



Assessing Major League Baseball's Domestic Violence Policy

Applied Policy Project

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April 2022



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Acknowledgements

This Applied Policy Project is a product of being a lifelong baseball fan. My love for the sport of baseball prompted me to confront one of the harsher sides of the sport and think critically about how it can be improved. There is no one-size-fits-all solution when it comes to domestic violence, but I believe there are steps that can be taken to make a difference in baseball and the world of professional sports.

I would like to sincerely thank Professor Kirsten Gelsdorf for the time she spent with me in the fall, guiding me through losing clients and changing topics and helping me find a project I could fully dedicate myself to. I would also like to thank Professor Daniel Tello-Trillo for pushing me during the spring, asking difficult questions and driving me to a meaningful conclusion of this project.

Lastly, a thank you to my family, friends, and classmates for your support and compassion during this project.

Disclaimer

The author conducted this study as part of the program of professional education at the Frank Batten School of Leadership and Public Policy, University of Virginia. This paper is submitted in partial fulfillment of the course requirements for the Master of Public Policy degree. The judgments and conclusions are solely those of the author, and are not necessarily endorsed by the Batten School, by the University of Virginia, or by any other agency.

Honor Statement

On my honor as a student, I have neither given nor received any unauthorized help on this assignment.

A handwritten signature in black ink, reading "Caleb Tisdale", is centered on the page. The signature is written in a cursive, flowing style. Below the signature, there is a faint, light-colored rectangular stamp or watermark, but its text is illegible.

Table of Contents

Acknowledgments.....	1
Disclaimer.....	1
Honor Statement.....	1
Executive Summary.....	4
Introduction.....	5
Client Overview.....	5
Problem Statement.....	7
Background.....	7
Domestic Violence in Professional Sports.....	7
MLB's Joint Domestic Violence, Sexual Assault, and Child Abuse Policy.....	7
Trends Before and After Policy Implementation.....	8
MLB and Law Enforcement.....	9
Equity Implications.....	10
Literature Review.....	10
Legal Systems and Feminist Theory.....	11
Primary Prevention Strategies.....	12
Domestic Violence Policies in Professional Sports.....	13
Synthesis.....	14
Policy Goals.....	15
Policy Alternatives.....	16
Alternative 1: Status Quo.....	16
Alternative 2: Specified Discipline with Reintegration Model.....	16
Alternative 3: Deferral of Discipline.....	17
Alternative 4: Increase Focus on Primary Prevention Strategies.....	17
Evaluative Criteria.....	18
Effectiveness.....	18
Acceptability.....	19
Justice.....	19
Weighting of Criteria.....	20
Criteria Rubric.....	21
Analysis of Policy Alternatives.....	22
Alternative 1: Status Quo.....	22
Alternative 2: Specified Discipline with Reintegration Model.....	22

Alternative 3: Deferral of Discipline.....	23
Alternative 4: Increase Focus on Primary Prevention Strategies.....	24
Outcomes Matrix.....	25
Policy Recommendation.....	26
Implementation.....	26
Conclusion.....	28
Appendix A - Qualitative Analysis.....	29
Appendix B - Cost Estimates.....	30
References.....	31

Executive Summary

Before 2010, professional sports leagues tended to avoid the very serious issue of domestic violence. Professional athletes are much less likely to face any legal consequences for acts of domestic violence or sexual assault, creating a need for a private punishment system. In 2015, Major League Baseball adopted a Joint Domestic Violence, Sexual Assault, and Child Abuse Policy. Since then, fifteen MLB players have been suspended for violating this policy. This policy has done little to deter this sort of behavior. Additionally, punishments have become harsher over time, which creates negative side effects.

Existing literature supports the necessity for private punishment systems. However, there is a consensus that after-the-fact policies are not sufficient. To address domestic violence, especially in hyper-masculine environments such as professional sports, there is a need for primary prevention policies. Addressing the culture and values is just as, if not more important than punishing the act. There is also research that suggests overly-severe punishments are associated with decreased reporting and increased recidivism. Professional sports leagues' domestic violence policies exist with variations, but the most effective policies include a focus on primary prevention and addressing the culture and values, sufficient but not overly harsh punishments, and opportunities for reintegration.

The project analyzes four policy alternatives: (1) Status Quo, (2) Specified Discipline with Reintegration Model, (3) Deferral of Discipline, and (4) Increase Focus on Primary Prevention Strategies.

These alternatives are evaluated against the following criteria: effectiveness, acceptability, and justice. This analysis ultimately recommends implementing Specified Discipline with Reintegration Model, as it performs best against the criteria.

This analysis also recommends that the National Network to End Domestic Violence (NNEDV) launch an advocacy campaign focused on initiating meetings between Major League Baseball and the Major League Baseball Players Association. NNEDV should take advantage of the current window of opportunity following MLB and the MLBPA recently agreeing to a new Collective Bargaining Agreement to propel meaningful policy change. This campaign should result in sharing research and findings, stakeholder perspectives, and presenting the final recommendation to the two parties.

Introduction

On June 23rd, 2006, Philadelphia Phillies pitcher Brett Myers was arrested after an altercation with his wife in Boston. Onlookers witnessed Myers strike her twice and pull her hair. He was charged with domestic assault and battery, was released on \$200 bail, and was the starting pitcher for the Phillies the very next day. Though he took a three-week leave of absence from baseball, his wife chose not to press charges and he faced no discipline from the Phillies or Major League Baseball (NBC Sports, 2009).

In October of last year, the Los Angeles Dodgers and the Atlanta Braves faced off in the National League Championship Series. Notably absent were superstars from each team. Trevor Bauer of the Dodgers remains on “administrative leave” as the league investigates accusations of sexual assault from July 2021. Los Angeles prosecutors decided not to charge Bauer for allegedly beating and sexually assaulting a woman. MLB is still investigating the incident (AP, 2022). Marcell Ozuna also finished the season on administrative leave after he was arrested in May 2021 for allegedly assaulting his wife. He was originally charged with felony aggravated assault by strangulation, but prosecutors dropped the charge in July 2021. He currently faces misdemeanor charges of family violence battery and simple assault, though these charges will also be dropped once Ozuna completes a court-ordered diversion program. On November 29, MLB issued a 20-game retroactive suspension that Ozuna technically completed while on administrative leave. This means that even though he was arrested and MLB determined he violated their domestic violence policy, he is eligible to start the 2022 season and won’t face any further punishment from the league (ESPN, 2021).

