

## UNINTENDED CONSEQUENCES- THE POTENTIAL LINK BETWEEN CONCUSSIONS AND DOMESTIC VIOLENCE

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Recently, the NFL has been in the news for events occurring outside the playing field, namely domestic violence and also the impact of concussions on the health of its players. This article will explore whether a link exists between the head injuries suffered by NFL players and the increasing incidents of domestic violence.

Concussions are to domestic violence as smoking cigarettes is to lung cancer. To some, this metaphorical statement may sound crazy; to others, such as Dr. Adrian Raine, a renowned neurocriminologist at the University of Pennsylvania, it is a very realistic comparison. It has been widely believed for years that smoking cigarettes causes lung cancer. There are many people, however, who have smoked for their entire lives and never had cancer. Does this mean that smoking cigarettes does not increase the chances of getting cancer? In comparison, do concussions cause domestic violence? Or put more lightly, does the damage to the brain caused by a concussion increase the chances of being more violent and aggressive, and thus committing domestic violence?

In April '14, these authors reported on the NFL concussion litigation and the effects that it was and is having across the world on other sports leagues as well as other potential "targets". That April '14 article concluded with the question "who is next"? As in, *who* is the next target of litigation related to concussions? The real question we should have been asking is not *who*, but *what* is next. As in, *what* is the next major impact or liability that may arise against the NFL, teams, coaches, executives, etc. as a result of concussions suffered by their players? Only 6 months later, we may have one of the answers to that question.

Since 2012, concussions have been dominating the NFL off-the-field news because of the lawsuit filed by more than 2,000 former NFL football players against the NFL and other related entities for long term injuries allegedly related to concussions. While the concussion litigation is still in the news as a result of the newly reached settlement eliminating the cap on damages that the NFL may pay to retired NFL players, there has been a new topic for discussion recently – domestic violence, most notably related to allegations that Ray Rice punched his then fiancé and

now wife in the elevator of an Atlantic City casino. Although the Ray Rice case is receiving most of the notoriety from the media, in part, due to the NFL's poor handling of the consequences imposed on Mr. Rice, there are multiple other domestic violence cases currently pending which involve NFL players. In fact, domestic violence is not a new issue in the NFL and the statistics on domestic violence cases involving NFL players are staggering, which leads to the main topic of this article: whether the two most significant issues currently facing the NFL – concussions and domestic violence - may be linked together more than we realize.

## **I. Statistics of Domestic Violence Cases Involving NFL Players**

It is a common misconception that NFL players, in general, are prone to commit violent acts. To the contrary, the overall arrest rates for NFL players are much lower than the national average. According to a statistical analysis performed by the company “FiveThirtyEight” the average male in his late 20's is 9 times more likely to be arrested than an NFL player. In contrast, the arrest rate for domestic violence by NFL players is extremely high compared to the general male population. According to the study, domestic violence accounts for 48% of the arrests for violent crimes by NFL players, whereas the national average is 21%. Including Ray Rice, more than 24 NFL players have been arrested for domestic abuse in the past five years and since 2000, there have been 83 arrests of NFL players related to domestic violence. Based on the statistics, the study concludes that NFL players are four times more likely to be arrested for domestic abuse than any other violent crime.

## **II. The Evidence Connecting Head Injuries and Domestic Violence**

While the relationship between concussions and domestic violence is a new issue that has not been studied in depth to date, there are many studies that suggest that there is a link between repeated head injuries and violent behavior. In a recent study by Dr. Adrian Raine, who is referenced above, he performed scans on the brains of men who had been arrested for domestic abuse and found that there were neural abnormalities. What stops people from being violent or aggressive, said Dr. Raine, is a well-functioning prefrontal cortex and it is possible that a head injury, among other factors, could prevent this cortex from functioning properly.

Similarly, Dr. Douglas Smith, who is a professor of neurosurgery and director of the Center for Brain Injury and Repair at the University of Pennsylvania, agreed that aggression is linked to the frontal lobes of the brain, which when damaged, may stop the person from exhibiting restraint when it comes to aggressive behavior. Due to the location of the frontal lobes in the brain, they are the area most likely to be damaged in sports like football. Furthermore, repeated hits to the brain can put players in the same position as one big blow to the head.

