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Elliot Regenstein

University of Michigan Law School

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BOOK NOTICE

These Are the People in Your Neighborhood

Elliot Regenstein


The 1997 St. Louis Rams media guide contains a glowing description of the team’s star rookie from the prior season. The guide highlights his brilliant college career, describes his solid first professional season, and mentions that he grew up in Los Angeles. In a gray box above his football statistics, it notes that he frequently visits the Emergency Children’s Home (ECHO) for troubled youth, where he talks to kids and plays basketball with them.

The description would all look pretty normal if it wasn’t a portrait of Lawrence Phillips. Almost every other sporting publication has written of Phillips not as a mentor to underprivileged youth, but as the man who in 1995 savagely beat Kate McEwen, a University of Nebraska basketball player and Phillips’s former girlfriend. The Rams media guide story about Phillips helping children is apparently true. But, unfortunately, so are the stories of his driving recklessly, missing team meetings, and assaulting a woman in Florida in June 1998.

A running back described as the “[b]est football player” in the 1996 National Football League (NFL) entry draft, Lawrence Phillips spent 1998 as a man without a team. The Rams, who selected him with their first pick in 1996, the sixth pick overall, cut him in November 1997, long past the point at which he became

2. See JEFF BENEDICT, PUBLIC HEROES, PRIVATE FELONS: ATHLETES AND CRIMES AGAINST WOMEN 141-46 (1997) (“Phillips dragged McEwen by the hair down three flights of stairs, slamming her head into the lobby wall.”).
more trouble than he was worth.6 The Miami Dolphins briefly placed him on their roster, but Phillips never translated his considerable talent into any performance; in July of 1998, the Dolphins also released him.7

Somewhere well down the athletic pyramid from Phillips are Kyle and Kevin Scherzer and Chris Archer, three high school athletes from Glen Ridge, New Jersey, who in 1989 violated a young woman with a broomstick and baseball bat.8 Bernard Lefkowitz9 spins their disturbing story in Our Guys, which turns out to be not only a painstakingly researched account of a single grotesque incident, but also a broadside assault on the behavior produced by the insularity of both American suburbia and athletic culture. Our Guys traces the development of the “Jocks” in Glen Ridge, describing their shockingly delinquent childhoods; it also tells the story of the rape survivor, Leslie Faber,10 a mentally retarded girl whom Lefkowitz describes as “the most trusting person I’ve ever met in my life.”11

That trust apparently led Leslie to the Scherzers’ basement, where she performed oral sex on one boy, Bryant Grober, and was then raped with the broomstick and baseball bat by the Scherzer brothers and Chris Archer (pp. 19-21). While there were thirteen boys in the room when Faber arrived, only the Scherzers, Archer, and Grober were fully prosecuted. At trial their attorneys decided, as the football cliche goes, that the best defense is a good offense, and portrayed the mentally retarded girl as a sexual aggressor who wanted the boys to have their way with her.12 They essentially decided to put Leslie Faber on trial.13

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7. See Ding, supra note 4 (“In what seemed more a football decision than a condemnation of his character, the Dolphins waived Lawrence Phillips on Saturday.”).
9. Adjunct Associate Professor, School of Arts, Columbia University.
10. The pseudonym used by Lefkowitz to maintain the victim’s privacy. See pp. xi, 11.
12. See p. 312 (“The lawyer spread his legs. He grasped his chest as if he were grasping a woman’s breasts. He rested his head on the back of his chair and moaned as though he was about to have an orgasm. Then, pretending to mimic Leslie Faber, he cried out, ‘Please, please [violate] me. Put something in me. I don’t care if it’s a baseball bat, I don’t care if it’s a broomstick. Just do it to me.’ . . . [The lawyer said] ‘It’s the argument that the boys were just being good fellows, helping Leslie out in her hour of need. Now, you might find that disgusting. But remember, the defense only needs one juror who thinks the same way.’”).
The tactic failed. While Grober was only convicted of a conspiracy count, the other three were convicted of second-degree conspiracy and first-degree aggravated sexual assault by force or coercion. Archer and Kevin Scherzer were also convicted of first-degree aggravated sexual assault upon a mentally defective person. The trial judge handed down a relatively short sentence of fifteen years with no minimum term, and the Scherzer brothers and Archer appealed. The convictions for aggravated sexual assault by force or coercion were overturned on the grounds that no reasonable jury could have found that Leslie Faber was forced or coerced into the acts in question because Leslie engaged in the activity voluntarily. The only defendant to have his sentence reduced by the overturning of the conviction for aggravated sexual assault by force or coercion was Kyle Scherzer, whose maximum term was cut down to seven years. Eight years after the incident, the three athletes — who had been free on bail during their appeals — were finally dispatched to a medium-security detention center for young adult offenders.