These three incidents, along with 14 others investigated by MLB since 2015 and the uncounted incidents before 2015, highlight the issues and inadequacies MLB faces when it comes to its domestic violence policy.

Client Overview

The National Network to End Domestic Violence (NNEDV) is a non-profit organization that was founded in 1990 to serve as a voice for survivors of domestic violence and their allies. They are active in the policy space by providing training and assistance to state and territorial coalitions against domestic violence. They also strive to increase public awareness of domestic violence and work to change the beliefs and values that contribute to the prevalence of intimate partner violence (National Network to End Domestic Violence, n.d.).

NNEDV has also engaged with the interplay between domestic violence and sports organizations. In 2019, after the Houston Astros won the American League championship, three female reporters were harassed in the locker room by Brandon Taubman, assistant general manager. Taubman repeatedly shouted in celebration about acquiring pitcher Roberto Osuna. Osuna had been suspended 75 games in 2018 for violating MLB's domestic violence policy. Taubman's outburst was clearly directed toward the female reporters, one of which was wearing a purple domestic-violence awareness bracelet (Apstein, 2019).

In response to this incident, NNEDV issued a statement highlighting the importance of reporting on the difficult stories of domestic violence, especially in hyper-masculine environments like professional sports. They highlighted MLB's domestic violence policy but went on to argue that policies alone are not enough to achieve the necessary social and cultural change. NNEDV reinforced its role in working alongside partners in the movement, such as journalists who report on domestic violence. Their focus continues to be on working with these partners and private sector leaders in creating a culture of equity and safety (National Network to End Domestic Violence, 2019).

As criticism of MLB's domestic violence policy grows, NNEDV is in a position to further the discussion. Their work in increasing public awareness and shifting narratives to create cultures of safety and equity will be key in addressing the environment that makes domestic violence prevalent in MLB.

Problem Statement

More than 10 million people in the United States are victims of domestic violence each year. Of the cases that are prosecuted, the conviction rate is 77%. For professional athletes, the conviction rate is only 36% (Martin, 2017). Because professional athletes are much less likely to face legal consequences for committing acts of domestic violence, there is a need for private punishment systems. In response, Major League Baseball (MLB) implemented a Joint Domestic Violence, Sexual Assault and Child Abuse Policy in 2015. However, the policy has served to shield players from the legal system rather than fill in the gaps. The Joint Policy has done little to deter this behavior and its punishment system is becoming more counterproductive. In short, the current Joint Policy has failed to reduce the number and severity of incidents of sexual and domestic abuse.

Background

Domestic Violence in Professional Sports

Domestic violence has an unfortunate place in the history of professional sports. In the National Football League, domestic violence accounts for 48% of violent crime arrests, compared to just 21% of violent crime arrests nationally (Martin, 2017). One study conducted between 2010 and 2015 found that out of 64 reported incidents of domestic violence or sexual assault allegedly committed by athletes in MLB, the NFL, and the NBA, only one case resulted in a conviction. Only players were punished by their league and only two were punished by their league (Withers, 2015). There was at least one incident of domestic violence in the NFL, MLB, the National Basketball Association, and the National Hockey League from 2010 to 2014 (Martin, 2017). Since MLB's Joint Policy was implemented in 2015, there has been at least one domestic violence incident resulting in a player's suspension each year (Ring, 2019).

MLB's Joint Domestic Violence, Sexual Assault and Child Abuse Policy

In 2015, MLB and the Major League Baseball Players Association (MLBPA) reached an agreement on a joint policy aimed at addressing the societal issues of domestic violence, sexual assault, and child abuse. The agreement is "intended to provide a comprehensive policy addressing issues such as protecting the legal rights of players, treating violations seriously, holding players accountable through appropriate disciplinary measures, and providing resources for the intervention and care of victims, families and the players

themselves.” The policy focuses on four main areas: Treatment and Intervention; Investigations; Discipline; and Training, Education, and Resources (Hagen, 2015).

Under the joint policy, a board made up of three experts, two representatives from MLB, and two representatives from the MLBPA was established to develop treatment and intervention plans. The Commissioner’s Office is responsible for investigating all allegations involving people associated with MLB. The Commissioner is responsible for determining the appropriate discipline and the policy does not specify any minimum or maximum penalty. Finally, all players are provided yearly educational programs, and resources are made available to players’ families (Hagen, 2015; MLB, 2015).

Trends Before and After Policy Implementation

Before the joint policy was implemented, there were no league-issued punishments for domestic violence incidents. Just one player was punished by a team: Wil Cordero was suspended for eight games by the Boston Red Sox in 1997 after being arrested for a domestic violence incident. Well-known players such as Darryl Strawberry, Jose Canseco, and Albert Belle, along with many other players faced allegations or convictions without facing any punishment from the league. There are other prominent cases of MLB choosing to look the other way in the years before the joint policy was implemented, including alleged abusers being enshrined in the Baseball Hall of Fame and a pitcher starting a game the day after abusing his wife in front of witnesses (Bates, 2014).

Since the joint policy was implemented, there have been fifteen suspensions total by MLB: three in 2016, two in 2017, four in 2018, two in 2019, one in 2020, and three in 2021. One investigation was recently closed. Marcell Ozuna of the Atlanta Braves was arrested in May for allegedly assaulting his wife. His felony aggravated assault by strangulation charge was dropped in July and his misdemeanor charges of family violence battery and simple assault were dropped after he completed a court-ordered diversion program. MLB issued a retroactive 20-game suspension and Ozuna will be eligible to play at the beginning of the 2022 season, serving no additional punishment (ESPN, 2021).

