

A Deflategate Slapdown of NFL and MSM

Exclusive: To the surprise of the mainstream U.S. media, a federal judge threw out the NFL's Deflategate suspension of New England Patriots quarterback Tom Brady, citing an arbitrary and unfair process that should have been obvious to any independent observer from the start, writes Robert Parry.

By Robert Parry

It's been my experience from nearly four decades in Washington journalism that it's increasingly rare when a powerful institution protects an individual from unfair and abusive treatment by another powerful institution. The U.S. District Court decision throwing out the National Football League's kangaroo case against New England Patriots quarterback Tom Brady was one of those exceptions.

I realize that some readers feel that I should not have "wasted" time examining the scientifically flimsy case known as Deflategate or observing how the NFL's supposedly "independent" investigation slanted what little evidence it had to support the league's initial rush to judgment and harsh punishment of Brady. One reader joked it was just a case about men and their balls.



And I initially had no intention of writing about this topic. But I noted a disturbing haste in the conclusions about Brady's guilt and I then read the Wells report last spring out of curiosity. What I found in it was what I had seen in so many other bogus investigations that start with a conclusion and make the "facts" fit.

My annoyance also didn't stop with the NFL. It extended to the news media, where

from The New York Times to ESPN the NFL's case was accepted as unassailable and Brady was casually denounced as a cheater and a perjurer. Considering how much ink and time were devoted to this overblown Deflategate "scandal," there was almost no serious examination of the actual evidence.

Yet, here was the NFL, an institution with arguably as much integrity as the tobacco industry in how they deal with facts. The NFL has covered up the risks of concussions much as the cigarette makers hid the cancer implications of smoking. Why would anyone trust the NFL about anything? I have asked similar questions when news organizations fall on their knees and bow to U.S. government claims about foreign "enemies" as with Iraq and its non-existent WMD stockpiles.

Over the years, again and again, I have seen not only large institutions lie but the media side with those powers-that-be even when the institutions have a long record of dishonesty and high-handedness. As long as the corrupt are well-connected, they tend to get protected given every break and benefit of every doubt but the decent folks under attack are usually out of luck.

Real-life in modern America is seldom like one of those Hollywood movies when some honest person-on-high steps in at the last minute to set things right and prevent some abuse from being inflicted on an individual. Usually some backroom deal is struck to let the powerful win and leave some expendable citizen to suffer. In such cases, truth and justice are never a priority.

Just think of the U.S. government's and mainstream media's mistreatment of Gary Webb for reviving the Contra-cocaine scandal, or the 35-year sentence meted out to Chelsea Manning for exposing U.S. war crimes. Compare those cases to the failure to hold anyone from George W. Bush's administration accountable for aggressive war and torture, or the absence of any prosecutions of the banks and bankers who blew up the world's economy in 2008.

So, even though the four-game suspension of Brady and other punishments meted out by the NFL over Deflategate pale by comparison to some other injustices, the case had enough similarities to merit, in my view, several articles examining the multiple flaws in the NFL's case.

The Judge's Ruling

Though Judge Richard Berman's 40-page ruling on Thursday focused mostly on the NFL's arbitrary process rather than the underlying facts of the case (all the better to survive the NFL's legal appeal) Berman clearly was underwhelmed by the substance, too. He put quotes around the word "independent" when referring to the report by the NFL's outside counsel Ted Wells, noting the involvement of the NFL's executive vice president and general counsel Jeff Pash in editing the

report.

Berman also noted that there was no direct evidence proving that Brady did anything wrong. Berman puzzled over the NFL's vague accusation that it was "more probable than not" that Brady was "generally aware" of alleged actions by two locker-room assistants – Jim McNally and John Jastremski – to deflate the footballs used in the Jan. 18 American Football Conference championship game.

"I am not sure that I know what in the world that means, that phrase ['generally aware']. Did he [Brady] know that McNally took the balls unaccompanied into the bathroom? Did he know that in the bathroom, if in fact it happened, McNally deflated the balls? Did he know that McNally then went on to the field with the balls?"

