

HEAD FOOTBALL COACHES: ENDING THE DISCOURSE OF PRIVILEGE

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INTRODUCTION: FOOTBALL'S DISCOURSE OF PRIVILEGE

In this Article, I address the historical existence of a discourse of privilege in the context of head football coach selection, and whether current approaches to head football coach selection reject that privilege. I describe the concept of a discourse of privilege—a repudiation of calls for accountability for head football coach selection decisions—and then describe the evidence of historical and current racial stratification in the role of head coach in the National Collegiate Athletic Association (“NCAA”) and the National Football League (“NFL”). Next, I discuss the various approaches to the elimination of that racial stratification with a view to whether the approaches, such as scorecards, the Rooney Rule, and the NCAA *laissez faire* approach adequately address and repudiate the privilege discourse. I close with the argument that both the NFL and the NCAA should repudiate a discourse of privilege in head coach selection through the enforcement of powerful norms of diversity for football coaching staffs and assert institutional control over succession planning to ensure the incorporation of diversity norms. These approaches would respect the family culture of football coaching organizations while imposing a condition of diversity in exchange for permitting these families to serve as gatekeepers to head football coach positions. These changes would signal the opening of the ranks of leadership and power “to talented and qualified individuals of every race and ethnicity.”¹

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1. Grutter v. Bollinger, 539 U.S. 306, 308 (2003).

I. DEFINING THE DISCOURSE OF PRIVILEGE

I define a “discourse of privilege”² as a phenomenon that operates to exempt those who select head football coaches from contemporary norms of fairness and legitimacy.³ I have identified the markers of this discourse, which do not involve the revelation of rules and their application, but rather constitute a source that justifies exemption from accountability through discursive strategies.⁴ Some of the markers of discursive privilege include an open reliance on subjective standards that are rarely articulated before, during, or after decisions. When articulated, the qualifications and rationales are vague, brief, or rhetorical rather than analytical. A discourse of privilege operates in an ambiguous temporal environment, that is, a decisional environment in which the actual timing of the decision is usually unknown.

Some suggest that those who discuss the role of race in football head coach selection in the NFL and the NCAA sully the sport, the complexities of football, its popularity, and its magic.⁵ Moreover, such critics contend that the character of current NCAA and NFL leaders ought to place the race card out of bounds.⁶ But the question is not whether football is a great sport,

2. This phrase has been previously used, but in a different context. See Zeus Leonardo, *The Color of Supremacy: Beyond the Discourse of ‘White Privilege,’* 36 EDUC. PHIL. & THEORY 137, 138 (2004).

3. See 42 U.S.C. § 2000e-2 (2006) (covering racial employment discrimination); § 2000d (covering racial discrimination in federally assisted programs).

4. See generally Duncan Kennedy, *Cost Benefit Analysis of Entitlement Problems: A Critique*, 33 STAN L. REV. 387, 410–21 (1981); Richard Banks, *Race-Based Suspect Selection and Colorblind Equal Protection Doctrine and Discourse*, 48 UCLA L. REV. 1075, 1092–96 (2001); Jerome McCristal Culp, Jr., *Water Buffalo and Diversity: Naming Names and Reclaiming the Racial Discourse*, 26 CONN. L. REV. 209, 242 (1993).

5. See Robert E. Thomas & Bruce Louis Rich, *Under the Radar: The Resistance of Promotion Biases to Market Economic Forces*, 55 SYRACUSE L. REV. 301, 354 (2005) (determining whether statistical analyses might be attributed to the low number of black football head coaches’ promotional bias rather than differences in experience and hypothesizing that the complex hierarchical structure of football coaching leads decision-makers to use promotional biases in selecting candidates for head coaching positions); *Outside the Lines: Minority Report* (ESPN television broadcast Jan. 12, 2003) (transcript) available at <http://espn.go.com/page2/tvlistings/show146transcript.html> (“Well, it’s not the NFL’s performance. It’s the performance of 32 teams. It’s the performance of 32 organizations. And overall, I think it’s been quite good. It’s an area where we need to make progress. We need to do better. But ultimately, it comes down to the fact that we’re dealing with 32 jobs that are unique and a large pool of well-qualified people searching for those jobs.”).

6. See, e.g., Pete Thamel, *High Interest but Little Opportunity: Blacks Find Few Offers for Top College Football Coaching Jobs*, N.Y. TIMES, Dec. 21, 2008, at SP1 (noting that Maryland assistant coach James Franklin would like to see “everyone on the same playing field”).

whether the chosen coach, black or white, is more or less qualified. Rather, the question is whether the process and substance of head football coach selection in the NFL and the NCAA is a private, off-limits subject. A key feature of this particular discourse of privilege has been that no institution may hold decision makers accountable for the ethics, morality, or legality of *these* particular employment practices or ultimate decisions.⁷ The maintenance of a discourse of privilege in the context of head coach selection might be ever slightly tolerable if it produced a fair result to all who aspire to lead from the sidelines. But fairness is not its legacy.

II. BLACK HEAD FOOTBALL COACHES: THE NEW INVISIBLE MAN

Glass ceilings⁸ exist in nearly every institution of significance, and American football is no exception.⁹ Though the beginning phase of integration of the ranks of black head football coaches seems afoot with the recent increase in the number of black head football coaches in the NCAA Football Bowl

7. See Casey A. Kovacic, *The Real BCS: Black Coach Syndrome and the Pursuit to Become a College Head Football Coach*, 36 S.U. L. REV. 89, 112 (2008) (arguing that there are a lack of “objectively quantifiable factors” by which hiring decisions are made).

8. David A. Cotter et al., *The Glass Ceiling Effect*, 80 SOC. FORCES 655, 655 (2001).

9. RICHARD E. LAPCHICK, SMASHING BARRIERS: RACE AND SPORT IN THE NEW MILLENNIUM 229 (2001).

I initially presented the ideas contained in this Article at the October 2012 University of Miami Law School Symposium “Dreaming of Democracy: Race, Sex, and Suspicion,” at which University of Miami Law School Professor D. Marvin Jones debuted his then new book *RACE, SEX, AND SUSPICION* (2005), available at <http://groups.yahoo.com/group/BSideNews/message/986>. In that book, Professor Jones discusses stereotype and the black male athlete in a chapter titled “Don’t Hate The Player, Hate the Game: The Black Male As Athlete.” D. MARVIN JONES, *RACE, SEX, AND SUSPICION* 125 (2005). The chapter title is in part after a song, “Don’t Hate the Playa,” penned and rapped by Ice T, lyricist, cultural critic, poet, and not least of the foregoing, a star on Law and Order. See Ice T, *Don’t Hate The Playa*, in *THE SEVENTH DEADLY SIN* (1999); see also ICET.COM, <http://www.icet.com> (last visited March 23, 2012). “Every baller on the streets is searchin’ fortune and fame / Some come up, some get done up, except the twist / If you out for mega cheddar, you got to go high risk / Don’t hate the player, hate the game.” *Ice-T Lyrics*, AZLYRICS.COM, available at <http://www.azlyrics.com/lyrics/icet/donthatetheplaya.html>.

In a chapter that consummately creates a narrative on America’s love-hate relationship with the black athlete, Professor Jones explored the manifestation of America’s racial caste system in a context popularly associated with pure merit—the athletic playing field. JONES, *supra*, at 126. Mining the tragic, yet rich, history of Jim Crow in sports, Jones explores America’s creative construction of a black male subject as athlete consistent with a culture in which white male domination is the norm. *Id.* It has been a history replete with mythology serving to maintain the “moral innocence” of white domination of the field of sport. *Id.* at 125–26.

Subdivision (FBS)¹⁰ and the NFL,¹¹ the head coach selection processes in the NFL and the NCAA are still shrouded in secrecy.¹² Inquiries about the selection process are met with a discourse of privilege, in both word and deed, that insists that the head football coach selection processes must exist outside of existing norms of equal opportunity and accountability.¹³ In this Article, I challenge this discourse of privilege by noting that football's history of racial stratification is consistent with researchers' conclusions that race is the most salient explanation for the limited number of black head coaches. I remind that legal and ethical norms require fair selection processes. I examine the current efforts to increase the ranks of black head coaches including scorecards, the NFL's Rooney Rule, and the NCAA's "hands off" individual institutional decision approach. I conclude that scorecards are useful yet limited tools, as they operate after the coach selection process. The Rooney Rule processes, though cloaked in secrecy, have required NFL owners to bring black candidates into the process with some success. I criticize the NCAA's decision to eschew an active reformation role in light of its pervasive control over vast a pre-professional football empire. I conclude that both the NFL and the NCAA should formally embrace a norm requiring that their institutions deploy diverse coaching staffs, especially in those positions, such as coordinators, that are crucial preparation for

10. The NCAA divides its university and college member institutions according to competition. Institution membership depends on a number of factors, including the number of sports competed in, number of games or competitions, and number of participants. Schools with football teams are further divided into a "Football Bowl Subdivision," which was previously known as Division I-A, and a "NCAA Football Championship Subdivision," which was previously called Division I-AA. *Differences Among the Three Divisions: Division I*, NCAA, <http://www.ncaa.org/wps/wcm/connect/public/ncaa/about+the+ncaa/who+we+are/differences+among+the+divisions/division+i/about+division+i> (last updated Dec. 7, 2011).

