
AFL:

ARE INDIGENOUS PLAYERS STILL DISCRIMINATED AGAINST? DOES THE CURRENT AFL PLAYER WELFARE SYSTEM LEAD TO DISCRIMINATION AGAINST INDIGENOUS PLAYERS, AND IF SO, WHAT STEPS CAN BE TAKEN TO CLOSE THE GAP?

by Eddie Cubillo

** Note that this article was originally written by Commissioner Cubillo in July, 2011. Figures have been updated where relevant.*

I am writing this paper following some thoughts that came to me at the recent Barunga Festival, one of Australia's longest running Aboriginal festivals. Located four hours from Darwin, the festival weekend is a unique opportunity to be part of a remote Aboriginal community and share in the Jawoyn culture. A range of events are held including cultural activities and football, basketball and softball matches.

At one match, I watched a young man kicking goals on either foot from 'anywhere' on the field. The irony was that last season he had played two games of footy at the elite level ('AFL'). But here he was playing back home where he had first learned his skills. During his short stay in the AFL he had lived in more than eight places, including with a host mum, in a hotel room for a month, and he even had stints at the senior coach's home.

Despite people's efforts, did the system fail him? Moreover, what duty does the AFL have to these non-mainstream recruits, especially someone from a remote Indigenous community? What could or should the AFL and the club have done as part of their due diligence process to acclimatise and accommodate a young traditional Indigenous man?

The ugly re-emergence of racism in Australian football highlights the importance of maintaining the AFL's strong and supportive approach to the place of Indigenous people in our national game. This paper contributes to discussion about how to continue to improve support available to young Indigenous boys and men to maximise their potential to succeed in what, for some, can be a very new environment.

The AFL, generally, has proved to be a welcoming place in recent years. This is supported by the fact that, despite Indigenous Australians making up only 2.5 per cent of the

Australian population,¹ there were 78 Indigenous players on AFL club lists in 2012. This amounts to 10 per cent of all AFL players,² a number that is likely to increase as the AFL expands.

Unfortunately, despite greater education towards tolerance of persons of all races, racial vilification still happens in the AFL and other Australian rules leagues. For example, on 16 April, 2011, Hawthorn forward, Lance Franklin, was subjected to racial abuse from a spectator when Hawthorn played the West Coast Eagles in Tasmania.³ Similarly, Port Adelaide players Daniel Motlop and Daniel Pearce were recently subjected to racist abuse from spectators when playing for local clubs in the South Australian National Football League ('SANFL').⁴ And even more recently, a player was suspended for four weeks after racially abusing Joel Wilkinson from the Gold Coast Suns.⁵

The AFL has worked in conjunction with the AFL Players Association ('AFLPA') to eradicate racism from the AFL via education and concordance with equal opportunity and discrimination laws. The AFL's Racial and Religious Vilification code has played a significant role in changing attitudes and expectations about what is acceptable on and off the field. In this context, we can note the Australian Football League Member Protection Policy which states at section 7.2 'Anti-Discrimination and Harassment Policy' that:

The AFL aims to provide a sport environment where all those involved in its activities are treated with dignity and respect, and without harassment or discrimination.

The AFL recognises that all those involved in its activities cannot enjoy themselves, perform to their best, or be effective or fully productive if they are being treated unfairly, discriminated against or harassed because of their sex, marital status, pregnancy, parental status, race, age, disability,

homosexuality, sexuality, transgender, religion, political belief and/or industrial activity.

The AFL prohibits all forms of harassment and discrimination not only because it is against the law, but because it is extremely distressing, offensive, humiliating and/or threatening and creates an uncomfortable and unpleasant environment.

Descriptions of some of the types of behaviour which could be regarded as harassment or discrimination are provided in the Dictionary at clause 11.

If any person feels they are being harassed or discriminated against by another person or organisation bound by this policy, please refer to our complaints procedure outlined in this policy. This will explain what to do about the behaviour and how the AFL will deal with the problem.⁶

These strong statements are to be seen in the wider context of Commonwealth and state/territory legislation with respect to racial discrimination. At the federal level there is the *Racial Discrimination Act 1975* (Cth) and, as an example of the state/territory jurisdictions, the Northern Territory has the *Anti Discrimination Act 1992* (NT).

