



Personal Foul? *Deadspin* and an Iconic Athlete Teaching Note

Case Summary

Sports journalism has traditionally lionized athletes; only since the 1960s have some sports journalists written candidly about the many social problems manifest in sports. But gossip about sports stars now circulates effortlessly online, and a new genre of sports blogs has formed to capitalize on voracious fan interest. These outlets can easily publish material about players that was previously both unattainable and off-limits, raising new questions about what aspects of players' lives are fair game.

This case explores these issues by focusing on the Gawker-owned sports blog, *Deadspin*, and its decision whether or not to publish photos of retired football star Brett Favre's genitals. A blog formed as part of an ongoing corrective to the traditional treatment of athletes as heroes, *Deadspin* routinely publishes rumors about players along with more in-depth investigative pieces that often concern off-the-field behavior and events.

In a conversation with Jets in-house reporter Jenn Sterger, *Deadspin* editor-in-chief A.J. Daulerio learns that one of football's most revered, family-oriented players, retired Jets quarterback Brett Favre, had sent her a series of sexually charged cellphone texts, including overt propositions and photos of his genitalia. Sterger agrees to cooperate with exposing Favre, but wants her name left out. She refuses to hand over the photos themselves for publication.

Determined to pursue the story, which he believes has news value beyond mere sensationalism, Daulerio begins to question other reporters and officials inside the Jets organization. He discovers that Sterger had sent the photos to friends, and that the story had reached team officials, who apparently were eager to keep it quiet. More certain than ever that Sterger is telling the truth and that the story might expose not only Favre but also a culture of covering up sexual harassment within the Jets organization, Daulerio begins to investigate.

After verifying Sterger's account with several sources who had seen the photographs, Daulerio is eager to publish the allegations. Although he tries to communicate with Sterger first,

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they never quite connect and Daulerio proceeds—without her permission—to post her accusations along with several of the texts he and Sterger had exchanged that day. The story makes a predictably huge splash, and within a few weeks an informant emerges claiming to have copies of the photos he will sell for the hefty sum of \$12,000. *Deadspin*'s legal counsel advises against it and other journalists argue that publishing them would be unethical.

Students follow the case up until the moment when *Deadspin* must decide whether or not to pay for the photos. For his part, Daulerio remains certain that they cannot pass up this opportunity. But is it worth the ethical, legal, and financial costs?

Teaching Objectives

Use this case to start discussion about when it is appropriate to publish highly personal information about public figures; interactions with sources, especially victims of sexual harassment; the responsibilities of sports journalists to their public; and ethics of online versus traditional journalism.

The central question in this case is whether the allegations against Favre, and especially the photos of his genitalia, are newsworthy enough to justify publishing them, despite the costs. These costs are not just monetary, although that is a place to start: ask students to consider when, if ever, it is appropriate to pay sources for information. Is doing so justified in this case?

Possible arguments for doing so include the photos' power to drive readers to the site—obviously this story has the potential to raise *Deadspin*'s profile considerably. Moreover, Daulerio argues that the photos are not merely prurient: the public has a right to know about them because they are proof that Favre's family-man image is a lie, and they expose an ugly Jets culture of hiding sexual harassment. Ask students whether these are legitimate arguments. While exposing the sexual misadventures of married politicians is common practice in American journalism, the usual argument for doing so is that the public has a right to a thorough understanding of its elected officials' ethics. But Favre is a star football player, not an elected representative. Are his sexual antics public property? Is Daulerio right that there is a place in sports reporting for stories like this one?

Even if students believe the allegations against Favre are newsworthy and that publishing them is in the public's best interest, ask them if the photos add substantially to the story. Students should weigh Daulerio's arguments for publishing them against some fairly weighty reasons not to. On a purely practical level, \$12,000 is a lot of money to pay a source, and the legal risks are considerable. Has Daulerio done everything in his power to verify that the photos are, in fact, of Favre? There are also questions of ethics and taste to consider: when is it appropriate to publish intimate information about public figures? Did Favre forfeit any claims to privacy when he sent

Sterger the photos, even though the exchange was intended to be private? Even if publishing the photos is ethically defensible, is it in poor taste to do so?

What about Sterger's privacy? Students should think carefully about Daulerio's reporting tactics, especially his dealings with her. Despite the friendly tone of their exchanges, she never gave Daulerio permission to post her texts or use her name, nor did she give the go-ahead to publish the photos. Was Daulerio right to publish the initial allegations, including her personal texts to him, without her permission? Was he right to pursue the photos via other sources when she refused to hand them over?

Remind students that Sterger is a victim of sexual harassment—indeed, that is part of why Daulerio claims that publishing these allegations is a public service. Do victims of sexual harassment and subjects of other stigmatizing stories deserve special treatment? Sterger may suffer backlash from colleagues and fans for damaging the reputation of one of football's most adored heroes. If she does not want the photos or allegations published, is Daulerio right to proceed? If not, what else might he do?