11. NFL, <http://www.nfl.com/> (last visited Jul. 14, 2011) for a list of all the NFL teams, click on the "Teams" link at the top of the page. According to Forbes, in 2008 these teams were valued between \$830 million and \$1.5 billion. *NFL Team Valuations*, FORBES.COM (Sept. 10, 2008, 6:00 PM), http://www.forbes.com/lists/2008/30/sports_money_nfl08_NFL-Team_Valuations_Revenue.html; see also Kevin M. Murphy & Robert F. Topel, *The Economics of NFL Team Ownership* (2009), available at <http://www.rodneyfort.com/PHSportsEcon/Common/LinksandFun/LinksFun04/FINAL%20-%20The%20Economics%20of%20NFL%20Team%20Ownership.pdf> (noting that the average team is worth more than one billion dollars). With the exception of the Green Bay Packers, NFL teams are privately owned. Lynn Reynolds, *Community-Based Ownership of a National Football League Franchise: The Answer to Relocation and Taxpayer Financing of NFL Teams*, 18 LOY. L.A. ENT. L.J. 592, n.23 (1998).

12. See Kovacic, *supra* note 7, at 108 (noting that hiring practices depend in large part on "word-of-mouth" recruiting).

13. *Id.*

head coaching opportunities. This approach does no violence to the deeply personal culture of football. Rather, it recognizes the key role that diverse coaching families have played a part in the ascent of black coaches to head coaching positions.

III. THE NEW INVISIBLE MAN: THE BLACK HEAD FOOTBALL COACH

The black male football coach has been the classic “invisible man.”¹⁴ So it was through the nineteenth to the late twentieth centuries in the NCAA Division I¹⁵ and professional football coaching, where the resiliency of racial caste (and Jim Crow)¹⁶ was evident. In 2007, after approximately ninety years of professional football, there had been only nine black head coaches.¹⁷ Between 1925, when Fritz Pollard headed the Hammond Indiana Pros, and 1989, when the Raiders hired Art Shell, there were none.¹⁸ Since 1989, fifteen black individuals have served as full-time head coaches in the NFL, most in the last six years.¹⁹ In the NCAA, the first black coach was Will Robinson of

14. See RALPH ELLISON, *INVISIBLE MAN* (1952).

15. The Black Coaches Association collaborates with Richard Lapchick, PhD, Chair, and Director of the Institute for Diversity and Ethics in Sport, University of Central Florida. Since 2001, in cooperation with the Black Coaches Association, Lapchick has conducted research on hiring decisions in professional and collegiate sport. The final product is *The Racial and Gender Report Card*. RICHARD LAPCHICK ET AL., THE RACIAL AND GENDER REPORT CARD, Univ. of Cent. Fla. Coll. of Bus. Admin., available at <http://web.bus.ucf.edu/sportbusiness/?page=1445> (last visited March 3, 2012). In the history of NCAA FBS football, there have been at least twenty black football coaches. RICHARD LAPCHICK ET AL., THE 2010 RACIAL AND GENDER REPORT CARD: COLLEGE SPORT 39 (Mar. 3, 2012), available at <http://www.bus.ucf.edu/sportbusiness/?page=1445>.

16. Jim Crow laws, named for the minstrel show character, were late nineteenth-century statutes passed by the legislatures of the Southern states that created a racial caste system in the American South. *The Rise and Fall of Jim Crow* (PBS television broadcast Oct. 1–22, 2002); *Origin of the Term “Jim Crow,”* U. ILL. AT CHI., http://www.uic.edu/educ/bctpi/historyGIS/greatmigration/gmdocs/jim_crow_origin.html (last visited Jan. 10, 2012); see also Linda Greene, *Jim Crowism in the Twenty-First Century*, 27 CAP. U. L. REV. 43, 45 (1998).

17. RICHARD LAPCHICK ET AL., THE 2006 RACIAL AND GENDER REPORT CARD: NATIONAL FOOTBALL LEAGUE (Sept. 26, 2007), available at <http://www.bus.ucf.edu/sportbusiness/?page=1445>.

18. *Id.*

19. RICHARD LAPCHICK ET AL., THE 2011 RACIAL AND GENDER REPORT CARD: NATIONAL FOOTBALL LEAGUE 22 (Sept. 15, 2011), available at <http://www.bus.ucf.edu/sportbusiness/?page=1445>. Current black coaches include: (1) Romeo Crennel of the Kansas City Chiefs since 2012; (2) Leslie Frazier, Minnesota Vikings since 2011; (3) Marvin Lewis of the Cincinnati Bengals, since January 2003; (4) Lovie Smith of the Chicago Bears since 2004; and (5) Mike Tomlin of the Pittsburgh Steelers since 2007. *Id.*; see also Kansas City Chiefs, *Chiefs to Name Romeo Crennel Head Coach*, KANSAS CITY CHIEFS

Illinois State in 1970.²⁰ Dennis Green went to Stanford in 1989.²¹ Now, there are seventeen among the 120 programs of the NCAA FBS,²² with seven hired in the last year.²³ Many studies have documented the invisibility, exceptionalism, and tokenism²⁴ associated with the dearth of blacks as head coaches in the NCAA and the NFL. They bear mention because, irrespective of methodology, they invariably conclude that the most salient explanation for the lack of black football coaches is race.²⁵

(Jan. 9, 2012), <http://www.kcchiefs.com/news/article-2/CHIEFS-TO-NAME-ROMEO-CRENNEL-HEAD-COACH/558b2838-b238-4eee-adac-a982ecef5a0> (announcing Romeo Crennel as the new head coach of the Kansas City Chiefs). Former black head coaches of the NFL include: (1) Fritz Pollard of the Akron Pros in 1921; (2) Art Shell of the Oakland Raiders from 1989 to 1994 and in 2000; (3) Herman Edwards of the New York Jets from 2001 to 2005; (4) Dennis Green of the Minnesota Vikings from 1992 to 2001 and of the Arizona Cardinals from 2004 to 2006; (5) Romeo Crennel of the Cleveland Browns from 2005 to 2008; (6) Super Bowl winner Tony Dungy of both the Tampa Bay Buccaneers, from 1996 to 2001, and the Indianapolis Colts, from 2002 to 2008; (7) Mike Singletary of the San Francisco 49ers from 2008 to 2009; (8) Jim Caldwell of the Indianapolis Colts from 2008 to 2012; (9) Hue Jackson of the Oakland Raiders in 2011; and (10) Raheem Morris of the Tampa Bay Buccaneers from 2009 to 2012. LAPHICK ET AL., *supra*, at 22.

20. *Will Robinson Dies, Was First Black Coach of Division I Program*, ESPN.com (Apr. 28, 2008), <http://sports.espn.go.com/nbc/news/story?id=3371978>.

21. Julie Cart, *Dennis Green Takes Stanford Job: 49er Assistant is Pac-10's First Black Head Football Coach*, L.A. TIMES (Jan. 4, 1989), http://articles.latimes.com/1989-01-04/sports/sp-102_1_head-coach.

22. RICHARD LAPHICK ET AL., THE 2010–11 HIRING REPORT CARD FOR NCAA AND FCS HEAD COACHING, *available at* http://www.bcasports.org/images/pdf/bca_fb_hiring_final_11.20.2011.pdf.

23. *Id.* at 11.

24. Tokenism is the manifestation of inequality that follows absolute exclusion of minorities or women from opportunity. Tokenism is the rare and occasional presence of a minority—here the black football coach. Though the prior exclusion is often the result of explicit statements about the inferiority of the group from which the token hails, during tokenism the justification for virtual exclusion is the absence of a qualified pool (due to the complete exclusion of the past), and the unreviewability of decisions as to bias. In fact, regimes of tokenism are often accompanied by assertions of privilege of unreviewability due to the exceptional nature of the positions being filled. *See* ROSABETH MOSS KANTER, MEN AND WOMEN OF THE CORPORATION (2d ed. 1993); Linda S. Greene, *Twenty Years of Civil Rights: How Firm a Foundation?*, 37 RUTGERS L. REV. 707, 722 n.105 (1985) (noting there is “extensive evidence that intergroup perception and judgment are often irrationally distorted”); *see also* Linda S. Greene, *Tokens, Role Models, and Pedagogical Politics: Lamentations of an African American Female Law Professor*, 6 BERKELEY WOMEN’S L.J. 81 (1991). Other sources that address the stereotyping and cognitive changes which can result from tokenism include: GORDON W. ALLPORT, THE NATURE OF PREJUDICE (1958); David L. Hamilton, *Illusory Correlation as a Basis for Stereotyping*, in COGNITIVE PROCESSES IN STEREOTYPING AND INTERGROUP BEHAVIOR 115 (1981); HENRI TAJFEL, HUMAN GROUPS AND SOCIAL CATEGORIES (1981); David A. Wilder, *Perceiving Persons as a Group: Categorization and Intergroup Relations*, in COGNITIVE PROCESSES IN STEREOTYPING AND INTERGROUP BEHAVIOR 213 (1981).

25. JOHNNIE L. COCHRAN, JR. & CYRUS MEHRI, BLACK COACHES IN THE NATIONAL FOOTBALL LEAGUE: SUPERIOR PERFORMANCE, INFERIOR OPPORTUNITIES, at i (2002).

