

Testimony of Virginia Seitz  
on behalf of the  
Major League Baseball Players Association  
Committee on Commerce, Science and Transportation  
United States Senate  
December 2, 2014

Mr. Chairman, members of the Committee, my name is Virginia Seitz, and for much of the last 20 years, I have served as outside counsel to the Major League Baseball Players Association (MLBPA). I am testifying on behalf of the Association and the Association's Executive Director, Tony Clark, who could not attend today. As you know, Mr. Clark is chairing the MLBPA's annual Executive Board meeting as we speak. Not surprisingly, one of the topics Mr. Clark is discussing with our members at that meeting is the same topic we are here to discuss today – Domestic Violence.

This fall, the Players Association has been working with Major League Baseball (MLB) to determine whether our current program addressing domestic violence, which only covers players, is sufficient in light of recent events, or whether it needs to be modified and folded in with a program that could be a solution for the entire baseball family – players, coaches, managers, club officials, union and league officials and owners.

As Mr. Clark observed in a recent response to the House Committee on Energy and Commerce, domestic violence is an enormous problem for our nation. It cuts across all lines of class, race, income, profession, and gender. Its reach is not limited to the locker room. According to the National Network to End Domestic Violence (the Network), one in three women have experienced rape, physical violence or stalking by an intimate partner in their lifetime. Other experts report that more than three women are murdered by their husbands and boyfriends in the United States every day. One in three female homicide victims in cases reported to the police are

killed by an intimate partner. Domestic violence costs employers in the United States approximately \$13 billion each year and, tragically, between 25% and 50% of victims of domestic violence become unemployed.

On a single day in West Virginia last year, according to the Network, 65 children and 90 adults found refuge in emergency shelters or transition housing provided by local domestic violence programs. 276 adults and children received non-residential assistance and services related to domestic violence. In South Dakota, comparable figures were 99 children and 82 adults finding refuge in emergency shelters or transitional housing, and 124 adults and children receiving non-residential assistance. Again, this was in one day. Clearly, domestic violence is a national crisis.

The Players Association and MLB have already negotiated and implemented in 2011 a policy that addresses off-field violent conduct – including domestic violence – and it provides for both therapeutic intervention and the possibility of discipline in cases of inappropriate and/or illegal conduct. The parties' existing Joint Treatment Program (herein "the Program") engages qualified medical professionals from around the country who are given wide latitude to design therapeutic treatment programs geared, where necessary, to attempt to rehabilitate Players who are charged with domestic violence-related crimes. The existing Program also gives the Commissioner of Baseball or the employer Club authority to discipline a Player where an act of domestic violence has been alleged – subject to the critical ability of the Player and the Association to challenge (if they so choose) that discipline before a neutral arbitrator. The adoption of this Program shows that Player conduct policies can and should be the product of arms-length collective bargaining, and it is against that backdrop that the parties have returned to the bargaining table to see if our Program can be improved.

A few specifics on the treatment options offered under our current Program: The Program provides that the MLB/MLBPA Treatment Board, a joint enterprise originally created by the parties under the auspices of baseball's joint drug testing program, is responsible for designing and supervising individualized therapeutic treatment programs for Players who have engaged in off-field violent conduct, including domestic violence or sexual assault. Referrals to the Treatment Board are mandatory when, among other things, "a Player is charged by law

enforcement authorities with a crime involving the use of physical force or violence, including but not limited to, sexual assault, domestic violence, resisting arrest, battery, and assault.”

The parties thus have eschewed a one-size-fits-all approach in favor of individualized evaluation and treatment on a case-by-case basis. Any Player referred to the Treatment Board is evaluated by a neutral expert to determine whether he could benefit from a counseling-based treatment program and, if so, which type of program would be most effective. The deliberations of the Treatment Board are completely confidential, and the Board members work collaboratively to design a therapeutic model that is most appropriate for the Player, and family, involved.

Once a treatment program has been developed for an individual Player, participation thereafter is voluntary and a Player is not subject to discipline for failing to participate. Nevertheless, Players are incentivized to cooperate because, where discipline has been or may be imposed, a Player’s participation in a treatment program established through the MLB/MLBPA Treatment Board must be considered by the arbitrator as a mitigating factor in any disciplinary challenge.

As for discipline, baseball’s current labor agreement contemplates the potential for discipline when a Player commits an act of domestic violence or sexual assault. Our Collective Bargaining Agreement provides as a general matter that a Player “may be subjected to disciplinary action for just cause by his Club...or the Commissioner,” and also more specifically that “Players may be disciplined for just cause for conduct that is materially detrimental or materially prejudicial to the best interests of baseball including, but not limited to, engaging in conduct in violation of federal, state or local law.” The key phrase in these provisions from the Association’s point of view is of course “just cause.” The just cause standard is a cornerstone of American labor-management relations, and is particularly salient in the context of alleged domestic violence by professional athletes, where the high visibility and sensitivity of each incident demands a commitment to deliberation, consistency, reasonableness and fundamental fairness that, as recent events have shown, can prove elusive.

But, Mr. Chairman, as you know, domestic violence does not always result in the filing of a police report or the airing of a video, and the best policies are the ones that address root causes

before violence occurs. Therefore, in addition to the Program described above, the Association maintains its own clinical psychiatrist on staff, who frequently meets with Players on a confidential basis to address mental health issues as they arise. Where necessary, he refers Players to other specialists and/or to practitioners in the Player's home city and/or the city where the Player resides in the off-season. The Association's program reflects its belief that the most effective treatment is that which happens before the violence occurs.

In sum, Mr. Chairman, under our current program, a Player may be disciplined, may undergo treatment developed by licensed professionals and may seek help on his own through our own clinical psychiatrist. We recognize, however, that this may not be enough. Obviously, more can be done with regard to education, public outreach and awareness, for victims, for families and for all who are involved in or touched by our sport.

Consequently, starting this fall, we have begun a dialogue with MLB about possible modifications or improvements to our current program. Although the precise content of these ongoing discussions is confidential, there are three main elements under consideration:

- 1) an enhanced public relations program that would help to promote an understanding for, and an eradication of, domestic violence in our society;
- 2) an education and improved therapeutic intervention program for Major League Baseball Players and their families so that potential issues can be better addressed in an appropriate and confidential manner before violence occurs; and
- 3) possible changes to the existing disciplinary structure for domestic violence offenses.

Like many organizations, the MLBPA has devoted an extraordinary amount of time and effort this fall to consulting with a wide range of experts and groups in the domestic violence area. We have met with national and local groups who are involved with the domestic violence issue both on the policy and the treatment levels. We have interviewed practitioners and groups with an eye towards providing additional education, training and resources for the Players and their

families in the months to come – whether or not we ultimately agree with MLB on a new, comprehensive domestic violence policy.

From these discussions, we have come to appreciate better the myriad issues involved with domestic violence, and the needs, fears, and hopes of all who are impacted. Finding effective solutions that can actually help those who are victimized – as opposed to focusing exclusively on punishing the perpetrators – is not always easy. There is no one simple solution, no one easy answer.

It is our hope that by working with experts in the field and by gathering the recommendations of the best and the brightest, we can develop a more effective, more comprehensive program for all of baseball. If we can, we will then be able to offer a credible voice to the ongoing national dialogue about how best to end domestic violence.

Mr. Chairman, thank you again for this opportunity, and I would be happy to answer any questions you may have about our program or the objectives of the Major League Baseball Player Association.