

Public Pressure in the NFL and Congress: An Oppressive
Motivator of Unjust Outcomes

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Introduction

In March 2021, Tony Buzbee, a high-profile Houston lawyer, filed a civil suit alleging that Deshaun Watson, star quarterback for the local Houston Texans, had sexually assaulted fourteen massage therapists in the Houston area during one-on-one massage sessions. The national press quickly picked up the story. Armed with evolving information and limited facts, many National Football League (NFL) fans instantly became experts on sexual assault. Fans, reporters, and content creators all took to social media to discuss and pronounce judgment on the allegations made against Deshaun Watson.

The NFL, however, does not hold a monopoly on high-profile allegations of sexual assault. In Congress, Senator Al Franken (a Minnesota Democrat) resigned in 2017 after multiple women accused him of sexual assault ranging from groping to uncomfortable comments. In the age of social media, dissemination of allegations can be instantaneous, and many around the globe can quickly judge the guilt or innocence of the alleged perpetrators. In Franken's case, before the Senate's Ethics Committee met to hold a hearing and hear testimony surrounding the alleged incidents, Franken's fellow Senate Democrats began calling for his immediate resignation. The calls grew louder and more pronounced until Franken decided he could do nothing to stop the rolling tide and promptly resigned.

Both incidents raise the question of how public pressure affects the justice processes at work in the NFL and Congress? Further, when the severity and swiftness of punishment are affected by mass movements on social media, is that evidence of a failure of justice systems to adjudicate violations properly? This thesis will argue that judgment outcomes and system overhaul have occurred due to public pressure in Congress and the NFL. This paper will also argue that judicial systems in Congress, the NFL, and broadly speaking, should craft legislative aims to insulate them from the potential outcry of a relatively judgmental and uninformed public.

Road Map

This paper will analyze the NFL and Congressional policies surrounding sexual assault and their susceptibility to public pressure. First, it will examine the concept of public pressure. Second, the paper will detail the NFL Personal Conduct Policy (the system of rules used in disciplinary action brought against players) and analyze the changes to the system. The paper will then move to a history and analysis of the sexual assault policies in Congress. This paper brings statistics to describe the overarching problems that each system addresses in Congress and the NFL. After both systems are adequately detailed and broader statistics are analyzed, the

paper turns to an analysis of individual cases, both of members of Congress and NFL players. In each case detailed in this work, the goal is to understand the system's workings in that case and analyze the effects that public pressure may have had on the disciplinary outcomes. After analyzing the systems and their impact on specific individuals, the paper explores the virtue of systems that maintain safeguards to ensure that public pressure does not decide their outcomes. Last, the paper advises the NFL and Congress on updates to their systems which aim to increase their resistance to public pressure.

Factors Motivating Research

Through social media, public shaming has seen a revival in the twenty first century. This paper looks to analyze the use of public shaming to achieve or alter judicial outcomes. This paper is a unique comparative project that analyzes two systems consistently in the public eye, which society holds to strict and consistent standards. Public pressure has motivated changes in both the NFL and Congressional policies. Examining modifications made to each system and their resilience to a vocal public that makes quick judgments and forms strong opinions should be scrutinized and, if necessary, bolstered. This paper addresses complaints in both fields of unhelpful policies that need reformation, given a history in both Congress and the NFL of improper handling of sexual assault and domestic violence allegations.

This paper also looks to fill a void in existing literature concerning NFL and Congressional policy. In *Judge Jury and Executioner*, Ursula Peterson analyzed NFL rules through 2014. Maleah H. Brown, in *When Pros Become Cons*, looks at the Personal Conduct Policy through the prism of punishing domestic violence. Christina C. Hopke, in *Is Congress Holding Itself to Account?*, detailed the Congressional Accountability Act and its reform while providing analysis on whether the changes lived up to Congress's promises to its citizens. While individual cases in both Congress and the NFL have received attention from news and media

outlets, research has yet to concern itself with studying an overarching analysis of the inner workings of either system, after recent updates. Further, while research is underway assessing social media and its use to enforce social norms, its effect on disciplinary actions has yet to be studied.

Section 1: How Public Pressure Motivates Change

The advent of social media and the popularization of internet use at the turn of the century began a revolution in human communication. Humans can now digitally congregate, interact, and share information and opinions using the internet and social media platforms. As of January 2023, there are just over five billion internet users and 4.76 billion social media users. (Statista 2023) It may seem strange to frame internet access as a novel phenomenon, but it has fundamentally changed how humans communicate.

One result of the shift in communication mediums is the revival of public shaming. For centuries public shaming, through pillory and public executions, was a fixture of legal systems in Europe. (Frevert 2015) In modern legal systems, government use of public shaming fell out of favor out of a growing belief in the right of individuals to dignity and freedom from humiliation. Public shaming had not disappeared, but it was no longer executed through official government channels but rather by angry mobs. Perhaps the most famous modern public shaming was the humiliation of women in allied countries that had consorted with German soldiers during World War II occupation. These women publicly had their heads shaved by an angry jeering mob as a lasting physical reminder of their perceived wartime treachery. During these episodes of public shaming, the state, the possessor of an official license to use legitimate force, turned a blind eye. (Frevert 2015)

To some degree, social media shaming is a non-physical revival of these same tactics. In the latter half of the twentieth century, a growing aversion to public shaming pushed the practice into dormancy. The dunce cap, once a tool to reprimand struggling school children for being disruptive or “slow,” became a cruel and archaic form of classroom discipline unacceptable in an enlightened and modern society. Social media, and its continually expanding popularity, has facilitated the revival of public shaming and mob justice. Individuals can post on social media platforms, and users can gang together in a quasi-mob to create a ringing chorus of vitriol and anger directed at transgressors of social norms. German historian Ute Frevert claims that “nowadays the filth used to shame others has become verbal and visual without losing any of its disgusting quality.” (Frevert 2015)

Episodes of social media mob justice can start for various reasons. After learning of an alleged crime or violation of appropriate social conduct, users band together to publicize the wrongdoing and humiliate, denounce, and sanction the perpetrator. Twitter, one of the most popular platforms for expressions of social justice, restricts users’ posts (called tweets) to 280 characters. In the short allotment, users favor neither nuance nor ambiguity.” (Applebaum 2021) When the mob confronts alleged crimes, loosely informed users are encouraged to decide quickly about guilt or innocence. The mob’s assessments of guilt are then “rendered meaningful” when news outlets further publicize the allegations and public derision. This second platform has the effect of amplifying and legitimizing the beliefs and opinions of the vocal mob. (Trottier 2020)

By contrast, convictions in the criminal justice system necessarily rely on nuance, context, and unambiguous evidence of wrongdoing. Social media provides the means for the mob to enforce sanctions. Pressure exuded from internet outcries can and has caused loss of livelihood, friendships, and even changes to legal systems and codes of conduct. These changes

have positive and negative outcomes, but the power wielded by invisible members of internet mobs is worthy of examination and critical analysis. Should a legal system be susceptible to a vocal public's changing values and standards? Social media mob justice provides a framework for the growing internet public to pressure companies to fire their employees and revise their codes of conduct. These same mobs have even been so influential as to affect national legislation. American Legal Scholar Eric Posner contends that shame holds tenuous standing within legal contexts. Individual shaming revokes an individual's right to due process by revoking their "ability to contest charges or claims against them to an impartial tribunal." (Posner 2015) The shamers take no responsibility for proper investigation and fact-finding — they accuse and condemn instead. What results is a form of justice devoid of traditional safeguards meant to ensure that resulting outcomes are just.

Public shaming and online discourse feature prominently in the NFL's decisions surrounding the execution of their Personal Conduct Policy. Both also feature prominently in the publicizing of recent sexual harassment allegations made against Senators and Members of Congress in the wake of the #MeToo movement. In both instances, public pressure placed on the NFL and Congress preceded changes to the operating principles of each system. In Congress, after allegations of sexual harassment against multiple members, Congress passed laws that changed the process governing the filing of allegations and the settlement process. These changes came after months of pressure surrounding the assault allegations. In that case, changes were needed, and public impetus put pressure on lawmakers to reform a system they might otherwise have left in place.

Section 2: Detailing the NFL Personal Conduct Policy

To understand the effects that social media shaming has had on the institutions of Congress and the NFL, it is helpful to ground our analysis in a background of the rules governing both. The subsequent section details the NFL's personal conduct policy and the changes that it has undergone since its inception. This overview aims to facilitate an understanding of changes made to the Personal Conduct Policy and its motivations. This section also serves as important background information for the case analyses concerning players' experiences within the personal conduct policy and how their cases were influenced by public pressure.

Changes in the NFL Personal-Conduct Policy

The NFL, in its current version, was established in 1970 as the result of a merger between the NFL and the American Football League. (NFL Champions 1920-2018) Since the mid-1960s, the league has steadily increased in popularity, and football is now the most popular spectator sport in the United States. (Norman 2018) Because of both the sport and league's popularity, the best players are afforded celebrity status, and news outlets and tabloid magazines often report matters of their personal lives. Not surprisingly, players' unlawful or egregious off-field conduct often have the potential to negatively affect the sport and its popularity. To deter players from committing actions harmful to the league's reputation, in the past sixty years, the NFL has instituted various policies to punish players who commit crimes or other offenses that the NFL believed to be detrimental to its reputation. The NFL's approach has changed over the years; its most recent version was designed by the league's current Commissioner, Roger Goodell, and it attempts to set forth comprehensive rules about player offenses expanding the number of non-criminal offenses that can be punished. Many of the significant changes made by the NFL reflected a desire to respond to backlash from the fans and media.

Violent-Crimes Policy to Personal-Conduct Policy

Former Commissioner Paul Tagliabue introduced the Personal Conduct Policy in 2000 as a replacement for the Violent-Crimes Policy (VCP) that had preceded it. The VCP, although correlated with a drop in arrests of NFL players for violent crimes, proved difficult to enforce because it relied on the criminal justice system, which took years to reach verdicts and did not even cover objectionable, but nonviolent, criminal behavior that would harm the league's reputation. Tagliabue created the first iteration of the PCP. The PCP differed from the VCP because it expanded the scope of punishable offenses from violent crimes to include other criminal conduct. This policy still required a criminal conviction to allow the league to impose discipline. (Brown 197, 2016)

Tagliabue's lenient Personal Conduct Policy reflects a mindset that expects the criminal justice system to deal with instances of sexual misconduct and domestic violence. Both under the VCP and the PCP until the changes in 2014, players found guilty of domestic violence were either not suspended or suspended for a single game, in eighty-eight percent of cases. (Fainaru-Wada and Fainaru 2014) NFL communications director Greg Aiello said in a 1994 interview with the Washington Post on the issue of domestic violence, that the NFL was "not the criminal justice system." (Brubaker 1994) He didn't see it as the NFL's job to enforce sanctions against players' wrongful behavior because it was not their job to "cure every ill in society." He argued that unless business was affected, the NFL would remain hesitant to take disciplinary action against any player.