Trevor Bauer of the Los Angeles Dodgers has been under investigation by MLB since July (Gonzalez, 2021). Los Angeles prosecutors decided not to charge Bauer, but the

investigation by MLB is still ongoing. He will remain on administrative leave to start the 2022 season.

Bauer's case has the potential to bring a commissioner's authority into question, as he is likely to appeal any punishment he receives from the league. In each previous case, when the commissioner has issued a suspension, the player has settled and served the suspension. If Bauer appeals, an arbitrator will be brought into the fold and previous cases cannot be used as precedent. The arbitration of this case could create a new precedent for a commissioner's jurisdiction to punish players for violating a league's domestic policy.

Both the Braves and Dodgers made the postseason in 2021, which highlighted both players' absences on the national stage. Bauer especially has attempted to remain in the spotlight, despite horrifying allegations of sexual assault (Hernandez, 2021).

MLB and Law Enforcement

None of the players punished by MLB since 2015 were convicted, part of a trend of MLB acting unilaterally and not involving law enforcement. MLB has even gone as far as interfering in criminal investigations, as it did in 2013 during an investigation into a Performance Enhancing Drug (PED) clinic and in 2018 during an investigation into MLB's involvement in human trafficking and overseas corruption (Fish, 2013; Byrne, 2018).

On one hand, MLB acting separately from law enforcement could be filling an important gap. Domestic violence and sexual assault cases are difficult to successfully prosecute, for several reasons. Many incidents go unreported entirely. They also often occur without witnesses. There are many pressures on the victim, including doubts about their credibility and the possibility of victim-blaming. Additionally, professional athletes often have financial resources that make prosecution more difficult. Research indicates that professional athletes are formally charged, indicted, and convicted at lower rates than the general population (Withers, 2015). The MLB's discipline system can provide punishment where the legal system often fails.

On the other hand, the behavior outlined in MLB's joint policy is "unlawful conduct" (Ring, 2019). MLB has determined that each of the fifteen players suspended since the joint policy was implemented was guilty of behavior that warranted discipline from the league but not

the involvement of law enforcement. In this way, MLB serves as an “ally” to players involved in domestic violence incidents, as they know they will likely not face legal consequences (Ring, 2019).

The trends since the joint policy implementation have caused one legal analyst to claim that the policy has failed to accomplish the goal of “reducing the number and severity of incidents of sexual and domestic abuse” (Ring, 2015). In her analysis, Ring argues that the policy is ineffective for several reasons. First, players are not ineligible for the postseason, as they are when suspended for PED use, painting domestic and sexual abuse – transgressions that affect other people – as less severe than drug use. Second, players do not have to fear law enforcement involvement and view MLB as an “ally” in the process. Third, players are often welcomed back from their suspension with cheers (Ring, 2019)..

Equity Implications

Since the joint policy has been implemented, players of color have been punished more often and more harshly than white players. As of 2016, MLB was 63.7% White, 6.7% African-American, 27.4% Latino, and 2.1% Asian (Amour and Levitt, 2016). Of the fourteen players investigated by MLB under the joint policy, only three are white. In 2017, Derek Norris, who was not a member of any MLB teams, was symbolically suspended. In 2018, Stephen Wright was suspended for 15 games. Before Sam Dyson was suspended for 162 games (a full season) in 2021, each player of color suspended under the joint policy received a harsher punishment than white players (Ring, 2019). Several studies have shown that people of color are not more likely to commit acts of domestic violence (Scott and Easton, 2010; Healey, Smith, and O’Sullivan, 1998). Yet, players of color are being punished more often and more harshly by MLB.

Literature Review

There is a body of literature that has identified and studied different policies addressing domestic violence, both generally and in relation to professional sports. The review will highlight legal systems and institutions, primary prevention strategies, and existing policies in place in professional sports leagues. Much of the existing policies aimed at addressing domestic violence have roots in feminist activism; for this reason, this literature review will focus on the necessary background of feminist theory and legal perspectives on domestic violence. This background is important to outline to think about the policies aimed at

addressing domestic violence in professional sports leagues and other settings. The review will conclude with a synthesis that identifies lessons and gaps in the existing literature.

Legal Systems and Feminist Theory

Much of the literature detailing domestic violence in relation to professional sports and in general points to feminist history and perspectives on both the origin of policies and the evaluation of them (Augelli and Kuennen, 2018; Goodmark, 2012; Lewis et. al., 2001, Schneider, 2000; Dragiewicz, 2003). Goodmark and Lewis et. al. provide a history of feminist activists pushing for law and policy reforms over the last fifty years, Schneider and Dragiewicz offer accounts of the same feminist theorists questioning the effectiveness of the reforms, and finally, Augelli and Kuennen synthesize these authors and explain why feminist legal perspectives matter to professional sports' treatment of domestic violence.

Prior to the reforms in the late 1990s, there were essentially no civil or criminal systems in place to address domestic violence, to the point where a legal definition of domestic violence did not exist (Augelli and Kuennen, 2018). Law enforcement tended to avoid instances and police responses rarely resulted in arrests (Epstein, 2002). Reforms implemented during this time period included the availability of restraining orders in the late 1970s, "no drop" prosecution policies (which made it difficult for prosecutors to dismiss domestic violence cases), and the Violence Against Women Act of 1994. Goodmark writes that feminist legal theory is responsible for the framework for the legal response to domestic violence. She maintains that both the theoretical framework and the political power of feminists over the last forty to fifty years had "profound implications" on the legal response to domestic violence.

Feminist theory also offers critiques of the same policies it worked to enact. Scholars question the effectiveness of the justice system in reducing or eliminating domestic violence and protecting the rights of victims. There are arguments that the victories in the legal system "came at a price" and that the intervention now exists in a male-dominated institution that created the problem in the first place (Goodmark, 2012; Augelli and Kuennen, 2018). Schneider writes that "legal intervention alone cannot do the job." Scholars pose the question of whether the legal system can be a comprehensive solution. There are critiques that the legal system cannot be responsive to the needs of victims, diminishes

victim autonomy, disproportionately increases women and victim arrests through “dual arrests,” and crowds out other viable solutions (Kuennen, 2013).