In his ruling, Berman also noted the refusal of NFL Commissioner Roger Goodell to let Brady's lawyers question Pash about his role, one of a number of capricious decisions that pervaded Goodell's role as arbitrator on Brady's appeal of a ruling that Goodell had authorized if not dictated in the first place. Berman, in effect, concluded that the process lacked anything approaching fairness.

Goodell's arbitration finding that rejected Brady's appeal even cited interference from the NFL's Management Council, consisting of team owners whose clubs would benefit from Brady's suspension. They weighed in on assessing evidence. It seemed there were no limits to the NFL's biased behavior.

In retrospect, what appears to have happened in Deflategate was that the Indianapolis Colts didn't understand why one of the Patriots footballs intercepted before the half showed an air pressure below the legal minimum of 12.5 pounds per square inch. They assumed that it must have been intentionally deflated, not realizing that a loss of air pressure is natural when a ball is taken from the warm, dry environment of the locker room and put in play on a cold, rainy night.

Apparently, the NFL officials involved in a chaotic effort to test the 11 other Patriot footballs during halftime didn't understand the physics either. So, like some wannabe Sherlock Holmes, they jumped to the conclusion that they had uncovered wrongdoing. It turned out that the Colts' footballs that were measured by the more accurate of the two gauges revealed them also to be under 12.5 psi.

After the game, which the Colts lost 45-7, the NFL opened an investigation by sending a letter to the Patriots that exaggerated how much the Patriots' footballs were underinflated and falsely stated that none of the Colts' balls had been found to be underinflated. Those two "facts" were then leaked to the

press, creating a media frenzy and convincing many football fans that Brady and the Patriots had cheated.

Even after the NFL detected the errors, the league did nothing publicly to correct the letter, instead keeping quiet during what turned out to be a several-months-long investigation by attorney Wells. The false impressions congealed into conventional wisdom.

It now appears that the reason for the delay in the Wells report was that the case was recognized internally to be very weak and thus was rewritten to make some irrelevant points seem more consequential, such as playing gotcha with McNally's recollection that he used a "urinal" in the bathroom on the way to the field when Wells noted there was only a regular "toilet" in the room.

Through such cheap tricks, the NFL believed it pushed the case over the relatively low threshold of "more probable than not" or a 51 percent chance that McNally had used his one-minute-40-seconds in the bathroom deflating footballs, not relieving himself before heading out to the field. The NFL then applied another 51 percent standard to conclude that if the footballs had been deflated that it was "more probable than not" that Brady was "generally aware" of the wrongdoing.

Another Media Failure

Beyond the prejudice displayed by the NFL, there also was the shoddy behavior of the mainstream news media, from the esteemed New York Times to the all-sports ESPN. Almost no one looked into the many holes that were obvious in the report. The NFL's case was treated as gospel and many ESPN commentators opined about Brady's guilt, mocking his claims of innocence.

ESPN added to the confusion by creating a boilerplate summary of the case that falsely claimed that text messages between McNally and Jastremski were about deflating the balls for the AFC Championship game when they actually were about Brady's complaint that the NFL referees had illegally overinflated footballs used in an earlier game in October 2014. The upper limit is 13.5 psi.

Also, despite all the attention given to this story, no one in the mainstream press noted how the Jastremski-McNally text messages suggested that there was no scheme for deflating footballs. In those October text messages, Jastremski was, in effect, reprimanding McNally for not doing his job which was to make sure the referees deflated the balls to Brady's preferred legal level of 12.5 psi. Instead, Jastremski tested the balls after the game and found one at nearly 16 psi.

If there were a surreptitious scheme to deflate the balls after the referees

finished with them, you would have expected McNally to explain why he had not done so. Perhaps something like, “the refs were keeping a close eye on me” or some other excuse. But there is nothing like that in McNally’s response, which mostly criticized Brady for being a complainer who might find the balls even more over-inflated in the next game.