The NFL's position underscores the motivation for hesitancy in disciplinary action. The NFL fanbase and media outlets covering the league did not view it as the league's job to determine fact and enforce disciplinary action. In the first two decades of the twenty first century, through internet and social media use, society became more aware and less tolerant of the problematic behavior of NFL players. The impetus for caution by the NFL became

intolerable to many of the league's supporters and pushed the league to alter its policies accordingly.

2007 Personal-Conduct Policy

In 2007, the first year of Roger Goodell's (Tagliabue's successor) tenure as NFL Commissioner, he made further changes to the PCP. To address the difficulty of a public and highly scrutinized sports league relying on the criminal justice system, Goodell changed the standards for imposing discipline. The league could now impose penalties on players absent, or preceding, a criminal conviction. The likely motivation for this change in policy was the "highly publicized wave of off-field incidents," that included Pacman Jones being questioned by police and Tank Johnson's sentencing to four months in prison for a probation violation. (Battista 2007) Goodell, who had recently taken over the post of commissioner, looked to create avenues by which to change the narrative surrounding the NFL's image as riddled with lawbreakers. The impetus for change came from the realization that "the integrity of the NFL had to be protected." (Battista April 2007) Finally, although not explicitly delineating the penalties, Goodell warned NFL players and personnel that punishment would become more severe. (Brown, 198, 2016)

In its 2007 form, the PCP differed drastically from its previous iteration by granting the Commissioner absolute authority in deciding whether a player was guilty and, if so, what punishment would be imposed. In comparison, the earlier version relied on the criminal justice system to determine guilt, which had the virtue of objectivity. By contrast, the 2007 PCP placed that important and complicated responsibility in the hands of a single person: the Commissioner. The process by which the Commissioner was to make his decisions was not specified. (Brown, 198, 2016)

This policy change greatly expanded the role of the NFL Commissioner in disciplinary proceedings. Previously, disciplinary action taken by the league under the PCP occurred only

when the players were found guilty of violations in court. With this shift in policy, the Commissioner was tasked with determining a player's guilt. The PCP established no guidelines to aid the Commissioner in such a determination. Commissioners also rarely have the relevant legal background to make these determinations. With this policy, the Commissioner became the "judge, jury, and executioner" in the NFL's kangaroo court. (Peterson, 1, 2018)

Further, In *Sentencing Guidelines for the Court of Public Opinion*, Michael Mahone posits that the "array of powers afforded to the commissioner are merely tools to be utilized in order to achieve financial gain." (Mahone 196, 2020) Allowing the commissioner absolute authority over a quasi-judicial system means that any proceedings are likely to be affected by the importance of their outcomes on the league's revenue. The revenue of sports leagues depend largely on the size of a league's fanbase and their participation in consumption of sports content produced by the league. Thus, the opinions of fans and media are likely to be extremely important to the commissioner and likely bias the commissioner's judgements on how harsh punishments should be on offending players — potentially even on the relative guilt or innocence of the players.

2014 Personal Conduct Policy

After seven years of complete autonomy for Commissioner Goodell, the NFL was forced to make further changes to its PCP. Influenced by the backlash surrounding the Ray Rice domestic violence decision (which will be outlined in great depth at a later point in the paper) in 2014, the NFL added a minimum six-game suspension for domestic or otherwise violent conduct and a permanent ban for a second offense. The new six-game suspension minimum requirement was four times the previous typical suspension. (Brown, 199, 2016)

Reflecting on the procedural failures of the previous PCP, the NFL updated the decision-making and fact-finding processes. Commissioner Goodell created a disciplinary officer position

to oversee the investigation of players for potential PCP violations. This measure was supposed to take the decision making out of the Commissioner's hands. The NFL aided the disciplinary officer by planning to use investigators (outside the criminal justice system) who would gather facts and interview players and other individuals with information relevant to the case. After seventeen years in which the league's conduct policy relied on the criminal justice system's fact-finding process, Goodell recognized that the PCP operated with different goals and that working outside the criminal justice procedures was necessary.

Another element added to the PCP in 2014 was increased services offered to victims of violent crimes committed by league personnel and players. Last, the NFL introduced a uniform standard for paid leave for players under investigation. This paid leave allowed the Commissioner to keep players off the field while the NFL investigated their case.

2018 (and Current) Personal Conduct Policy

In 2018 the NFL distributed the current version of the NFL personal-conduct policy. This version differed from its predecessor because it enumerated all punishable behavior under the PCP — albeit using imprecise language. The current version of the PCP has three significant elements.

The first element of the policy explains the policy's internal reasoning. The document states, "it is not enough simply to avoid being found guilty of a crime. We are all held to a higher standard and must conduct ourselves in a way that is responsible, promotes the values of the NFL, and is lawful." (NFL Personal Conduct Policy, 2, 2018) This language helps frame the document and the NFL's expectations and intentions in crafting the PCP.

The second central element of the document is an exhaustive list of behavioral categories prohibited under the Personal Conduct Policy. Those are:

- a. Violence (both in and out of the workplace), assault (sexual and otherwise), intimidation, endangerment of others, and cruelty towards animals.
- b. Illegal possession of substances (performance enhancing and otherwise) or weapons.
- c. Crimes involving dishonesty or theft.
- d. Disorderly conduct or crimes against law enforcement.
- e. Conduct that undermines or puts the integrity of the NFL, NFL clubs, or NFL personnel at risk.

After outlining categories of prohibited behavior, the document then explains the stages of the investigation process and how it works. The first step the league takes is an immediate remedying of the situation. The NFL provides access to counseling and services for both players and potential victims. Next, the NFL conducts private investigations to determine the facts of the matter to the best of the league's ability. A player may be placed on the Commissioner's exempt list or provided paid leave during the investigation as the Commissioner deems fitting. If the Commissioner designates a player on leave, leave generally lasts until the league has reached a disciplinary decision.

If investigation leads the NFL's disciplinary officer to believe that a violation of the PCP has been committed, a player may be subjected to discipline under the policy. In such situations, a disciplinary officer reviews the evidence, compiles a report, and (if necessary) recommends an appropriate punishment.

The PCP provides the disciplinary officer with specific punishment guidelines to aid them in reaching a disciplinary recommendation. Assault, battery, domestic or dating violence, family violence or child abuse, and sexual assault involving physical force are all punishable with a six-game suspension — while aggravating or mitigating factors may further affect the

length of the suspension. A second offense for a violation falling into the above categories should result in a penalty of permanent banishment, subject to potential reinstatement after one year.

In March 2020, the NFL reached a renegotiation of the collective bargaining agreement between itself and the NFLPA (NFL Players Association). One of the significant changes in the bargaining agreement was to add an element to the disciplinary proceedings of PCP violations. Under article forty-six of the NFL and NFLPA Collective Bargaining Agreement “the Disciplinary Officer’s disciplinary determination will be final and binding subject only to the right of either party to appeal to the Commissioner.” If either the NFL or the player receiving discipline wishes to appeal the decision reached by the NFL’s Disciplinary Officer, “the Commissioner or his designee will issue a written decision that will constitute full, final and complete disposition of the dispute and will be binding upon the player(s), Club(s) and the parties to this Agreement.” (CBA Article 46)

Adding this provision to the PCP was likely a means to include people with criminal-justice expertise in the decision-making. While the officer would be the decision maker initially, the right of appeal would fall to Goodell — giving him the ultimate power to make a binding decision. The problem with this system, as evidenced in the NFL’s appeal of Deshaun Watson’s case is that the commissioner is still susceptible to altering the punishment based on public backlash.

Section 3: Detailing Congressional Policy Surrounding Sexual Assault

Since the beginning of the twenty first century the NFL has been using and revising its Personal Conduct Policy, to discipline players that act in an illegal or improper manner towards women. Over the past three decades, starting in 1995, Congress has made two important

legislative efforts to provide a framework for discipline of members who behave inappropriately towards women. This section details those two pieces of legislation, to facilitate a clear understanding of the rules governing sexual harassment claims in Congress.

Congressional Accountability Act of 1995

After serving as the minority party in the House of Representatives for roughly forty years, heading into the 1994 midterm elections, the Republican party introduced their “Contract with America.” The contract’s aims were ambitious and included tax cuts, reducing the size of government, and welfare reform. Part of the contract was the guarantee that all laws that apply to the public should apply equally to legislators. Facing a reality of longstanding Democrat control of the chamber, House Republicans tapped into a belief among Americans that Congress played by different rules and protected itself from scrutiny. (Republican Contract With America) The 1995 Congressional Accountability Act was one instance of House Republicans delivering on the Contract with America. Although not directly influenced by public pressure, the impetus for the legislation was the ability of a group of hopeful legislators to use public opinion to gain power and make changes to the Congressional operating system. In that sense, Republican candidates understood that laws that enforced Congressional accountability were popular and would energize voters.

Congress passed the Congressional Accountability Act (CAA) on January 23, 1995 — the first bill passed under the hundred and fourth Congress. Title VII of the Civil Rights Act of 1964 protected federal and private employees from workplace discrimination. Under Title VII, employees could file workplace discrimination claims using internal company policies or, alternatively, under the Equal Employment Opportunity Commission (the “EEOC.” An executive agency tasked with enforcing workplace protections.) When passing the Civil Rights Act, Congress did not make itself beholden to the law — which it had spent months crafting.

This left a gap in accountability between normal workplaces, beholden to the Civil Rights Act, and Congressional workspaces which could legally discriminate against employees. Congress passed the CAA thirty years later, requiring its branches and employees to be subject to the Civil Rights Act of 1964, from which they were initially exempted. (Hopke, 2170-2172, 2019) Along with the new requirement that Congressional offices comply with Title VII and eleven other federal programs, the CAA established an office of compliance to oversee the execution of the CAA. The Office of compliance consisted of five individuals appointed by House of Representatives and Senate leaders.

