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MICHAEL SAM AND THE NFL LOCKER ROOM: HOW MASCULINITIES THEORY EXPLAINS THE WAY WE VIEW GAY ATHLETES

LISA A. MAZZIE*

“If some of us don’t take on the oppressive labels and publicly prove them wrong, we’ll stay trapped by the stereotypes for the rest of our lives.”

Former NFL player David Kopay¹

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¹ DAVID KOPAY & PERRY DEANE YOUNG, THE DAVID KOPAY STORY: AN EXTRAORDINARY SELF-REVELATION 10 (2d ed. 1988). Kopay, for nine years a running back in the National Football League (NFL), is considered the first professional athlete to openly declare his homosexuality. Jeremie Adkins, *Op-ed: What Happened When I Met Dave Kopay*, ADVOCATE.COM (Aug. 29, 2013), <http://www.advocate.com/commentary/2013/08/29/op-ed-what-happened-when-i-met-dave-kopay>; *Kopay: Apologizes to Aikman*, ESPN (Dec. 18, 1998), <http://espn.go.com/otl/world/kopay.html>. Kopay came out in 1975, three years after retiring from professional football. *Id.* See generally DAVID KOPAY & PERRY DEANE YOUNG, THE DAVID KOPAY STORY: AN EXTRAORDINARY SELF-REVELATION (2d ed. 1988).

I. INTRODUCTION

On February 9, 2014, Michael Sam, a student athlete at the University of Missouri, publicly came out as gay.² What made Sam's disclosure particularly noteworthy was that 6-foot 2-inch, 255-pound Sam was a Mizzou football player—an Associated Press' South Eastern Conference (SEC) Defensive Player of the Year, a first-team All-SEC selection, a first-team All-American from the Walter Camp Football Foundation, Sporting News, Associated Press, American Football Coaches Association and the Football Writers Association of America,³ and a likely mid-round pick in the NFL draft.⁴ And here he was, telling the world he was a gay man, a gay man who played what American culture considers one of the most masculine sports ever.

Sam's disclosure had some predictable negative reactions. Some reactions were overtly homophobic and others were couched in terms of the "distraction" that Sam would bring to a team who might draft him. Jonathan Vilma, then a linebacker for the New Orleans Saints, said in an interview, "Imagine if he's the guy next to me and, you know, I get dressed, naked, taking a shower, the whole nine . . . And it just so happens he looks at me. How am I supposed to respond?"⁵ One anonymous NFL player personnel assistant told *Sports Illustrated*, "I don't think football is ready for [an openly gay player] just yet . . . [A]t this point in time[,] it's still a man's-man game."⁶ Former Tampa Bay Buccaneers and Indianapolis Colts head coach Tony Dungy said he would not have drafted Sam, "[n]ot because I don't believe Michael Sam should have a chance to play, but I wouldn't want to deal with all of it. It's not going to be totally smooth . . . [T]hings will happen."⁷ An anonymous assistant coach in

² Chris Connelly, *Mizzou's Michael Sam Says He's Gay*, ESPN, http://espn.go.com/espn/otl/story/_/id/10429030/michael-sam-missouri-tigers-says-gay (last updated Feb. 10, 2014).

³ Nate Latsch, *Michael Sam's Career Accomplishments at Mizzou Won't Soon Be Forgotten*, FOX SPORTS (Dec. 24, 2013), <http://www.foxsports.com/midwest/story/sam-s-career-accomplishments-at-mizzou-won-t-soon-be-forgotten-122413>.

⁴ Arthur L. Caplan & Lee H. Igel, *How Will Michael Sam Be Treated in an NFL Locker Room?*, FORBES (May 12, 2014), <http://www.forbes.com/sites/leeigel/2014/05/12/how-will-michael-sam-be-treated-in-an-nfl-locker-room/>. Some predicted Sam might be drafted as early as the third round. Connelly, *supra* note 2.

⁵ David Fleming, *Nothing to See Here (A History of Showers in Sports)*, ESPN THE MAGAZINE (July 8, 2014), http://espn.go.com/espn/feature/story/_/id/11169006/nfl-showers-hostile-environment-michael-sam-espn-magazine.

⁶ *How Will News that Michael Sam is Gay Affect His NFL Draft Stock?*, SPORTS ILLUSTRATED, <http://www.si.com/football/2014/02/09/michael-sam-draft-stock#ixzz2ssYTW7u> (last visited Dec. 2, 2014) [hereinafter SPORTS ILLUSTRATED].

⁷ Tyler Conway, *Tony Dungy Explains Why He Wouldn't Have Drafted Michael Sam*, BLEACHER REPORT, <http://bleacherreport.com/articles/2136478-tony-dungy-explains-why-he-wouldnt-have-drafted-michael-sam> (last updated July 22, 2014). The following day, Dungy clarified his comments to

the NFL “said that the decision to draft Sam will ultimately rest on a franchise’s level of comfort in possibly disrupting the dynamic of the locker room.”⁸

But mostly Sam’s announcement was met with support from all corners of sporting world and beyond. The University of Missouri tweeted, “We support Tigers of all stripes at Mizzou. Proud of you @MikeSamFootball!”⁹ The NFL itself tweeted its support to Sam with a link to its workplace non-discrimination policy.¹⁰ Even former Miami Dolphins offensive lineman Richie Incognito tweeted his support: “@MikeSamFootball #respect bro. It takes guts to do what you did. I wish u [sic] nothing but the best[.]”¹¹ President Obama, too, praised Sam’s courage in coming out.¹²

indicate that he did not mean Sam’s sexuality affected Sam’s ability to play or his ability to be drafted or that he himself would not want Sam on his team; Dungy claimed he meant that the media attention to Sam would be a distraction. *Id.* Dungy, however, would sign former Baltimore Ravens running back Ray Rice, even though Rice would bring with him as much—or more—distraction than Sam ever would. Charles Curtis, *Tony Dungy Would Be Fine With An NFL team signing Ray Rice*, NJ.COM, http://www.nj.com/sports/index.ssf/2014/12/tony_dungy_would_be_okay_with_an_nfl_team_signing_ray_rice.html (last updated Dec. 1, 2014). Rice was indicted in March 2014 for aggravated assault after he punched this then-fiancée in the head, knocking her unconscious, during an argument in an Atlantic City, N.J., casino elevator. Louis Bien, *A Complete Timeline of the Ray Rice Assault Case*, SBNATION.COM, <http://www.sbnation.com/nfl/2014/5/23/5744964/ray-rice-arrest-assault-statement-apology-ravens> (Nov. 28, 2014). Rice thus far has avoided jail time; he pleaded not guilty and was accepted into a program for first-time offenders, which requires him to stay out of trouble and to attend regular counseling. *Id.* He received a two-game suspension from the NFL. *Id.* During the summer of 2014, video of the argument was made public, showing in graphic detail Rice punching his fiancée in the head and then dragging her unconscious body out of the elevator by her shoulders. *Id.* Public outrage was immediate and lead to questions (and inconsistent answers) about whether the NFL had viewed the video when it issued Rice’s suspension. *See id.* The Ravens released Rice, and the NFL later suspended him indefinitely, although an arbitrator later overturned that suspension. *Id.* As of this writing, no team has signed Rice.

⁸ SPORTS ILLUSTRATED, *supra* note 6. For a satirical response to the “distraction” argument, *see The Daily Show: Friday Night Rights* (Comedy Central broadcast Feb. 10, 2014), *available at* <http://thedailyshow.cc.com/videos/welua3/friday-night-rights>.

⁹ Travis Waldron, *The Best and Worst Reactions to Michael Sam’s Coming Out*, THINKPROGRESS (Feb. 10, 2014), <http://thinkprogress.org/sports/2014/02/10/3270251/worst-reactions-michael-sams-coming/>.

¹⁰ *Id.*

¹¹ Margaret Hartmann, *Football’s Best and Worst Reactions to Michael Sam Coming Out*, N.Y. MAG. (Feb. 10, 2014), <http://nymag.com/daily/intelligencer/2014/02/best-worst-reactions-to-michael-sam-coming-out.html>. Incognito bullied and harassed his teammate, Jonathan Martin, as well as one other Dolphins player and a member of the Dolphins training staff. PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP, REPORT TO THE NATIONAL FOOTBALL LEAGUE CONCERNING ISSUE OF WORKPLACE CONDUCT AT THE MIAMI DOLPHINS 1 (2014), *available at* <http://www.nfldolphinsreport.com/> [hereinafter MIAMI DOLPHINS REPORT]. His harassment of the other Dolphins player included using homophobic slurs. *Id.* *See also infra* Part III.C.

¹² Joe Drape et al., *Before Coming Out, a Hard Time Growing Up: Michael Sam’s Troubled Upbringing in Texas*, N.Y. TIMES (Feb. 11, 2014), http://www.nytimes.com/2014/02/12/sports/football/for-nfl-prospect-michael-sam-upbringing-was-bigger-challenge-than-coming-out-as-gay.html?hp&_r=2.

Sam was selected by the St. Louis Rams in the seventh and final round of the draft, 249th overall out of 256 picks, thereby becoming the first openly gay player in the NFL.¹³ Since the draft, one of the biggest questions has been “How will Michael Sam fit in?” Will the presence of an openly gay player throw the team locker room in turmoil? Hardly. Sam is far from the first gay player in the NFL; he is just the first openly gay active player. The question that we are all dancing around really is this: Why is it we have a hard time accepting an active professional football player who is openly gay?

This article will begin in Part II by explaining masculinities theory, generally. That is, it will explain how we define what it means to be a “real man.” In Part III, it then will examine how and why organized sport developed and how sport continues to allow males to construct and reproduce their masculinity. In particular, Part III will explain homophobia in sports before examining football in particular and the locker room specifically. With these perspectives in mind, Part IV will explain how theory affects the way we view Michael Sam, the first active openly gay player in professional football. Finally, Part V will conclude about what having an openly gay player in a hypermasculine professional sport can mean for how masculinity is generally understood.

II. MASCULINITY

Before explaining masculinity—that is, how we define what it means to be a man—it is important to clarify some terms. Being a “man” or a “woman” is a cultural construct; it is a different thing from being male or female. “Male” or “female” denotes one’s sex; that is, whether one has the biological parts that make him male or her female.¹⁴ Many times, however, people perceive *gender* based solely on sex.

[T]he accepted cultural perspective on gender views women and men as naturally and unequivocally defined categories of

¹³ Melissa Chan, et al., *Michael Sam Shares Emotional Kiss with Boyfriend After He’s Picked by St. Louis Rams in NFL Draft*, N.Y. DAILY NEWS (May 10, 2014), <http://www.nydailynews.com/sports/football/michael-sam-drafted-rams-shares-kiss-boyfriend-article-1.1787804>. Sam had a poor showing at the annual combine. This and his relatively small size for his position may have been a reason for his being a lower round pick. *Id.* But see SPORTS ILLUSTRATED, *supra* note 6 (indicating that following Sam’s coming out, eight anonymous NFL executives and coaches “project[ed] a significant drop in Sam’s draft stock.”).

¹⁴ See Candace West & Don H. Zimmerman, *Doing Gender*, 1 GENDER & SOC’Y 125, 127–28 (1987) (explaining the difference between *sex*, *sex category*, and *gender*); MICHAEL KIMMEL, THE GENDERED SOCIETY 3 (5th ed. 2013); BRIAN PRONGER, THE ARENA OF MASCULINITY: SPORTS, HOMOSEXUALITY, AND THE MEANING OF SEX 48 (1990).

being . . . with distinctive psychological and behavioral propensities that can be predicted from their reproductive functions. . . Things are the way they are by virtue of the fact that men are men and women are women—a division perceived to be natural and rooted in biology¹⁵

But one's sex as male or female does not automatically translate into his being a "man" or her being a "woman." Being a man or a woman involves constructing a gender identity, which one does through various interactions with other people and with social institutions.¹⁶

In "doing" gender,¹⁷ we "creat[e] differences between girls and boys and women and men, differences that are not natural, essential, or biological."¹⁸ We believe some conduct and behaviors to be "masculine" and others "feminine," and once conduct and behavior are established as such, we view these differences as a natural and essential part of what makes a male a "man" and a female a "woman."¹⁹ That gender is socially constructed is crucial to understanding masculinity.