Perhaps the first comprehensive statistical study on the effect of race on the hiring of head coaches in the NFL dates back to 1980 and was prepared for the NFL Players Association by J. Braddock, then of John Hopkins University.²⁶ Braddock used NFL statistical information from the previous twenty years to create a model that ranked players on their qualifications, including race, to be an assistant coach, and found that race “appears to be an important determinant of a former professional football players opportunities to obtain a position as an assistant coach in the National Football League after his playing career has ended.”²⁷ Creating a similar model for the recruitment of head coaches, Braddock found that the most important factor in hiring a head coach was experience as an assistant coach, but that race “continues to act as a significant determinant of which players are chosen to become head coaches in the National Football League.”²⁸ Accordingly, Braddock associated the lack of black coaches in the NFL with racial discrimination, concluding, “race operates both directly and indirectly.”²⁹ He further explained, “blacks don’t become head coaches both because of their race and

26. JOMILLS HENRY BRADDOCK II, INSTITUTIONAL DISCRIMINATION: A STUDY OF MANAGERIAL RECRUITMENT IN PROFESSIONAL FOOTBALL (Sept. 1980) (unpublished report) (on file with the NFLPA). Gene Upshaw was then President and Ed Garvey, an attorney, was the Executive Director of the NFLPA. Upshaw and Garvey commissioned Braddock to determine whether “race is a significant factor in the movement of retired professional football players into managements positions.” *Id.* at 3. Braddock concluded:

Our findings suggest that race operates both directly and indirectly to the disadvantage of black players in limiting their chances for becoming NFL coaches. It appears to operate directly at both the assistant and head coach levels . . . [A] black player is significantly less likely to be selected for either a head or assistant coaching position in the National Football League . . . Because becoming an assistant coach appears to serve as the major springboard to becoming a head coach and because blacks are less likely to become assistant coaches, race thus operates indirectly to prevent black players from entering the queue from which head coaches are usually selected . . . Finally, we asked “if race had not been a factor in the selection process, how many blacks would one expect to find in assistant and head coach positions?” Using statistical techniques . . . we found that there has been four and one-half times fewer black assistant coaches than expected and zero black head coaches . . .

Id. at 51–53.

27. *Id.* at 41. The research model included four major independent variables—educational attainment, race, central (leadership) positional assignment, and professional achievements—to rank each player. The value of each variable for each player was determined by looking at the official statistics of the NFL. *See id.* at 33–39 (defining these variables).

28. *Id.* at 41, 43–44.

29. *Id.* at 52.

because they do not enter the queue from which head coaches are largely selected.”³⁰

A 2002 study commissioned by the late Johnnie Cochran Jr. and prominent employment discrimination lawyer Cyrus Mehri, conducted by Dr. Janice Madden,³¹ looked directly at the performance statistics of black head coaches in the NFL compared to those of white coaches.³² The study found that black coaches averaged 1.1 more wins per season; black coaches led their teams to the playoffs 67 percent of the time compared to 39 percent of the time for white coaches; black coaches averaged 2.7 more wins in their first season; and in their final seasons, terminated black coaches averaged 1.3 more wins than white coaches who were also terminated.³³ In order to assess the possibility that black coaches had simply inherited better performing teams than had whites, Dr. Madden also studied win-loss records of black and white coaches.³⁴ She found that black coaches increased the amount of wins on average compared to the previous coaches, and that after the black coaches had been terminated, the average wins for these teams dropped the following season.³⁵

Dr. Fitzgerald Hill, former head football coach of San Jose State, also studied the association of race with the selection of NCAA Division I-A football head coaches and found similarly disturbing statistics: “[s]ince 1982, there have been 381 head coaching vacancies at the Division I-A level; Black coaches have

30. *Id.* at 58. The report also stated that “[i]f recent trends are taken as valid indicators of blacks future prospects in the NFL, then, those prospects do not appear very bright.” *Id.* Additional studies conducted between 1997 and 2002 include: Fitzgerald Hill & John Murray Jr., *The Status of Blacks as Major Football Coaches*, 18 J. BLACKS HIGHER EDUC. 122 (1997); *Black Teams and White Coaches: Why African Americans are Increasingly Being Shut Out of College Coaching Positions*, 33 J. BLACKS HIGHER EDUC. 44 (2001); *The Dwindling Number of Black Head Coaches in Big Time College Football*, 38 J. BLACKS HIGHER EDUC. 50 (2002); NCAA MINORITY OPPORTUNITIES AND INTERESTS COMMITTEE: REPORT ON ETHNIC DIVERSITY OF FOOTBALL COACHING STAFFS TO THE FOOTBALL STUDY OVERSIGHT COMMITTEE (Aug. 2002) (on file with author) [hereinafter MOIC].

31. Dr. Madden is Professor of Urban Studies, Regional Science, Sociology, and Real Estate at the University of Pennsylvania. *Faculty & Research: Janice Fanning Madden*, UNIV. PA., <http://www.wharton.upenn.edu/faculty/maddenj.cfm> (last visited Nov. 15, 2011).

32. COCHRAN & MEHRI, *supra* note 25.

33. *Id.* at 2–4.

34. *Id.* at 5.

35. *Id.* While the report noted that there were too few black coaches to apply formal statistical analyses in some instances, it concluded that “[n]o matter how we look at success, black coaches are performing better. These data are consistent with blacks having to be better coaches than the whites in order to get a job as a head coach in the NFL.” *Id.* at 6.

been selected for 19 (4 percent) of the head coaching vacancies with 15 of the appointments occurring after 1990.”³⁶ He observed that the chances of blacks obtaining second opportunities to coach is negatively affected by the fact that black coaches are often hired to take over programs in a major rebuilding process, and the low winning percentages associated with this process “negatively influence the perception of the coaching potential of African-American coaches, consequently, more head coaching opportunities at traditional football powers remain elusive and black coaches continue to take jobs that may not look very promising on the surface.”³⁷ Dr. Hill concluded that the goal of more head coaching opportunities for blacks at the traditional football powers remain elusive, forcing blacks to take jobs at programs that do not promise positive win-loss records in the short term.³⁸ Dr. Hill also examined whether black and white coaches believed that racial bias accounted for the lack of black coaches.³⁹ He found that while the perception of racial bias was almost universal among black coaches, most white coaches did not believe any racial bias existed.⁴⁰ This disparity, Hill concludes, creates an atmosphere in which many university administrators refuse to even admit there is a problem.⁴¹

36. Fitzgerald Hill, *Shattering the Glass Ceiling: Blacks in Coaching*, 21 BLACK ISSUES HIGHER EDUC. 36, 36 (Apr. 8, 2004).

37. Fitzgerald Hill, *The Un-Affirmative Action Process of Employment Trends of African Americans as Head Football Coaches at NCAA D-1A Colleges and Universities* (2005) (unpublished materials accompanying lectures for The Institute of Diversity and Ethics in Sport and DeVos Sports Business Management Program of the University of Central Florida) (on file with the University of Central Florida); Fitzgerald Hill, *The Impact of Race as it Relates to Employment Opportunities for Collegiate Football Coaches*, in NEW GAME PLAN FOR COLLEGE SPORT 111 (Richard E. Lapchick ed., 2006); see also MOIC, *supra* note 30. In 2000, the NCAA Football Oversight Committee voted to assess the state of NCAA football and suggest changes necessary “for the long term viability of football on all levels.” *Id.* at I. The Football Oversight Committee asked the MOIC “to study the lack of minority head coaches, develop data and professional development training programs.” *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. Fitzgerald Hill, *Contrasting Perception of Employment Opportunities among Collegiate Football Coaches: “The Truth and the Consequences”* at A Symposium: *The Status of Minorities in Sports: Current Issues, Problems and Recommendations* (May 21, 2002) (on file with author). In this study, questions about the barriers and opportunities for African American football coaches were sent to all NCAA assistant and head football coaches. The questions identified fifty commonly perceived barriers African American coaches face in advancing to a head coaching position and asked the respondents to rank their personal perceptions of these barriers.

Another statistical study in the context of football coaching at both the NCAA Division I-A and NFL levels explored the claims of law and economics theorists that “racial disparities are temporary aberrations soon to be eliminated by market forces or due to systematic deficiencies in the minority workforce.”⁴² The authors set out to determine whether statistical analyses might attribute the low number of black football head coaches to promotional bias rather than differences in experience, hypothesizing that the complex hierarchical structure of football coaching leads decision-makers to use promotional biases in selecting candidates for head coaching positions.⁴³ The study concluded that economic forces do not prevent discrimination and promotional bias in the selection of blacks as head coaches in the complex hierarchical structure of football coaching.⁴⁴ They concluded that “[t]he added complexity of football makes it more difficult to identify the most capable candidate, thereby forcing decision-makers to rely on stereotypes and promotion bias. This greater reliance on promotion biases disadvantages black football head-coaching candidates.”⁴⁵

Ironically, Professor Braddock, who in 1982 pioneered the study of the role of race in NFL head football coach selection,⁴⁶ on February 9, 2012, published a more recent study that confirms his earlier findings. He concluded again that “African Americans

42. Robert E. Thomas & Bruce Louis Rich, *Under the Radar: The Resistance of Promotion Biases to Market Economic Forces*, 55 SYRACUSE L. REV. 301, 302 (2005).

43. *Id.* at 354. The study looked at head coaching data for professional and BCS football and basketball at the beginning of the 2003–2004 season. The paper attributed the higher percentage of black head coaches in basketball to the less complex coaching structure between the sports. In explaining the effect the complexity of a given sports organization has on minority hiring practices, Thomas and Rich state:

Our theory suggests that complexity is a critical variable in determining the impact of promotion biases on black employment selection. In highly complex organizations, decision-makers are more likely to rely on promotion biases to simplify the decision process. These biases typically favor white candidates at the expense of minority candidates. Therefore, we expect promotion biases to play a bigger role in football, whether BCS or NFL, than in basketball due to complexity differences. . . . [T]he data appears to support our hypothesis This result provides striking support for the theoretical implication that promotion biases have a much greater role in limiting minority advancement in complex organizations such as football.