Violent crimes against women committed by athletes like Lawrence Phillips and the Glen Ridge Guys have been subject to increased scrutiny in recent years. One fact Lefkowitz dwells on is that the Glen Ridge athletes came from two-parent white families living in a posh suburb — hardly the experience of Phillips, a black man who grew up in foster care. What they have in common with Phillips, however, is that they play football. So two central questions emerge: What are the similarities and differences among the many male athletes who commit crimes against women? And is there something about athletic culture that makes jocks more likely than other men to commit crimes against women?

This Notice first criticizes the notion that the racial polarization of either the world of sports or suburban New Jersey contributed to the Guys' delinquency. It then evaluates the arguments that men who are athletes are particularly prone to violence against women, first by examining the culture of athletic teams, and then by comparing that culture to academic and professional environments.

15. See Scherzer, 694 A.2d at 209.
17. See Scherzer, 694 A.2d at 215-16.
20. See, e.g., Benedict, supra note 2.
Next, this Notice agrees with Lefkowitz that Glen Ridge should be criticized for its attitude both before the assault and after more details of the crime had surfaced. Finally, it considers the matter of forgiveness in sports, focusing in particular on how society decides which athletes' transgressions it is willing to overlook.

I. THE BLACKBIRD

One of the main reasons people move to affluent suburbs like Glen Ridge is they believe they can avoid having their kids exposed to violent thugs like Richie Parker.21 Parker, a supremely talented basketball player, forced a sixteen-year-old girl to perform oral sex on him in a stairwell at his Manhattan high school in January 1994. Ongoing bad publicity from the New York tabloids turned him into a sort of Typhoid Mary among college basketball coaches; universities disciplined or forced out those who attempted to recruit him. Parker eventually spent two years in exile at an Arizona junior college before returning to New York to play for Long Island University, more than two years after the stairwell incident.22

Parker quickly acknowledged his wrongdoing and apologized. In contrast to the disdain for women shown by the Glen Ridge Guys, Parker at the time of his crime had a long-time girlfriend whom he treated with decency and respect, and who stuck with him through the criticism.23 But the media repeatedly portrayed Parker, who is black, as "some kind of sick animal."24 Would a white kid in Parker's situation have turned into such a pariah?25

For many years before the basement incident, the Glen Ridge Guys unapologetically and brazenly made a habit of degrading girls. Twelve years before they raped her, the Scherzer twins were part of

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21. See, e.g., William Fulton, The Reluctant Metropolis: The Politics of Urban Growth in Los Angeles 338 (1997) ("Suburbanites are often driven, and bound together, not so much by what they are heading toward as by what they are running from, and what they are running from is their perception of the ugly realities of urban life.").


23. See Smith, supra note 22, at 82.


25. The problem of disrespect for black athletes takes many forms, from the assumption that blacks who play sports are criminals to the assumption that black athletes need sports because they are incapable of achievement in any other field. See, e.g., H.G. Bissinger, Friday Night Lights: A Town, a Team, and a Dream 67 (1990) (reporting that a coach, in answer to the question of what one of his players would be without football, said, "A big ol' dumb nigger"). Race surely plays a part in how society forgives other sexual assailants. See, e.g., Mortimer B. Zuckerman, Editorial, The Sad Legacy of 1995, U.S. News & World Rep., Jan. 15, 1996, at 68, 68 ("The [O.J. Simpson] verdict startled almost everyone, and for a while we were obsessed with the reactions to it . . . . How can it be, we wondered, that blacks and whites saw the case so differently?").
a group of boys that coerced five-year-old Leslie into eating dog feces (pp. 68-71). The boys of Glen Ridge routinely tormented Faber, but she never received the "honor" of being invited to a party with the cool kids (p. 14). At those parties, thirteen- and fourteen-year-old girls performed oral sex on the Guys, often seriatim (pp. 127-28). The Guys demeaned even the girls who were ostensibly their friends. They trashed the house of one young woman who routinely cooked dinner for them and was considered part of the "in" crowd (pp. 130-31), and then later the Guys stole money out of her purse at a school dance (pp. 156-57). And her torment was meager compared to the Guys' treatment of one unpopular girl, whose house they literally destroyed in a three-day orgy while her parents were out of town — leading to the girl's removal from Glen Ridge High by her parents when they returned (pp. 131-38).