But often when we talk of gender, or of studying gender, the focus seems to be solely on women.²⁰ And, to be sure, the study of gender and gender issues involving women is important, but it is only half the picture. Although it seems obvious, we tend to forget that gender refers to men, too.

Masculinities theory first emerged primarily in sociology and psychology as an outgrowth of feminist studies as well as of gay and lesbian studies and queer theory.²¹ Feminist theory tends to deal with men, if at all, as a monolithic

¹⁵ West & Zimmerman, *supra* note 14, at 127-28 (internal citation omitted).

¹⁶ *Id.* at 129. ("[G]ender is not a set of traits, nor a variable, nor a role, but the product of social doings of some sort . . . [G]ender itself is constituted through interaction."); R.W. CONNELL, MASCULINITIES 35 (2d ed. 2005) ("That gender is not fixed in advance of social interaction, but is constructed in interaction, is an important theme in the modern sociology of gender[.]"); NANCY E. DOWD, THE MAN QUESTION: MALE SUBORDINATION AND PRIVILEGE 31 (2010) ("We 'do' gender not in a vacuum but in the context of institutions constructed with gender in mind . . .").

¹⁷ The phrase "doing" gender comes from West and Zimmerman. *See generally* West & Zimmerman, *supra* note 14.

¹⁸ *Id.* at 137.

¹⁹ *Id.*

²⁰ Think about courses in colleges and universities (and even in law schools) that deal with gender. Usually those courses are heavily populated by women and often tend to involve mainly, or even solely, feminist, or what most would call "women's," issues. *See* KIMMEL, THE GENDERED SOCIETY, *supra* note 14, at 6.

²¹ DOWD, THE MAN QUESTION, *supra* note 16, at 17-18; Ann C. McGinley & Frank Rudy Cooper, *Masculinities, Multidimensionality, and Law: Why They Need One Another*, in MASCULINITIES & THE LAW: A MULTIDIMENSIONAL APPROACH 1, 3 (Frank Rudy Cooper & Ann C. McGinley eds., 2012).

group, “viewed in an essentialist, universal, undifferentiated way[.]”²² as in the various ways men as a group subordinate women as a group. But, as sociologist Michael Kimmel noted, “Men, themselves, are invisible *as men*.”²³ What masculinities theory has done is to look at men as *men*, to question the essentialist nature of “men.”

Masculinities theory extends from the discussion above—that gender is a social construct. Though the idea is deeply embedded in our culture, what it means to be a man, to be masculine, is *not* biologically programmed. Kimmel nicely summarizes our popular conception of manhood:

We think of manhood as eternal, a timeless essence that resides deep in the heart of every ma[le]. We think of manhood as a thing, a quality that one either has or doesn’t have. We think of manhood as innate, residing in the particular biological composition of the human male, the result of androgens or the possession of a penis.²⁴

However, masculinity is not some essence that a male either has or does not have; learning it is not “an inevitable phase of development from child to adult, from boy to man.”²⁵ Instead, masculinity is, like gender, something males “do.” It is “a set of practices that one constantly engages in or performs.”²⁶ Because masculinity is socially constructed, “[i]t is fluid, not fixed, neither universal nor timeless, but rather changeable and malleable.”²⁷ What it means to be masculine has varied historically and culturally; the masculine man in nineteenth-century France was different from the masculine man in nineteenth-century India, and both are different from the masculine man in twenty-first-century United States.²⁸

Because masculinity is varied and fluid, it can be difficult to pinpoint precisely what it is or what it means. Race, class, and sexuality play significant roles in determining where in the masculinity hierarchy one falls. Theorists

²² DOWD, THE MAN QUESTION, *supra* note 16, at 13.

²³ KIMMEL, THE GENDERED SOCIETY, *supra* note 14, at 6.

²⁴ Michael S. Kimmel, *Masculinity as Homophobia: Fear, Shame, and Silence in the Construction of Gender Identity*, in FEMINISM AND MASCULINITIES 182, 182 (Peter F. Murphy ed., 2004).

²⁵ DOWD, THE MAN QUESTION, *supra* note 16, at 26.

²⁶ *Id.*

²⁷ *Id.* See also Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 182.

²⁸ KIMMEL, THE GENDERED SOCIETY, *supra* note 14, at 3. See also ARTHUR BRITTAN, MASCULINITY AND POWER 1 (1989). The same idea applies, of course, to femininity. What makes a woman “womanly” is also socially constructed, varying in history and culture. KIMMEL, THE GENDERED SOCIETY, *supra* note 14, at 3.

refer to the conflux of gender, race, class, and sexuality as intersectionality. Intersectionality theory posits that people have unique identities that form where categories of identities intersect.²⁹ Thus, a person's identity is not simply as a male, as a white male, or even as an affluent white male, for example, but perhaps as an affluent, gay, white male. These intersections of identity "are critical to the interplay of privilege and disadvantage, to hierarchies among men, and to factors that may entirely trump male gender privilege."³⁰ That is, some men, although male, may be considered less masculine because of the interplay of their race, class, and sexual orientation. This is especially true, it seems, with the intersection of gender and sexual orientation. Conversely, some black men have been able to achieve a higher masculinity ranking due to their success as elite athletes.³¹

While masculinity is affected by intersections with race, class, and sexuality, there is a form of masculinity that dominates all other forms; a form sociologist R.W. Connell has termed hegemonic masculinity.³² As Kimmel explained,

²⁹ McGinley & Cooper, *supra* note 21, at 6-7; see Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1244-45 (1991).

³⁰ DOWD, THE MAN QUESTION, *supra* note 16, at 60. See also Nancy E. Dowd, et al., *Feminist Legal Theory Meets Masculinities Theory*, in MASCULINITIES AND THE LAW: A MULTIDIMENSIONAL APPROACH, *supra* note 21, at 25 ("[G]ender for men and boys does not operate uniformly, and is particularly affected by intersections with race, class, and sexual orientation."). On the intersection of race and gender for black men, see Athena D. Mutua, *The Multidimensional Turn: Revisiting Progressive Black Masculinities*, in MASCULINITIES AND THE LAW: A MULTIDIMENSIONAL APPROACH, *supra* note 21, at 78, 88.

³¹ Deborah L. Brake, *Sport and Masculinity: The Promise and Limits of Title IX*, in MASCULINITIES & THE LAW: A MULTIDIMENSIONAL APPROACH, *supra* note 21, at 22, 88 (noting that success in athletics, particularly in high-status sports like football and basketball, has allowed black men a "celebrated masculinity" and more life choices); MICHAEL A. MESSNER, POWER AT PLAY: SPORTS AND THE PROBLEM OF MASCULINITY 11 (1992) (indicating black men can use sports "as a means to attain status and mobility in an otherwise limited structure of opportunity."); see also Richard Majors, *Cool Pose: Black Masculinity in Sports*, in SPORT, MEN, AND THE GENDER ORDER: CRITICAL FEMINIST PERSPECTIVES 109 (Michael A. Messner & Donald F. Sabo eds., 1990). Michael Sam is a black man, but his race may matter less in his identity than his sexual orientation.

³² CONNELL, *supra* note 16, at 77; see also DOWD, THE MAN QUESTION, *supra* note 16, at 27; Dowd et al., *Feminist Legal Theory Meets Masculinities Theory*, *supra* note 30, at 29. The concept of hegemonic masculinity is based on Antonio Gramsci's concept of hegemony, which explains how one group claims and maintains a dominant position in social life. CONNELL, *supra* note 16, at 77; ANTONIO GRAMSCI, SELECTIONS FROM THE PRISON NOTEBOOKS OF ANTONIO GRAMSCI (Quintin Hoare & Geoffrey Nowell Smith eds. & trans., 1971). As Robert Bocock explained, hegemony occurs "when the intellectual, moral and philosophical leadership provided by the class or alliance of classes and class fractions [that] is ruling successfully achieves its objective of providing the fundamental outlook of the whole society." ROBERT BOCOCK, HEGEMONY 63 (Peter Hamilton ed., 1986) (quoted in Jeff Hearn, *From Hegemonic Masculinity to the Hegemony of Men*, 5 FEMINIST THEORY 49, 54 (2004)). Something that is hegemonic will tend to appear as the "natural" way of things because it will have the imprimatur of approval from elites.

"[O]ur definitions of masculinity are not equally valued in our society. One definition of manhood continues to remain the standard against which other forms of manhood are measured and evaluated."³³ To be sure, that ideal standard varies (again, across history and cultures), but there is always an ideal.³⁴

So, how is it we are to define masculinity? According to Professors Dowd, Levit, and McGinley, "masculinities" has four meanings, three of which are relevant here.³⁵ "First, [masculinity] is a structure that gives men as a group power over women as a group. Second, it is a set of practices, designed to maintain group power, that are considered 'masculine.' Third, it is the engagement in or the 'doing' of these masculine practices by men"³⁶ Both feminist theory and masculinities theory have dealt with masculinity as a power structure and that is not our focus here, except insofar as to say that intersectionality theory suggests that while generally men as a group have power over all women, *individual* men may have less power,³⁷ a concept that relates to the hierarchy among men established in masculinity. Masculinity as the "doing" of masculine practices is what we meant by acknowledging that masculinity is socially constructed.

That leaves, then, masculinity defined as "a set of practices, designed to maintain group power, that are considered 'masculine.'"³⁸ What does it mean, right now, to be a man? Specifically, what does it mean to meet the hegemonic masculinity standard? Primarily, being a man is a negative relational definition, built not on whom one is, but on what one is not: Real men must not be women and must not be gay.³⁹ By setting up such a relational definition, what it means to be a man "is thus [part of] a social system that is constantly being created,

³³ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 184.

³⁴ CONNELL, *supra* note 16, at 77.

³⁵ The fourth is that "[m]asculinities" . . . refers to a body of theory and scholarship by [gender] experts in various fields of social science." Dowd et al., *Feminist Legal Theory Meets Masculinities Theory*, *supra* note 30, at 25.

³⁶ *Id.*

³⁷ DOWD, THE MAN QUESTION, *supra* note 16, at 30-31; Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 194.

³⁸ Dowd et al., *Feminist Legal Theory Meets Masculinities Theory*, *supra* note 30, at 25.

³⁹ DOWD, THE MAN QUESTION, *supra* note 16, at 28. Accord MESSNER, POWER AT PLAY, *supra* note 31, at 35-36 ("Indeed, boys learn early that if it is difficult to define masculinity in terms of what it is, it is at least clear what it is *not*. A boy is not considered masculine if he is feminine."); Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 185 ("This notion of anti-femininity lies at the heart of contemporary and historical conceptions of manhood, so that masculinity is defined more by what one is not rather than who one is."); Mutua, *supra* note 30, at 86 ("To be a real man, to demonstrate manliness, is to not be like women or feminine nor to be gay."); McGinley & Cooper, *supra* note 21, at 4 ("[D]ifferentiation from women and all things 'feminine' enhances the masculinity of men"). See also David Whitson, *Sport in the Social Construction of Masculinity*, in *SPORT, MEN, AND THE GENDER ORDER: CRITICAL FEMINIST PERSPECTIVES*, *supra* note 31, at 19.

contested, and changed, both in the relationships and power struggles between men and women, and in the relationships and power struggles between men.”⁴⁰ While to be masculine is, above all, to not be like a woman, thereby setting up a hierarchy between men and women that places all men above all women, the admonishment not to be gay sets up a hierarchy among men that puts a hefty premium on heterosexuality.⁴¹

Homosexuality has long been seen as deviance in “proper” gender development.⁴² Only in 1973 was homosexuality removed from the Diagnostic and Statistical Manual (DSM) as a mental illness.⁴³ Gayness in men is often associated with femininity, with being like a woman.⁴⁴ “In particular, gay men submit to the sexual advances of other men and are penetrated like women, sexual practices that lead heterosexual men to stereotype gay men as sissies, faggots or effeminate men. . . . To many people, homosexuality is the negation of masculinity”⁴⁵ Therefore, gay men are considered less “manly” than heterosexual men.

