



Of The

In today's environment of youth violence and a lawsuit-happy culture, it's becoming necessary for officials to take control of their own legal destinies. How can you, a single official, bring about change?

In Virginia, a football official is hit in the back with a chair. His assailant is let off with community service and an apology.

In California, the Metropolitan Officials Association is classified as its members' employer and required to pay more than \$50,000 in back unemployment and workers' compensation.

In New Jersey, an umpire is sued by a slow-pitch catcher who was injured as a result of his legal choice not to wear a mask.

And in Illinois, a man who would've been a great official shakes his head at the buddy who's trying to recruit him. There's no way he'll consider officiating. Says donning the uniform would equate to painting a target on his back.

He's got a point. Lately players, coaches, fans, even state agencies have zeroed in on that target with alarming accuracy. The good news is that across the country officials are fighting back, and often winning, organizing grassroots efforts to change legislation on the three issues that affect them most: assault protection, independent contractor status and limited liability. The better news is that you — one person — can help erase the target altogether.

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People, By The People

By Don Collins & Jennifer Rardin

'Grassroots' is Plural for a Reason

Don't get the wrong idea. You can save the day, but not if you ride into your state capital like the Lone Ranger, perhaps with only one trusty sidekick behind you. You need hundreds, thousands of sidekicks, all willing to back your cause with letters and phone calls. You need people who will testify to their own experiences as a further incentive for lawmakers to pass your bill. And you need to remember that non-officials may also benefit from your legislation. They too must be convinced to join the posse.

In the end, though, it all comes back to you and, OK, maybe one or two really trusty sidekicks. Someone needs to make a plan, organize the offensive and give it direction: someone less like the Lone Ranger and more like General Patton — someone like you.

Dangerous Situations Call for Special Protection

States like Georgia, Wisconsin and California have compiled a special list of occupations such as police officers or teachers. Anyone who attacks a member of "the list" receives more severe penalties. We're talking fines and jail time, both of which many who batter officials are able to reduce or avoid. But you'll have to prove officials belong on that list to people like Illinois State Senate President James "Pate" Philip, who argued in 1999 that maybe referees and umpires "deserve a pop every once in awhile."

Though most lawmakers don't parade their prejudices so openly, many don't see just cause for a special classification for officials. They view instances such as one in which a wrestling referee was slammed to the mat by a competitor as a "one-time, emotional thing," according to football official Dan Denton, who has worked to pass battery legislation in Virginia for the past five years.

Georgia State Representative and 20-year officiating veteran Stanley Watson faced similar arguments during his efforts to pass battery legislation. But he had already raised a groundswell of support impressive enough to sway his colleagues. Besides talking to individual officials, referee associations and various members of the media, Watson gained the support of the Georgia Parks and Recreation Department.

"When I went to all the parks, I had a group of more than 200 people calling legislators telling them they wanted this," recalls Watson. And when the time came to convince his colleagues, Watson was ready with witnesses. "I had people who were former officials testify about going to a football game and people threatening them."

Though it took him two years, Watson succeeded in getting his bill passed in 2000. "That sends a clear message that we're not going to tolerate any battery against sports officials," says Watson, whose research has revealed no reported incidents of battery against officials in his state since the law was passed.

You can also make it easier for lawmakers to confer onto officials the status they've already reserved for teachers and police officers by recruiting the help of and gaining the support of those respective state lobbies. The teachers' lobby, for instance, can show that sports are an integral part of a school's environment and that many teachers are officials. Visit the National Education Association's (NEA) website at www.nea.org to find the name of your state affiliate.

Support from the police and sheriffs' lobbies helps address the argument that your request for battery legislation implies they're not doing their jobs. Call around your association; inevitably one of your members either is a police officer or knows one who can help you contact the state affiliate of the National Association of Police Organizations, the National Sheriffs' Association and the Association of Chiefs of Police.

Also take the time to contact the state affiliate of the National District Attorneys' Association. They can show lawmakers how battery legislation would help prosecutors create an enforcement mechanism for actions taken against sports officials. The easiest way to reach the state affiliate is to ask a local prosecutor or call the national office in Alexandria, Va., at 703/549-9222.

Virginia umpire Bill Hurd, who actively pursues legislative protection for officials, emphasizes press coverage can also lend credence to a position. "I think the public relations effort is key," he says, because many citizens haven't even thought about the issue or how it might affect them personally. "People recognize that it's not appropriate behavior when it's brought to their attention," Hurd adds.