A critical facet of the CAA was its articulation of the procedure for filing harassment claims. Any employee wishing to come forward with a claim to the Office of Compliance must do so within one hundred and eighty days of the incident. Any complaint brought by an employee-initiated a thirty-day counseling period during which the Office of Compliance detailed the employee's rights and other relevant information. After the counseling period, the employee could request to initiate a mediation. During the thirty-day mediation period, the employee was to meet with the office to which they were employed, and an Office of Compliance mediator oversaw the mediation. All mediation during this period was considered strictly confidential. (Hopke 2019)

After the mediation, there was a mandatory "cooling off period" of thirty days, which was perhaps the most controversial element of the process outlined in the CAA. This step prevented employees from proceeding with a civil lawsuit or requesting that the Office of Compliance investigate the matter and issue a determination. After thirty days, the employee could drop the complaint or proceed in one of the above directions. Another controversial element of the process was the lack of legal representation for employees seeking to file claims. The CAA ensured that the Employment Counsel gave employment offices representation in the

House and Senate. Because of the mandated mediation period, employees were placed at a distinct disadvantage; while an employer was represented by counsel to help navigate mediation, an employee who had filed the complaint was on unbalanced footing because the employee was generally without counsel. The practical implications of such a system were that any employees filing complaints had to navigate multiple stages of a legally intensive process without counsel before they could have their case heard in either civil court or by the Office of Compliance.

(Hopke 2019)

Any settlement reached under this process would be dispersed to the complainant from the U.S. Treasury — effectively money collected from taxpayers. Employers were not required to reimburse the Treasury at any point, and no public accounting or disclosure was needed or initiated. The system's effect was such that even complaints resulting in settlement or awarded reparations were kept out of the public eye. Employees could not sue until they had completed all stages of the process, and after the considerable time and energy involved, even a settlement reached was not a matter of public disclosure, nor was the money coming out of the pocket of the party at fault. In totality, the process was an essential step in holding congressional offices accountable for the harassment of their employees, but there were multiple flaws in the system, which both unfairly affected and deterred the complainant. (Hopke 2019)

Reform to The Congressional Accountability Act of 1995

In late 2017, the #MeToo campaign took hold on social media. The movement centered around women coming forward to speak up as survivors of sexual assault or violence. Through #MeToo, Americans became more fully aware of the extent of sexual harassment in both Hollywood and everyday life. Coming forward to detail sexual harassment was encouraged through the movement and, in all circles, women began to do so. (D'Zurilla 2017) This phenomenon brought attention to Congress and sexual harassment that was rife within both

chambers. Detailing claims of sexual harassment also brought attention to the methods that Congress uses to address sexual assault allegations. News outlets like *The Washington Post*, BuzzFeed, and Vox, all wrote pieces criticizing the systems used in Congress and helped bring the public's attention to the prevalence of sexual harassment in the legislative branch. The #MeToo movement also saw multiple members of Congress accused of sexual harassment — further highlighting the severity of the issue and the need for reform.

To address the storm of reporting on sexual harassment in Congress, the House and Senate began working on bills that proposed changes to the Congressional Accountability Act. The House and Senate each passed a bill and sent them to the opposite chamber for consideration. The House's bill introduced more radical changes to the Accountability Act, and negotiations between the chambers centered around whether the House would accept a watered-down version of its proposals. Both bills languished for several months until December 2018. After months of negotiations, the Senate proposed and passed Bill 3749, which the House immediately passed, and the President signed it into law on December 21, 2018.

Bill 3749, titled “Reform to the Congressional Accountability Act of 1995,” was a compromise between the precursor bills passed in the House and Senate which had both failed to gain approval in both chambers. The newly passed bill made several crucial changes to the CAA, which were:

- a. Bill 3749 renamed the “Office of Compliance” the “Office of Congressional Workplace Rights” (“the Office”).
- b. Bill 3749 eliminated the original CAA's mandatory counseling, mediation, and cooling-off stages — considerably speeding up the process.
- c. The reform act made lawmakers financially liable for any settlements or awarded damages because of complaints filed against them. Initial damages awards are paid out of

the treasury, but lawmakers must reimburse the treasury within 90 days or risk the seizure of wages. (Zhou 2018)

- d. The bill extended protection to interns, fellows, and detailees (employees left out of the previous CAA).
- e. Under the reform, all employees filing complaints may request a confidential advisor. This advisor may inform the employee of the process and options available to the employee and discuss the merits of the case. The advisor is not, however, allowed to act as a representative of the employee or provide legal counsel.
- f. The bill provided that any claim that resulted in an award or settlement would be subsequently referred to the ethics committee of the appropriate congressional chamber.
- g. The Office was required to retain records of awards, suits, settlements, and other pertinent information and conduct a biannual (in this case, every two years) “Congressional Climate Survey.”
- h. Finally, the Office must publish an annual disclosure of payouts. The report specifies the employing office, financial details (including reimbursement compliance), and which provision had been violated. In addition, Bill 3749 required that the Office retroactively disclose past payment amounts (although withholding the name of the office that had committed the violation).

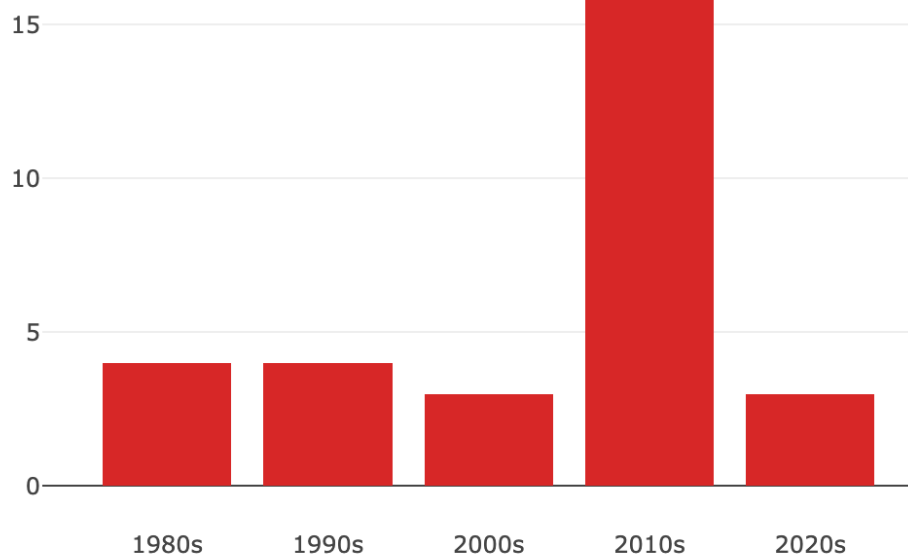
This list of updates is not exhaustive, but it provides an account of the most significant changes made through the reform of the CAA. One of the most important changes was the requirement that settlement payments are disclosed to taxpayers and that settlements be paid by lawmakers and not the US treasury. Another important element was the removal of the mandatory mediation and cooling off phases of the process — which sped up the process and removed inherent deterrents to pursuing justice for workplace harassment.

After multiple Members of Congress came under fire for sexual assault allegations, Congress pledged to take action to improve its ability to investigate, punish, and deter assault. Bill 3749 was Congress coming good on its pledge to reform the antiquated aspects of its sexual assault process. Congress heard the voices of many Americans, both on social platforms and through the media, and knew that the American public was expecting change. While there are significant changes to the CAA, there are also areas where more substantial updates may have significantly altered the system in a manner most effective, protective of victims, and likely to ensure justice.

Section 4: Data on Punishment Distributions in Congress and the NFL

After outlining the laws created in both the NFL and Congress, it behooves the discussion to analyze the effects of both systems. The frequency of punishments should help shed light on the effectiveness of the system and provide context for a later case analysis of individual NFL players and members of Congress's experiences with each system.

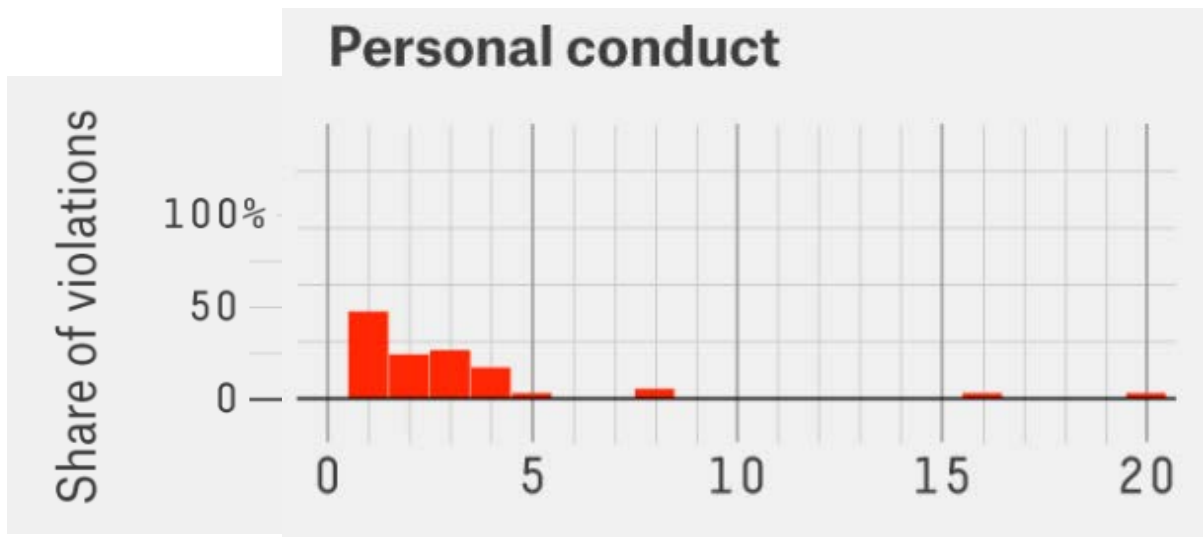
Within Congress, there have been nineteen instances of alleged sexual harassment between 2010 and 2023. (Legislator Misconduct Database) Between 2003 and 2017, congressional settlements amounted to "\$292,652 on 13 settlements involving claims of sexual harassment or sex discrimination... This figure does not include settlements agreed to privately between members and their employees, which are sometimes paid in the form of severance out of congressional office budgets." (Evon 2018) Below is a table detailing the volume of cases of alleged sexual misconduct produced by Govtrack.us. The Y axis denotes the volume of sexual assault allegations in Congress and the X axis breaks the data into ten-year periods. The vast majority of reported instances of harassment have occurred since 2010.



(Legislator Misconduct Database)

The NFL does not disclose settlement data relating to its players in the same form as Congress. The best indicators of sexual assault and harassment occurring within the NFL are the investigations the Commissioner’s office undertakes and the punishments they hand out to players. Under the NFL’s Personal Conduct Policy, players can be suspended for “everything from murder to unsanctioned in-game violence to embarrassing the league on social media.” (McCann 2014) The NFL does not record the suspensions it has doled out, making tracking them more difficult. According to data compiled by FiveThirtyEight contributor Allison McCann, between 2002 and 2014, there were fifteen cases of domestic violence punishments and one sexual assault punishment (Ben Roethlisberger), with the average suspension length being 1.5 games. Below is a table created by McCann outlining all personal conduct suspensions under the PCP through August of 2014. On the Y axis, the share of violations is displayed by percentage and the X axis displays suspensions based on number of games. The graph indicates that a far

higher proportion of penalties are between one and four games, than the recommended six game suspension.