Id.

44. *Id.* at 363.

45. *Id.* at 361–62 (“The combination of incomplete information, institutional features and promotion bias provide an effective barrier to the discrimination-destroying market mechanisms of economic theory.”).

46. See BRADDOCK, *supra* note 26.

face . . . structural barriers in attaining high level positions in the NFL . . . management hierarchy.”⁴⁷ His regression analysis demonstrated that race continues to limit African American’s opportunities to play central positions which in turn limits key coordinator opportunities.⁴⁸ The presence or absence of coordinator experience “influences opportunities to become a head coach.”⁴⁹ He characterized the structural barriers as a “glass wall”:

Such structural barriers preventing movement into the head coaching queue operate as a *glass wall*, which is a variant of the *glass ceiling*, whereby “obstacles to advancement designed to handicap members of the dominate group . . . [are erected by authorities who] tend to fill positions of power with people like themselves” [with the result] . . . that racialized forces embedded in the hiring/promotion process continue to block African American pathways to power in the NFL.⁵⁰

An effective equal opportunity initiative must address the effect of these biases. I turn next to the current responses to this legacy. I do so with an understanding that there are high economic and cultural stakes involved in any discussion of change in the institution of football, however patent the need.⁵¹

47. Jomills Braddock II, Eryka Smith & Marvin P. Dawkins, *Race and Pathways to Power in the National Football League* 1, AM. BEHAV. SCIENTIST (February 9, 2012), <http://abs.sagepub.com/content/early/2012/02/08/0002764211433802.full.pdf.html>.

48. *Id.* at 13.

49. *Id.*

50. *Id.* at 13–14 (citations omitted).

51. See, e.g., Vahe Gregorian, *Ohio State Problems Are Hot Topic at Big 12 Meetings*, ST. LOUIS POST-DISPATCH (June 1, 2011, 12:10 AM), http://www.stltoday.com/sports/college/mizzou/ohio-state-problems-are-hot-topic-at-big-meetings/article_f350ca5d-4fef-5ba1-8277-ac8e0b2c6629.html. The recent dustup over compliance at The Ohio State University involves President Gordon Gee, an extraordinary leader in higher education and among the most highly experienced and respected leaders in higher education. He was named in 2009 by *Time* magazine as one of the top ten university presidents in the United States. He served as the dean of the law school of West Virginia University prior to his service at Ohio State. He has served at Vanderbilt University (2001–2007), Brown University (1998–2000), Ohio State University (1990–1997), the University of Colorado (1985–1990), and West Virginia University (1981–1985). Office of the President: Biography, OHIO STATE UNIV., <http://president.osu.edu/bio.php> (last visited Jul. 14, 2011); David Von Drehle, *The Big Man on Campus*, TIME.COM (Nov. 11, 2009), http://www.time.com/time/specials/packages/article/0,28804,1937938_1937934,00.html.

IV. FUNDAMENTAL CHANGE?

In this section I briefly address the various responses to the history of exclusion of minorities from the ranks of significant head coaching positions. They include the production of report or score cards,⁵² the “Rooney Rule” that mandates that NFL franchises interview at least one minority candidate for each opening,⁵³ and the NCAA’s hands-off “individual institution approach.”⁵⁴ I conclude that the report cards do contribute to greater awareness about the degree of apartheid that remains in professional and collegiate football, calling attention to the question of whether change is afoot. The Rooney Rule has had an effect because it required the consideration of black coaches as candidates. Although its processes are not public, the Rule forces a degree of accountability and transparency among franchise owners.⁵⁵ Finally, the NCAA has thus far failed to pursue an association-wide initiative to repudiate and forbid secret processes devoid of equity. I discuss and evaluate these approaches below.⁵⁶

V. SCORECARDS

The Black Coaches Association (“BCA”),⁵⁷ with Richard Lapchick,⁵⁸ developed a scorecard system to report on progress in

52. See LAPCHICK ET AL., *supra* note 15.

53. See N. Jeremi Duru, *The Fritz Pollard Alliance, the Rooney Rule, and the Quest to “Level the Playing Field” in the National Football League*, 7 VA. SPORTS & ENT. L. J. 179, 180 (2007).

54. *Minority Head Football Coaches*, NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, <http://www.ncaa.org/wps/wcm/connect/public/NCAA/Issues/Diversity+and+Inclusion/Minority+Head+Football+Coaches> (last visited Nov. 26, 2011).

55. See Duru, *supra* note 53, at 196–97.

56. I have not discussed the development of “pipeline programs” such as coaching development programs. In 2003, the NCAA Division I Board of Directors established a coaching academy “to assist ethnic minority and women coaches with career advancement through skills enhancement, networking and exposure opportunities” The Advanced Coaching Program focused on football. See Memo, NCAA Coaches Academy, Working Copy (on file with author); see also 2008 Minority Coaches Forum Agenda, May 6–7, 2008 (featuring Barry Alvarez, Athletic Director, University of Wisconsin-Madison) (on file with author).

57. *About the Black Coaches & Administrators*, BCASPORTS.ORG, http://www.bcasports.org/index.php?option=com_content&view=article&id=49&Itemid=172 (last visited Nov. 26, 2011).

58. Dr. Richard Lapchick is the Founder and Director of The Institute for Diversity and Ethics in Sports, Chair of the DeVos Sport Business Management Program at the University of Central Florida, and President of the National Consortium for Academics and Sport. Dr. Richard Lapchick, NAT’L CONSORTIUM FOR ACADEMICS & SPORTS,

the hiring of minority football coaches, among other categories of sport occupations.⁵⁹ To date, the BCA and Lapchick have produced eight score cards, all of which have addressed minority football coach hiring in the NCAA FBS and the NFL.⁶⁰ Not only do the scorecards call attention to the hiring decisions, they provide a comprehensive historical record of that hiring.⁶¹

There is probably some merit to the claim that the maintenance of the scorecard has a positive effect on hiring practices.⁶² The report provides a record of those decisions and thus opens the results of the hiring processes to national scrutiny.⁶³ Furthermore, the reports grade schools on the quality of their hiring processes, including documented compliance with existing personnel procedures and policies as well as the duration of the search which increases the institutions likelihood to develop a diverse pool prior to a hire.⁶⁴ That record may ultimately form the foundation for an argument that only an NCAA association-wide intervention will establish a norm of equal opportunity in the hiring of head football coaches. In addition, information gathered about hires and potential candidates creates a real resource for institutions and NFL teams that decide to engage in active succession planning by identifying and monitoring the records of potential head coaches. It is a worthy effort.

<http://ncasports.org/dr-richard-lapchick/> (last visited Nov. 26, 2011); see also *About the Directors*, THE INST. FOR DIVERSITY & ETHICS IN SPORT, <http://www.tidesport.org/aboutdirectors.html> (last visited Nov. 26, 2011).

59. See LAPCHICK ET AL., *supra* note 15.

60. *Who We Are and What We Do*, THE INST. FOR DIVERSITY & ETHICS IN SPORT, <http://www.tidesport.org/> (last visited Nov. 26, 2011). It characterizes itself “as a comprehensive resource for issues related to gender and race in amateur, collegiate and professional sports.” *Id.* One of its major endeavors is the production of reports on minority and gender hiring in collegiate and professional sport, including the NFL. *Id.*

61. See LAPCHICK ET AL., *supra* note 15.

62. *DeVos Sport Business Management, 2011 Articles*, UNIV. OF CENT. FLA. COLL. OF BUS. ADMIN., <http://www.bus.ucf.edu/sportbusiness/articles.aspx?id=215> (last visited Nov. 26, 2011) (scroll down the page and click on the “College diversity figures improve; areas of concern remain” link).

63. *Id.*

64. See C. Keith, *The Big Game in Sport Management and Higher Education: The Hiring Practices of Division I-A and I-AA Head Football Coaches I* (2007) (on file with author).

VI. THE ROONEY RULE AND THE NFL⁶⁵

Since 2003, the dialogue about the dearth of black head football coaches in the NFL has continued against the background of the Rooney Rule, an agreement among the NFL owners that they will each interview at least one black individual for each head coaching vacancy or face financial sanctions.⁶⁶ The NFL adopted the rule after an organization of sports activists—The Fritz Pollard Alliance, named after the first black NFL quarterback—and their lawyers threatened employment discrimination litigation over head football coach selection decisions if the NFL would not discuss a remedy.⁶⁷ One of the lawyers firing this figurative shot over the bow of the NFL's New York headquarters was the late Johnnie Cochran, who had made a reputation as a formidable civil rights lawyer who litigated impossibly tough cases, long before his representation of O.J. Simpson occupied our days and nights, and launched numerous media careers including those of Star Jones and Greta Van Susteren.⁶⁸ This was the Johnnie Cochran who cut his legal teeth by filing—and winning—police brutality cases against the Los Angeles Police Department.⁶⁹ Cochran teamed up with Cyrus Mehri, who had won multimillion-dollar employment and race discrimination verdicts against both Texaco and Coca-Cola.⁷⁰ Though certain NFL leaders give short shrift to the idea

65. For a more complete story of the circumstances that led to the Rooney Rule, see Duru, *supra* note 53; N. JEREMI DURU, *ADVANCING THE BALL: RACE, REFORMATION, AND THE QUEST FOR EQUAL COACHING OPPORTUNITY IN THE NFL* (2010).