Section 9(1) of the *Racial Discrimination Act 1975* (Cth) describes unlawful direct racial discrimination as being an:

act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

In response to campaigning by Essendon player Michael Long, and his many supporters across our Indigenous and mainstream communities, the AFL in consultation with the Australian Human Rights Commission ('AHRC') developed a specific rule to combat racial and religious vilification. Introduced in 1995, 'Rule 30' specifically prohibits actions (or speech) that threaten, vilify or insult another person on the basis of that person's race, religion, colour, descent or national or ethnic origin. The aim of the rule is to educate, deter and penalise. It should be noted that the AFL was the first national sporting body to adopt procedures to deal with racial and religious vilification, via Rule 30.⁷

The AFL recently extended its policy beyond racial and religious vilification to also include disability and sexual orientation. In updating Rule 30 the AFL thereby has continued to be proactive and responsive to enlightened

social attitudes regarding discrimination and vilification. However, while the AFL can be seen to have taken great strides in minimising offensive incidents, it is timely to consider whether more can be done to address more entrenched and subtle discriminatory attitudes and practices. In broaching this discussion, I draw on my experiences⁸ in supporting Indigenous players to make the transition to, and survive in, elite level football, be it in the AFL or in leagues such as the SANFL, West Australian Football League ('WAFL') and the Northern Territory Football League ('NTFL').

For example, I still see prospective Indigenous AFL draftees subjected to far greater critical scrutiny with respect to their culture and background than non-Indigenous players. I am not saying here that recruiters are being explicitly racist in terms of conducting their 'due diligence' processes prior to drafting a player. What I am saying is that questions may be asked during recruiting interviews that, in my view, would be frowned upon and potentially result in complaints before the AHRC or the Northern Territory Anti-Discrimination Commission if they arose in any other work place or environment. Questions giving rise to this concern might relate, for example, to a player's cultural practices and community expectations, such as needing to go home for cultural/religious ceremonies and the like during the football season. Is this type of question legitimate or fair, or is it 'a relevant consideration when selecting a particular player' and would other players be asked similar questions?

In one instance in recent years I was informed that a player was questioned about *his wife's* cultural responsibilities with respect to attending funerals. A representative of one AFL team stated directly that whilst the player was certainly an AFL calibre player, and they were of the view that he would be able to successfully negotiate living in Melbourne, they had determined that his wife was not capable of life in Melbourne and therefore they could not employ him.⁹

Another area of concern is the questioning of Indigenous prospective draftees about their use of alcohol. In my experience this is done far more vigorously for Indigenous than non-Indigenous players. It is hard to see that this suggests anything other than the operation of a negative social stereotype derived from racist assumptions.

I turn now to the question of why a high number of Indigenous players fail to survive in the AFL system once drafted, especially since some of them may already have survived for several years attending boarding schools in

capital cities. Hence, whereas the AFL employs player welfare managers and in some instances Indigenous welfare managers, it is clear that having access to a counsellor may not be enough to ensure the survival of a player who is accustomed to a very different culture and way of life in a 'foreign' city.

This issue must be more closely examined, in particular in light of AFL teams recently targeting Indigenous talent from remote communities with strong cultural ties, such as Liam Jurrah, Liam Patrick, Austin Wonamaerri and Zephaniah Skinner.

I know of one player drafted from a small Northern Territory community who arrived to a situation where the club had not arranged suitable living arrangements. Why would anyone think that separating a 24 year old man from his wife and child and placing him with a host 'mum' along with several 18 year old non-Indigenous males was going to work? Additionally, given that the AFL rookie salary pays only approximately \$35,000, with five return trips for his wife and child to visit him whilst in Melbourne, after tax and other AFL expense deductions, this wage is not even close to being enough to enable the player to self fund the relocation of the rest of his family let alone survive. In this case the relevant club took no steps to assist relocating his family to assist acclimatisation to life in Melbourne.

It also should be noted that players receive their salary in two ways – a base payment comes in twelve monthly installments throughout the year and Senior Match Payments are paid by the fifteenth day of each month for matches played in the preceding month. Any bonus and incentive payments then must be paid by no later than 31 October in the year they are earned.