The Lower Cost of Independence

Assault protection is the most dramatic example of legislation that officials can fight for. Others don't draw as much immediate attention but are equally as important.

Federal law is scarce, but it does seem to indicate that amateur sports officials are independent contractors. However, the scarcity of the law leaves huge loopholes through which officials can be found employees of schools, teams, leagues and sports governing bodies. The Rocky Mountain Sports Officials Association discovered that firsthand in 1997, when a judge ruled an injured official was their employee and thus eligible to receive \$40,000 to pay his medical bills (see "The News," 6/99).

Bob Summers, former ASA umpire-in-chief of Metro San Francisco, helped change the law in California when a similar incident highlighted a vulnerability that officials, associations and related organizations could not afford.

An umpire, laid off from his full-time job as an auto detailer, made an unemployment claim, which got the California Employment Development Department (EDD) involved and ultimately led to officials in California being considered employees instead of independent contractors. That led to monetary assessments against officials associations for current and back payments of unemployment and workers' compensation insurance premiums to the state in amounts of \$50,000, \$90,000 and more. The California Interscholastic Federation was hit with a bill for \$200,000. The cost of officiating sports would have been prohibitive. In effect, no one would be able to afford officials.

Summers and several fellow officials went to work.

"We wanted coaches and family members to say, 'What? Our daughter's not going to get to play softball anymore?'" says Summers who, along with other key players, helped get legislation passed in 1995 whereby California officials would once again be classified as independent contractors (see "The Fight for Independence," 1/98).

But the law didn't pass by magic. "It only works if you've got the weight of letter-writing campaigns and phone calls behind you," says Summers. His group began a statewide effort, contacting officials and other interested parties, asking them to write their legislators and have three of their friends and/or family members write. They provided a master letter to give folks an idea about what to say, but insisted theirs be original. After all, nobody's going to pay attention to 900 photocopies of the same letter.

Summers adds a final bit of important advice: "Always send letters to the district office, not the capital office." He explains that your letters will get more attention from the district office, where an aide will see them, make pertinent notes and bring them to the legislator's attention.

Your letter, while stating your issue, should also try to put it in terms a politician can bleed from. In this instance, the risk of schoolchildren losing the opportunity to participate in sports turned out to be a great motivator.

Another great motivator is your state school lobby, since the independent contractor issue can have an economic impact on schools. State school lobbies usually consist of a state's Department of Education and a state affiliate of the National School Boards Association. And though teachers don't have a direct economic stake in independent contractor legislation, they do have an indirect one; if schools incur extra tax and insurance costs on officials, there's less money for the teachers. Also, a substantial number of amateur sports officials are teachers, so check out the state affiliate of the NEA on this issue as well.

Your First Step: NASO and NFHS

Contacting NASO and the NFHS for advice and assistance is always helpful. NASO tracks legislative activity involving sports officials in every state. NASO has also been the most active national organization advocating the passage of legislation to help and protect officials. The NFHS can be particularly helpful on federal legislation because it has information on all of the state high school sports governing bodies. Also, the NFHS has experience lobbying on federal issues and regularly monitors federal issues affecting academics and sports.



National Federation of
State High School
Associations (NFHS)
P.O. Box 690
Indianapolis, IN 46206
317/972-6900
www.nfhs.org



National Association of
Sports Officials (NASO)
2017 Lathrop Ave.,
Racine, WI 53405
262/632-5448
www.naso.org

Other organizations whose support could give your bill powerful impetus include city recreation departments, the YMCA, the Catholic Youth Organization, Jewish youth programs and other entities that sponsor sports. Administrators of those organizations can call their lobbying offices or get support from the state affiliate of their particular lobby.

You Could be Held Liable

The catchy little comeback, "So sue me," has become obsolete because, these days, people are only too willing to comply. While independent contractor legislation is more likely to help sports in general survive, limited liability legislation has more personal applications. Limited liability legislation protects officials from lawsuits that don't involve situations where they were intentionally reckless, malicious or grossly negligent.

Many times officials have been dragged into courts, sued for negligence for such acts as failing to contain a brawl among 20-plus combatants or for not noticing that a player deliberately removed the padding from his football helmet, resulting in an injury. It's frivolous cases like those that limited liability legislation protects against. No amount of legislation can help you when your negligence becomes gross negligence, such as if an official were to allow a basketball game to be played even though the roof is obviously leaking, leaving wet puddles on the floor, leading to an injury.

