

**EXECUTIVE SUMMARY**

**REPORT TO THE NATIONAL FOOTBALL LEAGUE OF AN INDEPENDENT  
INVESTIGATION INTO THE RAY RICE INCIDENT**

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**JANUARY 8, 2015**

**WILMERHALE**

## EXECUTIVE SUMMARY

In the early morning hours of Saturday, February 15, 2014, the Atlantic City Police Department responded to a report of an incident in an elevator at the Revel Casino Hotel in Atlantic City, New Jersey. Less than an hour later, the officers arrested Raymell Rice, then a Baltimore Ravens football player, and his then-fiancée Janay Palmer.<sup>1</sup> Rice and Palmer were released that morning, each having been served with a complaint-summons to appear in the Atlantic City Municipal Court. Rice's complaint-summons charged him with assault "by attempting to cause bodily injury to J. Palmer, specifically by striking her with his hand, rendering her unconscious, at the Revel Casino."

Six weeks later, on March 27, the charge against Rice escalated to an indictment for felony aggravated assault against Palmer. That same day, prosecutors announced that charges against Palmer had been dismissed.

In May, Rice pleaded not guilty and applied for the New Jersey Pretrial Intervention program, which affords "opportunities for alternatives to the traditional criminal justice process of ordinary prosecution." On May 20, a New Jersey Superior Court judge approved and signed the pretrial intervention order, which postponed the criminal proceedings for one year, with the charges to be dismissed if Rice complies with the terms of the order.

On June 16, Commissioner Roger Goodell of the National Football League<sup>2</sup> met with Rice, Palmer (who had by that time become Rice's wife), and others to discuss the incident and potential discipline of Rice under the League's then-existing Personal Conduct Policy.

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<sup>1</sup> Rice and Palmer were married on March 28, 2014. Although Palmer adopted "Rice" as her last name, for clarity, we refer to Palmer by her name at the time of the incident.

<sup>2</sup> Throughout the report, references to "the League" or "NFL" encompass NFL headquarters as well as the independent contractors used by the League for NFL investigations, but not the personnel of individual teams.

Following that meeting, Goodell informed Rice by letter on July 23 that he was “suspended without pay for the Ravens’ first two regular season games ... [and] fined an additional \$58,824.”

Then, on September 8, TMZ released the in-elevator video, and the public saw for the first time footage of Rice striking Palmer at the Revel on February 15.<sup>3</sup> That same day, the Ravens terminated Rice’s contract and the League suspended Rice indefinitely.<sup>4</sup> Both the Ravens and the League stated that they had not seen the video before its public release.

Two days later, on September 10, the *Associated Press* published the first of a series of stories reporting that an unnamed law-enforcement official had sent a DVD with in-elevator video footage of the assault to the League five months earlier, and that an unnamed woman at the League had acknowledged receiving that video by leaving a voicemail on the unnamed official’s cellphone on April 9, 2014.

That same day, September 10, the League asked that I conduct an independent inquiry into two questions: whether anyone at the League had received or seen the in-elevator video prior to its public release on September 8; and what other evidence was obtained by, provided to, or available to the League in the course of its investigation.<sup>5</sup> I agreed to lead the inquiry, and the League engaged me and my law firm, Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”).

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<sup>3</sup> On February 19, TMZ released footage of Rice and Palmer outside the elevator after the incident.

<sup>4</sup> The Honorable Barbara S. Jones, acting as the arbitrator in Rice’s appeal, overturned that indefinite suspension in her decision of November 28, 2014.

<sup>5</sup> This investigation does not address a number of issues. For example, we do not address the League’s player discipline process generally or the specific discipline imposed on Rice by the League in July or September; the League’s approach to domestic violence; or issues raised on appeal of Rice’s discipline and decided by Judge Jones.

As to the first question, despite extensive investigation, we have found no evidence that anyone at the League received or viewed the in-elevator video prior to its public release. Likewise, we have found no evidence of a woman at the League acknowledging receipt of that video in a voicemail message left on April 9, 2014.

With respect to the second question, we have identified the investigative steps that the League took in the wake of the Rice incident, steps that reflect the League's longstanding practice of deferring to law enforcement—a practice that can foster an environment in which it is less important to understand precisely what a player did than to understand how and when the criminal justice system addresses the event. In this case, that deference led to deficiencies in the League's collection and analysis of information during its investigation. We conclude that there was substantial information about the incident that should have put the League on notice of a need to undertake a more thorough investigation to obtain available evidence of precisely what occurred inside the elevator. Had the League done so, it may have uncovered additional information about the incident, possibly including the in-elevator video prior to its public release.