Finally, Augelli and Kuennen emphasize why feminist theory and its critiques of existing policies matter to professional sports. The “ubiquity” of professional sports and athletes’ status as “role models” means that there is significant attention paid to how professional sports leagues handle domestic violence, especially involving high-profile and well-known athletes. Additionally, feminist critiques of the legal system offer support to sports leagues maintaining separate policies and procedures.

Primary Prevention Strategies

There is well-established evidence of a consensus on the need for these types of primary prevention interventions (Wolfe and Jaffe, 1999; Hyman et. al., 2000; Hester and Westmarland, 2005; Whitaker et. al., 2006). In analyzing effective approaches, there are three groups that the program should target: young men, women not actively seeking help, and women actively seeking help (Hester and Westmarland, 2005). Programs shown to be effective include primary prevention in schools, publicity campaigns, and providing adequate support when engaging with the criminal and civil justice systems.

While the targets of these programs do not directly relate to professional sports leagues and the MLB, which is made up of adult-aged males, the findings of the above studies can inform policies that target professional athletes. Primary prevention programs in schools can be effective for future athletes. More broadly, primary prevention programs focused on addressing cultural and gender norms can be applied. One specific study examined the effectiveness of engaging intercollegiate athletes in preventing and intervening in sexual and intimate partner violence. The “Bringing in the Bystander” program was effective among both men and women in improving bystander confidence and intent to engage in bystander behaviors (Moynihan et. al., 2010).

In Australia, the government has shifted its focus on domestic violence policies to prioritize primary prevention policies. The goal has been to change how people perceive, acknowledge, and respond to domestic violence as a gender-based problem” (Kuskoff and Parsell, 2019). Kuskoff and Parsell’s study on the government’s policies highlights the need to include structural and systemic change that prioritizes women’s rights. They also

emphasize the importance of changing cultural attitudes and altering the environments where incidents occur. Augelli and Kuennen address the “hypermasculine” environment of professional sports where physical dominance and violence exist just below the surface of what is expected of athletes. Policies that address environments and cultural norms have been effective in other settings and could be effective in the professional sports environment.

Domestic Violence Policies in Professional Sports

Professional sports leagues have implemented new policies addressing domestic violence in the last decade. MLB specifically implemented its Joint Domestic Violence, Sexual Assault and Child Abuse Policy and Program in 2015. Because this policy is relatively recent, this review will consider the literature on existing professional sports leagues’ policies from before and after MLB implemented its policy to capture how it has evolved with new policies.

There is a consensus that professional sports leagues, and especially their commissioners, wield significant power in privately disciplining players (Yasser et. al., 2006; Kim and Parlow, 2009; Martin, 2017). In the MLB, the commissioner’s authority dates back to 1919, when the commissioner was given “almost unlimited discretion” to “impose punishment and pursue legal remedies” against players who act against the “best interests of the game” (Kim and Parlow, 2009). Though the provisions vary from league to league, the nature of a commissioner’s jurisdiction is consistent. There is also a trend of commissioners imposing harsher and more frequent private penalties against players who commit criminal acts (Kim and Parlow, 2009).

As of 2010, domestic violence was “largely ignored” by professional sports leagues. In the MLB, the first instance of a team imposing a punishment for domestic violence was in 1997, when the Boston Red Sox suspended a player for eight games. There is evidence that this led to an increased willingness of teams to impose disciplinary action for off-field conduct. Between 2003 and 2007, three players faced discipline for domestic violence matters. The Seattle Mariners created a “Refuse to Abuse” program and implemented a strict one-strike policy against players. But, policies were inconsistent among the thirty teams (Withers, 2010).

Additionally, there is also evidence that private punishments can be undermined by arbitration and judicial decisions. For example, Alberto Callaspo was suspended by the

Arizona Diamondbacks in 2007 but was taken off the inactive list after a grievance was filed. He served just nine days of the suspension and his salary was returned for six of the nine days he served (Withers, 2010).

Even with the implementation of the Joint Policy in 2015, disciplinary action is still determined by the commissioner. The policy, which includes discipline, training, and education resources, is characterized as “treatment and intervention oriented” (Augelli and Kuennen, 2018). Scholars tend to agree that policies that address domestic violence after-the-fact are insufficient and intervention and education policies are more effective. They also tend to agree that to meaningfully address domestic violence, leagues must change the cultural norms that make it so pervasive.

In July 2014, NFL player Ray Rice was arrested and charged with third-degree aggravated assault. He agreed to a pre-trial intervention program, which included a guilty plea but no conviction upon completion of the program. In response, the NFL suspended Rice for just two games. This was met with outrage, especially after footage of the incident was made public (Cripps, 2014). In response, the NFL implemented a new domestic violence policy that would result in a baseline six-game suspension for a first offense and a lifetime ban from the league for a second offense (McManus, 2014). The suspension could increase from six games based on mitigating factors and a second-time offender could apply for reinstatement after one year. Though the NFL has not consistently applied this baseline discipline and the commissioner still holds considerable discretion in each case, the policy represents the NFL taking a “leadership role” in its stance on domestic violence and a commitment to treat the matter seriously and set a “high standard” (Pilon, 2017).

Synthesis

One major drawback of the literature concerning domestic violence and its relation to professional sports is that data is often unavailable or incomplete. Domestic violence policies in professional sports have lagged behind other policies, such as drug-use policies. Domestic violence incidents are underreported and leagues such as the MLB, the NBA, and the NFL do not release information about player arrests or player punishments. While these incidents are often highlighted in the media, there is no uniform set of data or statistics to measure. Additionally, things like the “cultural norms” and the “environment where incidents occur”

are difficult to measure, meaning it is difficult to concretely measure the effectiveness of programs.

