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From The Field Of

When police step in, athletes must keep rights, risks in mind

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No amateur or professional athlete ever plans for an arrest or questioning by law enforcement officials. Generally, everyone reacts differently when arrested.

Some reactions may be unwise but understandable due to the circumstances. However, the recent increase in high-profile arrests of professional and amateur athletes begs for awareness of legal and, in many cases, contractual rights and obligations during an arrest and other law-enforcement actions.

As has been illustrated by the travails of the Tennessee Titans' Adam "Pacman" Jones and the Cincinnati Bengals' Chris Henry (among others), an arrest of an athlete can pose serious consequences, legally, contractually and otherwise.

The NFL's recently revised personal conduct policy, which has been applied to Jones and Henry, highlights these potential consequences. Commissioner Roger Goodell suspended Jones for the entire 2007 season and Henry for eight games.

Jones' suspension, which he is appealing, is based almost entirely upon allegations of criminal conduct and not actual convictions. In addition to possibly facing serious criminal consequences for their respective behavior, Jones and Henry will suffer financial consequences as well.

First and foremost, when an athlete is arrested or taken into custody for questioning, either as a suspect or a witness, he should consult with a qualified criminal defense attorney before making any statement or answering any questions from a government officer or agent. The police and government cannot hold against any person the insistence on those rights.



The arrest of an athlete, such as the Tennessee Titans' Adam "Pacman" Jones, can have serious consequences financially, legally and contractually for the player and his team.

Professional athletes who are arrested, detained and/or questioned by law enforcement officials are often inclined to call their agents, many of whom are attorneys. Athletes and agents, however, should be careful in this context, as many agents are not experienced criminal attorneys.

Furthermore, there is a difference between acting as one's agent and acting as one's attorney. An argument can be made that agents do not represent athletes as attorneys (even if they are licensed attorneys), and as such could jeopardize the attorney/client privilege and turn the agent into a potential witness against the athlete.

Likewise, following arrest or detention, athletes are often asked by their teams or leagues to provide public statements concerning their legal situations.

Athletes should refrain from this, as these statements would not be subject to any legal privilege and anyone witnessing the statement could be subpoenaed as a witness against the athlete.

Athletes who give statements to authorities can face more than just legal jeopardy. They also can face sanctions by their leagues.

For example, Jason Grimsley, formerly of the Arizona Diamondbacks, was interviewed without counsel by federal authorities investigating the possible misuse of human growth hormone. He gave incriminating statements.

While Grimsley has not been criminally charged to date, his statements resulted in a 50-game suspension by Major League Baseball under its prohibited substance policy. Grimsley would have been well-served to call a qualified criminal attorney before giving a statement.

According to numerous reports, many current and former MLB players have been asked by former Sen. George Mitchell (on behalf of MLB) to provide information concerning their knowledge of performance-enhancing substances.

Again, any player who subjects himself to this type of interview will do so without the protection of the attorney/client privilege. Any information provided of criminal nature could result in criminal prosecution of the player.

Athletes are often convenient targets for overreaching law enforcement officials. The case (recently dismissed) against three Duke University men's lacrosse players is a prime example.

Federal and local law enforcement have demonstrated that they intend to investigate vigorously criminal allegations concerning pro athletes. Therefore, athletes must have a basic understanding of their rights (and risks), legally, contractually and otherwise.

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When approached or questioned by law enforcement authorities, athletes should:

- Consult with a qualified criminal defense attorney before making any statement or answering any questions from a government officer or agent.

- Refrain from providing statements of their legal situations to their respective leagues and teams.

- Have a basic understanding of their rights (and risks), legally, contractually and otherwise.