These arrangements can cause problems for any young player, let alone a young Indigenous man who may have never previously received such monetary payments or dealt with the concept of budgeting for the month till the next payment is received. Remember, while socioeconomic opportunities and outcomes for Aboriginal and Torres Strait Islander Australians continue to improve, they remain below those for non-Indigenous Australians which, in turn, bears upon the experience and possibly the skills held by young Indigenous men when they are first drafted.

Just one of these realities is that although the unemployment rate for Aboriginal and Torres Strait Islander Australians fell from 23 per cent in 2002 to 17 per cent in 2008, it

still was more than three times higher than the rate for non-Indigenous Australians (5 per cent in 2008).¹⁰ In comparison with non-Indigenous Australians, Aboriginal and Torres Strait Islander people experience disadvantage across a range of socioeconomic factors including education, employment and income. Evidence from Australia and other developed countries also demonstrates that low socioeconomic status is associated with poor health and increased exposure to health risk factors.¹¹ In turn, this can influence the awareness and skills of young Indigenous men in ways that impacts upon their capacity to easily adopt effective new urban lifestyles.

The reality that many young Indigenous men come from lower socioeconomic environments has important implications and needs to be taken into consideration when drafting them into the AFL system. Their needs may be more complex than those faced by most non-Indigenous players, creating a clear duty of care responsibility for the AFL, including the need to ensure that these fundamental issues are addressed by the clubs.

The reality is that an Indigenous player who has had little income prior to being drafted may think he now has a significant amount of money without taking rent, food, or bills into account. With no real skills in budgeting, the individual has barely enough to survive on, let alone settle into the structured training regime of the AFL that takes up most of their daily time.

One management company I know of was able to relocate their client so that he resided with an Indigenous ex-AFL player who was familiar with the difficulties he was experiencing. However, when the club was notified about difficulties being encountered with transporting the player to and from training their advice was that a person over the age of 18 could learn to catch a bus or train and that providing him with other assistance would result in him not learning to be self sufficient. Whilst there is some truth in that opinion, the practical reality is that you cannot merely pick a person from a very small remote community and a vastly different culture and not provide him/her with additional support to help them familiarise themselves with city life. The example may seem to be relatively trivial, in this case the use of public transport, but what it really is showing is that the process of acclimatisation may not be working.

Another Indigenous player I interviewed about his time in the AFL, in particular his experience of living with a host family, informed me that he found life living with them particularly distressing. This is not blaming them

because, in fact, he believed that they were extremely welcoming and supportive. It was just that the cultural differences made him feel awkward and shy. He did not feel comfortable talking to the host family about his difficulties as he already felt like he was invading their personal territory by residing with them. In particular, he noted that the 'silence around the dinner table' was extremely awkward as he did not feel comfortable to talk. Perhaps most distressing was the comment that while he could survive the training and football related aspects of life in the AFL, he could not deal with life with the host family. So, while coming to terms with a structured and intensive AFL training regime can be a shock to any new player, irrespective of whether they are of Indigenous or non-Indigenous descent, it is tragic if a player does not survive primarily because they cannot relax and enjoy their time off the field.

Investing in Indigenous welfare officers and education and support programs are positive steps. But the AFL also could think more about systematic ways of drawing young Indigenous players into their new and what might be 'alien' surroundings. One option¹² would be to develop and implement a communal apartment/boarding school style complex in each AFL city in which Indigenous draftees (particularly in the initial years of their career) can stay and receive support, irrespective of which team they play for. At the minimum the AFL should explore a holistic option which would allow stable accommodation and living to be established alongside a range of appropriate transition and personal development opportunities.

The provision of this type of complex would allow the employment of staff/housekeepers who are familiar with the cultural issues experienced by young Indigenous people. Meals and transport to and from training could be arranged, along with other measures that would give the Indigenous players every opportunity to succeed.

Educational or training initiatives, including survival skills for a big city away from their family and community connections could then be offered at suitable times in a culturally relevant way. Ideally, there will be enough space in such a complex for visiting family members. The staff at the complex would be able to liaise with the clubs if a particular player is feeling home sick, or is concerned about what might be going on at home or in their community. Enabling early attention to this sort of issue, possibly even enabling a quick trip home or facilitating a visit from a family member, could reduce the temptation for the player to terminate his AFL contract and return home.