Gil Fried, now an associate professor at the University of New Haven in West Haven, Conn., was moved to introduce limited liability legislation while working as a lawyer in California. "I was taking a look at the number of lawsuits in California and saying there has to be some way we could stem the tide of litigation while still being able to go after (people who) truly have acted in a negligent manner."

Fried was struck by the number of lawsuits that involve sporting event volunteers. He could envision the time when frivolous litigation would cause sports



Note: In Minnesota, the assault legislation proposed applies to high school officials only.



| KEY | |
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| X | = Legislative activity; no bill has passed |
| ☒ | = Bill has passed |
| * | = Statewide resolution; no bill has passed |

Where Can You Go For Help?

The following is a list of some groups that may be receptive to supporting officials in future efforts. However, these groups will not do the dirty work for us and we should not expect them to. They can help officials get meetings with legislators and serve as listed supporters for officiating-related legislation. They can also help counter unexpected criticism and help to counter opposition from any entities that may oppose our legislation. We should be glad for their help, but we must continue to do the hard grassroots work that has made officiating-related legislation successful so far. These national offices can put you in touch with their affiliates in your state.

Assault legislation sources

National Association of Police Organizations
750 First Street NE, Suite 920
Washington, DC 20002
202/842-4420
www.napo.org

National Sheriffs' Association
1450 Duke Street
Alexandria, VA 22314-3490
703/836-7827
www.sheriffs.org

International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
703/836-6767
www.theiacp.org

National District Attorneys Association
99 Canal Center Plaza
Alexandria, VA 22314
703/549-9222
www.ndaa.org

Independent contractor legislation sources

National School Boards Association
1680 Duke Street
Alexandria, VA 22314
703/838-6722
www.nsba.org

National Education Association
1201 16th Street NW
Washington, DC 20036
202/833-4000
www.nea.org

YMCA of the USA
101 North Wacker Drive,
Chicago, IL 60606
312/977-0031
www.ymca.net

Limited liability legislation sources

National Association of Insurers and Financial Advisors
2901 Telestar Court
Falls Church, VA 22042-1205
703/770-8100
www.naifa.org

American Insurance Association
1130 Connecticut Ave NW, Suite 1000
Washington, DC 20036
202/828-7100
www.aiadc.org

American Tort Reform Association
1850 M Street NW, Suite 1095
Washington, DC 20036
202/682-1163
www.atra.org

volunteerism to dwindle to nothing. The same argument, of course, can be made for paid officials. Nothing will deter somebody from officiating like the New Jersey case in which, according to Houston attorney and basketball official Steven Ellinger, a player who was paralyzed during a high school football game sued the officials for allowing it to be played on a dangerous field. The case against the officials was dismissed, but the damage was done.

Fried, whose help you can access by e-mail (gfriedcharger@newhaven.edu), received enthusiastic support from everyone he spoke to who would benefit from limited liability legislation. Unfortunately, his bill was voted out of committee without a single witness being called.

He faced a powerful opponent in the American Trial Lawyers Association that argued the bill would limit people's access to the courts — which is where your state's tort reform group could help you if you wanted to pursue enacting limited liability legislation in your state. Those groups try to reduce the unpredictable punitive damages that beset many industries, and can be reached through the American Tort Reform Association in Washington, D.C.

The insurance lobby should also support your limited liability bill. After all, limited liability legislation can help keep rates down and reduce potential claims against insurers. The best way to contact them is to ask around your association until you've found an agent who can hook you up. Alternatively, you can call the Washington,

D.C. offices of the National Association of Insurers and Financial Advisors or the American Insurance Association.

Getting Back to Your Roots

As important as it is to gain the support of powerful organizations with well-funded lobbies, it's still more important to write the letters, meet the politicians and carry the freight of your legislative efforts.

Also, make sure your battle plan includes checking out NASO's website (www.naso.org), for further information as well as model legislation. You may want to call Bob Still, NASO public relations director. He can be reached at 262/632-5448. And if you want to go national with your legislation, make sure you enlist the NFHS in your efforts.

Once you're ready to roll, consider the advice of these seasoned veterans:

Bill Hurd: "If you're trying to get a change, the burden (of proof that the change is needed) is on you."

Dan Denton: "I would tell anyone to do the work in the (political) offseason."

Bob Summers: "Just start believing what you were taught in grammar school for God's sake, that this is a government of the people, by the people. The system works. You've just got to let it happen."

(Don Collins is a longtime official and lawyer from San Francisco. Jennifer Rardin, from Robinson, Ill., is a freelance writer whose husband officiates high school football.) ☺