(McCann 2014)

The Commissioner's Office updated the suspension process in September of 2014 (outlined in detail above). One change was that the recommended suspension length for violent sexual offenses rose to six games. Suspensions given since 2014 do not conform to the standards set out under the expanded sentencing guidelines. Suspensions resulting from violence against women averaged four-game suspensions through 2019 (Gotberg and Wierma-Mosley 2022). Deshaun Watson's eleven-game suspension was unprecedented, given that his offenses were nonviolent and far exceeded the recommended sentencing guideline and all historical precedent (for both violent and nonviolent infractions). Watson's sentence, discussed in greater detail in the subsequent section, is an instance where it the NFL was likely influenced by public pressure to send a message that the league takes sexual harassment seriously.

Section 5: NFL Case Analysis

Each NFL player's case discussed here marks a turning point in the rules governing the Personal Conduct Policy. Each case sheds light on how public pressure effects the outcomes of disciplinary decisions in the NFL. Through diligent fact gathering, all three cases highlight a specific window within the justice system and highlight the changes made to the system and how those changes affected outcomes for players.

Ben Roethlisberger:

In the 2010 NFL offseason, the NFL suspended Steelers Quarterback Ben Roethlisberger for four games after an allegation he had raped a college student in Georgia. As of 2007, players were potentially subject to disciplinary action even without criminal convictions — a move sanctioned by Goodell as part of his new “law and order campaign.” (Batistta April 2007) Police investigated the allegation made against Roethlisberger but ultimately declined to press charges. The officer who wrote the criminal report called the accuser “a drunken bitch,” and further stated, “this pisses me off, that women can do this.” Besides this attitude potentially biasing the investigation, investigators destroyed evidence and left other substantial evidence unexamined. Surveillance cameras at the night club were taped over after police had viewed the footage, and “despite the presence of male DNA found when conducting a rape kit for Roethlisberger’s accuser, investigators withdrew their request for a sample of Roethlisberger’s DNA.” The woman accusing the Steelers Quarterback ultimately declined to move forward with the case after what she described as “unnerving media coverage.” (Peterson, 148, 2017)

This suit followed a 2009 allegation that Roethlisberger had raped a woman in a Nevada hotel room. Further, during the same month that Roethlisberger was accused of rape, another resident of the same town accused Roethlisberger of forcibly putting his hand up her skirt. Ultimately, none of these incidents were ever prosecuted by the police. (Peterson, 148, 2017)

Still, they do cast doubt on the character and behavior of Roethlisberger, then a star in the league and a player with a large following.

In April 2010, the NFL handed Roethlisberger a conditional six-game suspension — later reduced to four games. This suspension marked the first time in NFL history that the league suspended a player under the PCP without a criminal charge. (Battista 2011) Goodell's decision was not “based on a finding that you [Roethlisberger] violated Georgia law, or on a conclusion that differs from that of the local prosecutor... That said, you are held to a higher standard as an NFL player, and there is nothing about your conduct in Milledgeville that can remotely be described as admirable, responsible, or consistent with either the values of the league or the expectations of our fans.” (Battista 2010) This decision differs from earlier PCP decisions because it was not based on the findings of a criminal justice investigation's determination of guilt. Commissioner Goodell evaluated the negative effect of his conduct on the league and suspended Roethlisberger without proof of legal wrongdoing.

It can be hard to definitively assess Goodell's motivations when determining Roethlisberger's punishment, but it can help to place the decision in historical context. The league had recently suspended multiple black athletes, most notably Michael Vick. In the wake of those decisions many around the league were looking to see whether Roethlisberger would be disciplined to the degree that black athletes were. Tank McNamara, a sports comic strip syndicated by the *Washington Post*, took aim at Goodell after Vick was suspended. The strip jokes that Goodell's job is to act as a racist conduit for the owners. In one of the strips Goodell jokes that it would be easier if he “could suspend a marquee white player too.” (Sandomir 2009) While these strips do not have insight into Goodell's mindset, they provide evidence of a sentiment surrounding the league's decision making at the time. Many viewed Roethlisberger's case as a test of whether he would punish a famous white athlete as he had a black athlete. The

system in place in the NFL gave Goodell ultimate decision-making power. Goodell's position as an effective CEO of the NFL made it so that, in weighing the punishment, he would clearly be influenced by the business interests inherent in the results.

Ray Rice

The next landmark personal-conduct policy suspension that the league dealt with was the two-game suspension of Raven's running back Ray Rice during the 2014 offseason. On February 15, Rice and his then-fiancé Renee Palmer engaged each other in a physical altercation in an Atlantic City casino. Both Rice and Palmer were taken into police custody for the night. Four days later, footage of Rice dragging an unconscious Palmer out of the casino elevator emerged. An Atlantic City Grand Jury charged Rice with third-degree aggravated assault on March 27. (Key Events in the Ray Rice Story 2014)

Throughout the investigation, the Ravens and their head coach John Harbaugh issued numerous statements defending Rice's character despite video footage of Rice forcibly dragging his unconscious fiancé from an elevator after eyewitnesses had seen them in a physical fight. The Ravens even went as far as to live-tweet quotes from their press conference on May 23. One tweet (since deleted) read: "Janay Rice says she deeply regrets the role that she played the night of the incident." Ultimately Goodell decided on a two-game suspension that the Ravens owner Ozzie Newsome described as "significant but fair." In late July Rice returned to the Ravens' offseason training camp practice; he received a standing ovation from fans present. (Key Events in the Ray Rice Story, 2014)

The suspension was heavily criticized. Many fans and media analysts considered it far too lenient. An article by Mike Wise in the *Washington Post* lambasted Goodell's numerous recent missteps, (downplaying the danger of concussions and defending a racist owner) and contended that Goodell's "handling of [the Rice case] shows a dearth of sensitivity that blows

away his other lapses in discipline, judgment and compassion.” (Wise 2014) Former player Scott Fujita tweeted that the NFL sent a message to his “wife and three daughters... The business that’s been such a big part of our life, really doesn’t give a f**k about you.” (Hensley 2014) One user even joked, that had Rice hit his fiancée in a football game instead of a casino, the penalty would likely have been far more severe — a joke evidencing the common perception among fans that the NFL punished unsportsmanlike conduct with more severity than domestic violence and sexual assault. (Flores 2014) What emerged was a torrent of pressure from fans, former players, and media, which likely influenced Goodell’s decision’s going forward.

A month after the suspension decision, in response to the outcry surrounding Rice’s suspension, Goodell announced an updated PCP. The new policy stipulated a minimum six-game suspension for first-time offenders of domestic violence and other violent conduct and a lifetime ban for repeat offenders. In a letter Goodell admitted that his “disciplinary decision led the public to question our sincerity, our commitment, and whether we understood the toll that domestic violence inflicts on so many families. I take responsibility both for the decision and for ensuring that our actions in the future properly reflect our values. I didn’t get it right. Simply put, we have to do better. And we will.” (Key Events in the Ray Rice Story, 2014)

On Monday, September 8, one and a half months after Rice received his two-game suspension, during the first week of the NFL season, TMZ released the complete footage of Rice slapping and punching his fiancé (now wife), Renee Palmer, knocking her unconscious. The gruesome video sparked a further outcry from the public, and the Ravens moved to terminate Rice’s contract hours later. Goodell then announced that the NFL would suspend Rice indefinitely after considering the new footage — another clear example of Goodell wielding his authority to enforce the desires of an angry public. (Pellisero, 2014)

Rice and the NFL Players Association appealed to Judge Barbara S. Jones, who determined that Rice had not misled the league when representing the facts of his actions. In suspending Rice indefinitely, Goodell was trying to retroactively impose a standard of discipline that Rice was not subject to at the time of his actions. Two weeks before the emergence of video footage, the NFL had updated its PCP and was trying to punish Rice using their new standard of punishment retroactively. Judge Jones, therefore, overturned the second suspension. (In the Matter of Ray Rice, 15-16, 2014)

The NFL, in this instance, went so far as to attempt to punish Rice again after hearing the response to their initial suspension. This behavior is evidence of the depth of the NFL's concern over its reputation and highlights their desire to avoid angering fans and analysts. As detailed in section 2, the NFL's revenue is largely determined by fan engagement. Goodell understands this and goes to great lengths to align the league with the desires of fans. In this case he was willing to attempt to punish a player a second time to conform to fan and media criticism. The NFL's commissioner's absolute authority to impose discipline makes the justice system within the league far more susceptible to public pressure.

Deshaun Watson

In March 2020, the NFL and NFLPA renegotiated their CBA. The updated version of the agreement introduced the concept of a disciplinary officer that would be jointly agreed upon by both the NFL and the NFLPA and would serve as the initial investigator and the person responsible for determining punishment. The first case to be heard under the system was that of Deshaun Watson in 2021-2022. This move was part of a continued effort by the NFL to hone their PCP which had been under fire since the Ray Rice decision in 2014.

News broke in the offseason proceeding the 2021 season that over twenty licensed and unlicensed massage therapists accused Deshaun Watson of unwanted sexual advances and sexual

assault during private massage sessions. He was subsequently placed on the Commissioner's exempt list while the NFL and law enforcement investigated. In spring 2022, a Texas grand jury decided not to move forward with prosecution, concluding that there was insufficient evidence of criminal activity. Although having now dodged all criminal charges, an NFL suspension was still likely pending investigation. (Reiss 2022)

Retired federal judge Sue Robinson was appointed to investigate the matter and render the verdict based on the evidence obtained during the NFL's investigation. On August 1, 2022, Judge Robinson submitted her disciplinary decision. She proposed that Watson be suspended for the first six games of the 2022 season. Many fans took to twitter to protest the length of suspension. One user wrote, "the NFL should be ashamed. this is a dark day for them." (Pantuosco 2022) Another user noted that "Watson received 0.2 games suspension for each woman that accused him of sexual assault." (Pantuosco 2022) Most posters simply echoed their surprise and anger at what they perceived to be a light suspension.

Judge Robinson noted that the NFL was pushing for a one-to-two-year suspension because it believed Watson's actions to be unprecedented in NFL history. Robinson also stated that within the PCP, a six-game suspension for first-time violent conduct offenders is the stated punishment (Watson's actions classify as nonviolent sexual assault or nonviolent sexual conduct). The general precedent has been a six-game suspension for violent behavior. By contrast, nonviolent sexual conduct was most severely punished with a three-game suspension in 2018. That antecedent case was the Jameis Winston suspension.