It is essential, then, to males’ construction of masculinity for them to distance themselves from both femininity and gayness, both in themselves and in other males.⁴⁶ This process begins early—even young boys shun their sisters’ toys and games, especially if other boys might be around, and they target other boys who appear to be “sissies.”⁴⁷ For example, a nine-year-old boy in a Buncombe County, North Carolina, elementary school was picked on for bringing

⁴⁰ MESSNER, POWER AT PLAY, *supra* note 31, at 18.

⁴¹ Ben Clayton & Barbara Humberstone, *Men’s Talk: A (Pro)feminist Analysis of Male University Football Players’ Discourse*, 41 INT’L REV. FOR SOC. SPORT 295, 306 (2006) (“The nature of hegemony dictates that there are specific gender relations of dominance and subordination between groups of men, and the most apparent subordinated group in western society is gay men.”) (citation omitted).

⁴² Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 191 (“Gay men have [historically] played the role of the consummate sissy in the American popular mind because homosexuality is seen as an inversion of normal gender development.”); Sylvia A. Law, *Homosexuality and the Social Meaning of Gender*, WIS. L. REV. 187, 196 (1998) (“[H]omosexuality is censured because it violates the prescriptions of gender role expectations. A panoply of legal rules and cultural institutions reinforce the assumption that heterosexual intimacy is the only natural and legitimate form of sexual expression.”).

⁴³ Law, *supra* note 42, at 206.

⁴⁴ CONNELL, *supra* note 16, at 78; Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 191.

⁴⁵ Patricia Hill Collins, *A Telling Difference: Dominance, Strength, and Black Masculinities*, in PROGRESSIVE BLACK MASCULINITIES 73, 83 (Athena D. Mutua ed., 2006) (quoted in Mutua, *supra* note 30, at 86). See also PRONGER, *supra* note 14, at 139 (“Getting fucked, therefore, is the deepest violation of masculinity in our culture.”).

⁴⁶ DOWD, THE MAN QUESTION, *supra* note 16, at 48-49; see MESSNER, POWER AT PLAY, *supra* note 31, at 99.

⁴⁷ See Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 189; MESSNER, POWER AT PLAY, *supra* note 31, at 99.

to school a fuzzy blue My Little Pony backpack—an item seen as quintessentially “girlie.”⁴⁸ Taunting and name-calling are common tactics to reinforce masculinity. As sociologist Gary Kinsman has said,

The limits of “acceptable” masculinity are in part defined by comments like “What are you, a fag?” As boys and men[,] we have heard such expressions and the words “queer,” “faggot,” and “sissy” all our lives. These words encourage certain types of male behavior and serve to define, regulate, and limit our lives, whether we consider ourselves straight or gay.⁴⁹

Importantly, such taunting and name-calling is not reserved solely for mean-spirited put-downs. Even males who consider themselves friends engage in such banter. In both instances, the recipient is obliged to defend his masculinity.⁵⁰ This posturing to avoid being perceived as feminine or gay is an ongoing process, from boyhood to adulthood. But to whom does it matter? To other boys and men, for it is other males who grant manhood.⁵¹

Males, then, construct their masculinity by denigrating both femininity and gayness, and they do this among themselves, for “[m]asculinity is as much about men’s relation to other men as it is about men’s relation to women.”⁵² In fact, in order to prove their masculinity, men must constantly, daily, compete against other men, to always be “one up” on the next man. Thus, men’s relationships with other men are based on a hierarchy where men are always jockeying for position to be considered more “manly” than other men.⁵³ Kimmel explains,

⁴⁸ Lori Grisham, *School Bans 9-Year-Old Boy's My Little Pony Backpack*, USA TODAY (Mar. 18, 2014), <http://www.usatoday.com/story/news/nation-now/2014/03/18/my-little-pony-backpack-banned-school-north-carolina/6565425/>. My Little Pony is a toy marketed toward girls. They are brightly colored, small plastic ponies (in pink, lavender, baby blue, yellow, or orange) with long, colorful manes. Each comes with a barrette or comb so the child can comb and style the pony’s mane. *My Little Pony*, MY LITTLE PONY, http://www.hasbro.com/mylittlepony/en_US/ (last visited Dec. 2, 2014).

⁴⁹ Gary Kinsman, *Men Loving Men: The Challenge of Gay Liberation*, in FEMINISM AND MASCULINITIES, *supra* note 24, at 165. There are, of course, many other gendered or sexualized terms used by and among boys and men to indicate someone or something that is either feminine or homosexual and, thus, not manly: bitch, cocksucker, cunt, fairy, fruit, gay, girl, homo, nancy, nellie, ninny, pansy, prissy, pussy, sally, twink, woman, wuss, or wussy (a combination of “wimp” and “pussy”), among others.

⁵⁰ Clayton & Humberstone, *supra* note 41, at 299.

⁵¹ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 186 (“When does it end? Never. To admit weakness, to admit frailty or fragility, is to be seen as a wimp, a sissy, not a real man. But seen by whom? . . . Other men. . . [.]”).

⁵² DOWD, THE MAN QUESTION, *supra* note 16, at 28.

⁵³ *Id.* at 28, 63; Dowd et al., *Feminist Legal Theory Meets Masculinities Theory*, *supra* note 30, at 28; Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 186, 187.

“We are under the constant careful scrutiny of other men. Other men watch us, rank us, grant our acceptance into the realm of manhood. Manhood is demonstrated for other men’s approval.”⁵⁴

This constant competition among men leads to three characteristics of masculinity: powerlessness, fear, and violence. First, manhood is associated with power, and indeed, as a group, men seem very much in power in nearly all aspects of social life.⁵⁵ Individually, though, men do not feel powerful and in fact often feel powerless.⁵⁶ Most men are socially restrained by other men. Think, for example, about a blue-collar male who works for a man who reports to another man, and on up the line. That blue-collar worker, while male, may be fairly low on the masculinity hierarchy: he is of lower socio-economic status, he may be of color, or both; he has little power or control over what he does at work; and he may have little power over what happens in his home. As a part of male privilege, he has some power vis-à-vis women generally, but he himself may feel powerless in his own life. The same concept applies to that worker’s male boss. He may rank higher than his employee on the masculinity hierarchy (owing to his likely better socio-economic status and maybe his race), but he, too, may feel powerless, “stuck” in middle management, reporting to other men.⁵⁷ He may feel particularly powerless in his work if he is required to report to a woman, whom he has likely been socialized to believe is not as good as he is. Thus, most men do not feel the power they are told they have.

Second, a core emotion of manhood is fear.⁵⁸ A man’s place in the hierarchy is never secure because he must always prove himself.⁵⁹ Very few men actually meet the hegemonic standard,⁶⁰ but males continually strive nonetheless. This constant competition leads to fear that somehow, in some way, a man may be humiliated in front of other men, that he will be unmasked as unmanly and, thus, tumble down the masculinity hierarchy. “Being seen as unmanly is a fear that propels American men to deny manhood to others, as a way of proving the unprovable—that one is fully manly. Masculinity becomes a defense against the

⁵⁴ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 186.

⁵⁵ *Id.* at 193.

⁵⁶ DOWD, THE MAN QUESTION, *supra* note 16, at 30-31; KIMMEL, THE GENDERED SOCIETY, *supra* note 14, at 119.

⁵⁷ The only male in this scheme who probably does not feel powerless is the one at the top of this chain, for he does in fact have power. But there are very few men relative to the general male population who are truly at the top; thus, it is perhaps easier to understand why most men feel powerless in their own lives.

⁵⁸ DOWD, THE MAN QUESTION, *supra* note 16, at 21; Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 187.

⁵⁹ DOWD, THE MAN QUESTION, *supra* note 16, at 28; *see* Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 184.

⁶⁰ CONNELL, *supra* note 16, at 79; Clayton & Humberstone, *Men’s Talk*, *supra* note 41, at 301-02.

perceived threat of humiliation in the eyes of other men”⁶¹

Third, manhood is marked by violence; that is, a real man is willing—at times even desires—to fight to fend off accusations impugning his manliness or is willing to fight to show that he is better, stronger, than another male.⁶² “From the locker room to the chat room, men of all ages learn that violence is a socially sanctioned form of expression.”⁶³ As we will see in Part III, violence as a part of manliness plays an important role in sports.

Hegemonic masculinity lets us see what a society values and what models it provides on “the way men should act, behave, or perform manliness.”⁶⁴ But it also appears as the “natural” way of things,⁶⁵ and we begin to believe it to be part of males’ innate programming. This is what makes us say, “Boys will be boys” or “That’s just how men are.” Let’s take, for example, what might be the experience of some good male friends in a round of golf. If one man misses what might be perceived as an easy putt, and another man in the group teases, “Come on, woman, get your skirt out of the way,” the speaker may truly mean to joke with his friend and mean nothing derogatory by his comment. This, in his view, is how he naturally connects with his friends, and they with him. However, in that moment, the speaker has, in fact, asserted his masculinity vis-à-vis another man. The implicit meaning of the comment is two-fold: first, the speaker implies that *he* would have made that putt; and second, the speaker places his friend below him on the masculinity hierarchy by if not asserting his friend *is* a woman (by hypothetically wearing a skirt), then at least that he is *behaving* as one, indicating with the comment that women, of course, cannot play golf, at least not as well as men can. The man who missed the putt will now have to redouble his efforts to prove his masculinity; you can be sure he will sink the next putt and comment on it, or he will nail a long drive and point that out. He will also be looking for a time when the speaker messes up, so as to respond in kind. To each of them, this is just how they “are.” But while the context is one of friends playing a game and all of them believing in the friendliness of their bond, each of the men is in fact neatly fitting theory, whether he consciously realizes it or not. And he may, if asked, even deny that he is trying to be manlier

⁶¹ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 193.

⁶² See Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 189; KIMMEL, *THE GENDERED SOCIETY*, *supra* note 14, at 435-39; CONNELL, *supra* note 16, at 83 (“Violence can become a way of claiming or asserting masculinity in group struggles.”).

⁶³ KIMMEL, *THE GENDERED SOCIETY*, *supra* note 14, at 437.

⁶⁴ Mutua, *supra* note 30, at 87.

⁶⁵ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 184; Hearn, *supra* note 32, at 54 (“Hegemony involves persuasion of the greater part of the population, particularly through the media, and the organization of social institutions in ways that appear ‘natural,’ ‘ordinary,’ ‘normal.’”) (quoting Mike Donaldson, *What is Hegemonic Masculinity?*, 22 *THEORY & SOC’Y* 643, 645 (1993)).

than his friend. This is how hegemonic masculinity works to appear natural, ordinary, and normal.

This understanding of masculinity as natural, ordinary, and normal is central to hegemony. And one of the seemingly most “natural” ways to show one’s masculinity is to excel at sports.

III. MASCULINITY & SPORTS

Sport has played a significant, if not leading, role in shaping masculinity;⁶⁶ however, sport, too, is a social construct. Sports, as we now know them, emerged out of a specific historical period, with the specific purpose of fostering masculinity in boys. By excluding women from organized sport—and by explaining this exclusion as due to the peculiarities of the female anatomy⁶⁷—men were able to build a solely male arena for the construction, performance, and reproduction of masculinity.

Present-day sport developed in the nineteenth-century in Britain and the United States as a consequence of the Industrial Revolution.⁶⁸ Prior to that point, most families had lived and worked together on family farms, where physical work was plentiful and fathers and sons were in close contact. With the Industrial Revolution, fathers headed out of the home to work often long hours, leaving their sons in the care of mothers and, increasingly, female teachers at school.⁶⁹ The concern was that boys were becoming feminized by their lengthy contact with women.⁷⁰

Sports were consciously developed and introduced in public schools and in community organizations like the YMCA for boys to separate them from girls—making visible men’s purported physical superiority—and to allow them to

⁶⁶ CONNELL, *supra* note 16, at 54; MESSNER, POWER AT PLAY, *supra* note 31, at 16; Brake, *supra* note 31, at 207 (“Through excelling at sports, boys become men and establish their masculine *bona fides*.”); Whitson, *supra* note 39, at 21.