The financial costs of such an initiative can be seen as an investment in growing the game in a way that builds on the AFL's commitment to Indigenous Australia. Governments also may be interested in supporting this sort of initiative, especially as it can be seen as relevant to the broader young Indigenous constituency. Ongoing costs could be covered in various ways, including through appropriate boarding fees with support provided to assist the valuable learning process as players come to terms with their financial responsibilities.

Immediate savings should accrue to the AFL and participating clubs, especially through minimising lost time, effort and money, and the potential failure of host family arrangements. We need to look closely at what can be utilised to address this situation and make it work in such situations. It needs the goodwill of the clubs and the AFL working together to develop something that will benefit the clubs as well as the players, because there is a wealth of talent in remote Australia which needs harnessing.

Currently, as recently reported in the media,¹³ it appears that we aren't getting it right. If clubs think that they are getting it right there needs to be information sharing so that we can get over this hurdle and have a safe, culturally appropriate environment for all players including Indigenous players to prosper at the AFL level.

A potential benefit of a centralised facility or a targeted nurturing program¹⁴ is that it can be a focus for the development of aspiring Indigenous players from junior grades, able to stimulate their aspirations and give them a sense of 'life as an AFL player'.

The American National Collegiate Athletic Association ('NCAA') college sport system provides an interesting case study in a particularly diverse multi-cultural country. It also hosts talented players from around the world who also are awarded scholarships on the basis of exceptional sporting talent. With a core purpose of overseeing a fair, safe, equitable and sportsmanlike competition, the NCAA also integrates intercollegiate athletics with higher education, ensuring that the student-athlete's educational experience is effective.¹⁵

Young athletes are granted scholarships every year to attend colleges bound by NCAA rules,¹⁶ some of whom have grown up in low socioeconomic environments and who are not accustomed to life in predominantly white cultures where structured lifestyles must be adhered to and classes attended to maintain athletic eligibility. Most

NCAA schools do not, therefore, just pick an athlete from a very different cultural background to others at the college and then deal with the issue of living arrangements after awarding them a scholarship. The prospective athlete is introduced in the recruitment stage to the coach and sporting facilities as well as the dorms, transport arrangements and counsellors to provide them with a 'snapshot' of campus life should they choose that particular university.¹⁷ The prospective athlete can then make a more informed decision about the university, potentially saving that school and the athlete much time, money and effort.

This situation is analogous to the AFL, where the proposed model would allow a 17 year old aspiring Indigenous AFL player to visit the proposed AFL Indigenous campus in Melbourne. This would mean that the young player would better understand what life would be like off the field if they were to get drafted by a Melbourne team. It also means they would have the opportunity to either decide not to nominate for the Draft should they deem that life in such an environment is not desirable, or alternatively, advise the Melbourne-based teams that they will refuse to relocate to Melbourne in the event of drafting.

A closer examination of the NCAA and how the system has worked for individual players could guide the AFL about how best to establish living arrangements that are conducive to promoting diversity and the mental wellbeing of its athletes. Why is it that some universities currently succeed in accepting student athletes from disadvantaged backgrounds similar to those of many Indigenous Australians and are able to sustain them for four years despite only being able to provide them with minimal scholarships? In contrast, a high percentage of Indigenous athletes succumb to homesickness in the AFL because support for their capacity to adapt to the new environment, despite receiving a salary to play the sport they love, just doesn't work well enough.

Recent reports about the issue of homesickness for young Indigenous Gold Coast Player Harley Bennell¹⁸ and the recent interviews conducted with 24 players from seven Victorian teams revealed Indigenous players felt their cultural connections and duties were little understood by non-Indigenous teammates and bosses. The fact that this made Indigenous players more inclined to turn to each other for support, and in cases had led to feelings of alienation, highlights even more the need that something needs to be done urgently.

It is timely for the AFL to invest properly and imaginatively in living arrangements conducive to the long term, off-

field wellbeing of Indigenous athletes. Not only is this fair to them, but it also offers an exciting future in which we all can enjoy the wizardry of such past and current players as the late Maurice Rioli, Graham 'Polly' Farmer, Andrew McLeod, Buddy Franklin, Aaron Davey, Daniel Motlop etc., etc.