Punishments for these misdeeds were generally swift and toothless (pp. 157-58), and the Guys got the message that they would get away with whatever they did.

Because so many professional and major college athletes are black, attacks on the criminality of male athletes are sometimes characterized as attacks on the criminality of black men. But that characterization is unfair; many athletes criticized for deviant behavior are white. A study of the NFL showed that while the majority of professional football players with serious criminal histories were black, blacks also composed the majority of players in the league.

Moreover, some of the better-known NFL felons in recent years have been white. While the racial problems in sports may be deep and important, the problem of athletes committing violence against women — or other crimes — is not one particular to athletes of any race.

Lefkowitz seems to want to go beyond the question of whether there is a correlation between race and criminality among athletes, and he suggests that growing up in a racially homogenous suburb contributed to the Guys' delinquent behavior. He never, however, successfully makes that suggestion into an argument. Lefkowitz discusses the racial insularity of Glen Ridge several times without building a causal link from Glen Ridge's homogeneity to the Guys' violent tendencies. New Jersey is a state where the racial division

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27. See id. at 168. The survey of 509 players included 368 blacks (72%). Within this pool, 96 out of the 109 players with serious criminal histories were black (88%). The survey did not distinguish between crimes against women and other crimes. See id.

28. See id. at 2-4, 10, 76-83 (describing the criminal histories of Ryan Tucker and Christian Peter).

29. See p. 25 (referring to Charlie Figueroa, an informant in the Faber case, as one of only three blacks in his class at Glen Ridge High); p. 43 (noting that Glen Ridge's population is less than 1% black, and describing the harassment of black motorists by town police); pp.
of suburbs has long been an issue; some New Jersey suburbs have used land use regulations to exclude poor blacks, leading to some high-profile litigation.\textsuperscript{30} Lefkowitz points out that wealthy Glen Ridge was the kind of town blacks would not even want to drive through, and their hopes of ever feeling at home there were extremely limited (pp. 42-43). The Glen Ridge of the Guys' youth was not only heavily white, it was very well to do, and even Glen Ridge's less fortunate citizens were lower-middle-class rather than poor. Lefkowitz notes persuasively that the lenient sentences the Guys received were directly related to their privileged upbringing and perceived ability to contribute to society.\textsuperscript{31}

The Guys were white children in an overwhelmingly white and privileged world, and Lefkowitz wants to use that fact to imply that a more diverse Glen Ridge would be a town more respectful of women, but he does not prove that point.\textsuperscript{32} Glen Ridge High, as Lefkowitz describes it, was already "diverse" in the sense that it had several different social groups (pp. 109-12); the root problem is that the groups all stuck to themselves and arranged themselves in a hierarchy with jocks on top.\textsuperscript{33} Lefkowitz seems to say that if there had been more blacks at the school, somehow that might have influenced the jock elite to be less aggressive and violent; but Our Guys never really makes clear exactly how that would have worked. If blacks had joined the jock elite, they would not have changed it, and if blacks hadn't joined, they probably would have been ignored by the Jocks, just like everybody else. Lefkowitz attempts to use the race issue as part of his indictment of suburban culture, but it is

\textsuperscript{30} The \textit{Mount Laurel} cases, in which the New Jersey Supreme Court held that towns must do their fair share to help meet their regions' lower-income housing needs, are the most famous examples. See Southern Burlington County NAACP v. Township of Mt. Laurel, 456 A.2d 390 (N.J. 1983); Southern Burlington County NAACP v. Township of Mt. Laurel, 336 A.2d 713 (N.J. 1975).