⁶⁷ Early doctors (primarily male) alleged that girls’ and women’s participation in sports would wreak havoc on their reproductive functions; because a woman’s primary purpose was to bear and raise children, she was discouraged from physical activity in sports. See MESSNER, POWER AT PLAY, *supra* note 31, at 16–17; Bruce Kidd, *The Men’s Cultural Centre: Sports and the Dynamic of Women’s Oppression/Men’s Repression*, in SPORT, MEN, AND THE GENDER ORDER: CRITICAL FEMINIST PERSPECTIVES, *supra* note 31, at 31, 35.

⁶⁸ See PRONGER, *supra* note 14, at 16; Kidd, *supra* note 67, at 33.

⁶⁹ See PRONGER, *supra* note 14, at 16–17; MESSNER, POWER AT PLAY, *supra* note 31, at 14; Kidd, *supra* note 67, at 36.

⁷⁰ CONNELL, *supra* note 16, at 195; MESSNER, POWER AT PLAY, *supra* note 31, at 14; Brake, *supra* note 31, at 207; Kidd, *supra* note 67, at 36. When Theodore Roosevelt believed his young son was becoming too influenced by his mother and sisters, Roosevelt told the boy to take up boxing. Kidd, *supra* note 67, at 35.

learn “masculine” values.⁷¹ Through sports, boys could use their bodies in socially acceptable, physical, sometimes violent, ways⁷² and learn traits such as competitiveness and dominance (emphasis on winning) that allowed them to distinguish themselves from girls and maintain hegemonic masculinity.⁷³ Team sports in particular were valued, as they emphasized loyalty to the team (e.g., other males) and obedience to authority (e.g., a coach).⁷⁴ Such lessons in physical and mental toughness, loyalty, and obedience were perceived to ready boys for military duty or leadership positions.⁷⁵

Modern sport, then, was constructed specifically as “a gendered institution,” constructed by men “largely as a response to a crisis of gender relations in the late nineteenth and early twentieth centuries. The dominant structures and values of sport came to reflect the fears and needs of a threatened masculinity.”⁷⁶ As such, sport “has served as an important site in the construction of male solidarity.”⁷⁷ Boys who participate in sports—and they learn early on that they “should”⁷⁸—are learning not just how that particular sport is played, but they are learning, often in all-male environments, the “culturally dominant conceptions” of being a man.⁷⁹

Learning to be a man in an all-male environment, though, can produce a “hypermasculine ethos,” a kind of masculinity that is “marked by misogyny,

⁷¹ MESSNER, POWER AT PLAY, *supra* note 31, at 14; PRONGER, *supra* note 14, at 17; Kidd, *supra* note 67, at 36.

⁷² See Whitson, *supra* note 39, at 23.

⁷³ See Kidd, *supra* note 67, at 37 (“By giving males exciting opportunities [in sports], preaching that the qualities males learn from sports are masculine, and preventing girls and women from learning in the same context, sports confirm the prejudice that males are a breed apart.”); Brake, *supra* note 31, at 209; Clayton & Humberstone, *Men’s Talk*, *supra* note 41, at 302.

⁷⁴ MESSNER, POWER AT PLAY, *supra* note 31, at 10.

⁷⁵ *Id.*; PRONGER, *supra* note 14, at 16. In the United States, sports were also used to integrate immigrant and working-class boys and to teach them how to be “appropriate kinds of men.” Whitson, *supra* note 39, at 21.

⁷⁶ MESSNER, POWER AT PLAY, *supra* note 31, at 16; Michael A. Messner, *Sports and Male Domination: The Female Athlete as Contested Ideological Terrain*, 5 SOC. SPORT J. 197, 199–200 (1988).

⁷⁷ Whitson, *supra* note 39, at 21.

⁷⁸ According to Messner, studies show that adolescent boys are often judged by their peers and their peer group status is dependent on their sports ability (or lack of ability). MESSNER, POWER AT PLAY, *supra* note 31, at 24; see also Whitson, *supra* note 39, at 19 (“[D]emonstrating the physical and psychological attributes associated with success in athletic contests has now become an important requirement for status in most adolescent and preadolescent male peer groups.”). For those boys who are successful “in sports, athletic achievement is a path to a celebrated, traditional masculinity.” Brake, *supra* note 31, at 207.

⁷⁹ MESSNER, POWER AT PLAY, *supra* note 31, at 19; CONNELL, *supra* note 16, at 35; Timothy Jon Curry, *Fraternal Bonding in the Locker Room: A Profeminist Analysis of Talk About Competition and Women*, 8 SOC. OF SPORT J. 119, 120 (1991) (“For young men, sport is . . . an ideal place to ‘do gender’—[to] display masculinity in a socially approved fashion.”).

belief in male superiority, and homophobia.”⁸⁰ Sports teams tend to be all-male;⁸¹ as such, traits that correspond to a hypermasculine ethos—traits such as physical strength, discipline, aggression, loyalty to other men, and heterosexuality—are particularly valued.⁸² Different sports emphasize such a hypermasculine ethos to differing degrees. The hypermasculinity a boy learns by participating in tennis or baseball is different from the hypermasculinity he learns by participating in football or ice hockey.⁸³

This differing ethos results because, just as not all masculinities are equally valued, neither are all sports. Academic and former Olympian Bruce Kidd noted that “[t]he preferences we express for different sports . . . are in part statements about what we value ‘in a man’ and what sort of relations we want to encourage between men.”⁸⁴ The more aggressive and violent the sport, the more masculine it is considered to be; football is among the three most violent, thus among the most masculine.⁸⁵ It is also a particular American institution. As former NFL running back, Dave Kopay, said, “Of all the team sports, football would also seem to be one of the most representative of the American character.”⁸⁶

The rest of this Part will explain homophobia in sports generally and how such homophobia may act to keep athletes closeted before examining football culture specifically. Finally, it will examine the inner sanctum of masculinity—the locker room—and how what happens there affects players and the team.

A. Homophobia in Sport

Because sport developed to provide a homosocial environment to “masculinize young males in an otherwise feminized culture,” it was also believed that

⁸⁰ Brake, *supra* note 31, at 213.

⁸¹ There are, of course, sports teams that are co-educational; however, such teams are usually comprised of young children just learning a sport or adults enjoying a sport for recreation. Competitive teams tend to separate by gender the longer one plays a sport, the more elite the play, and, in certain cases, due to the dictates of the sport itself (e.g., football). Because this article ultimately deals with football, a full-contact sport that has no all-women or co-ed equivalent, it proceeds assuming sports teams as all-male domains.

⁸² Brake, *supra* note 31, at 209.

⁸³ See *id.* at 210.

⁸⁴ Kidd, *supra* note 67, at 37.

⁸⁵ See *id.*; PRONGER, *supra* note 14, at 19-20; Brake, *supra* note 31, at 210. Pronger listed boxing and ice hockey as the two other most violent sports. PRONGER, *supra* note 14, at 19. Next on the hierarchy are those sports that involve non-violent struggle between teams or opponents—e.g., baseball. *Id.* Below those sports are those that pit a person against himself, like golf. *Id.* at 19-20. Finally, at the bottom, are sports that emphasize skill and aesthetics rather than aggression—e.g., male figure skating and gymnastics. *Id.* at 20.

⁸⁶ KOPAY & YOUNG, *supra* note 1, at 51.

it would prevent homosexuality.⁸⁷ A male who plays sports is presumed and even expected to be heterosexual.⁸⁸ Heterosexuality is part and parcel, if not the defining feature, of the hypermasculinity that athletes are presumed to embody. In high-status sports like football, players are not only presumed to be heterosexual, but also conditioned to expect (and presumably to enjoy) “unfettered sexual access to women.”⁸⁹ Why is heterosexuality presumed among athletes? Because it must be to make sense of the homoerotic possibilities involved in sport.

Messner argues that with the rise of organized sport came the rise of the male body and male sexuality as superior to the female body and female sexuality.⁹⁰ The athletic male body is muscular, fit, conditioned to perform great physical feats; it is admired and envied.⁹¹ It also has great homoerotic potential. As one gay athlete quipped, “A bunch of athletic men, all naked together, lathering themselves up and bonding in a shower room[.] . . . [T]hat’s the beginning of a gay romance novel.”⁹² Therefore, in order to neutralize the erotic possibilities that might occur when athletes train, play, and shower together, all in close physical contact, the assumption had to be that there were no homoerotic impulses; the neutralizing response: homophobia.⁹³ Many would say that team cohesiveness depends on homophobia.⁹⁴ To demonstrate that he has no erotic desire in a teammate and to reinforce his heterosexuality, the male athlete must denigrate gayness and position women as the object of his sexual desire.⁹⁵

⁸⁷ MESSNER, POWER AT PLAY, *supra* note 31, at 95.

⁸⁸ PRONGER, *supra* note 14, at 14, 33; Brake, *supra* note 31, at 209. Sport is so tied to heterosexual “masculinity that some opponents of homosexuality push sports as a ‘cure’ for boys who are, or are perceived to be, gay.” Brake, *supra* note 31, at 207. *See, e.g.*, Schroeder v. Maumee Bd. of Educ., 296 F. Supp. 2d 869, 871 (N.D. Ohio 2003) (involving a lawsuit by a male student who alleged anti-gay harassment where the school principal allegedly told the student, “‘You can learn to like girls. Go out for the football team.’”).

⁸⁹ Brake, *supra* note 31, at 218.

⁹⁰ MESSNER, POWER AT PLAY, *supra* note 31, at 15–16.

⁹¹ *See* PRONGER, *supra* note 14, at 128; KOPAY & YOUNG, *supra* note 1, at 152 (quoting writer Tom Dowling as saying, “‘It is quite clear in athletics that there is a great deal of admiration of the male physique. It’s not unlike Socrates sitting around the gymnasium admiring the bodies of the young athletes.’”). Some of the men with whom I spoke admitted that they look at other men’s bodies not for the erotic potential but in admiration or envy of aspects of the other man’s physique.

⁹² Fleming, *supra* note 5 (quoting Scott Cooper, a former linebacker for Augsburg College (Minneapolis) who came out as gay in 2013 before his senior season).

⁹³ MESSNER, POWER AT PLAY, *supra* note 31, at 16, 88. “Homophobia” means “the irrational fear or intolerance of homosexuality.” *Id.* at 34 (internal quotation marks omitted).

⁹⁴ *See* PRONGER, *supra* note 14, at 26; *infra* Part III.A, C.

⁹⁵ MESSNER, POWER AT PLAY, *supra* note 31, at 96; Clayton & Humberstone, *Men’s Talk*, *supra* note 41, at 306 (“The denigration of homosexuality is a well-documented feature of sports cultures and, particularly, ‘jock’ humour [sic].”) (citations omitted). Much has been written about athletes’ objectification of women. *See, e.g.*, MESSNER, POWER AT PLAY, *supra* note 31, at 100–102; Curry, *supra* note

Built as it is on the celebration of hypermasculinity, sports culture has raised homophobia to a near art form.⁹⁶ As one former college athlete and coach told sociologist Brian Pronger, growing up in sports means growing up with homophobia.⁹⁷ According to the athlete, “‘There’s a real aversion to homosexuality around sport . . . [I]t’s . . . a “get-away-from-me,” infection type of aversion[;] perhaps I might get it. It will *breed* like athlete’s foot.’”⁹⁸ Homosexuality is feared because it undermines masculinity;⁹⁹ it is “a denigration of the mythic power of men.”¹⁰⁰

According to Kopay, “Homosexuality . . . is considered such a taboo the coaches and players not only feel free but obligated to joke about it.”¹⁰¹ One of the motivating techniques used by coaches (and even other team members) is to denigrate players by calling them “fags,” “homo,” “pansy,” or other sexualized slurs.¹⁰² Says Pronger, “Such childish pejoratives are effective because there is a tacit understanding on the team that no one is homosexual or would want to be known as such.”¹⁰³ Additionally, using homophobic names and making fun of stereotypical gay gender displays (by, for example, flopping a wrist, sashaying while walking, or lisping in a higher pitched voice) “helps distance the athletes from being categorized as gay themselves.”¹⁰⁴

This homophobia, though, “keeps men exaggerating all the traditional rules of masculinity;”¹⁰⁵ it, along with sexual objectification of women, is the “glue that solidifies the male peer group as separate from females, while at the same time establish[es] and clarif[ies] hierarchical relations within the male peer

79, at 119; Clayton & Humberstone, *Men’s Talk*, *supra* note 41. Such objectification fosters misogyny, sexism, and violence against women. While these topics are important, they are not the focus of this discussion.

