

respect

A NEWSLETTER ABOUT LAW AND DIVERSITY

Playing Racial Games: Minority Coaches in the NFL

by Phyllis Raybin Emert

Football season is now in full swing and although minority faces seem to dominate on the gridiron, few are seen on the sidelines as head or assistant coaches.

Attorneys Johnnie Cochran Jr., the lawyer who first gained national prominence for his successful defense of O.J. Simpson, and Cyrus Mehri, a labor law attorney in Washington, D.C., released a report in 2002 that called attention to what they refer to as the “dismal record of minority hiring” of head coaches in the National Football League. The study, titled “Black Coaches in the National Football League: Superior Performances, Inferior Opportunities,” noted that since the NFL began in 1920, over 400 head coaches had been hired, but only six were African-Americans (five since 1989).

Using statistical evidence over the last 15 years that contends that the few black coaches that were hired outperformed their white counterparts, the study determined that these same coaches were often the first fired by the team’s owners. Cochran declared at a news conference in September 2002 that black coaches were being held to a higher standard than their white counterparts and threatened to take the NFL to court.

“We can bring a lawsuit...but let’s see if we can have a dialogue,” Cochran said at the press conference. “You only litigate after you’ve done everything you can to negotiate.”

What the study found

Commissioned by Cochran and Mehri, Dr. Janice Madden of the University of Pennsylvania analyzed the data compiled in the 2002 report. Dr. Madden found that while 70 percent of all NFL players were black, only 28 percent of the assistants and coordinators and six percent of all head coaches were African-American. Whereas whites accounted for 30 percent of all NFL players, they comprised 72 percent of the assistant coaches and coordinators, and 94 percent of the head coaching positions.

>continued on page 2

Walking a Fine Line When Speaking Your Mind

by Cheryl Baisden

Under the U.S. Constitution, all Americans are given certain rights. One of the most basic—and often debated—of those rights is the freedom of speech, guaranteed under the First Amendment. The First Amendment right to free speech assures that individuals can express their opinions—verbally or in writing—without interference from the government, unless their statements could incite violence.

Recently, a New Jersey poet filed a federal lawsuit against New Jersey Governor James McGreevey and New Jersey State Council of the Arts Chairperson Sharon Harrington claiming they denied him his constitutional right to free speech. Amiri Baraka’s lawsuit involves his dismissal as the state’s poet laureate after he read a controversial poem at an arts festival in September 2002, said his attorney, William D. Manns.

The subject of the poem, titled “Somebody Blew Up America,” was the September 11, 2001 terrorist attacks. Several lines of the poem suggest that some groups and individuals, including Israeli Prime Minister Ariel Sharon, knew about the attacks before

>continued on page 5

This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

Angela C. Scheck
Executive Editor

Jodi L. Miller
Editor

Editorial Advisory Board

Louis H. Miron, Esq.
Chair

Muriel Beekman

Robert J. Boland, Esq.

Desha L. Jackson, Esq.

Lisa H. James-Beavers, Esq.

Caroline L. Meuly, Esq.

Robin R. Parker, Esq.

Rafael Perez, Esq.

Tracy Thompson, Esq.

Dr. Paul Winkler

New Jersey State Bar Foundation Board of Trustees

Lisa H. James-Beavers, Esq.
President

John J. Henschel, Esq.
First Vice President

Ellen O'Connell, Esq.
Second Vice President

Mary Ellen Tully, Esq.
Treasurer

John H. Ogden, Esq.
Secretary

Trustees

Mary M. Ace

Richard J. Badolato, Esq.

William G. Brigiani, Esq.

Allen A. Etish, Esq.

Stuart A. Hoberman, Esq.

Desha L. Jackson, Esq.

Peggy Sheahan Knee, Esq.

Ralph J. Lamparello, Esq.

Stuart M. Lederman, Esq.

Edwin J. McCreedy, Esq.

Louis H. Miron, Esq.

Carole B. Moore

Lynn Fontaine Newsome, Esq.

Wayne J. Positan, Esq.

Steven M. Richman, Esq.

Ronald J. Uzdevinis, Esq.

Karol Corbin Walker, Esq.

Leonard R. Wizmur, Esq.