\textsuperscript{31} Lefkowitz quotes Ren Scott, a New York television reporter, as saying, "I thought the judge was going to send a message... I guess he did: if you're white, it's all right." P. 419.

\textsuperscript{32} See Jeff Drummond, \textit{Suburbs on trial}, \textit{Houston Chron.}, Aug. 31, 1997, at 20 (reviewing Our Guys) ("Lefkowitz goes too far when he blames this crime on an abstraction such as wealthy suburban culture. The cruelty of kids... cuts across social and economic boundaries."); available in LEXIS, News Library, HCHR INF File.

\textsuperscript{33} Cf. Angie Cannon et al., \textit{Why? There Were Plenty of Warnings, but No One Stopped Two Twisted Teens}, U.S. News & World Rep., May 3, 1999, at 16, 19 (describing Columbine High School in Littleton, Colo., as a place where jocks were "gods" who routinely tormented Eric Harris and Dylan Klebold, the perpetrators of the April 20 killings at the school); Nancy Gibbs, ... \textit{In Sorrow and Disbelief}, Time, May 3, 1999, at 20, 27 (describing how jocks tormented the Trench Coat Mafia, the outcast group to which Harris and Klebold belonged).
hard to say that racial diversity would have eliminated the existence of (and adulation for) the jock elite.

Lefkowitz compares the Glen Ridge Guys to sexual criminals in nearby Newark (pp. 4-6), asserting that these children of privilege should have made better decisions than the impoverished young men of Newark. Many people in society would probably have a harder time forgiving the Guys than boys who grew up in destitute neighborhoods. Others, however, have been accused of doing the opposite and persecuting poor inner-city athletes — such as Barry Baum, the New York Post reporter who became Richie Parker's one-man "Megan's Law" when his interviews with university presidents and coaches deterred them from recruiting Parker.34

Regardless of whether society at large is more likely to forgive Richie Parker or the Guys, the critical variable for athletic teams in choosing which athletes to forgive is not race or wealth, but talent. When professional athletes with troubled histories finally get released it is usually because they can no longer help a team on the field, not because coaches are worried about their behavior.35 College coaches will go to great lengths to protect their accused star players,36 and of course, model citizens who contribute little on the field are treated as second class. The New York Giants set up a treatment program for Christian Peter, a defensive lineman from Nebraska (where he was a teammate of Lawrence Phillips), notorious for his sadistic behavior off the field; it is unlikely they would have made such an effort if Peter had not been a phenomenal prospect.37 Lawrence Phillips received every indulgence from the Rams and Dolphins until it became clear that his running skills were overrated, at which point the professional teams left him to fend for himself.38 Players learn that there may be sanctions, but they'll never run out of chances until they can't help a team win anymore.

The Glen Ridge Guys, it seemed, didn't even have to help a team win; their football team went 1-8 (p. 148). Not that it stopped

34. See Smith, supra note 22, at 87 ("Then, when [Baum is] a guest on a radio show one day, a caller says, 'Don't you see what you're doing? This is a black kid who comes from nowhere, and you're a white guy who probably comes from a lot of money.' Barry blinks. 'It hits me,' he says. 'That's true.'").

35. See Shaun Powell, Being a Player Is the Thing, Sporting News, Feb. 22, 1999, at 8; see also Benedict & Yaeger, supra note 26, at 100-17.

36. See e.g., Michael Farber, Coach and Jury, Sports Illustrated, Sept. 25, 1995, at 31 (detailing efforts of Cornhusker coach Tom Osborne to protect his players).

37. See Mike Freeman, Giants to Harness Peter's Rage, Omaha World-Herald, Apr. 29, 1997, at 21, available in LEXIS, News Library, OWHD File. Peter is actually the rare NFL star who was cut because of his bad behavior. The New England Patriots initially drafted him, and when owner Robert Kraft found out about Peter's background, he ordered Peter's release. This shocking display of principle earned Kraft an outpouring of gratitude from New England fans. See Benedict & Yaeger, supra note 26, at 76-82.