### **The In-Elevator Video**

We undertook exhaustive efforts to investigate allegations that the League had received the in-elevator video prior to September 2014 and that a woman at the League called the *Associated Press* source (“**the AP source**”) on April 9 to acknowledge receipt of the video.

**Interviews.** We interviewed Goodell and more than 50 NFL employees who, because of their position or the location of their work space at the League, would have information on whether the League received the in-elevator video allegedly sent to Jeffrey Miller, Senior Vice

President of Security.<sup>6</sup> Each of those persons denied receiving or seeing the in-elevator video before its public release. *See* Investigative Findings (Part III.A); Appendix 1.B.

We also interviewed every female employee, contractor, vendor, or intern whose electronic badge recorded that she was in the League’s main office on April 9, the date the alleged call was made. Each of the 188 women denied making the April 9 call—or even hearing a rumor that an in-elevator video of the Rice incident had been received. *See* Investigative Findings (Part III.A); Appendix 1.D.

***Document Review.*** We collected, searched, and analyzed millions of documents, emails, and text messages from the League’s network. We found no evidence or suggestion that anyone within the League had received or seen the in-elevator video prior to its public release in September 2014, or had made a call on April 9 to acknowledge receipt of that video. To the contrary, multiple emails from senior League executives, before and after the video’s public release, are inconsistent with the proposition that those individuals had received or seen the in-elevator video prior to September 8, 2014. *See* Investigative Findings (Part III.A); Appendix 1.B.

***Forensic Searches Of Computers And Mobile Devices.*** We retained a digital forensic company to collect and image, and then search, the computers and mobile phones of Goodell, Miller, and other senior executives of the League, and those who reported to them, as well as computers in the League’s mailroom and video conference rooms. In addition, we searched more than 400 computers connected to the League’s network for any digital traces or sign of the in-elevator video. We found no evidence that the in-elevator video was or had been stored or

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<sup>6</sup> In a story published on September 25, 2014, the *Associated Press* reported that the AP source directed the video to the attention of “Jeff Miller,” the head of NFL Security. The same story reported that the source received the April 9 call on a disposable cellphone.

viewed on a League computer prior to the video's public release. *See Investigative Findings (Part III.A); Appendix 1.C.*

***Telephone Analysis.*** We assembled a database of every call placed on April 9 from the NFL's main number—1,583 calls to 1,050 unique telephone numbers in total. Using the League's phone directory, we determined that 112 of those numbers were to senior NFL employees or individuals employed by one of the League's teams. We researched the remaining 938 numbers to identify each call recipient. As part of that effort, we asked each NFL employee from whose extension calls were placed to identify the person they called. The employees identified NFL vendors, former players, nearby restaurants, doctors' offices, family members, and the like. We then validated that information by calling each person or entity identified. Through this process, we ultimately called all 938 numbers and found no unexplained or unidentified calls from the League on April 9 that reasonably could have been a call acknowledging receipt of the in-elevator video. *See Investigative Findings (Part III.A); Appendix 1.D.*

***Mailroom.*** We investigated whether a package containing the in-elevator video was sent to Miller's attention at the League in late March or early April 2014. Based on interviews of staff specifically responsible for handling mail sent to Miller and other senior executives, and all mailroom staff, as well as a review of all available electronic logs for tracked mail and interoffice mail, we identified no package consistent with the characteristics reported by the *Associated Press*. *See Investigative Findings (Part III.A); Appendix 1.E.*

***Tip Line.*** We established an anonymous tip line for use by League employees, notified every employee in all three League offices (New York, New Jersey, and California) of its

existence, and encouraged employees to call if they had any information about the video or the alleged call. We received no calls. *See* Investigative Findings (Part III.A); Appendix 1.D.

### **The League's Investigation**

We found that the League's investigation consisted primarily of largely unsuccessful attempts to obtain records from the Atlantic City Police Department ("ACPD"), and updates on the status of the Rice criminal case from public sources. The League obtained Rice's complaint-summons from the Ravens. And after the criminal case was effectively resolved through Rice's admission into the Pretrial Intervention ("PTI") program, the League obtained the indictment and PTI papers. This basic information, supplemented with some public media reports, was provided to Goodell prior to the League's disciplining of Rice in July 2014.

