say Coaches at Youth Level Sports*, ORANGE COUNTY REG. (Cal.), Sep. 3, 1999, at A01 available in 1999 WL 4317968. "Kids can't tell the difference between what's OK on the field and what's OK off the field," according to Lori Overway, a sports psychologist at Michigan State's Institute for the Study of Youth Sports. "There seems to be a dichotomy between what's OK on the field and what's OK off the field. They [children] believe that when they're in a game situation, it's OK to break some of these moral, society codes because it goes along with the game." *Id.*

## B. ADOLESCENT SPORTS VIOLENCE: WHY IT SHOULD NOT BE CRIMINALIZED

“[P]rosecutors miss the mark when they charge only child athletes. The real culprits are adults, not the children who do what adults have taught them.”<sup>143</sup>

With the exception of the most brutal and egregious incidents that transgress the bounds of anything related to gameplay,<sup>144</sup> most incidents that occur on the youth sports field, court, or rink should not be treated as candidates for criminal prosecution. If the message society is attempting to convey youth when prosecutors play referee [such as in the Goss case] is that violence has no place in sports and the notion that playing a game doesn't insulate you from the realm of criminal law, they definitely have the correct rationale. However, they are applying the wrong approach. Criminal penalties are an avenue that need not be pursued.

What happened in Gurnee could happen anywhere in America. Checking from behind penalties occur in every game.<sup>145</sup> If not for the seriousness of the injury involved, it is unlikely that this case would have ever made headlines. If anyone should be targeted it should be the adults – the coaches, parents, and officials who organized the game, who watched as intensity levels mounted, and who ultimately allowed it to get out of hand.<sup>146</sup> The young hockey player was merely playing the game the way he was taught – up to, and including the final buzzer.<sup>147</sup>

To control violence in youth sports, those involved in sports must first be willing to admit to its pervasiveness.<sup>148</sup> It is only after society can admit the problem that we can begin to reassert a sense of ethical order to the worst aspects of violence in sports. There are myriad of controls that can be employed to eliminate or at least curb violence in youth sports, the least of which are criminal sanctions.

Proponents of imposing legal sanctions on youth for their violent behavior in sport claim that athletes, regardless of their age, should not be immune from criminal prosecution merely because it occurs on the field.

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143. Douglas E. Abrams, *Adults Share Blame for Youth Sports Violence*, BUFF. NEWS, Dec. 26, 1999, at H5, available in 1999 WL 4590508.

144. For an account of some violent incidents in youth sport that have appropriately resulted in criminal penalties, see *supra* note 89.

145. See O'Matz *supra* note 100. “There are penalties in every game. There are checking-from-behind (penalties) every game. There are kids [sic] hit very hard.” *Id.* As stated by Alan Kray, president of the Northbrook Hockey League, which sponsors the Glenbrook North team for which the offender in the Neal Goss case plays. *Id.*

146. See Litke, *supra* note 1.

147. See *id.*

148. See LUMPKIN ET AL., *supra* note 9, at 101.

According to Matt Mitten, director of Marquette University's National Institute of Sports:

It's the idea that playing a game doesn't insulate you. There's certain conduct that's wrong – and you can be prosecuted for it. Some kids might think, 'As long as I'm playing a sport, anything goes.' And this case [the Goss case] says, 'No. Even, during a sport, the laws that govern criminal behavior still apply'.<sup>149</sup>

Consequently, proponents who subscribe to this view see the use of criminal penalties as having a deterring effect. If you want to eliminate or control violent and aggressive tactics, increase the penalty. Children need to be taught that in sports, as in society, not all behaviors are appropriate or tolerable.<sup>150</sup> While the adults may be partially responsible for encouraging and condoning the success-oriented, win-at-all-cost philosophy, it is still the child who is participating in the sport. The child is taking his own initiative to step outside the bounds of accepted, rule-abiding conduct and employ violent stratagem to inflict harm and gain an advantage. Accordingly, the child must be held individually responsible. Do not blame the whole system for the acts of a few.

The use of criminal penalties to deter aggressive, violent conduct, however, is not going to cure the ills that plague youth sport. Violence is like the weeds in a youth sports garden. The garden, given the opportunity to grow and flourish, has many positive and beneficial elements, which are to be cultivated and harvested. Yet, if left unchecked, eventually the weeds will take hold and begin to assert a pervasive and overwhelming influence, effectively strangling any of the garden's beneficial aspects. Consequently, it becomes necessary to take preventive measures to eliminate and control the problem. In order to do so however, it is not enough to merely cut the weeds down, for they will only grow right back. Rather, it becomes necessary to remove the weeds at their roots, for only then can their spread effectively be controlled. Accordingly, imposing criminal penalties will not reach the root of the violence problem. To effectively eliminate and control the spread of violence engulfing the youth sporting culture society must revert back to the true intentions motivating the rise of sports programs and extinguish the adult-projected attitudes found so prevalently across youth leagues today. It is the adults, emphasizing the winning, success-oriented goals that are at the true root of the problem.