38. See supra note 7 and accompanying text.
them from receiving star treatment from parents and school administrators. Apparently, it didn't matter that they were terrible football players compared to those from other schools, because they could play better than everybody else in Glen Ridge, and that was enough.

II. ARE ATHLETES REALLY DIFFERENT?

No question about it: high school athletes are cool. One of Lefkowitz's major themes is that in the social pecking order of Glen Ridge High, the Jocks were at the top (pp. 109-13). The question that follows is whether the athletes who become sexual predators do so because their athletic training makes them uncontrollably aggressive, or, alternatively, because their celebrity status gives them a sense of power that they then abuse. Lefkowitz suggests throughout his book that both are at work, but he never delves into the question of which is more important.

A. Players and Player-haters

Many commentators theorize that male athletes' aggressive behaviors are specific to the sports world, which trains boys in a single-sex environment in which aggression is prized. The bond of the team forms early in life, and boys learn that what matters is their teammates; girls are largely decorative. Unlike many other activities, athletic participation is both sex-specific and competitive; this causes men to bond in ways that may be destructive to the women they meet in other contexts.

Lefkowitz talks often about how the Glen Ridge Guys' idea of sexual activity did not involve intercourse in a private setting, but rather consisted of being fellated while their teammates watched (pp. 158-61). Indeed, even professional, married athletes often participate in sexual voyeurism, treating sex and female nudity as something to be enjoyed in the company of teammates. The sexual dehumanization of women may lead athletes to believe they can treat women however they want, and that attitude may lead to violence.

Athletes in some sports are expected to be violent, making their aggressive behavior toward women off the playing field a logical extension of their aggressive behavior toward opponents on it.

40. See Anastasia Toufexis, Sex and the Sporting Life: Do Athletic Teams Unwittingly Promote Assaults and Rapes?, TIME, Aug. 6, 1990, at 76.
42. See Note, Out of Bounds: Professional Sports Leagues and Domestic Violence, 109 Harv. L. Rev. 1048, 1048 (1996) ("Any athlete who thinks he can be as violent as you can be
But athletes are also expected to show some control of their aggression on the field and should be expected to demonstrate the same off it. When athletes misbehave on the field they are subject to penalties and, occasionally, even arrest. It is true that sometimes during games athletes take penalties in a calculated manner, and they may accept slaps on the wrist in order to get away with some minor infractions. But athletes also learn that when they commit serious offenses, they will receive serious punishments. The behavioral standards on the playing field may be different than those in real life, but they exist and they are enforced. If anyone is constantly reminded about behavioral standards, it is athletes.

If athletes are in fact different, that suggests that if somehow Glen Ridge High’s “in crowd” was not composed of jocks, Leslie Faber’s rape would never have happened. Maybe things would be better if the elite group of cool kids cared more about education and intelligence. Then, maybe Glen Ridge High would not have a rigid social hierarchy where the weak could be exploited to the point of brutal rape. Right?

B. Enter Perini

The world that the book’s author describes is an academic one, where a privileged group of white males torments “inferiors,” particularly women and minorities, but also white men who do not meet their standards. The oppressors get away with it because of their success in competitive endeavors. People are jealous of them not because they contribute to society in any substantial way, but because they act important and get away with it. They care about nobody’s feelings but their own, and they have power over others that they are not afraid to use. The culture is one of dominance and abuse.

The book is *Becoming Gentlemen*, and it explores elite law schools, not a suburban high school. The law school environment as described by Professor Lani Guinier and her colleagues is eerily similar to the environment Lefkowitz describes at Glen Ridge High. Professionals and academics who attempt to dismiss the lesson of

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43. See, e.g., Jeff MacGregor, *Less than Murder*, SPORTS ILLUSTRATED, Mar. 22, 1999, at 98, 112 (describing the case of Jesse Boulerice, a 19-year-old minor-league hockey player facing charges in Michigan for assaulting an opposing player with his stick, and also describing some past incidents of criminal prosecution for hockey violence).


Our Guys by saying that it is not about them, but just about a bunch of dumb jocks, miss the point.