66. The Commissioner's Policy Statement on Equal Employment and Workplace Diversity provided that violations of the policy would be "treated as 'conduct detrimental'" to the NFL within the NFL "Constitution and Bylaws and subject to discipline by the Commissioner." See Memorandum from Commissioner Tagliabue on Policy Statement on Equal Employment and Workplace Diversity to Chief Executives, Club Presidents, General Managers, and Head Coaches 2 (Dec. 1, 2003) (on file with author).

67. Interview with John Wooten, Chairman, Fritz Pollard Alliance (Feb. 16, 2006).

68. Johnnie Cochran's legend began when he filed a 1965 police brutality case against police officers who shot Deadwyler dead as he explained that he was rushing his pregnant wife to the hospital to deliver their baby. He represented white individuals too, such as Reginald Denny, who was beaten by a mob angry over the acquittal of police officers involved in the beating of Rodney King. See JOHNNIE COCHRAN, *A LAWYER'S LIFE* (2002); MSNBC.COM, *Defense Superstar Johnnie Cochran Dead at 67*, MSNBC.COM, <http://www.msnbc.msn.com/id/7330234/Defense>, (Mar. 30, 2005); *Some High-Profile Clients of Johnnie Cochran*, PARATROOPER.NET, Mar. 29, 2005, available at <http://www.paratrooper.net/commo/PrintTopic163560.aspx>.

69. COCHRAN, *supra* note 68, at 81. Celebrity clients were among 5,000 admirers saying farewell to the Los Angeles attorney who fought for civil rights and police reform. Carla Hall, *An A-List Turnout Does Cochran Justice*, L.A. TIMES (April 7, 2005); *Famed Attorney Johnnie L. Cochran Jr. Dies 1937–2005*, JET, Apr. 18, 2005, at 4.

70. See Brian W. Collins, *Tackling Unconscious Bias in Hiring Practices: The Plight of the*

that they were vulnerable to legal action,⁷¹ another perspective is that they may have been reluctant to trade verbal quips with Cochran of “if the glove doesn’t fit you must acquit” fame.⁷² There was also the possibility of intrusive discovery in the context of a civil lawsuit. Despite these divergent recollections about NFL motivation, the NFL did adopt some new rules applicable to coach selection processes.

After negotiation, the NFL created the Workplace Diversity Committee, chaired by Dan Rooney, part owner of the Pittsburgh Steelers, and agreed that owners would interview at least one or more minority candidates for vacant head coaching positions or pay a fine.⁷³ The fact that one fine was levied when the Detroit Lions hired Steve Mariucci,⁷⁴ and that three new black individuals became head coaches by the end of 2004, led some to hope that significant change might be possible.⁷⁵ Now, a total of fifteen black

Rooney Rule, 82 N.Y.U. L. REV. 870 (2007) (discussing the Cochran-Mehri analysis).

71. See *Outside the Lines: Minority Report*, *supra* note 5. When asked whether the owners felt threatened by the possibility of the lawsuit, Bill Polian, President of the Indianapolis Colts responded:

I really can't speak to that . . . I don't think that the threat of the lawsuit moved people . . . The fact that Mr. Mehri and Mr. Cochran and Kellen and others *highlighted* it certainly helped. But I don't think anybody was worried about the threat of a lawsuit. What they're worried about is doing the right thing.

Id.

72. *Transcript of Closing Argument of Johnnie Cochran (Excerpts)*, available at <http://law2.umkc.edu/faculty/projects/ftrials/Simpson/cochranclose.html> (last visited Nov. 23, 2011); see also COCHRAN, *supra* note 68; *Famed Attorney Johnnie Cochran Dies, 1937-2005*, *supra* note 69, at 6.

73. *Lions' Millen Fined \$200K for Not Interviewing Minority Candidates*, CBSSPORTS.COM (July 25, 2003), <http://www.cbssports.com/nfl/story/6498949>. The interview requirement garnered the most media attention, but there are other important provisions governing hiring processes, job descriptions, and assistant coach hiring. See *id.*

74. *NFL Levies Fine Over "Rooney Rule"*, THE AFR. AM. REGISTRY (July 25, 2003), http://www.aaregistry.org/historic_events/view/nfl-levies-fine-over-rooney-rule.

75. See Leonard Shapiro & Mark Maske, *NFL Improves in Minority Hiring*, WASH. POST, Jan. 29, 2005, at D03, available at <http://www.washingtonpost.com/wp-dyn/articles/A45617-2005Jan28.html>. “After the Rooney Rule was adopted, the lawyers also helped form the Fritz Pollard Alliance, an organization with a mission of adding minority coaches and front-office personnel at all levels of the game.” *Id.* Speaking about the Alliance, John Wooten, “chairman of the Pollard Alliance and a longtime team executive and former Pro Bowl offensive lineman” said:

We think that [the Rooney Rule] has been outstanding. The thing we set out to accomplish with it, we think we're doing it. . . . Everything is going to have a hitch here and there. But the clubs are very conscious of how the procedure should work, and I think they're committed to giving an open opportunity and selecting the best person.

Id.

individuals have served as full-time head coaches in the NFL, with only two attributable to the pre-Rooney Rule era.⁷⁶

In 2011, Dr. Janice Madden updated her 2002 study looking at performance statistics of black head coaches in the NFL compared to those of white coaches.⁷⁷ She found that, from 2003 when the Rooney Rule was implemented, through 2009, the black head coach performance advantage had been eliminated.⁷⁸ After controlling for team payroll as an index of team quality, Dr. Madden found post-Rooney black coaches were performing at levels similar to white coaches.⁷⁹ Similarly, when measuring team quality by the *Sports Illustrated* pre-season team rankings, she found no racial differences in either the win records or the odds of making the playoffs.⁸⁰ Post-Rooney Rule, black coaches were no longer outperforming their white counterparts during their first year of coaching;⁸¹ there was no longer a difference in playoff wins by race, and both black and white coaches who made it to the playoffs averaged 0.9 wins.⁸² Additionally, whereas in the pre-Rooney period black coaches were more likely to be fired based on performance, post-Rooney Rule, Dr. Madden found black coaches were insignificantly less likely to be fired.⁸³

Based on this data, Dr. Madden concluded for the time period since the implementation of the Rooney Rule, black head coach candidates no longer needed to be better coaches than their white counterparts in order to be hired.⁸⁴

The Rooney Rule appears to have made a difference. Unless NFL owners know black coaches from their own organizations, or interview those they do not know, they cannot hire them. Thus, the Rooney rule might be viewed as a but-for cause of the diversification of NFL coaching ranks.

However, a rule requiring that franchises interview one or more minority persons may also be a form of discrimination against other minority applicants—an institutionalization of tokenism, if in fact one interview is sufficient to satisfy the pool

76. See footnote 19 for a full listing of these coaches.

77. Janice F. Madden & Matthew Ruther, *Has the NFL's Rooney Rule Efforts "Leveled the Field" for African American Head Coach Candidates?*, 12 J. OF SPORTS ECON. 127 (2012).

78. *Id.* at 129.

79. *Id.* at 131.

80. *Id.* at 131–32.

81. *Id.*

82. *Id.* at 134.

83. *Id.* at 133.

84. *Id.* at 129.

diversification policy. There would be a perverse irony in a system in which only one minority may be interviewed—analogue to a glass ceiling with a small crack through which one candidate may crawl for an audience, pushing the ladder back after entry. The interviewing guidelines associated with the policy ask that “clubs make certain that they identify a deep and diverse—by many different criteria—pool of head coaching candidates.”⁸⁵ Although the rule has been criticized as little more than a window dressing,⁸⁶ I would not dismiss the effort with such a salvo. It does exhibit a rejection of a discourse of privilege to the extent that owners have agreed to be accountable to each other.

It is also difficult to assess whether the Rooney Rule is the proximate cause of a measure of head football coach diversity or whether other explanations, such as membership in powerful coaching families, provide a more salient explanation. It seems unlikely that owners of franchises valued over half a billion dollars would put their businesses in the hands of individuals whom owners came to know in a single interview. Anecdotal evidence suggests that high-level experience in the hiring organization or in another highly respected organization with a similar strategic approach is a prerequisite to a serious bid for a head coaching position in the NFL.⁸⁷ The Rooney Rule is a necessary step in the direction of repudiating a discourse of privilege in head coach hiring, if only within the league itself.

VII. NCAA REFUSES TO ESTABLISH AN “EDDIE ROBINSON RULE” FOR DIVISION I

Emboldened by its success in establishing a dialogue with the NFL, the Fritz Pollard Alliance turned next to the NCAA to request the adoption of a Rooney-like rule dubbed “The Eddie Robinson Rule.”⁸⁸ After some informal dialogue, the effort took a formal turn with a November 8, 2006 letter on behalf of the Fritz

85. See Memorandum from Workplace Diversity Committee on Proposed Interview Guidelines to Chief Executives and Club Presidents (Dec. 1, 2003) (on file with author).

86. See, e.g., Robert Denton, *NFL’s “Rooney Rule” Is an Embarrassment to Black Coaches*, BLEACHER REPORT (Jan. 9, 2010), <http://bleacherreport.com/articles/322718-nfls-rooney-rule-is-an-embarrassment-to-black-coaches>.