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149. Lou Carlozo, *Taking Sport To Court Will A Tragic Hockey Case Change Kid Contact Sports?*, CHI. TRIB., Aug. 15, 2000, § 7, at 3, available in 2000 WL 3697026.

150. See *id.*

As previously discussed, youth sports programs began to flourish because they were seen as an effective means of instilling a level of strong moral and character development in programs young participants. However, as adults became more involved, there gradually became a shift in the mentality motivating participation in youth athletics. Sports seemingly became less focused on moral maturation, the credo "develop[ing] superior citizens rather than superior athletes," and more focused on this professional, winning-is-the-only-thing mentality. This newfangled mentality then brought along misdirected violence and aggression in an attempt to succeed and achieve prominence.

Whereas a principled player will not inflict injury or harm on an opponent to gain a strategic advantage, athletes who display propensities for violent behavior primarily care for their personal status and success.<sup>151</sup> Who is responsible for instilling the "personal status and success" axiom? The parents and the adults who create, administer, and coach the miniaturized big leagues. In fact, in a survey conducted by The Institute for the Study of Youth Sports,<sup>152</sup> a national sample of youth ranging in age from ten to eighteen were asked why they participated in sports, "To win" failed to make the top ten.<sup>153</sup> Thus, to begin weeding out violent and aggressive behavior, it is necessary to start by focusing less on winning, and more on the true intentions behind the initial rise of organized sports.<sup>154</sup>

Punitive measures, such as criminal sanctions, will only control the behavior of those children who already value the rules.<sup>155</sup> When viewing youth sport from the perspective of the true goals and intentions it was designed to foster, criminal penalties, the 'do right or you will be punished' deterrent attitude, comprise moral and character development at its lowest form.<sup>156</sup> Higher levels of character development are based on principles of reasoning and thinking.<sup>157</sup> Children should want to do right because they value or believe in what is right, not because they are told to do what is right in the face of negative repercussions. Consequently, each child's value and belief system must be cultivated and learned.<sup>158</sup> It was sport, in turn, which was

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151. LUMPKIN ET AL., *supra* note 9, at 101.

152. See *supra* text accompanying note 49.

153. "To win" failed to make the top ten for girls, for boys it ranked seventh. See Clark *supra* note 60. When the same young people were asked what they would like to see changed about sports, "less emphasis on winning," made the top ten, for both genders. See *id.*

154. See *id.* Concentrating solely on final score as an important outcome of games leads to individuals developing a very narrow definition of winning. *Id.* This is potentially damaging to young athletes. *Id.*

155. See LUMPKIN ET AL., *supra* note 9, at 101.

156. See *id.*

157. *Id.*

158. *Id.*

initially developed to achieve and strengthen this belief system. Therefore, if society wants to control violent conduct in sports, it is essential to encourage and strengthen principled thinking in youth athletes. Adults involved must help young athletes gain true reasoning ability based on moral principles.<sup>159</sup> Eliminate the professional sports mentality. Unlike professional sports, where winning translates into money, and careers depend on successful performances, youth sports are about providing beneficial and wholesome experiences that children are able to draw upon throughout the course of their lives.<sup>160</sup> Attitudes about sport that are perhaps quite appropriate at the professional level are extremely inappropriate at the youth level.<sup>161</sup> Youth leagues are not feeder systems to the pros and should not be treated as such.

While charging the 15-year-old Glenbrook North hockey player with two counts of aggravated battery may indeed deter him from ever again committing such an act of violence on the playing field, will that single incident, or others like it, stop other children from engaging in the same form of behavior? This seems unlikely. Society, instead of looking to send a message that violence in youth sports will not be tolerated through its use of criminal sanctions, should rather look to the root of the violence problem and implement measures to eliminate it. The root of the problem is not the single child, who commits the single act of violence. It is doubtful that children with violent predispositions and propensities participate in sports merely for the opportunity to inflict injury and harm upon other children, because they know they will escape the realm of criminal liability. Rather, the problem lies with the overaggressive parents, win-at-all-cost coaches and poor role models in professional sports, all of whom have contributed to youth athletics straying off its well-intended path.

## VI. STEMMING THE TIDE: PUTTING THE YOUTH BACK IN YOUTH SPORTS

Slapping criminal penalties upon adolescent athletes and branding them "juvenile delinquents" will in the long run do much greater harm than good. Society should not make criminals out of children for conduct that occurs during a game. Society certainly does not benefit when young athletes are sent to juvenile institutions or placed on probation for incidents which occur during sports. The Goss case provides society with the opportunity to take a look at what youth athletics has become, and if left unchecked, what direction it is destined to head. Let us only hope its destiny is not to become a catalyst for

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159. *Id.*

160. See Nack & Munson, *supra* note 37, at 88.

161. See MURPHY, *supra* note 4, at 172 (attitudes such as "win-at-all-cost" and "no pain, no gain").

bringing further criminal charges against youth athletes. Rather, let us hope it is used as a vehicle for recognizing a problem exists and formulating positive and beneficial alternatives to stem the tide of violence and reinstate the character building philosophy that youth sport was designed to foster.