Given this precedent, Judge Robinson felt that standards of fairness and consistency prevented her from assigning Watson a punishment far more severe than any given to nonviolent sexual conduct. The NFL had given no notice, written or otherwise, that it was changing its punishment standards. A disciplinary action cannot be considered fair if players subject to it are

not given appropriate advanced notice. Further, the NFL has thus far failed to enumerate specifically which activities constitute prohibited conduct. This failure is unfair to players, who can be punished for actions they could not have known constituted prohibited conduct under the PCP. (Robinson 2022)

Three days after Judge Robinson issued her determination, Commissioner Goodell appealed the decision and appointed a longtime friend, Peter C. Harvey, to oversee the appeal. It was widely believed that Commissioner Goodell would sway the conclusion reached by Harvey, and that the decision ultimately reflected the Commissioner's desired outcome. Before Harvey rendered his verdict, however, Watson settled with the league. The settlement terms were that Watson was to be suspended for the first eleven games of the NFL season and that he pay a \$5 million fine. (Battista 2022)

Ignoring precedent and the cogent analysis of Judge Robinson, the Commissioner wielded his ultimate power and unchecked authority to extract significant concessions from Watson's camp. Goodell's desire to increase the length of suspension was likely due to the actual, and potential further, backlash generated by a mere six game suspension for a star quarterback tangled in a large sexual harassment scandal. In 2014, national network shows and nightly news coverage devoted A-block coverage to "Goodell and his disciplinary screwup." (Clark 2022) This was the only time in the history of the league that the national conversation questioned whether Goodell would keep his job. (Clark 2022) The commissioner learned from that experience the paramount importance of levying a punishment that will keep the NFL out of the spotlight. After months of press coverage surrounding the growing number of allegations against Watson, revealed details of his encounters with multiple victims, and reports of his use of over sixty therapists in a seventeen-month window, it was time to quiet the narrative with an "adequate" punishment.

Watson presumably knew that the Commissioner could ultimately levy any punishment he wanted, despite the initial decision reached by Judge Robinson, an objective third party. Although 2020 CBA negotiations between the NFL and NFL Players Associations established an independent third party to make the initial determination of punishment, the fact that the Commissioner appeals to himself means that no matter the ruling, Goodell can hand out whatever punishment he sees fit. This ability is confounded with the fact the Goodell has a vested interest in crafting decisions in a way that appeals to public opinion — systems of laws bowing to a fickle public can easily be manipulated or changed and generally do a poor job of maintaining consistency.

Section 6: Congress Case Analysis

The three cases detailed below are examples that are both landmark cases of sexual assault allegations in Congress and important examples of the ways that public pressure effects outcomes of sexual assault cases in Congress.

Senator Robert Packwood

Robert Packwood was a Republican Senator for Oregon from 1969 through 1995. Packwood grew up in Oregon where he attended both high school and college before enrolling in NYU law school. After graduating law school, Packwood returned to Oregon where he began his career in state politics. Packwood won a seat in the Oregon House of Representatives in 1962 through an extremely effective mobilization effort. He served their until running for US Senate in 1968. He won the 1968 election served as a US Senator for Oregon until his disgraceful resignation in 1995. (Mahoney) During Packwood's twenty-seven-year career in the Senate, he was an espouser of pro-feminist positions, including the right of women to abortions and his decision to vote against the appointments of Robert Bork and Clarence Thomas. Packwood was

said to believe in the importance of fighting for women's issues because "women are the guardians of liberty, but they are never given any." (Bates 1993)

In 1992, just after Packwood's narrow victory in the general election, the *Washington Post* broke a story of multiple women coming forward to detail over ten incidents of Packwood's habitual sexual misconduct. The story outraged Oregonians who had recently supported his bid for re-election. Packwood had successfully delayed the story until after the election by providing the Post with documents that cast aspersions on the credibility of the women coming forward. (Gorlin 2017) After the story broke, Packwood checked himself into a rehab center in Minnesota, and disappeared from the public spotlight for eighteen days. On December 10, 1992, Packwood addressed the nation in a nationally televised press conference to say that his actions were "just plain wrong," and that he "didn't get it," but now he does. (Bates 1993)

Far from soothing his constituents, many were angered by what they considered a cheap ploy to remain in office. Many voters believed that, by keeping the story secret until after the election, Packwood had engaged in election fraud as well. In his Washington office, Packwood had the fax machine unplugged because of the never-ending stream of nasty messages it was receiving from citizens. In his home state his appearances were met with mobs of protestors shouting for his resignation. These protests pointed to the continued reality that many were not won over by his apology and commitment to change. (Bates 1993)

Senator Packwood's first trip back to Oregon since the allegations had emerged was a tumultuous affair. He was "jeered, jostled, and taunted," and was accused by some of being "without honor" for refusing to meet with many of his constituents. (Egan 1993) Some decades long supporters of Packwood were vocal in their criticism. Byron Brinton, a resident of the rural north-east town Baker City told the Times that "Rural communities are moral communities, and

we expect our elected officials to act properly.” (Egan 1993) Packwood’s first trip home revealed evidence of the pressure that many of his constituents put on him to resign from the Senate.

Perhaps not surprisingly, Packwood changed course. He stated that his public apology was not an admission of guilt, and that any accusation would be met with a tough line of questioning. (Bates 1993) The Senate Ethics Committee eventually convened to conduct hearings and evaluate the evidence about Packwood’s troubling behavior. Packwood’s hardball response to the investigation, including his litigation against the permissibility of evidence and attempts to destroy pieces of his own diaries, caused a protracted investigation that further delayed any findings by the Committee. The Committee took three years to decide, but when they did, it was clear that they understood the disgusting nature of Packwood’s behavior. Committee chair Mitch McConnell said that he understood the concern that the committee might not “get it in the Packwood case,” but that they understood the “persistent misconduct demonstrated by Senator Bob Packwood.” (Hook 1995) McConnell later stated that Republicans understood the danger of losing Packwood’s seat but they “had a choice: Retain the Senate seat or retain our honor. We chose honor, and never looked back.” (McConnell 1999)

Facing the prospect of expulsion from the Senate, Robert Packwood resigned in 1995. The Senate judicial process that led to his resignation demonstrates the viability of the Ethics Committee as a solution for inappropriate behavior by members of the chamber. When presented with evidence, the Committee reached an accurate conclusion as to Senator Packwood’s guilt and recommended expulsion. They did not move to protect their colleague, instead they stood up for what they believed to be right regardless of the political consequences. In the cases that follow, instead of resorting to ethics investigations, pressure from colleagues, party leaders, and voters, all provide an extrajudicial means by which to force a legislator out of office. The

problem that these extrajudicial means present is how, absent an investigation, it can be determined whether there is merit to allegations.

Senator Al Franken

Al Franken served as a US Senator for Minnesota from 2009 to 2018. Franken is a standup comedian who had multiple stints on SNL. As part of Franken's standup career, Franken toured Iraq with the USO (United Services Organization), performing comedic routines for American soldiers. Before running for Senator, Franken wrote multiple successful books criticizing the conservative wing in American politics. In 2007, Franken announced his candidacy for Minnesota Senator — he would take on incumbent Republican Norm Coleman. After a hard-fought campaign, Franken ultimately won the nomination by a margin of 312 votes — one of the slimmest margins in Senate history. During Franken's time in the Senate, he was instrumental in the passage of several different bills and generally seen as a strong fundraiser and an influential junior Senator. Franken comfortably won his 2014 reelection bid and, before his late 2017 downfall, was even seen as a potential candidate to challenge Trump in the 2020 presidential election. (Cillizza 2017)

Franken's political fortunes changed in November of 2017 when conservative radio host Leeann Tweeden accused him of an unwanted kiss and shared a photo of her asleep on a plane, while he mimes groping her breasts. Both incidents occurred while the pair performed together on a 2006 USO tour in Iraq. A second woman, Lindsay Menz, came forward four days later and stated that Franken had groped her during a photo-op at the Minnesota State Fair. (Shelbourne 2017) By the end of November 2017, a total of 8 women, half of them anonymous, had accused Franken of unwanted sexual advances. From there, Franken's resignation was relatively swift.

After the initial accusations were leveled, Franken apologized (both publicly and privately) and asked for an inspection of his behavior through an investigation conducted by the

Senate Ethics Committee — the body generally responsible for investigating potentially problematic behaviors of senators. While the allegations piled up, public pressure mounted. After the eighth and final allegation, Senator Kirsten Gillibrand became the senator first to publicly demand that Franken resign. In a press conference, Gillibrand reiterated her demand that Franken resign. Gillibrand also used the opportunity to promote legislation she was sponsoring to help reform the sexual assault protections in Congress. It was only slightly ironic that the bill's originator was none other than Al Franken himself. (Mayer 2019)

In the following hours, a rolling tide of Franken's caucus members submitted their demands for the Senator's resignation. Franken met with caucus leader Chuck Schumer, a friend of his, to plead for more time. Franken repeated his request for an official investigation into his behavior during the incidents in question. Schumer told him to resign by five p.m. Franken "couldn't believe it. I asked [Senator Schumer] for due process, and he said no." (Mayer 2019) In total, thirty-six Senators joined the call for Franken's resignation, and Franken realized that he had reached the end of the road.

The following day, in a speech on the Senate floor, Franken announced his resignation from the chamber. Franken's words demonstrated the complicated balancing act between two competing desires. Franken considered himself "a champion for women... someone who respects the women [he] works alongside every day." (Franken 2017) On the other hand, he wanted to be clear that the allegations against him were either untrue or very different from how they were portrayed. In conclusion, Franken was confident that he had done nothing to disgrace the chamber, his party, or his constituents. Franken claimed that he was stepping down because he no longer believed he could perform his duties as a representative of the people of Minnesota.

Public pressure mounted as the allegations mounted. One of the most damning aspects of Senator Franken's case was that there were "Eight accusers! The number itself feels conclusive,

and it ended up being treated that way.” (Yoffe 2019) The discourse was so toxic that even among journalists, statements made by those defending Franken were dismissed out of hand. In response to support for Franken from SNL colleagues and congressional staffers, *Washington Post* journalist Molly Roberts stated that, “there are plenty of people the Zodiac Killer did not murder.” Further, she thought that any attempt to focus the narrative on what Franken did right, only “distracts from what he did wrong.” (Roberts 2017) The primary impetus for swift action came from legislators who believed that their credibility and post demanded immediate action.