Still, there are several takeaways to consider from the literature surrounding domestic violence:

- There has been a significant increase in civil and criminal systems to address domestic violence over the last fifty years. Sports leagues, and especially MLB, tend to avoid involving legal systems, leaving discipline to the discretion of the league commissioner. While this means that players might face private punishment, they are convicted at rates much lower than the general population. However, the literature offers many critiques of the civil and criminal systems in place and offers a justification for private forms of punishment.
- League commissioners have a great deal of power in disciplining players. There has been a shift across leagues of commissioners imposing harsher punishments more often. Professional sports leagues have done more to address domestic violence, but private punishments can be undermined by arbitration and judicial systems.
- There is a consensus that primary prevention strategies are effective at preventing domestic violence and it is important to address cultural norms and environments. In the “hypermasculine” environment of athletes, it is important to address the cultural norms in professional sports.
- There is also a consensus that harsher punishments lead to less effective outcomes. One study found that survivors are less likely to report incidents when punishments are more severe (Sebastian and Bebea, 2014). Another study even found that harsher punishments are associated with higher death rates among domestic violence victims (Sherman and Harris, 2014).

Policy Goals

The goals of the following policy alternatives should include reducing the number of incidents of domestic violence among MLB players each year, diminishing the role of MLB as a shield between players and the legal system, and intervening with potential offenders before an incident of domestic violence actually occurs. Additionally, the policy alternatives must be deemed acceptable and feasible by MLB. Finally, the alternative should not disincentivize reporting incidents of domestic violence. The alternative should not overburden survivors, communities of care, and investigative and reporting apparatuses.

Policy Alternatives

Alternative 1: Status Quo: Major League Baseball's current Joint Domestic Violence, Sexual Assault and Child Abuse Policy has been in place since 2015. This Joint Policy was the first league policy aimed at addressing domestic violence. There was only one instance of a team administering discipline in a domestic violence case before the policy was implemented. Since 2015, there have been 15 league-issued suspensions. The number of suspensions per year has remained relatively constant, but the average suspension length has increased.

The stated goals are to take an "absolute stand" against domestic violence, sexual assault, and child abuse; protect the legal and procedural rights of players; provide assistance in the form of information and resources to victims and families; focus on education and prevention; utilize effective methods and resources; and allow for therapeutic programs and impose appropriate discipline (MLB, 2015). Ultimately, the Commissioner's Office is responsible for investigating incidents and determining the appropriate punishment, which has no specified minimum or maximum penalty. As a result, the Commissioner's Office wields a considerable amount of discretion.

On one hand, this policy allows the League to act where the legal system often fails. Domestic violence and sexual assault cases are difficult to successfully prosecute, especially in the case of professional athletes (Withers, 2015). On the other hand, the behaviors addressed by the Joint Policy are defined as "unlawful conduct." In fourteen cases since 2015, MLB has determined that the players were guilty of behavior that warranted discipline from the league, yet none were convicted of their "unlawful conduct." In several ways, the Joint Policy allows MLB to act as an ally to players and aid them in avoiding legal consequences.

Alternative 2: Specified Discipline with Reintegration Model: Under the current Joint Policy, there are no specified penalties. It is left to the Commissioner to determine the appropriate disciplinary actions. Contrarily, MLB's performance-enhancing drug policy carries specific punishments. The first violation results in an 80 game suspension, the second in a 162 game suspension, and the third in a lifetime ban from MLB. After the first violation, the player is immediately ineligible for postseason play. Each of these suspensions is without pay.

This alternative would create a similar punishment scheme to the Joint Drug Prevention and Treatment Program. The reporting, investigation, and appeals process would remain the same as the status quo. However, as with the performance-enhancing drug policy, when an investigation determines that the policy has been violated based on a preponderance of evidence, the player will receive an 80 game suspension. A second violation would result in

a 162 game suspension and a third violation would result in a lifetime ban from MLB. After the first violation, the player would immediately become ineligible for postseason play. Each suspension would be without pay. It would remove the “sliding scale” scheme that allows the Commissioner to operate with plenary authority. It would also demonstrate that domestic violence will not be tolerated and is viewed as at least as serious as performance-enhancing drug violations.

Additionally, a player may apply for reinstatement after serving half of the suspension. Reinstatement will depend on the offender demonstrating they have accepted responsibility for their actions and complied with a treatment plan to the satisfaction of the survivor in question.

A potential limitation of this alternative is that harsher punishments in the context of domestic violence can result in increased recidivism or less reporting of incidents. While this alternative would demonstrate the severity of the issue and offer a clearer disciplinary scheme, it could result in an increase in domestic violence incidents as a result. However, studies have shown that punishments *alone* may be “aggravating” (Lerman, 1992). Including the reintegration model will mitigate the harshness of a uniform punishment while preserving the sense of severity.

Alternative 3: Require Deferral of Discipline: The current Joint Policy allows for the Commissioner to defer discipline pending the result of a criminal or civil investigation. This alternative would require the League to refrain from imposing any disciplinary action until the player goes through the legal process. It would eliminate the plenary authority of the Commissioner and decrease the ability of the league to act as a shield between the player and the legal system. It would decrease the effect of being a professional athlete on avoiding charges, indictments, and convictions. If no legal action is taken or no disciplinary action results from legal action, the league could then begin its own investigation and determine whether any discipline is necessary.

The limitations of this alternative are that the legal system is often ineffective at addressing domestic violence. It would delay the ability of the league to fill that gap. Additionally, if there is no legal action or discipline, it would be easier for the league to conclude that no further action is necessary, even though it might be.

Alternative 4: Increasing Focus on Primary Prevention Strategies: The current Joint Policy places a significant emphasis on education and prevention in the form of mandatory training, education, and community outreach programs. There is evidence that the prevention of domestic abuse is more effective than punishment. This alternative would consist of

expanding these programs in the form of increasing the frequency of programs and ensuring that they are universal to all players, both in the major and minor leagues. An important factor is whether a would-be offender has received “pre-abuse resocialization” (Bowlus and Seitz, 2005).

Under the current Joint Policy, players undergo mandatory domestic violence training once a week during Spring Training. These training sessions last about 90 minutes and “promote healthy relationships, encourage players to ask for and seek support, and to speak up about violence if they believe it may be occurring.” This alternative would have players undergo these mandatory training sessions several times each year: during Spring Training, during the All-Star Break, and at the end of the season. To ensure that players receive this resocialization before they might become offenders, MLB could partner with amateur and collegiate sports and provide similar training and education programs. This alternative would tackle the hypermasculine culture of professional sports and attempt to shift the cultural norms and attitudes.

