

ONLY A GAME

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Armstrong, Bonds, Et Al: A Legal History Of Sports Prosecutions

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By [Bill Littlefield](#) *This article is more than 11 years old.*

The government recently dropped its investigation of Lance Armstrong. The seven-time Tour de France champion was being investigated for drug related crimes. (AP)

"I hugged my kids and hugged my girlfriend and went and got a cold beer."

Thus spoke seven-time Tour de France winner Lance Armstrong this week. Armstrong learned late last Friday that the investigation into the U.S. Postal Service team for which he had ridden had ended, and that U.S. Attorney Andre Birotte, Jr. would not pursue the prosecution of Armstrong or other riders on the team. Armstrong had been accused by former teammate Tyler Hamilton, among others, of using banned, [performance-enhancing drugs](#). But as Hamilton's attorney, Chris Manderson pointed out to me this week, the federal investigation wasn't primarily focused on Armstrong's alleged use of illegal drugs.

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"They have to charge him with a federal crime if they're going to prosecute him, and doping is not necessarily a federal crime," he said.

But mail fraud, wire fraud, and defrauding the government by breaking a contract stipulating drug-free competition would be federal crimes. The speculation was that those were the areas in which prosecutors were interested. According to Reed Albergotti, who has been covering the Armstrong story for the *Wall Street Journal*, some of those prosecutors were still interested when Birotte decided to end the investigation:

"It was definitely not a unanimous decision," said Albergotti. "We learned that there was some disagreement on whether to pursue criminal charges against Armstrong with the U.S. Attorney's office in Los Angeles."

When an investigation such as the one aimed at Lance Armstrong ends without criminal charges, the assumption is that prosecutors felt they lacked a strong case. Chris Manderson believes the decision not to bring charges against Armstrong may also have been based on the Tour de France champion's public persona.

"He was a beloved athlete who won, and Americans love athletes who win," he said. "He has done a number of things that have brought him good publicity in the fight for cancer, and especially in an election year the government probably didn't have a

lot to gain with a controversial prosecution of a beloved athlete...especially after the Bonds and Clemens cases, where the government had some problems."

Roger Clemens was indicted for perjury in 2010. In July of 2011, his trial was compromised by misconduct by the prosecution. It ended in a mistrial. He's due back in court on April 17th. Barry Bonds was convicted on one count of obstruction of justice in April, 2011. His attorneys have appealed. These results – or lack of same – and the decision not to bring charges against Lance Armstrong after an expensive investigation have led some to wonder about the motives of the prosecutors.

[sidebar title="Athletes Facing Charges" width="250" align="right"] Armstrong isn't alone. See a [photo gallery](#) of some notable athletes who have been investigated for, charged with, or prosecuted for crimes relating to on-the-field incidents. [/sidebar]

"I think that's a really good question," said Reed Albergotti. "It's true with all of these cases against Barry Bonds, Marion Jones, you know, there's always this question of 'Are we just going after famous athletes to try to make a name for ourselves?'"

The question comes up in cases that have nothing to do with allegations about performance-enhancing drugs...and cases that involve athletes with whom fans in the U.S. may not be familiar. John Terry, who has twice been named captain of England's national soccer team and twice removed from that position, is currently facing trial for allegedly addressing an opposing player with a racial epithet. Leander Schaerlaeckens, who writes about soccer for ESPN, was unsurprised when the authorities decided to charge Terry.

"Verbal abuse sometimes bleeding over into racial abuse is very, very prominent in soccer, and in English soccer," said Schaerlaeckens. "So the European courts do have a history of meddling with what happens on the field. Most things are still handled within the Federation, like suspensions for various verbal transgressions, or hard tackles, but it's not at all uncommon for the courts to step in."

But should they? In addressing that question, Schaerlaeckens references the case of one Luis Suarez, the Liverpool player suspended for racial abuse.

"Luis Suarez being suspended eight games hurts him and his team and his teammates an awful lot more than if, say, a court had fined him £20,000 or something," Schaerlaeckens said. "Then again, you don't want to create an environment of impunity within professional sports. They are role models, and they are supposed to set public examples, so from that perspective, you'd think that it is sensible for courts to step in."

The debate over the role of the courts, on the one hand and the roles of teams, leagues, commissioners, and sports governing bodies on the other has also played out in ice hockey, especially in Canada. Quebec officials investigated Zdeno Chara of the Boston Bruins for eight months after he hit Montreal's Max Pacioretty during a game on March 8th. I asked Dave Stubbs, who writes about the NHL for the Montreal Gazette for the reasoning behind that investigation.

"I wish I knew," he said. "It seemed like a total and complete waste of time, effort, tax payer dollars. I'd like to think the Montreal and Quebec Provincial authorities would have had much better things to do with their time. I'd like to hope at least that the investigators did get a few Zdeno Chara autographs by the time the whole thing was done, because I think that would have been the only upside to the entire mess."

Stubbs acknowledges that the transgressions of hockey players, like those of bicycle racers and baseball stars and soccer players, need to be curbed. But he feels that can best be accomplished within the context of the games these guys are playing:

"The CBC this year has kept this running catalogue of suspensions and fines and so on," said Stubbs. "As of this week I think 925 man-games had been lost due to head injuries in the NHL, 111 games of suspension had been handed out with almost \$1.9 million in players' wages lost, so the league is working hard at trying to enforce this, and maybe it's going to change the culture of the game. You can't change the culture overnight, but it seems as though the message is slowly getting through, and we'd like to think it will before someone is critically or fatally injured on the ice."

Whether the real or alleged offenders of the rules, the laws, or the public trust are on skates, bikes, or grassy fields, the debate about the extent to which local, state, or federal authorities should be involved is likely to continue. For the people who regard star athletes as role models for children, perhaps these authorities must serve as guardians of a dream, or at least a kind of trust. For those more inclined to view our games merely as the products of an entertainment business and the players as nothing more than well-compensated performers, the decision to drop the investigation of Lance Armstrong and his team concludes one more in a long line of ill-considered misadventures generating a lot of heat and not much light.

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