Many constituents felt, as Times commentor Kathy Hutchinson did, that “there is a pervasive culture of disrespect and entitlement toward women by men of all political persuasions, socioeconomic statuses and education levels. It is time for American men to take a long look in the mirror and adjust their actions.” (Readers React 2017) Female Democratic Senators like Kirsten Gillibrand, Kamala Harris, and Elizabeth Warren decided that they had to take a stance in order to advocate for their female constituents, and continue advancing the goals of the #MeToo movement. The public discourse made it such that there was no room for qualification — Franken was either the innocent victim of a political hit-job or he was as bad as Harvey Weinstein.

Franken’s case emphasizes the inherent difficulties associated with sexual assault allegations in an age of social media and the ease with which the public can and does form opinions. What followed from the accusations surrounding Franken was a rush to support the courageous women coming forward to discuss their traumatic experiences with a famous and influential man. Finding the strength to come forward ’is not easy; when someone does, what they allege should be taken seriously. The problematic aspect of Senator Franken’s allegations was the fiery discourse pervading the narrative. In an age where women who come forward are to be believed, there is no space to evaluate allegations critically and weigh the evidence for and

against them. Al Franken quickly joined the ranks of “Harvey Weinstein, Kevin Spacey, Charlie Rose, and Matt Lauer” as a disgraced and despicable individual, “out of work and unemployable.” (Smith 2017)

Representative John Conyers

John Conyers Jr. was a member of the House of Representatives representing Michigan’s thirteenth district which encompasses Wayne County, and the greater Detroit area. Conyers started his tenure in the House in 1964, under the Johnson administration and served until his resignation in December of 2017. In 2015 Conyers became the “Dean” of the House as its longest serving active member. Throughout Conyers time in office, he was consistently rated one of the most liberal members and original founding members of the Congressional Black Caucus. Conyers was also heavily involved in a number of significant legislative initiatives including making MLK day a federal holiday, the Violence Against Women Act of 1984, and the Help America Vote act of 2002. (Bill Track 50)

Given Conyers storied career in the chamber, when allegations emerged in 2017 that he had made inappropriate and unwanted sexual advances towards multiple female staffers, many were initially surprised. The specifics of the allegations accused Conyers of “mistreating female aides over two decades, including alleged episodes of verbal abuse, inappropriate touching and sexual advances.” (Viebeck and Weigel 2017) Elisa Grubbs, who worked for Conyers from 2001 to 2013, alleged in a sworn affidavit released by her lawyer that throughout her time on Conyers staff, he would regularly “rub women’s buttocks and thighs and make comments about women’s physical attributes.” (Grubbs 2017)

In a press conference discussing the allegations, Speaker of the House Nancy Pelosi called Conyers an icon in the U.S. who has done “a great deal to protect women.” Pelosi was one of the many calling for due process, saying that the US is strengthened by its existence. (Weber

2017) Whereas in Franken's case public outcry and mounting pressure caused many within his party to demand his immediate resignation, Conyers was initially afforded the luxury of an Ethics committee investigation. Later, however, after one of Conyers's accusers went on television and detailed her experiences, Pelosi and other Democratic leaders in the House changed course and publicly pressured Conyers to resign immediately — without an Ethics Committee investigation. (Viebeck and Weigel 2017) Pelosi, and other elected lawmakers, are inherently vulnerable to public pressure. A demand made by an angry constituency can force them into swift action.

Conyers was initially resistant to the idea of his resignation. Arnold Reed, Conyers attorney pushed back against the idea that Conyers would bow to pressure from leadership. "It is not up to Nancy Pelosi. Nancy Pelosi did not elect the congressman, and she sure as hell won't be the one to tell the congressman to leave." (Viebeck and Weigel 2017) Adding to the discourse, super PAC Priorities USA Chairman Guy Cecil tweeted: "this is not complicated. Conyers should resign... Hypocrisy on the other side doesn't justify hypocrisy on our side. Period." (Viebeck and Weigel 2017) Cecil was referencing allegations against Conyers and Franken in the backdrop of allegations against prominent Republicans like then President Donald Trump, and Senate candidate Roy Moore.

On December 5th of 2017, from a hospital bed in Detroit where he was being treated for stress related illness, John Conyers announced his "retirement" from politics. Conyers was confident that his legacy would not be "compromised or diminished in any way," and again denied any wrongdoing. The iconic representative was careful to pitch his decision, not as a "resignation" coming under pressure from leadership and the public, but rather as a realization that it was an appropriate time for him to "retire." In US politics, when a politician announces their retirement, they usually intend to serve out the remainder of their term — resignations, by

contrast, are immediate. Conyers retirement allowed him to keep his pension and avoid facing the results of an ethics investigation. (Phillips 2017)

The concept illustrated through both Conyers's and Senator Franken's cases, which occurred simultaneously, is the belief that certain allegations are grave enough that the potential perpetrators should be pressured to leave their posts before the evidence is weighed in an ethics investigation. This notion rests on the belief that some actions are heinous enough that, before confirming that our perceptions of the crimes are accurate, we must enforce justice. This premise is nonsensical. The only way to ensure that any allegations made against members of Congress are credible is an ethics investigation or a trial in a court of law. If these processes are subverted to enforce a swifter form of justice, it can hardly be considered justice. Public pressure demands occasionally push legislators, as they did in the cases of both Conyers and Franken, to pursue swift action outside of the normal mechanisms in place. Systems in place for evaluating legislators potentially problematic behavior must be impervious to public pressure so that they cannot be circumvented.

Section 7: Legal Imperative to Laws Impervious to Outside Pressure

The two previous sections both detailed and evaluated cases from the NFL and Congress in which public pressure motivated outcomes beyond the normal scope of systematic responses to problematic behavior. This section builds on that analysis by examining sources that point to the importance of crafting legislation immune to public pressure which often can lead to unjust outcomes lacking due process.

Case studies from both the NFL and Congress share a common theme. In most cases, the perception and demands of the public often affect the outcomes and results of the process. In Deshaun Watson's case his suspension was increased as a bow to the desires of spectators and

media personalities. Ray Rice had his suspension arbitrarily increased in response to backlash from the viewing public. Senator Al Franken was pressured into an early resignation partly because many of his colleagues were under pressure from constituents out for blood. How does legal philosophy treat the phenomenon of public pressure and how can laws be crafted in ways that are immune to it?

In Federalist No. 10 James Madison characterized these groups that impulsively band together as factions. The groups are “united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.” (Federalist No. 10 1787) Madison believed that factions arose when public opinion forms and spreads quickly, like in the case of the #MeToo movement. In Madison’s conception, these factions dissolve when the public has the time and space to consider long term interests. (Rosen 2018) The Framers of the Constitution designed American government as a representative republic rather than a direct democracy, so that there could be a degree of distance between the passions and anger of the mob and the level-headed people tasked with crafting legislation and deciding government policy. (Rosen 2018) Further, the Senate was originally designed in a way that made it a place to cool radical legislation crafted in the larger House of Representatives — a body where members were elected to two years and so more directly responsible to the immediate wishes of their constituents. Until the passage of the seventeenth amendment to the Constitution in 1913, Senators were elected by the state legislature, further distancing them from immediate responsibility to their constituents.

The Supreme Court of the United States is another example of a legislative body that the Framers outlined that would remain removed from public accountability. Supreme Court Justices are nominated by the President, confirmed in the Senate, and serve lifetime appointments. These justices are not responsible to account for the opinions of American citizens. Having bodies

removed from both public pressure and the opinions of the mob allows government to push back against swift and radical positions taken by an angry mob. The imperative for bodies removed from public pressure is even more necessary in a time where public discourse is accelerated through social media. Inflammatory and passionate posts travel faster, mass media creates echo chambers that serve to strengthen the opinions of the enflamed mob. (Rosen 2018)

Section 8: Changes to the Systems in Congress and the NFL

After establishing the importance of systems that resist the sway of public pressure, this section details means by which both the NFL and Congress can increase their systems resistance to public pressure. These changes represent means by which justice for both NFL players and members of Congress could be far more likely to occur after disciplinary hearings are initiated.

Changes in the NFL

The NFL shifts its methods and criteria for punishment at whim and often fails to adhere to historical precedent. For players to receive justice and fans to feel confident in the NFL's handling of inappropriate behavior, the NFL must change its process to correct lenient punishments and standardize its methods to ensure consistent applications of rules and precedent. The changes outlined below will help ensure the disciplinary system's resistance to public pressure and the just application of rules and standards regardless of the current expectations and desires of fans and NFL personnel.

Appoint an Independent Disciplinary Officer to Hear All Cases of Personal-Conduct Policy

Violations

Despite the 2020 update to the CBA, the Commissioner retains control of most disciplinary decisions reached by the NFL. This cannot remain the case if the league is to provide its players, personnel, and coaches with an adequate standard of punishment. The

Commissioner is biased because, as Commissioner, it is his responsibility to do everything in his power to advantage the league — often at the expense of fair treatment of the cases over which he presides. The 2020 CBA negotiation took a step in the right direction by creating a position independent of the Commissioner in charge of issuing the first disciplinary determination. The NFL and NFL Players Association must jointly appoint a second person, independent of the league, to hear any appeals and guarantee total removal of the decision from biased hands.

No part of the decision should be made by the Commissioner. An individual whose job it is to grow league popularity is necessarily likely to make decisions in ways that bow to public pressure rather than promote just outcomes for players. By contrast, an independent disciplinary officer will be trained in legal decision making and also has less motivation to appease the public.

Re-Write the Prohibited Behavior Section of the Personal-Conduct Policy

Two elements of the PCP's list of prohibited conduct are especially troubling. The first is that the league has not defined each behavior. The document includes a list of generic behaviors, for example: "Assault and/or battery, including sexual assault or other sex offenses," but does not define any prohibited actions under this category. (PCP, 2018)

The NFL no longer relies on the criminal justice system to determine guilt and must decide what constitutes prohibited conduct under its policies. The problem with undefined rules is that players cannot comport themselves according to the expected standards. In Thomas Jefferson's letter to Isaac McPherson in 1813, Jefferson states that "every man should be protected in his lawful acts, and that no ex-post facto law shall punish or endamage him for them." (Jefferson 326) This contention illustrates the same difficulty that Judge Robinson identified with the NFL defining prohibited behavior post-facto. It is unfair for the NFL to hold a

player to a standard not enumerated before his indiscretion. To do so is to sacrifice any true notions of justice.