Minority Coaches *continued from page 1*

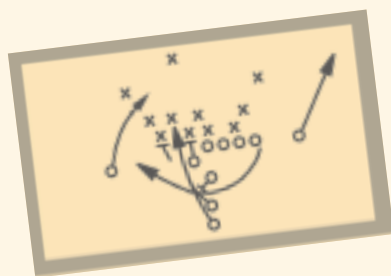
Win and loss records of the five African-American coaches from 1986–2001 (Dennis Green, Art Shell, Tony Dungy, Ray Rhodes, and Herman Edwards) were compared with the 86 white coaches during that same time period. Dr. Madden concluded that black coaches averaged 1.1 more wins per season than white coaches. That may not seem significant, but any football fan knows that nine wins to eight wins could be the difference between a team making the playoffs and going home for the season.

Teams led by the 86 white coaches participated in the playoffs 39 percent of the time, while the African-American coaches made the playoffs 67 percent of the time.

Among teams who had both black and white coaches during the time period, Dr. Madden found that the African-American coaches increased the average wins from 7.4 to 9.1. In general, the study found that the black head coaches consistently outperformed their white counterparts. However, the report does concede, "there were too few black coaches to apply formal statistical analyses." The prior success of African-American coaches did not pave the way or open doors for other minority

candidates in the NFL. According to the report, nine new coaches in 2000 were hired and all were white

with losing records or little or no experience.



Fair competition

To address the issue of opportunity, the Cochran/Mehri report proposed a Fair Competition Resolution to "promote an atmosphere in which African-American coaches are fairly and equally considered for head coaching positions." The study proposed incentives and penalties to motivate NFL owners toward a more open selection process.

According to the resolution, the NFL Commissioner Paul Tagliabue could award teams an extra draft pick for hiring minorities in management positions. All teams would select coaching and coordinator positions from a group of candidates who were racially diverse and interviewed in person. Finally, a team could opt out of the process by forfeiting a first-round draft pick for head coaching positions, or a third-round draft pick for assistant coaching and coordinator positions.

The Rooney Rule

The NFL's response to the Cochran/Mehri report was to establish a committee of owners to investigate diversity. The committee enacted the Rooney Rule, named for its chairman, Dan Rooney, owner of the Pittsburgh Steelers. The Rooney Rule required each team to interview at least one minority candidate when filling a head coach position or be fined. The committee did not adopt the proposed Fair Competition Resolution.

In January 2004, two black coaches were hired among seven vacancies. Two years after the Cochran/Mehri report, there are now five African-American head coaches in the 32-team NFL, more than any other season in league history.

The effectiveness of the Rooney Rule

There are questions as to whether the Rooney Rule can be effective. The NFL commissioner enforces the Rooney Rule but the commissioner is also hired by the team owners to manage the business affairs of the National Football League. Therefore, the commissioner, who is accountable to the owners, would have to oppose those owners who don't enforce the Rooney Rule, perhaps undermining his own job. Corey M. Turner, a professor of sports law and ethics at Metropolitan College of New York, contends the situation creates a conflict of interest.

In his *Sport Journal* column, Turner said that he believes, "it is the owners who must actually take action... [and]... embrace a policy to the point that



it becomes embedded as the normal and accepted way that business is conducted.”

In July 2003, the NFL did invoke the Rooney Rule when it fined Matt Millen, president of the Detroit Lions \$200,000 for violating the new rule because he hired a white head coach without interviewing any black candidates. Millen had always wanted his old friend, Steve Mariucci, to be his head coach, so when San Francisco let Mariucci go, Detroit went after him. The Lions president tried to follow the Rooney Rule by contacting five different assistant black coaches for an interview. Because it was common knowledge in the league that Millen would hire Mariucci, the coaches declined to be interviewed. Millen paid the fine and received much negative attention from the media and community groups.

Sports observers say things are changing in the NFL, and progress is slowly being made. They point to a similar controversy in the 1980s when the issue was the scarcity of black quarterbacks in the league. Today, many of the top signal callers are African-American.