87. See, e.g., *Oakland Raiders Name Hue Jackson Head Coach*, RAIDERS (Jan. 18, 2011), <http://www.raiders.com/news/article-1/Oakland-Raiders-Name-Hue-Jackson-Head-Coach/98aa442b-8972-4bce-aa87-9db3be9b78a0>.

88. Letter from Cyrus Mehri & N. Jeremi Duru to NCAA (Nov. 8, 2006) (on file with author).

Pollard Alliance from attorneys Cyrus Mehri and N. Jeremi Duru to members of the NCAA Executive Committee of University Presidents.⁸⁹ In that cordial letter, Mehri and Duri advocated—as a best practice—the development of a diverse candidate slate, announcing that it would send the NCAA Executive Committee of University Presidents a letter urging that they assure diverse candidate slates for interviews when selecting head football coaches.⁹⁰ The letter praised Dr. Myles Brand’s support for “inclusivity and diversity” but also noted that the number of black head coaches did not reflect the verbal commitment to diversity.⁹¹ In closing, the Fritz Pollard Alliance offered, “to assist in any way it can.”⁹²

In his response, Dr. Brand noted that he supported the policy of diverse candidate slates, but he stated that the NCAA had no power to impose such a rule on its members. Brand noted his own “concern regarding the current status of hiring practices for head football coaches.”⁹³ He wrote that “[i]t is inexcusable that there are so few racial/ethnic head coaches in NCAA football.”⁹⁴ He reminded Mehri and Duri of the many programs adopted to “specifically address the critical underrepresentation of African-American head football coaches,” including the establishment of an Office of Diversity and Inclusion to work on “a comprehensive strategic planning initiative . . . for moving racial or ethnic minorities and women into full representation in both coaching and administrative ranks.”⁹⁵ He also noted his support for reporting initiatives designed to evaluate NCAA institution hiring practices.⁹⁶

However, Dr. Brand argued that differences between the NCAA and the NFL prevented the adoption of an interview policy, stating:

[M]ost significant, the NFL is a major sports league comprised of franchises that enjoy a geographical monopoly in a particular location.

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.*

93. Letter from Dr. Myles Brand, President, NCAA, to Cyrus Mehri & N. Jeremi Duru (Nov. 14, 2006) (on file with author).

94. *Id.*

95. *Id.*

96. *Id.*

On the other hand, NCAA intercollegiate athletics are wholly embedded in our member colleges and universities. Accordingly, intrinsic values within higher education, such as institutional autonomy, are also incorporated into college sports. That is why the implementation of mandatory head coaching interviews that require diverse candidate slates for NCAA members institutions is not appropriate for the college environment.⁹⁷ He suggested, “athletic departments should use institutional hiring policies and practices which have improved the results of diversity within the ranks of faculty and administration.”⁹⁸

It is difficult to understand the rationale for a hands-off position vis-à-vis institutions of higher education that make up the NCAA. The NCAA is involved in intercollegiate sports at every level.⁹⁹ Its President and Executive Committee are among the most significant leaders in higher education. Its athletic competitions, such as the NCAA Basketball Championship, require the coordination of minute details and significant cooperation with models of orchestration and production leadership, and it regulates every detail of all sport competition in a manual that runs to 400 pages.¹⁰⁰ Of course, it might be inappropriate for the NCAA to become directly involved in hiring decisions, yet it does control nearly every other detail of sports competition for those schools within its purview. And the assumption that coaching

97. *Id*; see also Letter from Cyrus Mehri & N. Jeremi Duri, *supra* note 88. Brand did not explain the differences between the institutional autonomy implications of mandatory minority inclusion in interviews and other aspects of the detailed regulation of every facet of sport competition, including squad size, academic eligibility, available scholarships, and bowl competition rules. Moreover, the NCAA Constitution does require it. See Letter from Dr. Myles Brand, *supra* note 93.

98. Interestingly, at that time, none of the 119 Football Bowl Divisions had black presidents. In FBS in 2007, 93.3 percent of the presidents, 86.7 percent of the Athletic Directors, 93.5 percent of the faculty athletic representatives, 100 percent of the conference commissioners, and 83.3 percent of the faculty were white, 3.5 percent of the faculty were African American, and 3.1 percent were Latino. RICHARD LAPCHICK ET. AL., THE 2006–07 RACIAL AND GENDER REPORT CARD: COLLEGE SPORT 3 (May 2, 2008), available at http://www.bus.ucf.edu/documents/sport/20062007_racial_and_gender_report_card_college_sports.pdf.

99. See *NCAA History*, NCAA, <http://ncaa.org/wps/wcm/connect/public/ncaa/about+the+ncaa/who+we+are/about+the+ncaa+history> (last visited Nov. 28, 2011).

100. See 2011–12 NCAA DIVISION I MANUAL (2011), available at <http://www.ncaa.com/publications/productdownloads/D112.pdf>.

ranks will become more diverse if institutions apply the same hiring policies and practices they use for faculty and administration is entirely unsupported. There are only seven minority presidents in the 120-member Football Bowl Conference Subdivision.¹⁰¹ And although the number of minority faculty has indeed increased, their numbers remain low, especially in prestigious institutions.¹⁰² The same local institutional policies have produced few athletic directors as well.¹⁰³ Unfortunately, Dr. Brand died recently.¹⁰⁴ Although he did not ignore the deplorable hiring record of NCAA institutions and supported programs that promoted diversity, he did not publicly advocate for structural change to ensure fairness in connection with the most significant employment decision NCAA members make.¹⁰⁵

It may also be possible that antitrust issues might arise if the NCAA were to impose nondiscrimination or pool diversity requirements on NCAA member institutions. The decision of *NCAA v. Board of Regents of the University of Oklahoma*,¹⁰⁶ in which the Supreme Court concluded that NCAA limitations on appearances by member football teams violated the Sherman and Clayton Antitrust Acts, has led to an argument that an effort by the NCAA to legislate or influence fair hiring practices might be the sort of anticompetitive activity that would trigger member lawsuits against the organization.¹⁰⁷ But, it is difficult to compare

101. In 2010, there were five African American, two Latino, and two Asian American coaches in the FBS. See RICHARD LAPCHICK, ET AL., THE 2010 RACIAL AND GENDER REPORT CARD 3 (2010), available at <http://www.bus.ucf.edu/documents/sport/2010-college-rgrc.pdf>. Greg Williams is president of the University of Cincinnati, appointed in 2009. *Biography*, UNIV. CINCINNATI OFFICE OF THE PRESIDENT, <http://www.uc.edu/president/biography.html>. Wallace Loh is president of the University of Maryland, appointed in 2010. *Wallace D. Loh Appointed President of University of Maryland*, UMB NEWSDESK (Aug. 17, 2010), <http://newsdesk.umd.edu/universitynews/release.cfm?ArticleID=2213>.

102. Audrey Williams June, *Pipeline to College Presidencies Carries Few Members of Minority Groups*, CHRONICLE OF HIGHER EDUC. (Feb. 8, 2008), <http://chronicle.com/article/Pipeline-to-College/481/>.

103. LAPCHICK ET AL., *supra* note 17.

104. Richard Goldstein, *Myles Brand, N.C.A.A. President, Dies at 67*, N.Y. TIMES (Sept. 16, 2009), <http://www.nytimes.com/2009/09/17/sports/17brand.html>.

105. *But see Myles Brand: A Legacy of Leadership*, NCAA, <http://www.ncaa.org/wps/wcm/connect/public/NCAA/About+the+NCAA/Who+We+Are/Myles+Brand+Legacy/Legacy+of+Leadership/Myles+Brand+A+Legacy+of+Leadership> (last visited July 13, 2011) (praising Brand's commitment to diversity).

106. Nat'l Coll. Athletic Ass'n v. Bd. of Regents of the Univ. of Okla., 468 U.S. 85 (1984).

107. See Richard J. Hunt Jr. & Ann Mayo, *Issues in Antitrust, the NCAA, Sports Management*, 10 MARQ. SPORTS L. REV. 69, 80 (noting the difficulty of drawing a line through the NCAA's regulation of "competition," which is ordinarily exempt from antitrust scrutiny, and the regulation of "commerce," to which antitrust strictures are

economic anticompetitive activity such as restraint on television rights found unlawful in *NCAA v. Oklahoma*, the restriction on salaries paid to graduate assistants found unlawful in *Law v. NCAA*,¹⁰⁸ or the dispute over the total appropriation of post-student athlete publicity rights at issue in *O'Bannon v. NCAA*¹⁰⁹—quintessentially commercial restraints—with an NCAA effort to ensure institutions adhere to open, transparent, and lawful selection processes in connection with head football coaches, a “traditionally segregated job category.”¹¹⁰

The newest NCAA President, Mark Emmert, has expressed his support for NCAA-wide initiatives that promote diversity.¹¹¹ Though he eliminated the position of an NCAA Vice President for Diversity, he delegated the responsibility for diversity and inclusion initiatives to a senior vice president.¹¹² The NCAA still maintains that it cannot impose a Rooney-like rule on its institutions.¹¹³

The question is not whether the NCAA may or should impose a *Robinson Rule* on its institutions. Rather, the question is whether an association with the power and will to micromanage significant university operations will vote to embrace a requirement of fairness and openness in the selection of coaches, especially head football coaches. Meanwhile, those presidents who have broken the football sideline barrier must be commended. Perhaps they will share their commitment to equal opportunity on the sidelines with colleagues who have not yet torn down this wall.

applicable).