The key to improving the quality of sport experiences for young athletes is to emphasize the totality of the sport experience rather than just playing the game.<sup>162</sup> This concept fathoms structuring a program philosophy for sportsmanship, being prepared to teach moral reasoning, and having the adults monitor their own behavioral response to situations.<sup>163</sup> Programs can in turn create a climate that fosters the development of sportsmanship by establishing a positive philosophy, striving for excellence, teaching moral principles, and providing positive role models.<sup>164</sup>

Additionally, parents and fans should be held to a code of conduct that requires them to either conduct themselves responsibly or forfeit their right to spectate and be involved in a child's sporting experience.<sup>165</sup> An example of a possible Sport Parent Code of Conduct could be:

I will not force my child to participate in sports. I will remember that children participate to have fun and that the game is for youth, not adults. I (and my guests) will be a positive role model for my child and encourage sportsmanship by showing respect and courtesy, and by demonstrating positive support for all players, coaches, officials and spectators at every game, practice or other sporting event. I (and my guests) will not engage in any kind of unsportsmanlike conduct with any officials, coach, player or parent such as booing and taunting; refusing to shake hands; or using profane language or gestures. I will teach my child to play by the rules and to resolve conflict without resorting to hostility or violence. I will teach my child that doing one's best is more important than winning, so that my child will never feel defeated by the outcome of a game or his/her performance.<sup>166</sup>

Any parent whose child participates in sports should be required to sign and abide by a code of conduct. It is unfortunate that we have allowed youth

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162. *Emphasizing Sportsmanship*, *supra* note 49.

163. *Id.*

164. *Id.*

165. LUMPKIN ET AL., *supra* note 9, at 102.

166. Bella English, *A Sporting Code for Parents*, B. GLOBE, Jan. 7, 2001, available in 2001 WL 3916223.



sports to reach a point at which it is necessary to require a behavior manual for parents at their children's games. However, there must be zero tolerance for aberrant behavior. Repeated emphasis of the winning-is-the-only-thing mentality and the adult hooliganism<sup>167</sup> found so prevalent across the realm of sport today defeats the vital mission youth sports is designed to provide.

### CONCLUSION

Almost certainly a professional would not have been subject to criminal prosecution for the same play that landed the Glenbrook North player in the hands of the law.<sup>168</sup> Rather, the play would have probably made the circuit of appearances on television screens across the country, courtesy of ESPN and the plethora of other sport highlight reels. Yet when a youth hockey player participates in the same form of conduct as his heroes he watches on television, he thrown is into the very adult world of criminal law.<sup>169</sup>

If what happened to Neal Goss was criminal, there are potentially hundreds of young "felons," "delinquents," and "outlaws" patrolling their turf, on sports fields across the country. They become "felons," "delinquents," and "outlaws" merely by playing a game the way adults taught them to. "Adults have no excuse; they should know better. Kids [on the other hand,] have to be taught what's unacceptable under the rules."<sup>170</sup> However, what kids are being taught is that rough play is not only accepted in pursuit of victory, but also encouraged in many instances.<sup>171</sup>

Using criminal sanctions as a Band-Aid placed over youth athletics will not stop the bleeding. Adults have done their best to firmly ingrain in the minds of impressionable young athletes that the only way to succeed is to win, and to win involves taking whatever means necessary, so long as the end result is victory. After all, professional athletes display that attitude on daily basis. Most definitely, there is a line that needs to be drawn, but not by the prosecutors or the courts. If society is concerned with what youth sports have become and where it is heading, then maybe it is time to simply put the youth

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167. See *supra* note 58 and accompanying text.

168. In a similar type incident during the National Hockey League (NHL) playoffs a few years ago, Washington Capital player Dale Hunter skated from halfway across the rink and cross-checked Pierre Turgeon from behind into the boards, several seconds after the play had ended. Abrams, *supra* note 143. While Turgeon suffered a concussion and separated shoulder in the "assault," Hunter escaped with only a league-enforced fine and suspension. *Id.*

169. See *supra* note 114-25 and accompanying text.

170. Steve Zipay, *Questionable Decision: McSorley Ruling Renews Debate on How to Handle Violence in Sports*, *NEWSDAY*, Oct. 8, 2000, at C10, available in 2000 WL 10037707.

171. See MURPHY, *supra* note 4, at 172.

back in youth sports. Simply allow children to play their game; sport, after all, is merely a game.

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