The final behavior prohibited under the personal-conduct policy is “conduct that undermines or puts at risk the integrity of the NFL, NFL clubs, or NFL personnel.” (NFL personal-conduct policy, 2018) This prohibited behavior was cited as grounds for suspension in most personal-conduct policy violations, regardless of their nature. It is the least obvious of all prohibited behavior and is so broad it can be argued for in almost any situation, as it fits the Commissioner. As discussed throughout this thesis, the commissioner has every incentive to appease fans and media because of their importance to league revenues. Removing the ambiguity of language will limit the decisionmaker’s ability to decide based on factors other than the clear language of the law. A catch all rule, like this one, allows the Commissioner too much leeway for broad application. This portion of the PCP should be removed entirely or be more clearly defined.

Form a Committee to Determine Appropriate Punishments for Prohibited Conduct

At present, violent conduct is the only form of prohibited behavior with a sentencing guideline attached to it. To help deter future indiscretions by players, establish appropriate precedent, and fairly prosecute, the NFL must have stated punishments for every prohibited action that it wishes to punish.

The best way to determine fair penalties is to solicit input from players, people familiar with criminal justice, and league executives. A nine-person panel consisting of three representatives from each camp could come together to draft proposed penalties for each violation, and those penalties could be reviewed and ratified by the league. If the league is unhappy with them, they can be given to a different panel of nine that can draft a different set of punishments. The NFL can then accept either the first or second set of penalties, but it must

choose one. Doing this will allow penalties to be determined by experts and the individuals governed by them and so ensure the justness of the penalties. Another advantage of this change is its ability to ensure that there are clear sentencing guidelines for all forms of infractions. This further alleviates the susceptibility of punishments to public pressure because it gives the decision maker clear guidelines based on the infraction at hand.

Changes in Congress

Provide Victims with Legal Counsel

Reform to the Congressional Accountability Act makes the process easier for staffers to come forward with allegations of harassment. The reformed bill also provides victims with an advisor but not legal counsel. Anna Kain, a former staffer on the Hill notes that “there’s no way [she] would have been able to afford an attorney,” as a staffer in Washington. (Zhou 2018) Under the CAA, lawmakers are provided with legal counsel. Giving victims legal counsel would provide them with the same services afforded to legislators and ensure that they are not at a disadvantage because of their lower salaries and lack of access to quality legal representation.

This update will also help ensure that potential victims of sexual assault are not at a power or resource imbalance. Doing so may also allow the public to loosen their feelings of anger towards legislators that they perceived to have committed wrongdoing. The public will understand that Congress has lawyers in place dedicated to ensuring just outcomes between legislators and victims of assault. Providing victims with counsel will allow for a more balanced system that legislators and victims feel comfortable working within. In the cases of Al Franken and John Conyers, fellow congress-members began to demand their resignations because they didn’t think that relying on the justice system would be good enough. This change would significantly alter the system and thereby increase confidence and respect for its processes.

Require an Independent Investigation of Facts and Emphasize the Importance of Trusting the Outcomes

Both chambers should use the Office of Congressional Ethics to investigate claims of harassment. The department should be staffed appropriately and armed with the investigative skill and powers to determine the facts of each case and based on that recommend action to the ethics committee. Once the committee has convened and heard the facts of the case, they may properly discipline any member determined to be guilty of sexual harassment. The value in using an outside body is their ability to remain impartial and their skill in investigative proceedings. If properly staffed and trained, the Office would have the tools to investigate claims of harassment in a timely and productive manner and determine the appropriate disciplinary action necessary. The body would hopefully be seen as the appropriate body to decide on recommended action and would have the good faith of the American people — relieving some of the doubts that the American people have of Congress's ability for self-governance. For just outcomes to occur, investigations must take place and facts be determined before judgement is rendered. Public pressure creates an expectation of instantaneous solutions, and, without a clear investigative procedure, the public is more likely to expect change immediately.

Neither Al Franken nor John Conyers received investigations of their behavior. Without those investigations it can never be clear whether their forced resignations were justified. *New York Times* reporter Michelle Goldberg admitted that her calls for Franken's resignation were premature and that "transparent, dispassionate systems for hearing conflicting claims are not an impediment to justice but a prerequisite for it." (Goldberg 2022) If members of Congress feel that a fellow member is guilty of impropriety than they would be wise to call for an investigation and, if the investigation validates their beliefs, they can afterwards feel confident in calling for disciplinary action.

Conclusion

As demonstrated through the Congressional policy on sexual assault and actual cases within Congress, as well as the NFL's Personal Conduct Policy and case studies of NFL players experiences with the system, both systems show clear instances of negative effects resulting from public pressure. Public pressure in both bodies has resulted in the influencing of outcomes in ways that obstruct justice. Steps can and should be taken in both Congress and the NFL to insulate themselves from public pressure and facilitate just outcomes from disciplinary action.

Areas for Further Research

This paper largely dealt with establishing the deleterious effects of public pressure in the NFL and Congressional justice systems surrounding sexual violence and assault. To build on the topic of public pressure research, analyzing the effects of public pressure on justice outcomes in other institutions may provide a fuller understanding of public pressure. To build on an analysis of justice in the NFL, research analyzing suspension lengths for penalties related to on-field conduct may provide a fuller understanding of how public pressure effects all penalties in the NFL. To build on an analysis of justice with Congress, research should examine the ability of constituents to motivate action from their elected representative in specific instances of public pressure.

Works Cited

- Applebaum, Anne. "The New Puritans." *The Atlantic*, 31 Aug. 2021,
<https://www.theatlantic.com/magazine/archive/2021/10/new-puritans-mob-justice-canceled/619818/>.
- Bates, Tom. "THE PACKWOOD PROBLEM : He's a Republican Senator With All the Right Friends. But Bob Packwood Also Had His Demons, and They May Forever Change the Capitol's Old Boys' Network." *Los Angeles Times*, 11 Apr. 1993, <https://www.latimes.com/archives/la-xpm-1993-04-11-tm-21439-story.html>.
- Battista, Judy. "Deshaun Watson Settlement Brings Suspension Saga to Unsatisfying Close." *NFL.Com*, <https://www.nfl.com/news/deshaun-watson-settlement-brings-suspension-saga-to-unsatisfying-close>. Accessed 5 May 2023.
- . "N.F.L. Plans to Toughen Conduct Policy." *The New York Times*, 22 Mar. 2007. *NYTimes.com*, <https://www.nytimes.com/2007/03/22/sports/football/22nfl.html>.
- . "Roethlisberger Suspended for 6 Games." *The New York Times*, 21 Apr. 2010. *NYTimes.com*, <https://www.nytimes.com/2010/04/22/sports/football/22roethlisberger.html>.
- . "Tougher N.F.L. Suspends Two Players for Conduct." *The New York Times*, 11 Apr. 2007. *NYTimes.com*, <https://www.nytimes.com/2007/04/11/sports/football/11nfl.html>.
- BROWN, MALEAHA L. "When Pros Become Cons: Ending the NFL's History of Domestic Violence Leniency." *Family Law Quarterly*, vol. 50, no. 1, 2016, pp. 193–212. *JSTOR*, <http://www.jstor.org/stable/44155204>. Accessed 12 Dec. 2022.

Brubaker, Bill. "VIOLENCE IN FOOTBALL EXTENDS OFF FIELD." *Washington Post*, 13 Nov. 1994.

www.washingtonpost.com,

<https://www.washingtonpost.com/archive/politics/1994/11/13/violence-in-football-extends-off-field/8247f13e-54aa-4285-8918-d7f7856690cf/>.

Cillizza, Chris. "Why 'Al Franken for President' Isn't as Crazy as You Might Think." *Washington Post*,

25 Nov. 2021. *www.washingtonpost.com*, [https://www.washingtonpost.com/news/the-](https://www.washingtonpost.com/news/the-fix/wp/2017/02/06/why-al-franken-makes-a-weird-amount-of-sense-as-a-2020-candidate/)

[fix/wp/2017/02/06/why-al-franken-makes-a-weird-amount-of-sense-as-a-2020-candidate/](https://www.washingtonpost.com/news/the-fix/wp/2017/02/06/why-al-franken-makes-a-weird-amount-of-sense-as-a-2020-candidate/).

Clark, Kevin. "The NFL Had No Choice But to Appeal the Deshaun Watson Suspension." *The Ringer*, 3

Aug. 2022, <https://www.theringer.com/nfl/2022/8/3/23291282/nfl-appeal-deshaun-watson-suspension-cleveland-browns>.

Collective Bargaining Agreement. NFL, 15 Mar. 2020,

<https://nflpaweb.blob.core.windows.net/website/PDFs/CBA/March-15-2020-NFL-NFLPA-Collective-Bargaining-Agreement-Final-Executed-Copy.pdf>.

D'Zurilla, Christie. "In Saying #MeToo, Alyssa Milano Pushes Awareness Campaign about Sexual

Assault and Harassment." *Los Angeles Times*, 16 Oct. 2017,

<https://www.latimes.com/entertainment/la-et-entertainment-news-updates-october-2017-htmlstory.html#in-saying-metoo-alyssa-milano-pushes-awareness-campaign-about-sexual-assault-and-harassment>.

Egan, Timothy. "Harsh Homecoming for Senator Accused of Harassment." *The New York Times*, 29

Jan. 1993. *NYTimes.com*, <https://www.nytimes.com/1993/01/29/us/harsh-homecoming-for-senator-accused-of-harassment.html>.

- Evon, Dan. "Have 260 Out of 535 Members of Congress Settled Sexual Assault Charges?" *Snopes*, 3 Oct. 2018, <https://www.snopes.com/fact-check/congress-sexual-assault-charges/>.
- Fainaru-Wada, Mark, and Steve Fainaru. "OTL: NFL Didn't Follow Own Conduct Policies." *ESPN.Com*, 10 Nov. 2014, https://www.espn.com/espn/otl/story/_/id/11849798/outside-lines-most-nfl-players-domestic-violence-cases-never-missed-down.
- "Federalist Papers No. 10 (1787)." *Bill of Rights Institute*, <https://billofrightsinstitute.org/primary-sources/federalist-no-10/>. Accessed 5 May 2023.
- Flores, Robert. "It's a Good Thing Ray Rice Didn't Hit His Fiancé with the Crown of His Helmet. #NFL Decision Is Stunning/Disappointing." *Twitter*. Accessed 5 May 2023.
- Franken, Al. "Full Text: Al Franken's Resignation Speech on the Senate Floor." *POLITICO*, 7 Dec. 2017, <https://www.politico.com/story/2017/12/07/al-franken-resignation-speech-transcript-full-text-285960>.
- Frevert, Ute. "Shame and Humiliation." *History of Emotions - Insights into Research*, Oct. 2015.
- Goldberg, Michelle. "Opinion | I Was Wrong About Al Franken." *The New York Times*, 21 July 2022. *NYTimes.com*, <https://www.nytimes.com/2022/07/21/opinion/michelle-goldberg-al-franken.html>.
- Gorlin, Rachel. "Why Politicians Got Away with Sexual Misconduct for so Long." *Washington Post*, 10 Nov. 2017. *www.washingtonpost.com*, https://www.washingtonpost.com/outlook/why-politicians-got-away-with-sexual-misconduct-for-so-long/2017/11/10/4bb1ecc6-c4d8-11e7-aae0-cb18a8c29c65_story.html.