⁹⁶ MESSNER, *POWER AT PLAY*, *supra* note 31, at 34 (“The extent of homophobia in the sports-world is staggering.”).

⁹⁷ PRONGER, *supra* note 14, at 198.

⁹⁸ *Id.*

⁹⁹ Kidd, *supra* note 67, at 39.

¹⁰⁰ PRONGER, *supra* note 14, at 2.

¹⁰¹ KOPAY & YOUNG, *supra* note 1, at 51.

¹⁰² See *supra* note 49 for other pejoratives.

¹⁰³ PRONGER, *supra* note 14, at 26. Similarly, coaches and teammates will use feminized language, such as “girl,” “woman,” or “sissy.” Says Messner, for a boy to be told by a coach or teammate that he is playing like a sissy (or some other feminized or sexualized term) “is among the most devastating insults [he] can receive, and such words have a powerful impact upon his actions, relationships, and self-image.” MESSNER, *POWER AT PLAY*, *supra* note 31, at 36.

¹⁰⁴ Curry, *supra* note 79, at 130.

¹⁰⁵ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 191.

group. In short, homophobia polices the boundaries of narrow cultural definitions of masculinity”¹⁰⁶

Nevertheless, this is not to say that there are no gay men who play sports, even at elite levels. Of course there are. And there always have been. All men, even gay men, want to construct an identity that is masculine.¹⁰⁷ Given the societal disapproval of homosexuality, participation in sports has allowed gay men “a way to construct a public masculine identity and to hide the fact that” they are gay.¹⁰⁸ Kopay acknowledges the truth of that statement. Coming of age in a time where homosexuality was considered a psychiatric deviance, Kopay says playing football “provided a convenient way for me—and who can say how many of my teammates?—to camouflage my true sexual feelings for other men.”¹⁰⁹

A person’s sexuality has no effect whatsoever on his or her athletic ability,¹¹⁰ we, culturally, have created and reinforced a distinction that does not exist by associating gayness in men with femininity and, therefore, with weakness.¹¹¹ But the myth of heterosexuality persists in large part because until recently, there have been no openly gay athletes, most particularly at the elite levels and in the most masculine sports.¹¹²

For many gay men at elite levels of athletics, staying closeted may feel crucial to their survival and success as athletes. Particularly by the time an athlete reaches the upper echelons of his sport, he is all too aware of the homophobia that accompanies sport. As well, he is probably aware that professional sports teams seem to prefer not to have the “distraction” of dealing with an openly gay player.¹¹³ It is worth pointing out that after National Basketball Association (NBA) veteran Jason Collins came out as gay at the end of the 2012–

¹⁰⁶ MESSNER, POWER AT PLAY, *supra* note 31, at 36.

¹⁰⁷ *See id.* at 35.

¹⁰⁸ *Id.* at 35; PRONGER, *supra* note 14, at 4 (“There are also those who pursue sports *because* it is a traditionally masculine pursuit. For some homosexual men and boys, athletics is a hiding place[.]”).

¹⁰⁹ KOPAY & YOUNG, *supra* note 1, at 53.

¹¹⁰ PRONGER, *supra* note 14, at 2.

¹¹¹ *See supra* Part II; MESSNER, POWER AT PLAY, *supra* note 31, at 155 (“People who made this assumption [that gay men are not involved in sports] were observing the overtly masculine and heterosexual culture of sport and then falsely concluding that all of the people within that culture must be heterosexual.”). Ironically, while no male athlete is expected to be gay, female athletes are often expected to be lesbians. PRONGER, *supra* note 14, at xi. If athletic ability is associated with strength and strength is associated with masculinity, then a woman who is athletic, strong, and using her body defies our cultural expectations of femininity and, thus, not truly womanly. This conception of women athletes as lesbians and unfeminine has changed post-Title IX as more and more girls and women participate in sports, often at elite levels, thus making more socially acceptable a femininity that includes athleticism.

¹¹² *See* PRONGER, *supra* note 14, at 10.

¹¹³ *See id.* (“Professional sports clubs don’t want homosexual athletes compromising their masculine image[.]”); SPORTS ILLUSTRATED, *supra* note 6; Conway, *supra* note 7.

2013 season, he was not signed again until February 2014, when he signed with the Brooklyn Nets for the remainder of the season.¹¹⁴

Sportswriter Dick Schaap may have summed up best the professional gay athlete's predicament when he wrote in 1988 in the foreword to Kopay's biography:

Now, more than a decade later [after Kopay publicly came out], the most shocking thing about Kopay's [coming out] is that no one has followed it up, not a single prominent male professional athlete has either professed or confessed his homosexuality.

. . . .

The strange silence that has followed Kopay's story can be explained by saying that, no matter what Kopay has suggested, homosexuality is [either] extremely rare among gifted males athletes . . . , or by saying that the homophobic attitudes which frustrated and threatened Kopay for so many years still prevail, still make it difficult, and physically and commercially dangerous, for a homosexual athlete to run, jump, vault or leap out of the closet.

The latter is clearly the more likely answer.¹¹⁵

Thus, a gay athlete's decision to publicly reveal his sexuality is fraught with risks that many athletes may not be willing to take, especially if they play a more "masculine" sport where the myth of male heterosexuality is at its peak and the fear that they will be seen as "less than a man" is the highest.¹¹⁶

Times are clearly changing and the stigma surrounding homosexuality, while not eliminated, is much reduced, creating a slightly more comfortable

¹¹⁴ Connelly, *supra* note 2; *Jason Collins Remains with Nets*, ESPN NEW YORK (Mar. 15, 2014), http://espn.go.com/new-york/nba/story/_/id/10612154/jason-collins-signs-brooklyn-nets-remainder-season.

¹¹⁵ KOPAY & YOUNG, *supra* note 1, at foreword. *See also* Curry, *supra* note 79, at 130 ("Maintaining the appearance of a conventional heterosexual male identity . . . is of the utmost importance to the athlete who wants to remain boned to his teammates.").

¹¹⁶ *See, e.g.*, MESSNER, *POWER AT PLAY*, *supra* note 31, at 34-35.

space for coming out.¹¹⁷ Kopay, who came out in 1975 after retiring from professional football, is considered the first team sport athlete to come out as gay.¹¹⁸ Thereafter, other professional athletes slowly came out (and some were outed), but usually such pronouncements did not occur until after the athlete had left the sport.¹¹⁹ There are other gay professional athletes who are out to their teammates, but who have not outed themselves to the larger public.¹²⁰ Former New York Giants linebacker Harry Carson (1976-1988) said, ““We had a player on our team and everybody in the room knew he was gay.””¹²¹ Even as far back as 1969, legendary coach Vince Lombardi was aware that one of his players was gay, but that player was never publicly identified.¹²²

More recently, athletes have been coming out while still active players. In April 2013, NBA veteran Jason Collins became the first active, openly gay player in any of the four major professional sports leagues.¹²³ In April 2014, Derrick Gordon became the first openly gay male NCAA Division I basketball player, and in August 2014, Edward (Chip) Sarafin became the first openly gay

¹¹⁷ *E.g.*, *Lawrence v. Texas*, 539 U.S. 558 (2003) (holding that the state statute that criminalized private consensual sexual conduct between two people of the same sex violates the Fourteenth Amendment’s Due Process Clause), overruling *Bowers v. Hardwick*, 478 U.S. 186 (1986); *Windsor v. United States*, No. 12-307 (U.S. June 26, 2013) (holding that the Defense of Marriage Act, which limited marriage to one man and one woman, was unconstitutional as a deprivation of liberty protected by the Fifth Amendment’s Due Process Clause). In addition, on December 22, 2010, President Obama signed legislation that repealed Don’t Ask Don’t Tell, so that statements about a person’s sexual orientation are no longer a bar to military service. U.S. Dept. of Defense, *Don’t Ask, Don’t Tell Is Repealed*, DEFENSE.GOV, http://www.defense.gov/home/features/2010/0610_dadt/ (last visited Dec. 13, 2014). As of this writing, thirty-five states and the District of Columbia allow marriage equality and another ten have judicial rulings in favor of freedom to marry. *States*, FREEDOM TO MARRY, <http://www.freedomtomarry.org/states/> (last visited Dec. 2, 2014). On July 21, 2014, President Obama signed an executive order that prohibits federal contractors from discriminating based on sexual orientation or gender identity and as well as prohibits discrimination against federal workers based on sexual orientation or gender identity. David Hudson, *President Obama Signs a New Executive Order to Protect LGBT Workers*, WHITE HOUSE BLOG (July 21, 2014, 3:00 PM), <http://www.whitehouse.gov/blog/2014/07/21/president-obama-signs-new-executive-order-protect-lgbt-workers>.

¹¹⁸ *Kopay: Apologizes to Aikman*, *supra* note 1. Outsports magazine has listed Kopay’s coming out as “the number 1 moment in gay sports history.” Adkins, *supra* note 1.

¹¹⁹ See Josh Martin, *Jason Collins Comes out as Gay: A Timeline of Athletes and Homosexuality*, BLEACHER REPORT (May 1, 2013), <http://bleacherreport.com/articles/1623032-jason-collins-comes-out-as-gay-a-timeline-of-athletes-and-homosexuality>.

¹²⁰ LZ Granderson, *Michael Sam a Novelty? Not Really*, ESPN, http://espn.go.com/nfl/story/_/id/10429956/michael-sam-novelty-not-really (last updated Feb. 10, 2014).

¹²¹ Caplan & Igel, *supra* note 4.

¹²² Granderson, *supra* note 120; see also KOPAY & YOUNG, *supra* note 1, at 135-36.

¹²³ Jason Collins, *Why NBA Center Jason Collins Is Coming out Now*, SPORTS ILLUSTRATED, <http://www.si.com/more-sports/2013/04/29/jason-collins-gay-nba-player#all>; Martin (last updated June 20, 2014).

NCAA Division I football player.¹²⁴ However, in no way is the stigma of homosexuality gone, and by no means do we know every gay athlete playing sports at elite levels.

If gay athletes make known their sexuality, they “expose the mythic relationship of masculinity and sports. If a star athlete can be gay, then obviously these sports are not the high expressions of orthodox masculinity they are normally thought to be.”¹²⁵ This may be especially true with a hypermasculine sport such as football, where out of the thousands of professional football players over the course of the history of the game, only four others (aside from Kopay) have publicly come out, and all after they left professional play.¹²⁶ One is left to wonder, then, is there something about football culture that so restrains gay players from coming out?