Is more patience required when dealing with the coaching situation in the NFL, or must diversity be given a push in the right direction? The Cochran/Mehri report and the Rooney Rule have given professional football the push. Now, time will tell if the number of minority coaches continues to increase. ■

Breaking the NFL's Color Barrier

Since professional football's inception in 1920 until 1933, the sport enlisted a total of 13 black players. Some, like Paul Robeson, would go on to distinguish themselves off the field. Others, like Fred “Duke” Slater and Jay Mayo “Inky” Williams, would fade into obscurity.

One of the first African-Americans to play in the American Professional Football Association, later the National Football League, was Frederick Douglass “Fritz” Pollard. In 1923, Pollard was named head coach of the Akron Pros, attaining the distinction of being the first black coach in the NFL. There would not be another black head coach in the league until 66 years later when the Los Angeles Raiders tapped Art Shell to lead its team in 1989.

Most head coaches today can be seen enthusiastically pacing on the sidelines and interacting with their players. It was different for Pollard. In his book, *Fritz Pollard: Pioneer in Racial Advancement*, John Carroll reports that even though he was the team's head coach, Pollard was not allowed on the sidelines. Instead, he was forced to sit on the bench while his team captain ran the game on the field.

His achievements were remarkable, but despite these early gains by Pollard, by 1934 there were no black players on any NFL team and there would not be again until after World War II. Football historians are split as to the reason for the absence of black players over this 12-year span.

In “Outside the Pale: The Exclusion of Blacks from the National Football League, 1934–1946,” from the *Journal of Sport History*, Thomas G. Smith says that many put the blame on George Preston Marshall, former owner of the Washington Redskins. Credited with putting the NFL on the map, Marshall was openly racist and his team would not be integrated until the Kennedy administration forced him to do so in 1962. Some historians suspect that other owners did not want to offend Marshall by signing a black player and so black athletes were passed over.

Others, according to Smith, say that the NFL's financial constraints restricted recruiting opportunities at anything but major colleges where few black students could be found. The scouting system in place today was nonexistent at the time, and black colleges were virtually overlooked.

Smith contends in his article, however, that there were many quality black athletes on major college teams during the 1930s but points out that during this depression decade it would have been detrimental to an organization to hire a black man when so many white men were out of work.

A “gentleman's” agreement

One of the last black players to be let go before the 12-year span was Ray Kemp who played his final game with the Pittsburgh Pirates (later the Pittsburgh Steelers) in 1933 against the New York Giants. Although Kemp would enjoy a long career coaching college football, in “Outside the Pale” Smith states that in an interview more than 30 years later Kemp cited racism as the reason for his release from professional football.

“It was my understanding,” Kemp said in the interview, “that there was a gentleman's agreement in the league that there would be no more blacks.”

Indeed, according to Smith's article, in 1935 Coach Paul Schlisser of the Chicago Cardinals admitted that there was an unwritten rule barring blacks from football. He claimed, however, that it was for their own protection, citing how opposing teams in the league beat up on black players.

The color barrier was finally broken in 1946 when the Los Angeles Rams signed Kenny Washington who had been a star for UCLA in the late 1930s,

>continued on page 6

Hate in the Garden State

by Dale Frost Stillman

There are currently more than 750 hate groups operating throughout the United States, according to a Southern Poverty Law Center (SPLC) report released in April 2004. Racist skinhead groups doubled in 2003, according to the report, and neo-Nazi organizations added 11 more chapters. Overall, 2003 saw the development of 43 more hate groups than the previous year.

The SPLC's annual report maintains that 30 hate groups currently exist in New Jersey. Twenty-seven of these groups fall into four major hate group categories—racist skinhead, black separatist, neo-Nazi and the Ku Klux Klan.

Following are descriptions of each of these categories and their relevance in New Jersey.

Racist skinhead

According to the Simon Wiesenthal Center, an international Jewish human rights organization dedicated to tolerance, the skinhead movement originated in England in 1967 and its members are characterized by their shaved heads, Doc Marten boots and bold tattoos. Chapters of this violent, white supremacist movement exist in 13 towns throughout New Jersey, according to SPLC's report, but these racist skinhead "crews" often move from city to city.

In New Jersey, law enforcement is making progress against these groups. Six members of the East Coast Hate Crew were arrested for assault and robberies in the spring of this year according to Hester Agudosi, chief of New Jersey's Office of Bias Crime and Community Relations. The six included both adults and juveniles who were targeting immigrants in Ocean County, Agudosi said.