Other studies, such as one done by the Toronto Sun in 2013, have found a clear link between brain injuries and violent acts. According to that study, which included men who had experienced repeated head injuries, 73% of them were described as “explosive”; 64% were described as “out of control” and 68% were described as “physically violent”. Some researchers discount the connection to domestic violence contending that we tend to let our guard down with family. However, a person's emotional reactions after a brain injury may be different than what

it was before the injury. When the frontal areas of the brain are injured, we are less able to control our emotions, leading to more anger, aggression, and possibly violence.

### **III. The Contrary Argument**

To date, there is no direct medical evidence or support linking concussions to domestic violence. While there is medical evidence linking head injuries to violence, there are many naysayers who believe that the sample size is skewed and there is no connection between concussions and domestic violence. They believe that most NFL players have been playing football, an inherently violent sport, since they were young boys and as a result, they have always been taught to be aggressive. Thus, the theory goes that NFL players have a difficult time “flipping the switch” from being violent and aggressive on the field, to non-violent off the field.

Another theory is that NFL players, although they receive salaries much higher than the average individual, are engaged in a high-pressure, high-stress career that is played out in the national spotlight. They are subject not only to constant criticism from the media and fans, but also the stress of not knowing whether they will make their team, or if they do make the team, whether they will be cut any day without any guarantee of receiving a salary. It is additionally worth noting that the career of an NFL player is much shorter than the average occupation, thus leading to the stress of trying to earn as much money as possible in a brief period of time.

One further issue raised by those who doubt the connection between concussions and domestic violence is that it should also be showing up in the general population. If concussions caused violent behavior, then you might see thousands or even millions of people committing violent acts. In response to that argument, it is evident that most non-football players do not suffer *repeated* head injuries, whereas many NFL players, even those not formally diagnosed with concussions, have sustained frequent blows to their head over their NFL playing careers, even going back to whenever they started playing football. This raises another important question for the NFL. Is the current testing for concussions insufficient or does there need to be even more widespread testing to include players who suffer repeated hits to their heads?

### **IV. What Does This Mean for the NFL?**

The potential link between concussions or even repeated hits to the head and domestic violence should be especially worrisome to the NFL. Recently, the NFL, in conjunction with the NFL Players’ Association, released a report that an overwhelming 30% of NFL players will develop brain conditions such as Alzheimer’s disease or dementia. Most people view this report as a dangerous admission that NFL players are putting themselves at risk to develop serious and potentially life-threatening diseases as a result of the repeated hits that they take playing football. However, this is not necessarily new news.

What is new is the potential link between the head injuries sustained by the players and the violent acts that they may commit against other innocent victims, including family members.

Could the NFL be held civilly liable to the victims of domestic abuse committed by NFL players? While there is no record of any civil suits filed by the victims of domestic abuse against the NFL player alleged to have committed the offense, let alone against the NFL, it may be only a matter of time considering the new research being done that may link concussions or hard hits to the head with violence. Was it foreseeable to the NFL that domestic violence would result from concussions and hits to the head absorbed by NFL players? Can a direct causation be established between the concussion and the violent act? Ironically, this is the same quandary that all parties faced in the concussion litigation. In that litigation, the critical question was whether the players could establish that their symptoms were caused by their concussions rather than other environmental factors. Rather than address that question, the parties reached a tentative settlement. Similarly, to be successful in a civil case against the NFL, the victim of the domestic abuse would be required to prove that the violent act was directly caused by the NFL player's concussion sustained while he was in the NFL, rather than other factors.

While civil cases against the NFL brought by victims of domestic abuse may never come to fruition, one thing is clear: the potential for liability against the NFL is endless. While the pending settlement between the NFL and former players is a step in the right direction, it does not by any stretch of the imagination foreclose future claims. Concussions, and the liability extending from them, are here to stay, which means the NFL must continue to develop ways to address this serious and growing concern. Otherwise, it may find itself on the other end of hundreds of thousands of more lawsuits, all stemming from concussions, which even the NFL cannot afford.