B. Masculinity in Football

Football is America’s favorite pastime. The NFL is by far the most popular of American professional sports.¹²⁷ The league pulls in \$9.5 billion a year in revenue, more than double what the NBA makes.¹²⁸ An average of about 67,600 people attend each game each week, and millions more are watching from homes, bars, and nearly anywhere else there is a television.¹²⁹ Advertisers happily paid \$4 million for a thirty-second commercial spot during the 2014 Super

¹²⁴ *Arizona State Football Player Chip Sarafin Comes Out as Gay*, HUFFPOST SPORTS, http://www.huffingtonpost.com/2014/08/13/chip-sarafin-gay-college-football-player_n_5676552.html (last updated Aug. 13, 2014). At the time of his announcement, Gordon was a sophomore starter for the University of Massachusetts basketball team. *Id.* Sarafin is a fifth-year senior for Arizona State University. *Id.* Michael Sam did not come out publicly until after his final season at the University of Missouri. *Id.*; see *infra* Part IV.

¹²⁵ PRONGER, *supra* note 14, at 118.

¹²⁶ Those four are: Wade Davis, Cyd Zeigler, *Wade Davis Talks for the First Time About Being Gay in the NFL, Working with LGBTQ Youth*, OUTSPORTS.COM (June 5, 2012), <http://www.outsports.com/2012/6/5/4053194/wade-davis-talks-for-the-first-time-about-being-gay-in-the-nfl>; Kwame Harris, see Cyd Zeigler, *Domestic Charges for Kwame Harris*, ESPN, http://espn.go.com/nfl/story/_/id/8892463/kwame-harris-former-san-francisco-49er-charged-former-boyfriend-beating (last updated Jan. 29, 2013); Roy Simmons, Sam Farmer, *Roy Simmons dies at 57; NFL Player Later Came Out As Gay*, LA TIMES (Mar. 1, 2014), <http://articles.latimes.com/2014/mar/01/local/la-me-roy-simmons-20140302>; and Esera Tuaolo, Esera Tuaolo and Luke Cyphers, *Free and Clear*, ESPNMAG.COM (Oct. 30, 2002), <http://espn.go.com/magazine/vol5no23tuaolo.html>. Kopay says in his autobiography that his former teammate Jerry Smith was gay, although Smith himself had never confirmed that fact. KOPAY & YOUNG, *supra* note 1, at 270-78. Smith died in 1986 from an AIDS-related illness. *Id.* at 271, 274.

¹²⁷ Soven Bery, *NFL: Is the Most Popular Sports League in the USA Really Too Big to Fail?*, BLEACHER REPORT (July 17, 2013), <http://bleacherreport.com/articles/1707663-nfl-is-the-most-popular-sports-league-in-the-usa-really-too-big-to-fail>.

¹²⁸ *Id.*

¹²⁹ *Id.* And if you cannot find a television, you can follow the game online through various websites’

Bowl to reach the 108 million people tuning in.¹³⁰ We Americans love our football. And while women surely account for a good number of football fans, the sport's real appeal is to men; it has the ability "to symbolically link men of diverse ages and socioeconomic backgrounds."¹³¹ As Messner points out:

[Through televised football,] individual males are given the opportunity to identify—generically and abstractly—with all men as a superior and separate caste. Football, based as it is upon the most extreme possibilities of the male body (muscular bulk, explosive power and aggression) is a world apart from women [T]he armored male bodies of football players are elevated to mythical status, and as such give testimony to the undeniable "fact" that there is at least one place where men are clearly superior to women.¹³²

If, as Kopay suggests, football is most representative of American character, that American character (at least masculine American character) values "competitiveness, asceticism, success (winning), aggression, violence, [male] superiority to women, and respect for and compliance with male authority."¹³³ Football can be considered the epitome of hypermasculinity; playing the game is literally an initiation to a particular kind of manhood.

Drawing on theory about rituals and primitive male initiation rites, Donald Sabo and Joe Panepinto studied the relationship between football coaches and their players to understand how football contributes to the social reproduction of masculinity.¹³⁴ They concluded, in part, that football acted as an initiation rite to masculinity.¹³⁵ The rituals in football prepared young men for "life within the 'sex-gender system[,]'" which has two interdependent structural dimensions: male domination of women and solidarity among males, although accepting that there is a status hierarchy among males.¹³⁶ Football, they concluded, contains

game trackers.

¹³⁰ Rob Siltanen, *Yes, A Super Bowl Ad Really Is Worth \$4 Million*, FORBES (Jan. 29, 2014), <http://www.forbes.com/sites/onmarketing/2014/01/29/yes-a-super-bowl-ad-really-is-worth-4-million/>.

¹³¹ Messner, *Sports and Male Domination*, *supra* note 76, at 202.

¹³² *Id.*

¹³³ Donald F. Sabo & Joe Panepinto, *Football Ritual and the Social Reproduction on Masculinity*, in *SPORT, MEN, AND THE GENDER ORDER: CRITICAL FEMINIST PERSPECTIVES*, *supra* note 31, at 115.

¹³⁴ *Id.* at 115–18.

¹³⁵ *Id.* at 124.

¹³⁶ *Id.* at 115–16. They also concluded that football ritual "appears to be just as much a source of achievement ideology as it is gender initiation." *Id.* at 125. That is, players not only learned a particular type of masculinity, but also "came away from football with an abiding belief in the American Dream

all the elements of primitive male initiation rites: man-boy relationships; conformity and control; social isolation; deference to male authority; and pain.¹³⁷

Football coaches use hegemonic masculinity themes, stressing “avoidance of feminine activities and values, toughness, aggressiveness, violence, and emotional self-control.”¹³⁸ Coaches often use ridicule to induce conformity,¹³⁹ and do so in ways that align with reproducing hegemonic masculinity. Their ridicule is often “tinged by homophobia and misogyny.”¹⁴⁰ Sabo and Panepinto reported that “[i]n order to inflame aggression or compliance, coaches called players ‘pussies’ or ‘limp wrists’ and told them ‘go home and play with your sisters’ or ‘start wearing silk panties.’”¹⁴¹ Similarly, Kopay remembered that “[f]rom grade school on . . . the curse words on the football field [were] about behaving like a girl. If you don’t run fast enough or block or tackle hard enough you’re a pussy, a cunt, a sissy.”¹⁴² The belief—and probable reality—is that such taunts motivate players to work harder to prove themselves to be men (and not gays or girls). A gay player, out or not, will likely feel compelled to work even harder to disprove such negative stereotypes. Kopay believes so.

Recently[,] I’ve come to the conclusion that a lot of my extra drive came from the same forces that brought black athletes out of the ghettos to the forefront of professional sports. They were out to prove—among other things—that they were not inferior because of their race. I was out to prove that I was in no way less a man because I was homosexual.¹⁴³

As well, football players are continually exposed to and experience pain.¹⁴⁴ They learn to use their bodies forcefully and as weapons against other players.¹⁴⁵

ideology (i.e., hard work and personal sacrifice lead to economic success).” *Id.*

¹³⁷ *Id.* at 116–17. The man-boy relationships are the coach-player relationships, *id.* at 118–19; the social isolation occurs because teams are all-male, practice is often closed to outsiders, particularly females (cheerleaders and mothers), *id.* at 120–21; and deference is present because the players recognize the coach as the leader and also as a member of the larger community, *id.* at 121–22.

¹³⁸ *Id.* at 124.

¹³⁹ *Id.* at 119–20.

¹⁴⁰ *Id.* at 120.

¹⁴¹ *Id.*

¹⁴² KOPAY & YOUNG, *supra* note 1, at 50–51. Kopay also relayed how one professional quarterback was allegedly “brutal” about a player’s homosexuality, calling the player “a ‘goddamned fag’ or a ‘cocksucker’ every time [the player] made any kind of mistake.” *Id.* at 135.

¹⁴³ *Id.* at 11.

¹⁴⁴ Sabo & Panepinto, *supra* note 133, at 122–24.

¹⁴⁵ MESSNER, POWER AT PLAY, *supra* note 31, at 64–67.

Boys learn that aggression and violence are valued and appropriate, especially if such conduct occurs within the rules.¹⁴⁶ Because aggression and violence are valued, players' bodies take a beating, yet players are coached to play through the pain.¹⁴⁷ "Coaches de-emphasized the degree of physical suffering . . . [and] encouraged boys to 'toughen up. . . .'"¹⁴⁸ Playing hurt and denying pain and injury is common in football because not only could a player be viewed as "less than a man," he could be removed from his playing position, a humiliation no player wants to experience.¹⁴⁹

The "initiation" aspects of football—particularly conformity, social isolation, and pain—continue long after boys become men. One would expect, then, that the hypermasculine traits they have learned in that culture—homophobia, aggression, male superiority, and physical toughness—have become particularly set by adulthood such that it may be difficult for them to believe that anyone but an aggressive, strong, heterosexual male would play the game. This may be particularly true for the thousands and thousands of boys (now men) whose football careers ended by the time they finished high school.

As explained earlier, gay men are seen as the opposite of masculine; they are stereotyped as effeminate and weak. Football, then, with its homophobic insults, aggression, and violence is seemingly the last place one would expect to find a gay man. Such stereotyped perceptions about gay men would then easily prompt a university physical education instructor to say, "The gay men I know around here are swimmers, divers, gymnasts. I don't know any gay football players."¹⁵⁰ Or, a head coach of a professional football team to say, "I don't know first-hand of any homosexuality [in the NFL] and I don't know

¹⁴⁶ *Id.* at 67-71; PRONGER, *supra* note 14, at 21-25; KOPAY & YOUNG, *supra* note 1, at 76 ("If I had any kind of aggression or anger to work out, the football field was the proper and acceptable place for it.").

¹⁴⁷ Sabo & Panepinto, *supra* note 133, at 122-23.

¹⁴⁸ *Id.* at 123.

¹⁴⁹ See *id.* at 122-24; MESSNER, POWER AT PLAY, *supra* note 31, at 61-76. This theme is ever-present in Peter Gent's semi-autobiographical novel *North Dallas Forty* (1973). Gent was a receiver for the Dallas Cowboys from 1964-68. The book, which is more detailed and graphic than the movie, depicts eight days in the life of an "aging" (not yet thirty-year-old) professional football player named Phil Elliott. Throughout the narrative of every one of the eight days, Elliott describes the ever-present physical pain in his body due to his numerous football injuries. He acknowledges just enough pain to get him the narcotics he "needs," but lies to the trainer about the extent of his pain so that the coaches do not find out and replace him with another younger, healthier receiver. PETER GENT, NORTH DALLAS FORTY (1973). See Richard Goldstein, *Peter Gent, Football Novelist, Dies at 69*, N.Y. TIMES (Oct. 2, 2011), http://www.nytimes.com/2011/10/03/sports/football/peter-gent-69-ex-player-who-wrote-north-dallas-forty-dies.html?_r=0.

¹⁵⁰ PRONGER, *supra* note 14, at 30.

where it would fit in.”¹⁵¹ Or, more recently, for an NFL player personnel assistant to comment, ““I don’t think football is ready for [an openly gay player] just yet. . . . [I]t’s still a man’s-man game.””¹⁵²

And in a man’s-man game there is apparently no room—cognitively—for a gay man, perhaps most especially in the locker room.

C. The Football Locker Room

The football locker room is the inner sanctum of masculinity, the “ultimate temple of masculinity;”¹⁵³ it is “enshrined in sports mythology as a bastion of privilege and a center of fraternal bonding.”¹⁵⁴ What goes on there remains mysterious to those on the outside and, it is assumed, probably would not be understood by them anyway.¹⁵⁵ One might imagine naked, athletic men lounging on benches in front of open lockers, sauntering to and from the showers, cursing, joking, and snapping towels at each other’s backsides.¹⁵⁶ To think about a gay man in that environment—well, most would rather *not* think about it.

NFL analyst Phil Simms, who played fourteen years in the NFL, has asked rhetorically, ““What do you think goes on in NFL locker rooms? It’s the friendliest place. It is a great place.””¹⁵⁷ Likewise, Harry Carson, a New York Giants linebacker, said, ““Everyone wants to do their best. They want to contribute. They want to win. And that’s the one environment you go into and you stop being black, you stop being white, you stop being Republican or Democrat, Independent. You stop being affluent, you stop being poor.””¹⁵⁸ But Carson forgot one thing: you don’t stop being *men*.