Black separatist

SPLC's report claims seven black separatist groups are active within the state of New Jersey. The black separatist belief system, SPLC says, includes opposition to racial integration and favoring a separate nation for black people. They can be anti-white as well as anti-Semitic, believing that whites are racist oppressors of blacks. Some black separatist **factions** also claim that blacks are God's chosen people.

In 1999 Robert Rozier and John Armstrong, members of the black separatist cult, Yahweh ben Yahweh, were arrested for the 1984 Essex County murder of Attilio Cicala, a homeless white man.

According to the Associated Press, Cicala was offered as a sacrifice to the cult's leader, also named Yahweh ben Yahweh, who was visiting the Newark temple that bears his name a few days later. In Hebrew, Yahweh ben Yahweh means "God the Son of God." The Associated Press reported that this particular sect of Black Israelites, which no longer exists in Newark, believes they are the lost tribe of Israel and that white people are devils.

Neo-Nazi

The term "neo-Nazi" literally means new Nazi. The neo-Nazi movement is an attempt to reinstitute the beliefs of the Nazis and Adolf Hitler. These hate groups want to preserve the white race and some neo-Nazi groups support the creation of a **fascist** political state.

SPLC's report claims that six neo-Nazi organizations, including the National Alliance, have strongholds throughout New Jersey. Investigations by the Anti-Defamation League (ADL) claim that the National Alliance is the "single most dangerous organized hate group in the United States today." According to Shai Goldstein, former regional director of the ADL in New Jersey, the National Alliance and the White Revolution, a white supremacist group that has broken ties with the National Alliance, are its main focus.

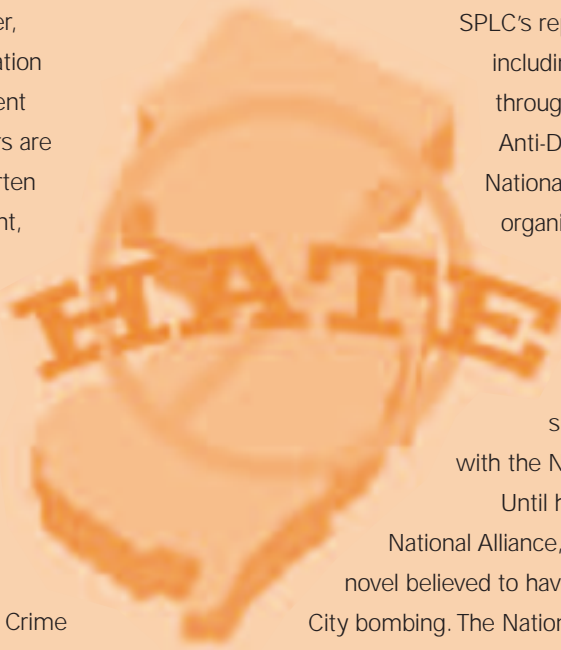
Until his death in 2002, William Pierce led the National Alliance, and wrote *The Turner Diaries*, a race war novel believed to have been a model for the 1995 Oklahoma City bombing. The National Alliance owns Resistance Records, a white power music company that uses its music to recruit young racists. Another popular National Alliance recruiting tool is *The Saga of White Will*, a racist, anti-Semitic comic book distributed on high school and college campuses.

In June of 2002 *The Princeton Packet* reported that the National Alliance of Hillsboro, West Virginia, delivered fliers to about 100 homes in the area in an effort to boost recruitment. Again in 2003, more flyers from the National Alliance were thrown on driveways in Morristown.

Ku Klux Klan

Perhaps the oldest and most well known hate group in the U.S. is the Ku Klux Klan, which has a chapter in southern New Jersey, according to SPLC's report. The Klan was founded after the Civil War in 1865 during the Reconstruction period.

>continued on page 6



they happened, and that 4,000 Israeli workers were warned not to report to the World Trade Center that day. The governor and others who were angered by the comments contended that Baraka's words were hateful toward Jews, or **anti-Semitic**.