Finally, students should consider the broader question of whether blogs and other forms of online journalism should be held to different ethical standards than newspapers and other forms of "old" media. A traditional news outlet might publish the allegations against Favre if they were well-sourced, but would likely not publish the photos. If it is justified for *Deadspin* to do so, why?

Class Plan

Use this case in a class on journalism ethics; sports reporting; digital journalism; entertainment journalism; or reporting skills.

Pre-class. Help students prepare for class by assigning the following question:

1. Should Daulerio buy and post the photos? Why or why not?

Instructors may find it useful to engage students ahead of class by asking them to post brief responses (no more than 250 words) to questions in an online forum. Writing short comments challenges students to distill their thoughts and express them succinctly. The instructor can use the students' work both to craft talking points ahead of class, and to identify particular students to call upon during the discussion.

In-class questions: The homework assignment is a useful starting point for preliminary discussion, after which the instructor could pose any of the following questions to promote an 80-90 minute discussion. The choice of questions will be determined by what the instructor would like the students to learn from the class discussion. In general, choosing to discuss three or four questions in some depth is preferable to trying to cover them all.

a) What are the pros and cons of purchasing and posting the photos? Consider the practical issues (financial and, possibly, legal) as well as questions of ethics and taste. List on board.

b) Under which, if any, circumstances is it ethical to pay sources?

c) Are the original allegations against Favre newsworthy? Does the public have a right or need to know about them—or is interest enough?

d) Do you think the photos add significantly to the story? Is buying them worth the legal risk and the financial investment?

e) Did Daulerio sufficiently verify the authenticity of the photos and the veracity of Sterger's claims? What might he have done differently?

f) Under what circumstances is it legitimate to publish material of a personal nature—such as these photos—about an individual?

g) Do you believe sports reporting should include exposes of players' questionable or outright unethical behavior? Or should sports journalists stick to reporting what happens on the field?

h) Consider Daulerio's reporting tactics. Do you believe he interacted ethically with his sources? In particular, were his dealings with Sterger above board? What, if anything, should he have done differently?

i) When, if ever, is it ethically defensible to break confidentiality agreements with sources?

j) Should different ethical standards apply to blogs and other forms of online journalism than more traditional news outlets? Why or why not? What about standards of taste?

Suggested Readings

John Cook, "Pay up: Sources have their agendas. Why can't money be one?" *Columbia Journalism Review*, May/June 2011,

SYNOPSIS: In this article for *Columbia Journalism Review*, Gawker reporter John Cook argues that the taboo on journalists paying sources should be lifted, as long as outlets are transparent when they do it. Noting that the arguments against paying sources are often based on the belief that the source will be enticed by funds to alter his story, Cook notes that for independently verifiable information and documents—photos for example—this is not a concern,

and he cites several examples of major stories broken because the outlet opted to pay. The comments section is a rich resource of alternate views on the topic.

http://www.cjr.org/essay/pay_up.php

Jack Schafer, "Why Not Pay Sources? My Objections are Practical, Not Ethical," *Slate*, April 29, 2010.

SYNOPSIS: *Slate's* Jack Schafer sites more examples of major stories for which journalists paid sources, but comes to the opposite conclusion. He argues that paying sources would quickly become unsustainable if it became common practice, as more and more sources would demand higher payments. Moreover, he points out that being named in a news story already brings many rewards to subjects—fame, status, and opportunity, to name only a few—and that the current taboo on payment leads subjects to give information to the more reputable publications, because that is in the source's best interest.

http://www.slate.com/articles/news_and_politics/press_box/2010/04/why_not_pay_sources.html

Stephen Rodrick, "Brett Favre, sexy beast," *Washington Post*, October 17, 2010.

SYNOPSIS: In this opinion piece, a long-time sports reporter denies that there is anything newsworthy about the Favre story. He rejects Daulerio's claims that Favre's texts reveal anything unknown about Favre's character, and denies that this is a symptom of an unacknowledged problem that the public has a right to know. He concludes that only those off-the-field antics that directly affect a player's performance deserve sports journalists' attention.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/10/15/AR2010101502801.html?hpid=opinionsbox1>

"Reporting on Sexual Violence," *Dart Center for Journalism and Trauma*, Columbia Graduate School of Journalism, July 14, 2011.

SYNOPSIS: This tip sheet is for journalists covering sexual violence, not sexual harassment, but the difference is not always clear and it is a helpful resource for this case. In particular, the guidelines on anticipating the impact of publication on the subject's life raise questions about

Daulerio's decision: "Journalists have a responsibility to do everything they can to avoid exposing the interviewee to further abuse or undermining their standing in the community."

<http://dartcenter.org/content/reporting-on-sexual-violence>

Stephen J.A. Ward, "Digital Media Ethics," Center for Journalism Ethics, School of Journalism and Mass Communication, University of Wisconsin-Madison.

SYNOPSIS: This site provides comprehensive background on how the terrain of journalism ethics is shifting in our increasingly digital world. The homepage gives an overview of key questions raised by new digital technologies, including issues pertinent to this case such as the reporting rumors and the circulation of hard-to-verify photos by citizen journalists.

<http://ethics.journalism.wisc.edu/resources/digital-media-ethics/>