¹⁵¹ KOPAY & YOUNG, *supra* note 1, at 16 (quoting former Philadelphia Eagles Head Coach Mike McCormack after the release of a series of articles in *The Washington Star* about homosexuality in professional football).

¹⁵² SPORTS ILLUSTRATED, *supra* note 6.

¹⁵³ Fleming, *supra* note 5.

¹⁵⁴ Curry, *supra* note 79, at 119.

¹⁵⁵ When I was in high school, I remember walking by the boys’ locker room before football games and hearing the Scorpions’ song “Blackout” being played at deafening volume. Even then, I tried to imagine how the team was mentally preparing for the game. *See also* Fleming, *supra* note 5 (“There’s just something sacred about the ritual of the team shower, we were told—the outside world would never understand.”).

¹⁵⁶ A couple of men have told me that towel-snapping in the locker room is not limited to backsides. I wince to think about it. According to ESPN, “interaction in showers [and locker rooms] can go from the occasional naked dance-off to towel-snapping, ass-slapping and the miming of various sex acts.” Fleming, *supra* note 6.

¹⁵⁷ *Michael Sam: How Will He Be Received in NFL Locker Room?*, CBS NEWS (May 14, 2014), <http://www.cbsnews.com/news/michael-sam-in-the-locker-room-how-he-will-be-received-by-players/> [hereinafter CBS NEWS].

¹⁵⁸ Caplan & Igel, *supra* note 4.

Thus, the locker room is a central place where men perform their masculinity and do so, as explained earlier, by denigrating gayness and femininity and by placing women as the object of their sexual desire. “Men’s locker-room talk valorizes men who live up to the norms of hegemonic masculinity . . . while demeaning gender nonconforming men or men perceived as less masculine.”¹⁵⁹ Sexual objectification of women and “gay bashing” is common.¹⁶⁰ Such talk reinforces the male bond, positioning strong, aggressive men as superior to women and gay men.¹⁶¹ Such locker room banter also reinforces the player’s heterosexuality and, therefore, his masculinity. So in this “great place,” this NFL locker room, we would find homophobic slurs and sexist or misogynist talk as the norm. While not the only example,¹⁶² the Richie Incognito-Jonathan Martin fiasco beautifully illustrates this.

Incognito and Martin were both offensive linemen with the Miami Dolphins.¹⁶³ Incognito was a veteran player, having been in the NFL for nine years and with the Dolphins for four years.¹⁶⁴ Martin was drafted by the Dolphins in 2012.¹⁶⁵ In late October 2013, partway through his second season, Martin abruptly left the team and checked into a hospital for psychological treatment.¹⁶⁶ News reports quickly surfaced that claimed the reason Martin left the team was due to constant bullying and harassment from Incognito.¹⁶⁷

The NFL commissioned an independent investigation that concluded that Incognito and two other starters on the Dolphins offensive line consistently and regularly harassed not only Martin, but other Dolphins players and a member of the Dolphins training staff.¹⁶⁸ The 144-page report reads like a textbook of hypermasculinity ethos in action.¹⁶⁹ Relevant here is how Incognito and two

¹⁵⁹ Brake, *supra* note 31, at 221; Clayton & Humberstone, *Men’s Talk*, *supra* note 41, at 296 (indicating that in the locker room, “men’s discourse . . . is used largely as a means of negotiating masculine positional identity and (re)affirming separation from the ‘other’, such as women and gay men.”).

¹⁶⁰ Curry, *supra* note 79, at 128-29 (noting that locker room talk of women as objects “enhances [the athlete’s] identity as a ‘real man.’”); Kidd, *supra* note 67, at 42 (“Gay bashing has also been encouraged and plotted in the locker room.”).

¹⁶¹ Curry, *supra* note 79, at 120, 128; Whitson, *supra* note 39, at 26 (“[H]umour [sic] can play [a role] in rehearsing in-group solidarity, in objectifying and demeaning ‘the other[.]’”).

¹⁶² Various examples of homophobic slurs and misogynist talk can be found throughout this article. See also GENT, *supra* note 149.

¹⁶³ MIAMI DOLPHINS REPORT, *supra* note 11, at 1.

¹⁶⁴ *Id.* at 60-61.

¹⁶⁵ *Id.* at 58-59.

¹⁶⁶ *Id.* at 1.

¹⁶⁷ *Id.* at 51.

¹⁶⁸ *Id.* at 1.

¹⁶⁹ Not all of the conduct described in the report was confined to the locker room. Some of it occurred on the practice field and via text messages between the players.

other linemen subjected both Martin and another young lineman to feminized and homophobic name-calling and, in the case of the young lineman, improper touching.¹⁷⁰ In the locker room, and in front of other players, Incognito referred to Martin as “my bitch” or the “O-line’s bitch,” presumably invoking the term “used in prisons to refer to an inmate who is under the control and protection of a dominant inmate.”¹⁷¹ Incognito also referred to Martin as a “‘cunt,’ . . . a ‘pussy’ and a ‘faggot.’”¹⁷²

The unidentified younger lineman was not thought to be gay; nonetheless, he was daily called a “fag” or “faggot.”¹⁷³ The veteran linemen also regularly touched the player on his buttocks “in a mockingly suggestive manner” while taunting him about his supposed homosexuality.¹⁷⁴ On at least one occasion, one of the linemen restrained the player while another touched the player’s buttocks in a way that simulated anal penetration.¹⁷⁵

Two of the players that Incognito harassed, Martin and Nate Garner, were considered “different;” Martin because he was generally quiet and liked to read,¹⁷⁶ and Garner because “he was viewed as having interests that [were] considered non-traditional for a football player.”¹⁷⁷ Nonetheless, Incognito claimed such conduct was simply “harmless fun,”¹⁷⁸ and “part of everyday joking and brotherly bonding that was a known and accepted part of life on the Dolphins, at least on the offensive line.”¹⁷⁹ Such conduct is precisely in line with theory—that in a hypermasculine environment, men will denigrate both women and gayness in an effort to reinforce their heterosexual masculinity. By harassing males who seemed to them to be “different,” and (in their view) presumably less masculine, Incognito and the other linemen were able to establish themselves as supremely masculine. Incognito believed such conduct to be “bonding,” rather than harassing, and theory would back him up on this point. Is this what the NFL locker room is really like?

¹⁷⁰ The report also details racist comments directed at both Martin and a trainer as well as sexualized talk about Martin’s sister and other women. For example, Incognito and two other linemen referred to the trainer, who is Japanese, as “Jap,” “Chinaman,” “dirty communist,” and “chink.” MIAMI DOLPHINS REPORT, *supra* note 11, at 83. See also *e.g.*, *id.* at 9–11, 22–23, 83–85, 90–91, 95–96.

¹⁷¹ *Id.* at 11.

¹⁷² *Id.* at 12. The report contains a plethora of examples of interactions between Incognito and Martin. I have highlighted just a very few here.

¹⁷³ *Id.* at 79–80.

¹⁷⁴ *Id.* at 19.

¹⁷⁵ *Id.* at 80.

¹⁷⁶ *Id.* at 69.

¹⁷⁷ *Id.* at 81.

¹⁷⁸ *Id.* at 20.

¹⁷⁹ *Id.* at 32.

Simms acknowledged the Incognito-Martin strife, but says, “[T]hat stuff really doesn’t happen.”¹⁸⁰ Perhaps what occurred in the Dolphins locker room was more extreme than what happens in other NFL locker rooms, but, then again, perhaps not. When a reporter asked former NFL receiver Isaac Bruce whether Incognito “went overboard,” Bruce responded, “In a locker room, what’s overboard?”¹⁸¹

Part of the locker room experience, then, involves the posturing of males to reinforce their masculinity. It is an environment that may not be entirely comfortable to a gay athlete, who will, if not out, likely participate in (or merely tolerate) such banter in order to protect his own masculine image.

But then there are the showers. According to ESPN, team showers are “[p]urposefully spartan in design . . . [with] 15 or so shared industrial spigots—they’re designed so that no one wants to spend an extra second in there.”¹⁸² Even so, players will “spend at least 20 hours together in the shower each season.”¹⁸³ So much has been said about having an openly gay man in the showers with non-gay men; the topic has been discussed as if such a thing has never happened before. Many people, like Jonathan Vilma,¹⁸⁴ assume that they will be uncomfortably ogled only by the gay guy. But the fact is, *everyone* looks.¹⁸⁵ As ESPN put it, “Nether-region glancing in showers is so commonplace, according to scores of athletes interviewed . . . , there’s even a crude term for when the eyes linger just a tad too long: meat peeping.”¹⁸⁶

Men who are concerned about the gay gaze are really concerned that the look they might receive from a gay man is the same look they themselves might give to women they find attractive and with whom they would like to have sexual relations.¹⁸⁷ It is not. As Pronger explained, the power difference between men and women “always puts women at risk in their relations with men; rape is an ever present fear for women.”¹⁸⁸ It is not the same for men. “When a gay man

¹⁸⁰ CBS NEWS, *supra* note 157.

¹⁸¹ Michael Schottey, *Are Richie Incognito’s Actions Just a Normal Piece of NFL Locker Room Culture?*, BLEACHER REPORT (Nov. 9, 2013), <http://bleacherreport.com/articles/1843439-are-richie-incognitos-actions-just-a-normal-piece-of-nfl-locker-room-culture>.

¹⁸² Fleming, *supra* note 5.

¹⁸³ *Id.*

¹⁸⁴ *See supra* Part I.

¹⁸⁵ Fleming, *supra* note 5 (“Visit any locker room now or throughout history . . . and you would find that every player knows exactly which player has the largest, and the smallest, penis on the team.”); PRONGER, *supra* note 14, at 196-97. Some of the men I spoke to, all of them heterosexual, provided the nicknames of athletes they knew (like “Bratwurst,” “Tripod,” and “Tower”), which nicknames arose from what was clearly visible to all in the showers.

¹⁸⁶ Fleming, *supra* note 5.

¹⁸⁷ PRONGER, *supra* note 14, at 197.

¹⁸⁸ *Id.* at 205.

looks at another man in the showers or locker room, it is never from the position of power that straight men have when they look at women”¹⁸⁹ And the look may not have anything to do with sexual desire.

Elite gay athletes, like their heterosexual teammates, are there to play football. They are not cruising.¹⁹⁰ Contrary to what many believe, gay men do not want to have sex with every man they see. Instead, gay players see their teammates as brothers, as part of a family.¹⁹¹ Just as heterosexual players feel no sexual desire for their mothers, sisters, and other female family members, so, too, do gay players not desire their teammates. As Kopay said,

People who talk about how uncomfortably tempted a homosexual must be in a locker room full of naked men aren’t being sensible. A homosexual has as much control over his sex drive as anybody else, and he especially is aware that the locker room is not the appropriate place for sex.¹⁹²

As one scholar noted, “Behavior in locker rooms is both ephemeral and situational and probably does not reflect the actual values of all the participants.”¹⁹³ Kopay and other athletes interviewed by Messner and others have said they have participated in locker room “trash talk” without agreeing with or believing in it.¹⁹⁴ Some men participate, not by contributing to the discussion, but by laughing along with it,¹⁹⁵ and many do it to fit in. However, when no one publicly challenges misogynistic, sexist, or homophobic statements, those statements are allowed too much air time; they become “truth,” which keeps perpetuating hegemonic masculinity.

Now let us see if masculinity theory can help us explain our difficulty in accepting an active, openly gay professional football player like Michael Sam.

IV. MICHAEL SAM

Michael Sam is from Hitchcock, a small Texas town forty miles southeast

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at 206 (“The athleticism of high-performance life can outweigh homoerotic possibilities—one’s life is devoted to athletics. Immersed in the heterosexual athletic environment, the homosexual high-performance athlete will often ignore the homoeroticism of the locker room.”).

¹⁹¹ Fleming, *supra* note 5.

¹⁹² KOPAY & YOUNG, *supra* note 1, at 173-74.

¹⁹³ Curry, *supra* note 79, at 133.