Professor Guinier's book details the culture of intimidation that she argues pervades top law schools, a culture generated largely by male law professors. She explains that many women are "alienated" by the law school environment. As a group, women do not participate in law school classes as much as men, and while initially they are frustrated by their lack of participation, eventually they acquiesce in it. They consider the experience "radical, painful, or repressive." Professor Guinier and her coauthors conclude that law school is a "hostile learning environment for a disproportionate number of its female students," where women eventually come to accept their place at the bottom of the law school hierarchy. While Professor Guinier and her coauthors do not detail sexual harassment in the law school environment, they explain the culture that leads to such harassment; others have gone on to describe the harassment itself.

Obviously, athletes and law professors are very different in many ways. Lefkowitz's discussion of why immature and hormonal male athletes commit gang rape (pp. 237-45) does not apply to law professors. The actions of the two groups can be very different in both kind and degree.

While the men in both groups who treat women inappropriately may be few in number, they are a visible and important minority. Lefkowitz, like Professor Guinier, devotes much energy to describing how the elite color the culture of an institution. He takes the reader into the halls of Glen Ridge High, trying to show how the students regularly feel dumped on by the school administration if they are not part of the "in" crowd. They go home from school demoralized about themselves. They feel like those with power do not care what happens to them. That sounds a lot like the law school environment described by Professor Guinier and others.

The issue isn’t athletics, it’s power. Celebrity athletes, almost all of whom are male, can get a huge sense of power from being stars. Other sexual harassers may not derive celebrity from their

46. See id. at 2.
47. See id. at 28.
48. See id. at 44-45.
49. Id. at 48.
50. Id. at 57.
51. See id. at 60.
work, but they can gain power from it and feel important because they are on stage. People might "like to believe that professors and students at the graduate level are intelligent and sensitive professionals who would not engage in sexual harassment, [but] the studies report a different reality." The essential element of their antisocial behavior is their power, not the specifics of how they achieved it.

While Professor Guinier focuses on law professors, there is no reason to believe that the problems of sexism and sexual harassment are more pervasive among law professors than other professionals. The fact that Lefkowitz and Professor Guinier offer parallel analyses of two dissimilar worlds suggests not that either of those worlds is peculiarly bad, but that the problem of the mistreatment of women is broad and pervasive. Instances of powerful men using their positions of influence to sexually harass or abuse women are too numerous to summarize in any detail here. The offenses take many forms, but as Lefkowitz, Professor Guinier, and many others have written, the offenses are taking place. Sexual misconduct is not the sole province of the celebrity athlete, and if society is to change, it cannot treat athletes who commit sexual crimes as somehow different; instead, society must learn from their conduct and apply those lessons in other people’s everyday lives.

III. IT TOOK A VILLAGE

Lefkowitz’s primary focus is on the responsibility the town bears for the Guys’ behavior, and on that score, he is entirely correct. Ultimately, the town of Glen Ridge should be judged on what it did to create the conditions in which the rape took place, and then how it internalized the need to change after discovering what really happened. On those counts, the town seems to be sorely lacking. For years the town turned a blind eye to the Guys’ delinquent behavior which was considered extraordinarily bad even by the low standards set for Ridger athletes (pp. 71-79). Townsfolk defend themselves by saying that other towns mollycoddle jocks, so they should not be criticized for doing the same. Even in the wake of the Faber tragedy, they acknowledge that Glen Ridge continues to “pamper star athletes.” Consequently, the boys of a new generation picked up where their predecessors left off. In 1997, a group of young men

54. Torrey et al., supra note 53, at 271.

55. For a discussion of some prominent recent sexual harassment charges, see Christina E. Wells, Hypocrites and Barking Harlots: The Clinton-Lewinsky Affair and the Attack on Women, 5 WM. & MARY J. WOMEN & L. 151 (1998) (discussing the debate over whether President Clinton’s treatment of Monica Lewinsky constituted sexual harassment, with reference to past accusations against Justice Thomas and Sen. Packwood).

— some of them dressed as girls — performed a skit during a Halloween assembly at Glen Ridge High in which they acted out a sexual assault. That does not seem like great evidence of a town that has learned from its mistakes.