Although the governor quickly called for him to resign from his two-year position as New Jersey poet laureate, Baraka refused. Since under New Jersey law he could not be fired from the honorary position, the New Jersey State Council of the Arts, at Governor McGreevey's request, suspended payment of Baraka's \$10,000 honorarium, and the state Legislature passed legislation eliminating the position.

Attorney Stephen Latimer, who practices constitutional law, states that Baraka's attorney could argue that the position was abolished as a way to get around the fact that Baraka couldn't be fired.

"If suddenly there is no longer a poet laureate position, then he's technically fired," Latimer said.

In his lawsuit Baraka is asking to be reinstated as poet laureate for a full, two-year term and paid his annual honorarium. In addition, Baraka is seeking an undisclosed amount of money for damages. According to

Manns, the lawsuit was filed in April, but the two sides have not met to discuss the complaint.

What is anti-Semitism?

Anti-Semitism is any action that is hateful or discriminatory against the Jewish people, which Baraka and his supporters say his poem is not. At an October 2002 press conference, Baraka explained that the poem did not claim that *Israel* and the Jewish *people* were responsible for the terrorist attack, but that the country's leaders knew it was going to take place.

"New Jersey Poet Laureate Amiri Baraka is correct in stating that criticizing or questioning the policies or behavior of the Israeli government should not be construed as anti-Semitism; no more so than criticism of the government of an African nation should be immediately categorized as racist," explained Walter L. Fields, a former political director of New Jersey's branch of the National Association for the Advancement of Colored People (NAACP), in his publication *The Black Commentator*.

"At no point in his poem does Mr. Baraka make a derogatory reference toward Jews or Judaism. To suggest that he does is both unfair and inaccurate," he stated. "He does, in fact, question the behavior of the head of state of Israel."

But Baraka's critics stand behind their charges of anti-Semitism, claiming the offending stanza is based on a false rumor that 4,000 Israeli workers never reported to work on September 11, and that Israel was somehow involved in the attack.

"Baraka continues to be the unrepentant anti-Semite that we always knew he was, and no amount of explanation can change the

fact that he has bought into the big lie about September 11," Anti-Defamation League National Director Abraham H. Foxman said in a statement after Baraka's poem recital.

Regardless of whether or not the poem is anti-Semitic, Baraka has every right to recite it, according to Latimer.

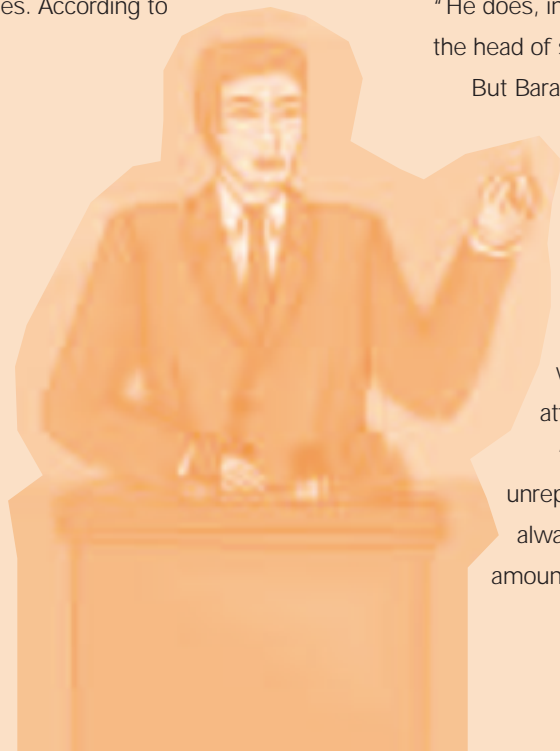
"The fact that he made anti-Semitic remarks in his poem is something that is protected under the Constitution," Latimer said. "Sure, his comments evoked emotion, but that's what art is designed to do. He still has a right to say what he wants. Although any form of hate speech is an unfortunate thing, the Constitution clearly protects our right to make those statements."

How far is too far?

Just as you cannot yell "fire" in a crowded movie theater, free speech has limits. Anti-Semitic, as well as racist and sexist remarks are protected under the First Amendment unless they are clearly designed to push people to violence, said Latimer. While Latimer says the poem Baraka wrote and recited "doesn't even come close to inciting violence," Baraka's critics disagree.