¹⁹⁴ KOPAY & YOUNG, *supra* note 1, at 77 (“I know I didn’t hate fags or women, and I didn’t really enjoy all the crude talk—but I joined in.”).

¹⁹⁵ *E.g.*, Clayton & Humberstone, *Men’s Talk*, *supra* note 41, at 311.

of Houston, with not many more than 7000 people.¹⁹⁶ As a junior high school student, Sam started hanging around the high school football field, where the high school football coach noticed him and had him carrying water and equipment for the team.¹⁹⁷ For Sam, football was going to be his ticket out of town.¹⁹⁸ In his freshman year at Hitchcock High School, he was a starter on the varsity football team.¹⁹⁹ In high school, he was a first-team All-District offensive and defensive lineman as a junior and as a senior; he also received all-district honors as a defensive linesman his freshman and sophomore years.²⁰⁰

Sam arrived at University of Missouri in 2009, “an unheralded two-star recruit,”²⁰¹ not SEC All-American material.²⁰² And indeed, in Sam’s early college years, he was not a particularly stand-out player.²⁰³ That began to change in Sam’s junior year, and during his senior year, he burst onto the field and into the public consciousness.²⁰⁴ During that same time, Sam was slowly outing himself to some of his friends first, and then to his teammates.²⁰⁵

Sam has said that when he was growing up, he was aware of his attraction to other men, but did not know if that attraction was “a phase;” as Sam explained, ““I wanted to find out who I was and make sure I knew what was comfortable. So I didn’t tell anyone [about my sexuality] growing up.””²⁰⁶ In the year or so before August 2013, when he came out to his coaches and entire team, Sam confided his sexuality to close friends.²⁰⁷ During preseason training camp in his senior year, he came out to his entire team.²⁰⁸ As Sam explained, ““Coaches just wanted to know a little about ourselves, our majors, where we’re

¹⁹⁶ Drape et al., *supra* note 12.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* According to the *New York Times*, the Sam family was “well known for all the wrong reasons.” *Id.*

¹⁹⁹ *Id.*

²⁰⁰ Christopher Lyke, *Former Hitchcock DE, NFL Prospect Michael Sam Announces He Is Gay*, TEXASHSFOOTBALL. (Feb. 9, 2014), <http://texashsfootball.com/2014/02/09/former-hitchcock-and-nfl-prospect-michael-sam-announces-he-is-gay/>.

²⁰¹ Latsch, *supra* note 3.

²⁰² Drape et al., *supra* note 12 (quoting Associate Athletic Director and Strength Coach Pat Ivey as saying Sam “was a two-star recruit. . . . I didn’t really see him being an all-American.”).

²⁰³ Andy Staples, *Michael Sam’s Rise from Unheralded Recruit to Unstoppable SEC Force*, SPORTS ILLUSTRATED, <http://www.si.com/college-football/2014/02/09/michael-sam-missouri-unheralded-recruit-unstoppable-force> (last updated June 10, 2014).

²⁰⁴ Staples, *supra* note 203; Latsch, *supra* note 3.

²⁰⁵ Drape et al., *supra* note 12; Connelly, *supra* note 2.

²⁰⁶ Connelly, *supra* note 2.

²⁰⁷ Drape et al., *supra* note 12.

²⁰⁸ Connelly, *supra* note 2.

from, and something that no one knows about you. . . . And I used that opportunity just to tell them that I was gay.”²⁰⁹

In his senior season, the Tigers went 12–2 and won the Cotton Bowl.²¹⁰ Sam himself racked up a laundry list of accolades: he led the SEC with 11.5 sacks and 19 tackles for losses;²¹¹ he was voted by his teammates as Mizzou’s most valuable player;²¹² he was named the Associated Press’ SEC Defensive Player of the Year and was a finalist for the Nagurski Trophy and the Rotary Lombardi Award;²¹³ and he was a first-team All-SEC selection, a first-team All-American from the Walter Camp Football Foundation, Sporting News, Associated Press, American Football Coaches Association, and the Football Writers Association of America, and a finalist for the Hendricks Award.²¹⁴

When Sam was selected by the Rams in the final round of the draft, he made history. He is obviously not the first gay player in the NFL, but he is the first openly gay, active player. Again, the question that always seems to be discussed is whether Sam will “fit in” in the NFL or whether his presence as an openly gay man will somehow throw the entire league into turmoil. After Sam’s first weeks of training camp, one writer summed up Sam’s presence as follows: During drills, Sam “touches men. He grabs them. He hits them. And no one dies.”²¹⁵

We can, perhaps, forgive the sarcasm because the writer is answering an obvious, but misguided question. The question we should be asking—and trying to answer—is not whether Sam fits in (he does); it is why we might have a hard time accepting an active professional football player who is openly gay. Masculinity theory helps provide that answer, and we find that an openly gay man who plays and succeeds at sport—particularly a more “masculine” sport—does indeed throw things into turmoil. But not for the reasons one might initially think.

Because football is considered one of the most masculine sports, its players

²⁰⁹ *Id.*

²¹⁰ Drape et al., *supra* note 12.

²¹¹ Staples, *supra* note 203.

²¹² Drape et al., *supra* note 12.

²¹³ Ed Aschoff & Chris Low, *Ten SEC Surprise Players in 2013*, SEC BLOG (Dec. 20, 2013, 11:40 AM), http://espn.go.com/blog/sec/post/_id/76836/ten-sec-surprise-players-in-2013.

²¹⁴ Latsch, *supra* note 3.

²¹⁵ Rick Telander, *Michael Sam Hasn’t Brought Dreaded ‘Distractions’ to Rams*, CHI. SUN TIMES, <http://www.suntimes.com/sports/telander/28990313-452/michael-sam-first-openly-gay-man-in-nfl-hasnt-brought-dreaded-distractions-to-rams-camp.html#.UEbV55OXrc> (last updated Aug. 3, 2014). Sam survived the initial round of pre-season cuts with the Rams, but was let go when the team had to make a 53-player roster. *Michael Sam Passes Physical, Signed to Cowboys Practice Squad*, FOX SPORTS NFL (Sept. 3, 2014), <http://www.foxsports.com/nfl/story/michael-sam-passes-physical-signed-to-cowboys-practice-squad-090314>. On September 3, he signed with the Dallas Cowboys and added to the team’s practice squad. *Id.*

are considered—and conditioned—to be the most masculine men. The most masculine men are those who are not women and not gay, who constantly reaffirm their positionality as superior to the “other.” By openly and regularly denigrating both femininity and gayness, these men can establish to themselves, to other men, and to the world that they are manly. That they can do so in an all-male domain like a sports team in a sport considered the most masculine because of its violence and aggressiveness only helps further position them as *the* most masculine men.

Conversely, gay men are not considered masculine men. Gayness equates to femininity, which is the main oppositionality against which to pit masculinity. Common stereotypes capture the gay man as weak and effeminate, maybe with a lisping, high-pitched voice and a sashay in his walk. Two other stereotypes are important here: First, gay men are presumed to not be interested in nor competent at sports; and second, gay men are considered predatory and promiscuous.

The assumption, then, is that no gay man would be either physically able to or interested in playing a masculine sport like football, and even if he did, no one would want him on the team because he will be cruising the locker room, hitting on the other players, and perhaps “turning them” gay. None of this is true, and it is offensive to gay athletes. Sam, who at 6-foot, 2-inches, and 255 pounds, led the SEC with 11.5 sacks and 19 tackles for losses, said, “‘If a gay person did that, I wouldn’t call that person weak.’”²¹⁶ While Sam is somewhat undersized for his position,²¹⁷ he is bigger, stronger, and faster than most men. As well, Sam, like any other athlete at the professional level, recognizes the locker room as a workplace. “‘[I]t’s a business place. You want to act professional.’”²¹⁸

The reason we have difficulty accepting an openly gay, professional football player is because he defies our expectations of what we believe a professional football player should be. He “call[s] into question the masculine mythos of athletics by asserting [his] homosexuality[.] . . . [This] upset[s] the most fundamental beliefs and deep motivations of many coaches, athletes, sports administrators, writers, and fans; it is a break with the established order in sports.”²¹⁹ The hypermasculinity fostered in sports—the competitive, aggressive, superior, heterosexual male—is so deeply ingrained in our understanding of what it means to be a football player, we think it “unnatural” if someone who does not meet that standard actually plays football, and plays really well.

²¹⁶ Connelly, *supra* note 2.

²¹⁷ Telander, *supra* note 215.

²¹⁸ Connelly, *supra* note 2.

²¹⁹ PRONGER, *supra* note 14, at 10.

But someone has. Many someones have; we just did not know it at the time. Many commentators have said Sam's disclosure and subsequent drafting by the Rams show how progressive both our culture and the NFL has become.²²⁰ Sam survived the initial round of pre-season cuts with the Rams, but was let go when the team had to make a 53-player roster.²²¹ During his four preseason games with the Rams, Sam made 11 tackles and three sacks.²²² On September 3, he signed with the Dallas Cowboys and was added to the team's practice squad.²²³ After seven weeks with the Cowboys, Sam was released because, as owner Jerry Jones explained, the team needed the roster spot for a different position.²²⁴ As of this writing, Sam remains unsigned by any other NFL team. In Sam's case, it may be his size and speed that hinder his inclusion in the NFL, but it could be the league is not as progressive as one would hope. Because we should no longer consider it an abnormality to find out that an athlete is gay, we should focus instead on their full inclusion into the sport. Full inclusion means that our understanding of what it means to be masculine needs to change.

V. CONCLUSION

One of the most troubling aspects of hegemonic masculinity is its stubborn connection with the "natural." As long as masculinity, as we currently define it, seems part of a man's innate being, we fail to believe it can be something different. The challenge is to remember that masculinity is a social construct. We have currently defined masculinity in one way, but we can re-define it to be another. As Kimmel notes,

This idea that manhood is socially constructed and historically shifting . . . gives us something extraordinarily valuable—agency, the capacity to act. It gives us a sense of historical possibilities to replace the despondent resignation that invariably attends timeless, ahistorical essentialisms.

²²⁰ E.g., Granderson, *supra* note 120 ("Sam's disclosure is just one more in a series of steps toward a league without homophobia."); Caplan & Igel, *supra* note 4 (stating that Sam's coming out before the draft and subsequent selection by the Rams "is further evidence that attitudes about homosexuality are changing fast—and for the better.").

²²¹ *Michael Sam Passes Physical, Signed to Cowboys Practice Squad*, FOX SPORTS NFL (Sept. 3, 2014), <http://www.foxsports.com/nfl/story/michael-sam-passes-physical-signed-to-cowboys-practice-squad-090314>.

²²² Lynn Zinser & Ben Shpigel, *Cowboys Release Michael Sam from Practice Squad*, N.Y. TIMES, (Oct. 21, 2014), http://www.nytimes.com/2014/10/22/sports/football/cowboys-release-michael-sam-from-practice-squad.html?_r=0.

²²³ *Michael Sam Passes Physical, Signed to Cowboys Practice Squad*, *supra* note 221.

²²⁴ *Cowboys' Jerry Jones on Michael Sam's release: We needed roster spot*, SPORTS ILLUSTRATED, (Oct. 24, 2014), <http://www.si.com/nfl/2014/10/24/michael-sam-released-dallas-cowboys-jerry-jones>.

Our behaviors are not simply “just human nature,” because “boys will be boys.” From the materials we find around us in our culture—other people, ideas, objects—we actively create our worlds, our identities. Men, both individually and collectively, can change.²²⁵

And maybe we are in the midst of such a change now. Where “[o]nce, presenting as a member of the heterosexual athletic hegemony required acting homophobic[, n]ow, many athletes say[] being a man’s man in the sports world requires supreme confidence—and to show it by respecting everyone[.]”²²⁶ But until all the gay athletes in all professional sports feel comfortable coming out, we aren’t there yet.

²²⁵ Kimmel, *Masculinity as Homophobia*, *supra* note 24, at 183.

²²⁶ Fleming, *supra* note 5.