108. *Law v. Nat'l Coll. Athletic Ass'n*, 134 F.3d 1010 (10th Cir. 1998).

109. Mark Alesia, *3 Lawsuits May Change How the NCAA Operates*, INDIANAPOLIS STAR, http://www.usatoday.com/sports/college/2009-07-26-ncaa-lawsuits_N.htm (last updated July 26, 2009); Marlen Garvia, *Judge Approves Ex-UCLA Star Ed O'Bannon's Lawsuit Against NCAA*, USA TODAY, http://www.usatoday.com/sports/college/2010-02-08-judge-approves-ncaa-suit_N.htm (last updated Feb. 9, 2010); *The Antitrust Suit That Scares the Hell Out of the NCAA . . .*, BARKING CARNIVAL.COM (Jan. 16, 2012), <http://www.barkingcarnival.com/2012/01/16/the-antitrust-suit-that-scars-the-hell-out-of-the-ncaa/>.

110. *Steelworkers v. Weber*, 443 U.S. 193, 197 (1979).

111. Gary Brown, *New Structure Enhances Inclusion Effort*, NCAA (Oct. 18, 2010), <http://www.ncaa.org/wps/wcm/connect/public/NCAA/Resources/Latest+News/2010+news+stories/October/New+structure+enhances+inclusion+effort>.

112. *Id.*

113. *Minority Football Coaches*, NCAA, <http://www.ncaa.org/wps/wcm/connect/public/NCAA/Issues/Diversity+and+Inclusion/Minority+Head+Football+Coaches> (last visited July 13, 2011).

VIII. THE DIVISION I ATHLETIC DIRECTORS' POLICY

It is interesting to note that the Division I-A Athletic Directors chose to reaffirm their commitment to ethical procedures by acknowledging that “acceptable standards start with the Division I-A athletic directors policy.”¹¹⁴ The objective is to

114. *Standards & Practices*, ATHLETIC DIRECTORS' ASSOC., <http://www.d-1a.com/standards-practices.htm> (last visited July 13, 2011) (on dropdown menu under “Standards and Practices” scroll down to “Minority Football Coach Hiring Practices.”) [hereinafter *Division I-A Athletic Directors*]. The policy recommends a form of succession planning. The policy states:

The development of the diverse group of candidates should be an on-going procedure during the normal course of business throughout the year, and in particular, at times other than when an actual search is underway. This on-going procedure should enable the Athletic Directors to identify a more diverse group of candidates, well in advance of when a search is necessary. Athletic Directors are encouraged to develop a list of potential candidates, to specifically include minority candidates, which will enhance the efficiency of a search process, but will also give the Athletics Director more time to personally become better acquainted with those coaches identified as potential candidates, before an actual search is necessary.

Further, the Association offers opportunities to assist and support each Athletics Director through initiatives that will focus on creating a diverse candidate pool:

1. Identification of potential head coach candidates
2. Educational/training of candidates
3. Relationship development with candidates
4. Collaboration with other organizations such as the NCAA, BCAA, NFL and others

Search Firms

When executive search agencies are used during the hiring process, it is imperative the institution and the Athletic Director retain the prerogative to direct the activities of the search agency to adhere to institutional hiring practices and to mandate consideration of all candidates identified by the institution as potential candidates. Further, the Athletic Director should give consideration to a firm's history of inclusion with respect to minority candidates when selecting an agency or consultant.

Formal Interviews

Athletics Directors interviewing candidates for head football coaching positions should include, one or more minority candidates for that position, resulting in a formal interview opportunity. It is prudent to hire from a broad, diverse, and growing group of candidates, and to support equal opportunity and fair hiring practices throughout the hiring process. This is not only the position of the Association, but most likely in alignment with the hiring policies of the institution.

Key items to consider during the search/hiring process that are customarily included in institutional hiring policies:

1. Prior to beginning the interview access, in order to clearly articulate the job expectations

conduct a fair and open search that will identify minority candidates and ensure that decisions are made based on the merits of those candidates rather than subjective conclusions about their potential to head a football program.¹¹⁵ The policy recommends the ongoing development of a pool of candidates who might succeed a current coach. In effect, the policy is a form of succession planning and recommends that athletic directors get to know those candidates before a search is necessary.¹¹⁶ The policy also suggests the use of search firms with excellent diverse candidate-identification track records, as well as collaboration with those who are likely to know potential candidates such as minority coach organizations and the NFL.¹¹⁷ Moreover, the guidelines suggest that hires be made from a “broad, diverse, and growing group of candidates” in order to ensure equal “opportunity and fair hiring practices.”¹¹⁸ The goal is to “[c]reate an optimally

for potential candidates, draft a job description that clearly and fully defines the role of the head coach;

2. Review the current information obtained by your on-going efforts throughout the year to identify potential candidates;
3. Conduct outreach efforts to organizations (e.g. use of NCAA / DIA Association / NFL / BCAA resources) to obtain resume and reference information;
4. Create an optimally comprehensive group of candidates, making certain, your group of candidates is diverse and minority inclusive;
5. Preparation of a “search timeline” that sets forth key decisions and dates leading up to the actual selection of a new coach. It is clear, the athletics director must maintain flexibility during a search process, while operating in accordance with institutional prerogatives, so the “search timeline” will be specific to the circumstances.
6. Records should be kept that describe the administration of the search process, as well as the details pertaining to each actual interview. The actual interview may be conducted in a location that is convenient for all involved, and does not have to occur on campus.

Id.; see also Steve Weiberg, *Minority-Hiring Policy Stiffens for Major Football Programs*, USA TODAY, http://www.usatoday.com/sports/college/football/2008-01-15-minorityhiring_n.htm (last updated Jan. 16, 2008) (outlining the changes the policy puts in place).

115. See *Division I-A Athletic Directors*, *supra* note 114.

116. *Id.*

117. *Id.*

118. Mark Maske, *Diversity Rule Goes to College: I-A Football Adopts NFL Hiring Practice*, WASH. POST, Feb. 8, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/>

comprehensive group of candidates . . . diverse and minority inclusive.”¹¹⁹ In addition to a timeline, the guidelines recommend that the institution keep records of the administration of the search process.¹²⁰

According to Dutch Baughman, the guidelines were an effort to frame the obligation to conduct a fair and open hiring process as a matter of professional ethics for athletic department professionals.¹²¹ They were developed in a fifteen-month process of dialogue that included Dr. Myles Brand, the Fritz Pollard Alliance, the BCA, and the Athletic Directors Association leadership, among others.¹²² It was an effort move from a situation in which a significant issue of equal opportunity was simply not discussed, to one in which athletic directors would make a strong statement about how they would like to “handle their business.”¹²³

Of all the efforts, the recommendations of the Division I Athletic Directors promise the possibility of a rejection of a discourse of privilege in the context of head football coach hiring. On paper, the key feature is an effort to ensure equal opportunity for qualified candidates through aggressive efforts to identify a maximally diverse pool of candidates.¹²⁴ The athletic directors’ recommendations acknowledge the significant responsibility a new football coach must undertake and advocate the succession planning that would lead the athletic director and the institution to name a black individual or other minority as the leader of a football program.¹²⁵ Yet there remain numerous examples of hiring processes that appear either preordained or so extraordinarily brief that it seems implausible that an institution considered a diverse pool of candidates. The recommendations are promising, but they are no substitute for presidential and faculty involvement in the selection of the most lucratively compensated and publicly visible leader on campus.¹²⁶ It is clear

article/2008/02/07/AR2008020704232.html.

119. *Division I-A Athletic Directors*, *supra* note 114.

120. *Id.*

121. Telephone Interview with Dutch Baughman, Executive Director, Division I Athletic Directors (Apr. 15, 2008).

122. *Id.*

123. *Id.*

124. *Id.*

125. *Id.*

126. If the recent Penn State University scandal teaches anything, it is the lesson that institutional control must not be an empty fiction that permits a football program or its leadership to operate outside of the bounds of legality and morality. The NCAA ought to require or strongly recommend that presidents appoint a search committee including

that much more is involved in leading a football program than wins-and-loss records, or the Xs and Os. To the extent that an institution wishes to exhibit a substantive commitment to the academic and moral development of athletes, as well as equal opportunity, due diligence in a two- or three-day compressed hiring window is unlikely to ensure that a potential hire is an outstanding technical coach, a teacher and a moral exemplar, and committed to equal employment opportunity.

CONCLUSION: THE INSTITUTIONALIZATION OF ACCESS
TO HEAD FOOTBALL COACHING POSITIONS

In this Article I examined the current efforts to increase the ranks of black head coaches, including scorecards, the NFL's Rooney Rule, the NCAA *laissez faire* approach, and the Division I Athletic Directors' Guidelines that prize preparation for diverse succession options. I concluded that all of these approaches vary in their efficacy and their willingness to confront the existence of a discourse of privilege in the football head coach hiring phenomenon. I conclude that the NCAA must abandon its "hands-off" approach and impose minimal standards for fair hiring processes, processes in which presidents hire football coaches from maximally diverse candidate pools. The NFL Rooney Rule has led to an increased number of black head football coaches, but falls short of public accountability and may be flawed if it partakes of a quota that invites charade and tokenism. In both institutions it is necessary to treat the selection of a head coach as a rare opportunity for an eligible cohort to compete for a significant position of leadership in a preeminent institution and well as in the society at large.