Some limitations of this alternative are the capacity of MLB to partner with outside organizations. It would require buy-in and consistency across the organizations which may be difficult to achieve. It would require significantly increasing the scope of the existing programs.

Evaluative Criteria

Effectiveness: Each policy alternative will be evaluated on how effective it is at reducing the number of domestic violence incidents among MLB players each year. Effectiveness is difficult to quantify as there are few generally accepted metrics. Many programs aimed at addressing domestic violence are fairly new. There are also gaps in data surrounding domestic violence due to factors such as victim underreporting and professional sports leagues not releasing data on the matter. Therefore, a qualitative analysis of the available literature will be conducted (see Appendix A). The literature will consist of academic studies on addressing domestic violence and case studies that share characteristics with each of the policies. The alternative’s effectiveness will be measured by comparing the extent to which an alternative’s characteristics are similar to what has been found to be effective in the literature.

An alternative’s effectiveness will be measured on a 1 to 5 scale, where 5 is most effective and 1 is least effective. To achieve a score of 5, an alternative will need to be very effective at both preventing and disciplining domestic violence. For a score of 4, an alternative will need

to be very effective at either prevention or discipline, or somewhat effective at both. For a score of 3, an alternative will need to be effective at either prevention or discipline. For a score of 2, an alternative will be ineffective at either prevention or discipline. To achieve a score of 1, an alternative will be ineffective at both preventing and disciplining domestic violence.

Because this criterion addresses the primary goal, it will be weighted the highest at 30%, along with administrative feasibility.

Acceptability: While an alternative must be effective, it must also be deemed acceptable by MLB and the MLB Players Association. MLB and the MLBPA will need to determine that the alternative is worth replacing the current Joint Policy. Acceptability will be measured by the perceived openness of the two parties. Information will come from publicly available sources, such as written statements and news articles. Acceptability will also incorporate any costs to either party.

Alternatives will be measured on a 1 to 3 scale, where 3 is most acceptable and 1 is least acceptable. To achieve a score of 3, an alternative will need to be acceptable to both MLB and the MLBPA. To achieve a score of 2, an alternative will be acceptable to either MLB or the MLBPA. For a score of 1, an alternative will be acceptable to neither MLB nor the MLBPA.

Justice: Alternatives must ensure that offenders are sufficiently disciplined for their offenses. “Sufficient discipline” will be measured against how the literature characterizes meaningful discipline compared to the legal system or other professional sports leagues’ domestic violence policies. They must also ensure that the burden of discipline does not fall onto the victims or other groups that may not be as equipped to deal with domestic violence issues. An example of this would be an alternative that places the onus of reporting solely on the victim or an alternative that overly burdens the reporting or investigative apparatuses. A qualitative analysis of available literature will be conducted (see Appendix A). The literature will consist of academic studies on the justice of domestic violence policies and case studies. An alternative’s justice will be evaluated by comparing the extent to which an alternative’s characteristics are similar to what has been found to be just in the literature.

Justice will be measured on a 1 to 3 scale, with 3 achieving the most justice and 1 achieving the least justice. To achieve a score of 3, an alternative must ensure that offenders are sufficiently disciplined and the burden is not placed on the victims or other groups. To achieve a score of 2, an alternative must either ensure sufficient discipline or that the burden is not placed on victims or other groups. An alternative will receive a score of 1 if it does not ensure sufficient discipline and places the burden on victims or other groups.

Weighting of Criteria

Because the most important goal of addressing domestic violence is preventing incidents from occurring and effectively disciplining offenders when incidents do occur, effectiveness is given the greatest weight at 40%. The other two criteria are given the same weight because it is very important for the policy to achieve justice and a policy must be accepted by both MLB and the MLBPA in order to be implemented.

Criteria Rubric

The following rubric outlines the criteria, their weights, and how each alternative will be measured:

	Weight	Score				
Effectiveness	30%	1: ineffective at both prevention and discipline	2: ineffective at either prevention or discipline	3: effective at either prevention or discipline	4: very effective at either prevention or discipline	5: very effective at both prevention and discipline
Acceptability	30%	1: acceptable to neither MLB or the MLBPA	2: acceptable to either MLB or the MLBPA	3: acceptable to both MLB and the MLBPA		
Justice	20%	1: does not ensure sufficient discipline and places the burden on victims or other groups	2: either ensures sufficient discipline or does not place the burden on victims or other groups	3: ensures sufficient discipline and does not place the burden on victims or other groups		

Analysis of Policy Alternatives

Alternative 1: Status Quo

- Effectiveness: This alternative includes methods of both preventing and disciplining domestic violence. The policy focuses on education and prevention programs for players before domestic violence incidents occur and it incorporates a private punishment scheme that can fill in the gaps of law enforcement. Still, even though the current Joint Policy includes some aspects of methods that have been shown to be effective, incidents have not decreased and punishments have become more severe since its implementation in 2015. This indicates that the policies and programs as they exist are not very effective at prevention. Additionally, punishments have become harsher, which has been shown to be counterproductive. Therefore, this alternative receives a score of 1.
- Acceptability: Because this alternative was agreed to by both MLB and the MLBPA, it is acceptable to both. There are also no new costs imposed on MLB or the players that would impact acceptability. Therefore, this alternative receives a score of 3.
- Justice: This alternative includes programs for providing assistance to victims and families in the form of information and resources. However, victims and families are not a sufficient focus of the policy. Evidence suggests that a target of primary prevention should be women who are not currently seeking assistance. The current policy does not focus on victims until after an incident has occurred. The disciplinary scheme can impose some burdens on victims and families and the policy has been characterized as a shield between MLB players and the legal system, preventing them from being sufficiently punished. Therefore, this alternative receives a score of 1.