Gotberg, Krystyna, and Jacquelyn D. Wiersma-Mosley. "An Empirical Investigation of Violence Against Women in the NFL." *Journal of Sport and Social Issues*, vol. 46, no. 5, Oct. 2022, pp. 445–57. DOI.org (Crossref), <https://doi.org/10.1177/01937235211043645>.

"GovTrack.U.S - Legislator Misconduct Database." *GovTrack.U.S*, <https://www.govtrack.us/misconduct>. Accessed 5 May 2023.

Grubbs, Elisa. "Twitter." *Congressman Conyers: Women Who Worked for You Deserved Better. This Is the First of Several Affidavits I Will Be Releasing Describing Allegations That You Sexually Harassed Staffers and Covered up Complaints. My Client Marion Brown Asks Only for an Acknowledgement and Apology.*, 4 Dec. 2017.

Hensley, Jamison. "Twitter Reaction to Ray Rice Suspension." *ESPN.Com*, 25 July 2014, https://www.espn.com/blog/baltimore-ravens/post/_/id/11424/twitter-reaction-to-ray-rice-suspension.

Hook, Janet. "Hard Fight Led to a Hard Fall : Bob Packwood's Pugnacious Defense Finally Alienated Even His Closest Senate Colleagues. The Master Negotiator Lost His Job by Losing His Ability to Play the Political Game." *Los Angeles Times*, 9 Sept. 1995, <https://www.latimes.com/archives/la-xpm-1995-09-09-mn-44001-story.html>.

Hopke, Christina. "Is Congress Holding Itself to Account? Addressing Congress's Sexual Harassment Problem and the Congressional Accountability Act of 1995 Reform Act." *Notre Dame Law Review*, vol. 94, no. 5, July 2019, p. 2159, <https://scholarship.law.nd.edu/ndlr/vol94/iss5/11>.

In the Matter of Ray Rice. Zuckerman Spaeder LLP, 28 Nov. 2014, https://www.espn.com/pdf/2014/1128/141128_rice-summary.pdf.

“Internet and Social Media Users in the World 2023.” *Statista*,

<https://www.statista.com/statistics/617136/digital-population-worldwide/>. Accessed 5 May 2023.

Jefferson, Thomas. *The Writings of Thomas Jefferson*. Issued under the auspices of the Thomas Jefferson Memorial Association of the United States, 1907.

Mahone, Michael. “Sentencing Guidelines for the Court of Public Opinion: An Analysis of the National Football League’s Revised Personal Conduct Policy.” *Vanderbilt Journal of Entertainment & Technology Law*, vol. 11, no. 1, Jan. 2008, p. 181, <https://scholarship.law.vanderbilt.edu/jetlaw/vol11/iss1/3>.

Mahoney, Barbara. *Robert W. Packwood (1932-)*.

https://www.oregonencyclopedia.org/articles/packwood_robert_1932_/. Accessed 5 May 2023.

Mayer, Jane. “The Case of Al Franken.” *The New Yorker*, 22 July 2019. www.newyorker.com, <https://www.newyorker.com/magazine/2019/07/29/the-case-of-al-franken>.

McCann, Allison. “The NFL’s Uneven History Of Punishing Domestic Violence.” *FiveThirtyEight*, 29 Aug. 2014, <https://fivethirtyeight.com/features/nfl-domestic-violence-policy-suspensions/>.

“NFL Champions 1920-2018 | Pro Football Hall of Fame Official Site.” *Pfhof*, <https://www.profootballhof.com/nfl-champions>. Accessed 6 Nov. 2022.

Norman, Jim. “Football Still Americans’ Favorite Sport to Watch.” *Gallup.Com*, 4 Jan. 2018, <https://news.gallup.com/poll/224864/football-americans-favorite-sport-watch.aspx>.

Pantuosco, Jesse. *Social Media Reacts to Deshaun Watson's "shameful" 6-Game Suspension: "This Is a Dark Day."* 1 Aug. 2022, <https://www.audacy.com/national/sports/social-media-reacts-to-deshaun-watsons-6-game-suspension>.

Pelissero, Tom. "USA TODAY." *USATODAY*, 10 Sept. 2014, <https://www.usatoday.com/story/sports/nfl/2014/09/10/ap-newsbreak-source-says-rice-video-sent-to-nfl/15407231/>.

PERSONAL CONDUCT POLICY League Policies for Players 2018. NFL, 2018, <https://nflcommunications.com/Documents/2018%20Policies/2018%20Personal%20Conduct%20Policy.pdf>.

Petersen, Ursula. "Judge, Jury, and Executioner: Roger Goodell and the Power to Punish." *Loyola of Los Angeles Entertainment Law Review*, vol. 38, no. 2, 2017-2018, pp. 117-154. *HeinOnline*, <https://heinonline.org/HOL/P?h=hein.journals/laent38&i=125>.

Phillips, Amber. "Analysis | John Conyers Just Ducked out the Back Door to Escape His Sexual Harassment Scandal." *Washington Post*, 5 Dec. 2017. www.washingtonpost.com, <https://www.washingtonpost.com/news/the-fix/wp/2017/12/05/john-conyers-just-ducked-out-the-back-door-to-escape-his-sexual-harassment-scandal/>.

Posner, Eric. "A Terrible Shame." *Slate*, 9 Apr. 2015. slate.com, <https://slate.com/news-and-politics/2015/04/internet-shaming-the-legal-history-of-shame-and-its-costs-and-benefits.html>.

"Readers React: 'Al Franken, Noooooo!'" *The New York Times*, 17 Nov. 2017. [NYTimes.com](http://nytimes.com), <https://www.nytimes.com/2017/11/16/insider/al-franken-groping-reaction.html>.

Reiss, Aaron. "Timeline of Deshaun Watson's Sexual Assault Lawsuits." *The Athletic*,

<https://theathletic.com/2496073/2022/10/18/deshaun-watson-sexual-assault/>. Accessed 6 Nov. 2022.

"Republican Contract with America." *Teaching American History*,

<https://teachingamericanhistory.org/document/republican-contract-with-america/>. Accessed 5 May 2023.

Roberts, Molly. "Opinion | Everything Wrong with the 'SNL' Letter Supporting Al Franken."

Washington Post, 2 Dec. 2021, <https://www.washingtonpost.com/blogs/post-partisan/wp/2017/11/21/al-frankens-female-snl-colleagues-wrote-a-letter-supporting-him-heres-whats-wrong-with-that/>.

Robinson, Sue L. *Decision In Re: Matter of Deshaun Watson*. 1 Aug. 2022,

<https://www.documentcloud.org/documents/22124209-deshaun-watson-suspension-ruling>.

Rosen, Jeffrey. "America Is Living James Madison's Nightmare." *The Atlantic*, 12 Sept. 2018,

<https://www.theatlantic.com/magazine/archive/2018/10/james-madison-mob-rule/568351/>.

Sandomir, Richard. "Comic Strips on N.F.L. and Race: Fair Game or Out of Bounds?" *The New York*

Times, 11 Aug. 2009. *NYTimes.com*,

<https://www.nytimes.com/2009/08/11/sports/football/11sandomir.html>.

Sen. McConnell's Closed-Door Impeachment Statement - February 12, 1999.

<http://www.cnn.com/ALLPOLITICS/stories/1999/02/12/senate.statements/mcconnell.html>.

Accessed 5 May 2023.

Shelbourne, Mallory. "Al Franken's Swift Fall: A Timeline." *The Hill*, 7 Dec. 2017,

<https://thehill.com/homenews/senate/363759-al-frankens-swift-fall-a-timeline/>.

Smith, David. "The Rise and Fall of Al Franken: From Comedy to Politics to Disgrace." *The Guardian*, 7 Dec. 2017. *The Guardian*, <https://www.theguardian.com/us-news/2017/dec/07/al-franken-politics-minnesota-senator>.

Staff, C. N. N. "Key Events in the Ray Rice Story." *CNN*, 9 Sept. 2014, <https://www.cnn.com/2014/09/09/us/ray-rice-timeline/index.html>.

Trottier, Daniel. "Confronting the Digital Mob: Press Coverage of Online Justice Seeking." *European Journal of Communication*, vol. 35, no. 6, Dec. 2020, pp. 597–612. *DOI.org (Crossref)*, <https://doi.org/10.1177/0267323120928234>.

US Representative John Conyers | BillTrack50. <https://www.billtrack50.com/legislator/detail/15661>. Accessed 5 May 2023.

Viebeck, Elise, and David Weigel. "Top Democrats Call on Conyers to Resign over Sexual Harassment Allegations." *Washington Post*, 30 Nov. 2017. *www.washingtonpost.com*, https://www.washingtonpost.com/powerpost/conyers-hospitalized-as-accuser-describes-unwanted-sexual-advance-in-chicago-hotel/2017/11/30/55b82820-d5e0-11e7-b62d-d9345ced896d_story.html.

Weber, Joseph. "Pelosi Calls Conyers 'icon' Who Has Worked to 'Protect Women,' yet Backs House Probe into Sexual Allegations." *Fox News*, 26 Nov. 2017, <https://www.foxnews.com/politics/pelosi-calls-conyers-icon-who-has-worked-to-protect-women-yet-backs-house-probe-into-sexual-allegations>.

Wise, Mike. "Perspective | Tripping over His Shield." *Washington Post*, 29 July 2014. *www.washingtonpost.com*, <https://www.washingtonpost.com/sports/redskins/roger-goodell->

nfl-dropped-ball-throughout-ray-rice-process/2014/07/29/d5953a46-174e-11e4-9e3b-7f2f110c6265_story.html.

Yoffe, Emily. "DEmocrats Need to Learn From Their Al Franken Mistake." *The Atlantic*, 26 Mar. 2019, <https://www.theatlantic.com/ideas/archive/2019/03/democrats-shouldnt-have-pressured-al-franken-resign/585739/>.

Zhou, Li. "Congress's Recently Passed Sexual Harassment Bill, Explained." *Vox*, 20 Dec. 2018, <https://www.vox.com/2018/12/20/18138377/congress-sexual-harassment-bill>.