William Davidson, of the New Jersey Anti-Defamation League, stated in a letter to the governor on September 27, 2002, that Baraka's poem was intended to spark violence.

"Words of bigotry lead to acts of bigotry, which in turn lead to the kind of murder that occurred on 9/11," Davidson wrote. "The lesson of the Holocaust is that those who stay silent in the face of anti-Semitism and other forms of bigotry are responsible for the consequences of such silence." ■



Hate *continued from page 4*<

Violence is the hallmark of the Klan and their purpose was to intimidate southern African-Americans. Modern incarnations of the organization also oppose Catholic and Jewish immigration.

In 1925, the Klan held its largest Northeast “Klonvocation” or rally in Hamilton. The 1920s saw a peak in Klan membership, rising to more than three million nationwide. By 1930, however, according to the *Columbia Encyclopedia*, the Klan’s membership dwindled rapidly to 30,000 and today, nationally is estimated to be in the low thousands.

Other New Jersey-based hate groups

SPLC reports that three other hate groups that don’t fit into the four categories can be found in New Jersey. The Jewish Defense League (JDL), according to the ADL, was founded in 1968 by Rabbi Meir Kahane to protect Jews “by whatever means necessary.” The ADL reports that Rabbi Kahane, who was assassinated in 1990 by an Arab extremist, “grossly distorts the position of American Jews.” JDL’s founder believed that American Jews live in a hostile society comparable to Nazi Germany and he preached radical Jewish **nationalism** reflecting political extremism, racism and violence.

Another hate group, the American Third Position, which has a chapter in Clifton, mixes the **ideology** of left and right-wing groups with fascist overtones, according to SPLC. In other words, these groups take the ideas they

like, or agree with, from left-wing politics and right-wing politics and put it together with the notion that the U.S. should have a one-party system of government that promotes their ideology, creating a “third position.”

Micetrap Distribution, one of the top 10 distributors of hate music, is located in Maple Shade. According to *The Bergen Record*, in 2001 the neo-Nazi skinhead music company united with a white supremacist publishing operation called 14 Word Press, which advocates the overthrow of the U.S. government. Fourteen words is a hate symbol and refers to the number of words in a hate expression (“we must secure the existence of our people and a future for white children”) used frequently by neo-Nazi hate groups. According to the ADL, David Lane, who formerly ran the publishing group, coined the phrase. Lane is currently serving a 150-year prison term for terrorism and assassination.

Eliminating hate

How do we eliminate hate from our society? Shai Goldstein maintains that people need to face up to their own biases first and suggests that interested persons visit the ADL’s website at www.adl.org to get some ideas about how to educate themselves against hate. You may also check out the Southern Poverty Law Center’s website at www.splcenter.org, or the Simon Wiesenthal Center for Holocaust Studies at www.wiesenthal.com. ■

Color Barrier *continued from page 3*<

setting records for rushing and passing. Soon after, Paul Brown, coach and part-owner of the Cleveland Browns, who vowed to sign the best players “regardless of color,” signed two black players—Bill Willis and Marion Motley.

The Cleveland franchise was originally part of the All-America Football Conference but was picked up by the NFL when the AAFC folded in 1950. Following Brown’s lead, more and more owners added black players to their team rosters until in 1961, according to Smith, 16.5 percent of NFL players were black.

Progress, however, was slow and the newly-signed players encountered prejudice from opposing teams. Smith says Willis and Motley were not allowed to play games against the league’s team from Miami because Florida state law prohibited integration. Black players would also have had to endure the indignities of discrimination off the field as well with hotels that would not allow them to stay and restaurants that would not allow them to dine.

Hailed as pioneers in their chosen sport of football, these men, with their dogged determination were, whether by choice or by fate, pioneers in the civil rights movement as well. ■ —Jodi L. Miller

anti-Semitic — being prejudice or hostile toward Jewish people. **factions** — dissenting groups within a larger group. **Fascist** — a person that advocates Fascism, which is a one-party system of government. **ideology** — principles or a way of thinking that is characteristic of a political system. **laureate** — person deserving of distinction or honored for achievement. **nationalism** — a system that demands ownership or control of all industries and devotion to one nation.