Alternative 2: Specified Discipline with Reintegration Model

- Effectiveness: This alternative would make it clear that domestic violence violations are at least as serious as performance-enhancing drug violations. It does not implement other primary prevention strategies, so it is rated effective at prevention. The discipline for a first offense is less than the current average discipline, mitigating some of the negative effects of harsher punishments. The reintegration model also serves to mitigate these effects. Punishments combined with reintegration models have been shown to be effective. Because this alternative is effective at both prevention and discipline, it receives a score of 4.
- Acceptability: There are no new costs imposed on the league. There would be an opportunity cost imposed on players. An 82-game suspension would be about 23

games longer than the current average suspension. The average MLB salary is \$4.17 million, or \$25,740.74 per game. Players would lose, on average, about \$572,236.47 more for an 81-game suspension compared to the average suspension length (See Appendix B). However, because Uniform Discipline was agreed to by both MLB and the MLBPA in the Joint Drug Prevention and Treatment Program, it would likely be acceptable in the context of the Joint Domestic Violence Policy. Therefore, it receives a score of 3.

- Justice: This alternative would eliminate the commissioner's plenary authority on discipline and ensure that there is a consistent, high standard of discipline. However, it creates negative effects and burdens for survivors. For example, harsher sanctions lead to decreased reporting rates. Because this alternative ensures sufficient discipline but places the burden on victims, it receives a score of 2.

Alternative 3: Deferral of Discipline

- Effectiveness: This alternative would address the culture and environment by indicating that domestic violence incidents are serious and that the league is committed to working with law enforcement, so it is rated as effective in prevention. However, the legal system is often not the best mechanism to address domestic violence incidents. Additionally, it would impose harsher sanctions, which have been shown to decrease reporting and increase recidivism. It is rated as ineffective at discipline. Because this alternative is effective at prevention but ineffective at discipline, it receives a score of 2.
- Acceptability: This alternative already exists as an option within the current Joint Policy. However, it has not been exercised, indicating an unwillingness for MLB to rely on this option or make it the only option for discipline. It is also not likely to be acceptable to the MLBPA, as it removes the league discipline "shield" between the players and the legal system. There is no additional cost imposed on the league that would impact acceptability. Given that the maximum sentence for a misdemeanor is one year, players would likely miss a full 162 game season. Players would lose an average of about \$2.5 million more than the current average salary lost if convicted of a crime, meaning this alternative would be even less acceptable to the MLBPA. Therefore, this alternative receives a score of 1.
- Justice: This alternative would ensure that discipline is reached through the legal system and provide for private punishment if the offender is not convicted. However, because it creates harsher sanctions, it creates negative effects and burdens on victims.

Because this alternative ensures sufficient discipline but places the burden on victims, it receives a score of 2.

Alternative 4: Primary Prevention Program Expansion

- **Effectiveness:** This alternative addresses the culture and environment by placing a greater emphasis on education and training. It incorporates the primary prevention strategies that have been shown to be effective in a variety of contexts. It is rated as very effective at prevention. It also leaves in place the disciplinary schemes of the current Joint Policy that have been rated ineffective at discipline. Because this alternative is very effective at prevention but ineffective at discipline, it receives a score of 2.
- **Acceptability:** There are already primary prevention programs in place under the Joint Policy, so expanding these programs would likely be acceptable to the MLBPA. However, this alternative would likely require significant time, labor, and fiscal commitments on the part of MLB. No cost estimates could be found, but this alternative calls for adding two additional training sessions, meaning the cost would be three times the current cost. MLB would have to take on the burden of creating the additional capacity to partner with outside organizations, meaning it would be less acceptable to MLB. Therefore, this alternative receives a score of 2.
- **Justice:** This alternative would expand on the resources available for victims and families and include primary prevention interventions that focus on women who are not actively seeking assistance. As with the status quo, the disciplinary scheme can prevent players from receiving sufficient punishment. Because this alternative sufficiently focuses on women before an incident occurs but does not ensure sufficient punishment, this alternative receives a score of 2.

Outcomes Matrix

		Status Quo	Specified Discipline with Reintegration Model	Deferral of Discipline	Primary Prevention Program Expansion
Effectiveness	40%	1: Ineffective at prevention and discipline	4: Effective at prevention and effective at discipline	2: Effective at prevention but ineffective at discipline	2: Effective at prevention but ineffective at discipline
Acceptability	30%	3: Acceptable by both MLB and the MLBPA	3: Acceptable to both MLB and the MLBPA	1: Not acceptable for MLB or the MLBPA	2: Acceptable for the MLBPA but not for MLB
Justice	30%	1: Does not ensure sufficient punishment and places the burden on victims	2: Ensures sufficient punishment but places some burden on victims	2: Ensures sufficient punishment but places the burden on victims	2: Does not create a burden for the victims but does not ensure sufficient punishment
Total	100%	1.6	3.1	1.7	2

Policy Recommendation

This analysis recommends Alternative 2: Specified Discipline with Reintegration Model. This alternative performs best against the evaluative criteria. It incorporates elements of successful prevention and disciplinary methods. A Specified Discipline will help to address the culture and environment of Major League Baseball. By adopting the same disciplinary scheme as the Drug Use policy, MLB will demonstrate that domestic violence is at least as serious as drug abuse and players will face serious consequences. At the same time, it will lessen the severity of the average suspension length under the current Joint Policy. The Reintegration Model will further lessen the severity and give offenders a chance to take responsibility. It is very likely to be acceptable to MLB and MLBPA and offers the flexibility to meet the survivor's needs during the process.

Implementation

Process and Timeline: Over the last several months, MLB and the MLBPA negotiated a new Collective Bargaining Agreement, reaching a deal on March 10th. This CBA focused on issues such as minimum salary, a competitive balance tax, the draft, rules changes, and more. Without an agreement, the 2022 season would have been postponed or canceled for the first time since 1994, meaning these issues were imperative for the League and the Players Association to resolve (Baseball Prospectus, 2022). Now that the CBA is in place for the next five years, now is an optimal time for the League and Players Association to focus on issues that do not fall under the Collective Bargaining Agreement.