The rape of Leslie Faber was the culmination of years of bad behavior by the Guys while local adults were asleep at the switch (pp. 423-24). To combat the perceived lawlessness among athletes, there has been a movement to hold institutions accountable for the behavior of their student athletes. The Supreme Court recently decided that public institutions that receive Title IX funding can be subject to liability for student-on-student harassment. Institutional liability might be just the tool to reform the attitude of many administrators with regard to discipline among athletes. Lefkowitz makes the point that the school administration seemed to bend over backward to accommodate the Guys, both before and after the Leslie Faber incident. If communities and institutions are held responsible for the effects of the conditions they breed, perhaps authority figures will not be so eager to turn a blind eye to the misconduct of their charges and will learn from the mistakes of the past to prevent similar occurrences in the future.

IV. THE STONE ROLLS ON

One institution apparently devoid of the ability to learn from mistakes of the past is the St. Louis Rams. Not only do the Rams have the worst record of any NFL team in the 1990s (their last winning season was 1989), they have had a long series of off-the-field problems that neither began nor ended with Lawrence Phillips's self-destruction. In 1998 rookie linebacker Leonard Little killed a St. Louis woman while driving with a blood alcohol level nearly twice the legal limit. One year after drafting Phillips, the Rams

57. See Kelly Heyboer, Glen Ridge Finally Confronts Its Youth After School Skit Reopens Old Wounds, Newark Star-Ledger, Dec. 29, 1997, at 9 ("When the story about the Halloween skit circulated last month, many in the borough questioned whether Glen Ridge's youth have changed at all in the last decade, if anything had been learned from the 1989 rape and its aftermath.").

58. See Timothy Davis & Tonya Parker, Student-Athlete Sexual Violence Against Women: Defining the Limits of Institutional Responsibility, 55 Wash. & Lee L. Rev. 55 (1998); Gil B. Fried, Illegal Moves Off-the-Field: University Liability for Illegal Acts of Student-Athletes, 7 Seton Hall J. Sport L. 69 (1997); see also Note, supra note 43 (calling for professional sports leagues to institute policies aimed at curbing domestic violence).


60. Obviously, many of the Rams' most devoted supporters have not learned from the mistake they made when they became fans of the team. See, e.g., Elliot Regenstein, Book Notice, These Are the People in Your Neighborhood, 97 Mich. L. Rev. 1956 (1999).

61. See Howard Balzer, Little Won't Return In '98, St. Louis Rams Update, Nov. 29, 1998, at 4. Little is talented enough that the Rams have not given up on him. See Jim Thomas, Phifer's Farewell, Sporting News, Mar. 15, 1999, at 86 ("[C]oach Dick Vermeil isn't
selected Ryan Tucker, who later pleaded no contest to beating a man close to death while Tucker was in college.62 That same year defensive lineman James Harris was arrested for alleged involvement in a cocaine-trafficking ring, though he was later acquitted.63 Harris's arrest prompted a letter to the team from former Rams defensive back Darryl Henley, who read about Harris while serving forty-one years in a maximum-security federal prison for cocaine trafficking — and for then attempting to arrange his trial judge's assassination using a cell phone borrowed from a prison guard.64 Henley's letter expressed disappointment that members of his former team had not learned from his example and kept out of trouble.65

Why do teams sometimes take the risk of signing players with troubled pasts? The answer is easy: because when it pays off, it can pay off big. In the 1998 NFL Draft, Randy Moss, described as the best player in college football,66 was only the twenty-first player drafted because of concerns about his background. Teams were wary of taking a chance on Moss because of Phillips's recent well-publicized flameout.67 Moss's past troubles did include an incident of violence against a woman, but one which may have involved only an isolated instance of shoving his girlfriend during an argument, not beating or sexual assault.68

Moss went on to be named Rookie of the Year, became the second-leading vote-getter for the 1998 All-Pro team, and finished third in voting for the NFL's Most Valuable Player. On top of that,

giving up on [outside linebacker] Leonard Little, who faces involuntary manslaughter charges as a result of an auto accident.