The League's investigation was limited, but it possessed substantial information suggesting a serious event had occurred inside the elevator that the League should have further investigated. For example, by February 19, the League had seen the outside-the-elevator video, showing Rice dragging an unconscious Palmer out of the elevator. The next day, the League received a copy of the complaint-summons—written by police officers who had seen the in-elevator video—that charged Rice with "striking [Palmer] with his hand, rendering her unconscious." And by June 6, the League had a copy of the grand jury indictment, alleging that Rice "did attempt to cause significant bodily injury to [Palmer], and/or did purposely or knowingly cause significant bodily injury to [Palmer] and/or under circumstances manifesting extreme indifference to the value of human life, did recklessly cause significant bodily injury to [Palmer]." That information did not provide the graphic detail that the in-elevator video depicted, but it should have put the League on notice that a serious assault had occurred and that it should conduct a more substantial independent investigation.

Our investigation identified a number of investigative steps that the League did not take to acquire additional information about what occurred inside the elevator. League investigators did not contact any of the police officers who investigated the incident, the Atlantic County Prosecutor's Office, or the Revel to attempt to obtain or view the in-elevator video or to obtain other information. No one from the League asked Rice or his lawyer whether they would make available for viewing the in-elevator video they received as part of criminal discovery in early April. And, after the initial contacts with the Ravens in the immediate aftermath of the incident, League investigators did not follow up with the Ravens to determine whether the team had additional information.

To be sure, it is uncertain that contacting these parties would have yielded useful information. The Ravens, however, did receive in late February a detailed description of the in-elevator video from a lieutenant at ACPD, the agency responsible for the criminal investigation of the Rice incident. The Ravens did not volunteer that information to the League. But the League might well have received that information through more persistent and thorough communication with ACPD, and members of the Ravens indicated in our interviews that they would have shared the information they had learned with the League had the team been asked directly. Similarly, in interviews conducted after the conclusion of Rice's appeal, Rice and his attorney claimed that they would have turned over the in-elevator video if asked. Thus, had the League undertaken a more substantial investigation, it may have gathered available information about the incident, possibly including the in-elevator video prior to its public release. Contacts with the Atlantic County Prosecutor's Office or the Revel, on the other hand, likely would not have produced results.

## **Limitations On Our Investigation**

We were limited in our collection of information from two sources. First, we were unable to obtain from the *Associated Press* information that would have helped identify a female caller who reportedly left a voicemail acknowledging receipt of the in-elevator video. We respect that the news media has a longstanding and well-founded policy of protecting the confidentiality of its sources, and we did not expect the *Associated Press* to identify its source. We did, however, ask for the phone number of the law-enforcement source's disposable cellphone and access to the voicemail message reportedly left by the female caller.<sup>7</sup> The *Associated Press* declined. We also offered the *Associated Press* an opportunity to search our telephone data for any portion of the source's disposable cellphone number. The *Associated Press* declined that offer as well.

Second, we were unable to obtain certain information from ACPD, the agency that investigated the February 15 incident and obtained video footage from the Revel. Our investigation found, among other things, that one of its lieutenants provided a detailed recounting of the in-elevator video to the Ravens before it became public. ACPD declined to make its employees available for interview or to respond to our written questions.

## **Summary Of Recommendations**

The report concludes with recommendations for the League. Our findings demonstrate the weaknesses inherent in the League's longstanding practice of deferring to the criminal justice system with respect to the investigation of facts and the imposition of discipline under the Personal Conduct Policy. Discipline should be imposed on the basis of the specific nature of the

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<sup>7</sup> Access to the voicemail message would have enabled us to do voice comparisons with League personnel.

player's conduct, not solely or necessarily on the disposition of a criminal case. The League has begun to address this fundamental issue in its revised Personal Conduct Policy, announced on December 10, 2014. Importantly, in the future, the League will conduct independent investigations in appropriate cases. We recommend that the League consider additional steps:

- Expand the Security Department by adding supervisory resources;
- Establish a specialized investigative team for domestic violence and sexual assault cases;
- Adopt investigative guidelines for its investigations;
- Provide annual training and a formal performance review process for investigators;
- Enhance its policies to assure information sharing between clubs and the League; and
- Transcribe proceedings when a player and interested parties appear at a disciplinary proceeding.