In fact, this is how the current Joint Policy was agreed to. The Joint Policy was created in 2015, three years after a CBA was agreed to in 2012 (MLB, 2015). The Joint Policy was negotiated and agreed to by MLB and the MLBPA as a separate issue outside of CBA negotiations.

Though it is not clear how long the initial negotiations lasted before the Joint Policy was agreed to, the Joint Policy was created three years after CBA negotiations in 2012 (Baseball Prospectus, 2022). Therefore it is reasonable to assume that updates to the Policy could be agreed to within three years, let alone before the CBA expires in 2027. In order to ensure that meaningful change is enacted as soon as possible, a proposal should be made to MLB and the MLBPA in the coming months.

The National Network to End Domestic Violence should launch an advocacy campaign to bring awareness to the issue. The advocacy campaign should focus on the strategies that have been found to be most effective: initiating meetings, helping stakeholders to prepare

and submit recommendations, training stakeholders in self-advocacy, and facilitating media space (Almog-Bar and Schmid, 2013).

NNEDV should develop a media package consisting of op-eds, reports, infographics, and interview talking points which should be pitched to media outlets. Ultimately, this campaign should result in meetings with MLB and the MLBPA to present research and findings, stakeholder perspectives, and the specific recommendation to adopt uniform punishment with a reintegrative model. This adoption should draw from the existing language in the Joint Drug Prevention and Treatment Program and be applied to the Joint Domestic Violence Policy.

Stakeholders and Perspectives:

- MLB and MLBPA: the League and the Players Association are the key stakeholders as a new policy must be agreed to by both organizations. Initially, they will likely play a passive role as there is no indication either organization is focusing on Domestic Violence policy on the heels of the new CBA. If the advocacy campaign and proposal are successful, they will take on more active roles, negotiating and agreeing to the final policy changes. In the current Joint Policy, both organizations indicated that they are dedicated to taking “an absolute stand against domestic violence, sexual assault, and child abuse” and utilizing the “most effective methods and resources for therapeutic intervention for abusers and those abused” (MLB, 2015). Therefore, it should be reasonable to assume that the organizations will be open to policy recommendations to improve the existing policy. Should there be any resistance, NNEDV can rely on the advocacy methods that have been proven effective. In a worst-case scenario where neither organization indicates interest in addressing the issue, NNEDV should rely on these methods to continue to push for meaningful change.
- Players’ Families: family members of players are another key stakeholder. Family members should be included in the advocacy and their perspectives should be represented in meetings with MLB and the MLBPA and in the final proposal. They are likely to be directly affected by disciplinary measures as well as the reintegration model. A suspension would represent a significant loss of income for the player and his family. Additionally, family members who are victims of a domestic violence incident will be directly involved in the reinstatement process. While this also gives victims more agency in the process, it also creates more responsibility. NNEDV can include support mechanisms for victims as they go through the reinstatement process.

Conclusion

Professional sports leagues, and particularly Major League Baseball, have had a complicated and inadequate relationship with domestic violence. In the context of professional sports, where athletes are much less likely to face legal consequences for instances of domestic violence, private punishment schemes are necessary. Though it has its positives, MLB's domestic violence policy does not do enough to deter this sort of behavior and its punishments after the fact are becoming too harsh.

A specified discipline will create the sense that MLB is committed to taking domestic violence seriously and players can be sure that they will face serious consequences. At the same time, it will mitigate the negative effects of overly harsh punishments. A reintegration model will allow for flexibility and centering the needs of the victim throughout the process.

With a new CBA recently agreed to, now is an optimal time for MLB and the MLBPA to focus on their Domestic Violence Policy. This is a similar window to when the current Joint Policy was created. NNEDV should begin an advocacy campaign focused on initiating meetings with the League and the Players Association and promoting the issue through media. This campaign should ultimately result in presenting research and findings, stakeholder perspectives, and a final recommendation to MLB and the MLBPA.

Appendix A – Qualitative Analysis

This qualitative analysis considered a wide body of available research including feminist theory, studies on domestic violence and law enforcement, domestic violence and professional sports leagues, and case studies in multiple countries and settings. These materials were textually analyzed and the findings were reviewed by external stakeholders to ensure validity.

The textual analysis was guided by the following questions:

- How should domestic violence offenders be disciplined?
- What is the best way to prevent domestic violence?
- Where should survivors be placed when addressing domestic violence incidents?

After thematic analysis, three themes were identified:

- Prevention: an important factor in preventing domestic violence is whether the would-be offender has received “pre-abuse resocialization.” There is a wide consensus that primary prevention strategies are essential to prevent domestic violence from occurring in the first place. Primary prevention strategies have been successful in multiple settings and contexts. Additionally, prevention can be achieved by addressing cultural attitudes and behaviors and focusing on the environment where domestic violence occurs.
- Discipline: discipline is an important aspect of addressing domestic violence, but harsh punishments can have unintended consequences. When sanctions are too harsh, victims are less likely to report and more likely to suffer negative consequences as well. While punishment is necessary, it should be framed to stigmatize the action without stigmatizing the person.
- Justice: offenders are not the only parties to consider when addressing domestic violence. Survivors and “communities of care” must be taken into account when determining how to discipline domestic violence offenders. An alternative should sufficiently punish the offender without overburdening survivors, communities of care, and investigative and reporting apparatuses.

Based on the qualitative analysis, prevention, discipline, and justice must be addressed in the recommended policy alternative. These three themes are reflected in the criteria and will be heavily considered when evaluating the policy alternatives.

Appendix B – Cost Estimates

- Average MLB salary: \$4.17 million
- MLB season: 162 games
- Average suspension under current Joint Policy: 58.77 games
- Average salary lost under current Joint Policy:
 - $(\$4.17 \text{ million} / 162 \text{ games}) * 58.77 \text{ games} = \1.51 million
- Average salary lost under Alternative 2:
 - $(\$4.17 \text{ million} / 162 \text{ games}) * 81 \text{ games} = \2.09 million
- Average salary lost under Alternative 2 with reintegration:
 - $(\$4.17 \text{ million} / 162 \text{ games}) * 40 \text{ games} = \1.03 million

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