Eddie Cubillo is the current Northern Territory Anti-Discrimination Commissioner. The views expressed in this article are his own.

- 1 Australian Bureau of Statistics (ABS) reported, 30 June 2006, that the estimated Indigenous resident population of Australia was 517,200 or 2.5 per cent of the total population; see <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/4705.0>>.
- 2 Australian Football League, *AFL and the Indigenous Community* (2 May 2012) <<http://www.afl.com.au/indigenous%20community/tabid/14282/default.aspx>>.
- 3 Mark Robinson, 'Hawthorn forward Lance Franklin subject of racial taunts from fan during AFL match in Tasmania', *Herald Sun* (online), 19 April 2011 <<http://www.foxsports.com.au/afl/afl-premiership/hawthorn-forward-lance-franklin-subject-of-racial-taunts-from-fan-during-afl-match-in-tasmania/story-e6frf3e3-1226041301616>>.
- 4 Michelangelo Rucci and Andrew Capel, 'Racism Shame in the SANFL', *AdelaideNow* (online), 19 May 2011 <<http://www.adelaidenow.com.au/sport/afl/racism-wont-be-tolerated-sanfl/story-e6freckc-1226058261399>>.
- 5 Greg Baum, 'Rules of the game: no place for racism in today's AFL', *The Age* (online), 28 June 2011 <<http://www.theage.com.au/afl/afl-news/rules-of-the-game-no-place-for-racism-in-todays-afl-20110627-1gnmi.html>>.
- 6 Australian Football League, *Member Protection Policy* (2006) <http://www.afl.com.au/Portals/0/afl_docs/afl_hq/Policies/MemberProtectionPolicy_2006.pdf>.
- 7 Rule 30: A rule to combat racial and religious vilification, can be found at: Australian Football League, *Racial and Religious Vilification* (31 May 2009) <<http://www.afl.com.au/news/newsarticle/tabid/208/newsid/82025/default.aspx>>.
- 8 I have experience as a father of a young Indigenous man who has aspirations to play at the AFL level that has ridden the pathway to be drafted and is currently playing senior footy in the SANFL. I have coached many years at junior level in the Northern Territory and when living interstate sponsored, supported and provided accommodation to many Indigenous Territorians trying to play in interstate leagues to be drafted to an AFL club.
- 9 Story relayed to me from the player's management.
- 10 '4704.0 - The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples', *Australian Bureau of Statistics* (online), October 2010 <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/lookup/4704.0Chapter750Oct+2010>>.
- 11 Ibid.
- 12 Obviously this is only one suggestion and there is a plethora of others that can be discussed and trialled to suit issues such as one to two team states.
- 13 Jay Clark, 'Recruiters warned over Gold Coast's Bennell', *Herald Sun* (online), 6 July 2011 <<http://www.heraldsun.com.au/sport/afl/gold-coast-recruit-harley-bennell-needs-ok-from-suns-captain-gary-ablett-to-return-to-senior-team/story-e6frf9jf-1226088977707>>.
- 14 Samantha Lane, 'Cultural support lacking: survey', *TheAge* (online), 7 July 2011 <<http://www.theage.com.au/afl/>>.

afl-news/cultural-support-lacking-survey-20110706-1h2j6.html#ixzz1RMuVvTRH>.

- 15 Such a program will be developed with the one to two team states that may not financially warrant a 'centre'. It could have a mixture of environments housing Indigenous players with a nurturing program attached to assist Indigenous players and clubs to ensure that their investment/player is given every opportunity to succeed.
- 16 National Collegiate Athletic Association, *About the NCAA* (2011) <<http://www.ncaa.org/wps/wcm/connect/public/ncaa/about+the+ncaa>>.
- 17 National Collegiate Athletic Association, *Academics* (2011) <<http://www.ncaa.org/wps/wcm/connect/public/ncaa/academics>>.
- 18 For examples of college's prospective services see, NESAC, *Prospective Students* (February 13 2005) <<http://www.nescac.com/admissions/prospectives>>; Loyola University Maryland, *Undergraduate Studies* (2012) <<http://www.loyola.edu/undergraduate/coaches.aspx>>.
- 19 Clark, above n 13.

Untitled
Natalie Puantulura

Ochre on linen
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