63. See Benedict & Yaege'r, supra note 26, at 84-99.

64. See id. at 240-50. Henley remained on the Rams' roster during his trial, receiving special dispensation to travel to road games outside California (the team was then based in Los Angeles) with a prison guard accompanying him, even on the sidelines. See Phil M. Gollner & Earl Bloom, Henley: Have Chaperon, Will Travel, Orange County Reg., Aug. 24, 1994, at D1. In a prison interview, a chagrined Henley said that he came from a supportive home, earned his college degree from UCLA, and simply started creating trouble for himself when he got frustrated by the Rams' constant losing. See Benedict & Yaege'r, supra note 26, at 243, 248-50.

65. See Benedict & Yaege'r, supra note 26, at 241.


68. See Price, supra note 67, at 138-39. The facts of this incident are in dispute. Moss's girlfriend, Libby Offutt, reported to police that Moss "threw steaming hot water" on her. Her father, however, considers the event "overblown" and suggests that it was limited to the pushing incident. See id.
he impressed his teammates as hard working and respectful, and there were no reports of his getting in any trouble off the field. Moss probably never presented the kind of threat to society that Lawrence Phillips did, but that is not the lesson that will be drawn from his success. The lesson will be that bad people can be reformed in the NFL and that it can be a great strategy to take a chance on a troubled player who has a world of talent. The pendulum that Lawrence Phillips started in one direction will swing back the other way.

Many of these abusers do deserve a second chance. Parker enrolled at Long Island University and joined the Blackbirds’ basketball team at the invitation of Gail Stevens Haynes, the school’s provost and the mother of three teenage girls. Haynes said, “[u]nless there’s an island that I don’t know about, where we send people forever who have done something wrong, then we have to provide pathways for these people so they can rejoin society. If we don’t, it can only explode. It can only explode in all our faces.”

True enough. But the reason Haynes was right to let Parker come back to decent society is that he realized he had left it in the first place. Parker, Moss, and others have acknowledged that their past behavior was wrong, and have worked hard to prove their genuine intent to reform. It is the realization of wrongdoing that allows the abuser to turn the corner.

Schools and teams must do a better job of acting authoritatively to prevent troubled kids from becoming cold malefactors. Earlier intervention might have started the Guys down a different path, or at least kept them from going as far down the wrong road as they did. By the time boys go off to college they may be harder to reform, although even then institutional control could make a substantial difference in how inappropriate behavior is deterred and punished. Colleges and professional athletic teams should be prepared to make difficult decisions about who is truly capable of behaving appropriately; teams often make bad decisions because their judgment is colored by their perception of a player’s ability, but greater accountability might lead those teams to think not about their potential reward, but about their social responsibility. Many athletes do deserve second chances, and institutional accountability could ensure that those second chances occur under the best possible circumstances: when the athlete is ready to reform and the team has programs in place to help the athlete change.

69. See Jack McCallum, Moss Appeal, SPORTS ILLUSTRATED, Jan. 18, 1999, at 54.
70. See Smith, supra note 22, at 84.
Lefkowitz's book, like Professor Guinier's, is intended as a wake-up call, but plenty of people will sleep through it. The Scherzer brothers and Chris Archer never seemed to see that what they did was vile, and nobody around them ever made them see that; Lefkowitz asks, "Where were the grownups of Glen Ridge while this was going on? The truth was, most of them were on the sidelines" (p. 423). Leslie Faber comes across as a latter-day Kitty Genovese, left to fend for herself against a pervasive conspiracy of silence. And when confronted with the effects of their abstention, the conspirators all turned away and blamed somebody else. Of the many painful moments in reading Our Guys, in some ways the most torturous one is reaching the end and realizing that the bad guys still have no idea that they are, in fact, the bad guys.

71. See Kelly Heyboer, New Book Opens Old Wounds in Glen Ridge, Newark Star-Ledger, Apr. 2, 1998, at 35. ("[O]ne woman said [Our Guys] was unfair in indicting the town for a crime committed by a small group of boys. . . . [T]he woman said, 'It isn't the whole town. It was a good town.'").

72. For a description of the death of Catherine Genovese, who was killed in a series of attacks that her neighbors did nothing to prevent, see A.M. Rosenthal, Thirty-Eight Witnesses: The Kitty Genovese Case (1999).