The Division I Athletics Director's succession plan model is promising. It is consistent with the reality that head football coaches in the FBS and the NFL oversee significant human and material resources and manage crucial relationships in their institutions and the larger community. However, succession

faculty members—some of whom should be independent of the faculty athletic board—to recommend finalists to the president. This process would place the accountability for such an important post where it belongs, in the office of the chief executive officer of the institution. The president should charge the committee to recommend a maximally diverse pool of candidates who have also demonstrated a commitment to hiring minorities in key coaching positions. An athletic director who has emphasized racial diversity in her football head coach succession planning would be an invaluable resource in the development of such a pool.

planning must be taken a step further. Football is a family culture in which relationships and trust are as important as technical knowledge.¹²⁷ If relationships and recommendations from power football families—such as those of Nick Saban,¹²⁸ Bill Walsh,¹²⁹ Dennis Green,¹³⁰ Tony Dungy,¹³¹ Mike Holmgren,¹³² or Marty Schottenheimer¹³³—and their emerging successors—are the currency of head coaching opportunity, then current head coaches must be charged to hire, develop, and prepare a racially diverse staff for coaching positions of increased responsibility, including head coaching opportunities. This approach would draw on the strength and cohesiveness of football culture as well as its existing deep commitment to the development of the next generation of leadership in the sport. This approach would validate some of the cultural specificities of football, such as its hierarchical family, its unit cohesion military analogues, and its command-and-control structure. But the approach calls for an institutional break with the past of racial hierarchy and the exclusion of all but the exceptional black man from a most-powerful role. The approach would also normalize football, institutional and public acceptance of a diverse leadership in a most significant societal institution.

Several people have reflected on the power and privilege that blocks the upward mobility of blacks to the highest levels of power and responsibility in sport. William Rhoden has spoken of the “granite ceiling” that crushes the heads of blacks if they stand

127. See, e.g., Brad Oremland, *The NFL Coaching Tree 2008 (Pt. 1)*, SPORTS CENTRAL (Feb. 22, 2008), http://www.sports-central.org/sports/2008/02/22/the_nfl_coaching_tree_2008_pt_1.php; Brad Oremland, *The NFL Coaching Tree 2008 (Pt. 2)*, SPORTS CENTRAL (Feb. 29, 2008), http://www.sports-central.org/sports/2008/02/29/the_nfl_coaching_tree_2008_pt_2.php.

128. outsidethelines, *Saban Coaching Tree Begins to Blossom*, ROLL BAMA ROLL (June 25, 2010, 8:37 AM), <http://www.rollbamaroll.com/2010/6/25/1509162/saban-coaching-tree-begins-to>.

129. *Bill Walsh's Coaching Family Tree*, S.F. CHRON., <http://cdn.sfgate.com/chronicle/acrobat/2007/08/04/walshfamilytree.pdf>.

130. Nancy Gay, *Bill Walsh Planted the Ultimate Coaching Tree*, SFGATE (July 30, 2007, 15:25 PDT), <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/07/30/SPG0PR93M93.DTL> (listing Dennis Green as among Bill Walsh's coaching tree and noting that the members of the Walsh tree “planted impressive coaching trees of their own”).

131. *Bill Walsh's Coaching Family Tree*, *supra* note 129; see also EARL SMITH, RACE, SPORT AND THE AMERICAN DREAM 180 (2007).

132. *Bill Walsh's Coaching Family Tree*, *supra* note 129.

133. John Rozum, *Power Ranking the Greatest Coaching Trees in NFL History*, BLEACHER REPORT (Feb. 8, 2012), <http://bleacherreport.com/articles/1058677-power-ranking-the-greatest-coaching-trees-in-nfl-history/page/4> (noting that each of the individuals from Marty Schottenheimer's coaching tree “have seen much success”).

and seek positions of leadership and management in sport.¹³⁴ Professor Jomills Braddock II speaks of “glass walls.”¹³⁵ Path-breaking sport sociologist, Harry Edwards, called this apartheid a “dual sports system”—as sports *riff* on dual and segregated systems of education.¹³⁶ Edwards wrote that financial gain was a factor in the desegregation of professional football and that the integration of blacks into sports as athletes occurred only when that integration permitted the economic exploitation of black talent.¹³⁷ He has observed that there is an intersection between the interests of owners in the employment of black athletes, but that this intersection between owners and athlete-employees does not mean that owners will be willing to hire black head coaches.¹³⁸ In other words, those who expect the desegregation of the coaching ranks as a natural “trickle up” from the domination of blacks in player ranks ignore the circumstances in which change in the segregation of sport has historically occurred.¹³⁹ As Edwards put it, “[i]n sports to which they do have access in numbers, African-Americans tend to be significantly underrepresented in authority, policy, and decision-making positions, while being greatly overrepresented in the least powerful, most exploitable, and expendable production roles—principally that of athlete.”¹⁴⁰ We are not yet poised to give life to Edwards’ observation, but the dialogue about a paradigm shift has already begun.

In one of her most memorable opinions—an exception to her consistent opposition to the consideration of race in the quest

134. William C. Rhoden, *Coaches Are Green, but Just as White*, N.Y. TIMES, Jan. 21, 2006, at D1–D2 (“Unfortunately, they are up against the front-office equivalent of a granite defense of team owners, presidents and general managers who refuse to make African-Americans the faces of their organizations.”); William C. Rhoden, *N.F.L.’s Silent Majority Afraid to Force Change*, N.Y. TIMES, Jan. 29, 1999, at D1 (“Among an increasing number of black players, however, there is growing resentment and anger over a granite ceiling that has effectively prevented the N.F.L.’s black presence on the field from becoming equally pronounced in head coaching and front-office positions.”); see also WILLIAM C. RHODEN, *40 MILLION SLAVES: THE RISE, FALL, AND REDEMPTION OF THE BLACK ATHLETE* (2006) (chronicling the history of the largely unsuccessful quest of blacks to own and control sport franchises and related businesses).

135. Jomills Braddock II, Eryka Smith & Marvin Dawkins, *Race and Pathways to Power in the National Football League 1*, AMERICAN BEHAVIORAL SCIENTIST (Feb. 9, 2012), <http://abs.sagepub.com/content/early/2012/02/08/0002764211433802.full.pdf> (last accessed Feb. 25, 2012).

136. Harry Edwards, *The End of the “Golden Age” of Black Sport Participation?*, 38 S. TEX. L. REV. 1007, 1007 (1997).

137. *Id.* at 1012, 1019.

138. *See id.* at 1012, 1014.

139. *Id.* at 1023–24.

140. *Id.* at 1023.

for inclusion and opportunity¹⁴¹—Justice Sandra Day O’Connor in *Grutter v. Bollinger* supported the recognition of diversity as a sufficiently compelling interest to justify the consideration of race as a factor in law school admissions.¹⁴² Her opinion was based in part on concerns about the future legitimacy of a society in which blacks individuals would continue to be excluded from positions of power to which legal education is the accepted “Price of the Ticket.”¹⁴³ She noted that “[i]n order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path of leadership be visibly open to talented and qualified individuals of every race and ethnicity.”¹⁴⁴ So too, it can be argued, that on Saturday, Sunday, and Monday, on the football fields of America, power and authority are personified in the person of the head NFL football coach.

Football is more than a form of dangerous, yet wildly popular, combat.¹⁴⁵ It is also imagery, imagination, caricature—all of which unconsciously shape our perception of what it means to be a man.¹⁴⁶ In this sense, historically, the field of play has been mapped and the black male has been confined within certain lines and boundaries that set him apart. We are not long beyond segregation in the pocket, but those barriers are down.¹⁴⁷ Now our focus is on that special zone, on the field occupied by the man wearing the Motorola headset, clip board in hand, slightly forward of the crowd of assistants and the company-size crowd of men wearing or holding helmets.

141. See, e.g., *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 284 (1986) (finding layoff protection for minority teachers unconstitutional); *United States v. Paradise*, 480 U.S. 149, 196 (1987) (O’Connor, J., dissenting) (finding race-conscious remedial order unconstitutional); *Richmond v. J. A. Croson Co.*, 488 U.S. 469 (1989) (holding that race-based quotas must be narrowly tailored); *Shaw v. Reno*, 509 U.S. 630 (1993) (finding majority-minority district unconstitutional).

142. *Grutter v. Bollinger*, 539 U.S. 306, 332–34 (2003).

143. See JAMES BALDWIN, *Fly in the Buttermilk*, in *THE PRICE OF THE TICKET: COLLECTED NONFICTION* 161–69 (1985).

144. See *Grutter*, 539 U.S. at 332; see also Linda S. Greene, *The Constitution and Racial Equality After Gratz and Grutter*, 43 WASHBURN L.J. 253, 266 (2004).

145. Alan Schwarz, *Duerson’s Brain Trauma Diagnosed*, N.Y. TIMES (May 2, 2011), at B11, <http://www.nytimes.com/2011/05/03/sports/football/03duerson.html>.

146. If imagery shapes our perception, then how can women be taken seriously, with the sideline antics of scantily clad women posing as cheerleaders and dancers.

147. Lloyd Vance, *The Complete History of African-American QB’s in the NFL—Part One: Early Years (1890–1946)*, BLACKATHLETE.COM (DEC. 17, 2007), http://www.blackathlete.com/artman2/publish/BASN_Focus_On_History_4/The_Complete_History_Of_African-American_QB_s_In_The_NFL.shtml; see also Darren Everson & Ben Cohen, *The Year of the Black Quarterback*, WALL ST. J. (Dec. 30, 2010), <http://online.wsj.com/article/SB10001424052970203525404576049970496106128.html>.