Yet, instead of testing the NFL’s claims or interviewing scientists who found the NFL’s halftime measurements unreliable, the mainstream media just piled on Brady, serving as the enforcement mechanism for the conventional wisdom. There was not even criticism of the NFL when it filed the federal case first, handpicking a New York federal court considered extremely pro-management and almost certain to uphold Goodell’s ruling.

However, in this rare case at least rare in my recent experience Judge Berman looked at the NFL’s accusations and evidence with an objective eye and sided with an individual against an arrogant and powerful institution. It almost had the feel of a Hollywood ending.

[For our previous stories on Deflategate, see [“Rushing to Judge the NFL Patriots Guilty”](#); [“Holes in NFL’s Deflategate Report”](#); [“Why Write about NFL’s Deflategate”](#); [“Tom Brady and Theoretical Crime”](#); [“NFL’s Deflategate Findings ‘Unreliable’”](#); [“The Tom Brady Railroad”](#); and [“The ‘Two-Minutes Hate’ of Tom Brady.”](#)]

Investigative reporter Robert Parry broke many of the Iran-Contra stories for The Associated Press and Newsweek in the 1980s. You can buy his latest book, *America’s Stolen Narrative*, either in [print here](#) or as an e-book (from [Amazon](#) and [barnesandnoble.com](#)). You also can order Robert Parry’s trilogy on the Bush Family and its connections to various right-wing operatives for only \$34. The trilogy includes *America’s Stolen Narrative*. For details on this offer, [click here](#).

Dangerous Redefinition of ‘Terrorism’

Exclusive: “Terrorism” is a word of condemnation, referring to the coldblooded killing of civilians to advance a political cause. But U.S. pundits and officials have blurred its meaning to cover attacks on American soldiers in foreign lands, a word game that can contribute to more wars, writes Robert Parry.

By Robert Parry

The classic definition of terrorism is the intentional killing of civilians to make a political point, as in planting bombs near the finish line of a marathon or crashing commercial jetliners into buildings filled with office workers. Yet, the mainstream U.S. media has broadened the definition to include killing U.S. soldiers or allied troops even those operating in foreign lands.

For instance, New York Times columnist Thomas L. Friedman on Wednesday cited as a supposed example of “Iran’s terrorism” the bombing of the Marine base in Beirut in 1983, “believed to be the handiwork of Iran’s cat’s paw, Hezbollah.” And Friedman is hardly alone in citing the Marine bombing in 1983 as “terrorism” along with Iran’s support for Shiite militias who fought the American occupying army in Iraq last decade.

The U.S. media routinely treats such cases as deserving of the unqualified condemnation that the word “terrorism” implies. Similarly, that attitude is extended to Hezbollah attacks on Israeli military forces even in the 1980s when Israel was occupying southern Lebanon.

But attacks aimed at military forces not civilians are not “terrorism” in the classic definition. And this is an important distinction because the word carries deservedly negative moral and legal implications that can put those nations accused of “terrorism” in the cross-hairs of economic sanctions and military attacks that can kill hundreds of thousands and even millions of civilians.

In other words, abuse of the word “terrorism” can have similar consequences as terrorism itself, the indiscriminate deaths of innocent people – men, women and children. Much of the case for sanctions and war against Iraq in the 1990s and 2000s was based on dubious and even false claims about Iraq’s alleged support for Al Qaeda and other terrorists.

And, the 1983 case is especially significant because it is a go-to emotional argument in accusing Iran of having “American blood on its hands” and thus unworthy of any normal diplomatic relations. However, when examining the real history behind the Marine barracks bombing, a much more complex and nuanced story unfolds with blame to be apportioned to all sides.

The immediate context for the tragedy was Israel’s invasion of Lebanon in 1982 and the multi-sided civil war raging among Lebanese factions. Israeli invaders reached the Lebanese capital of Beirut in a matter of days as part of a campaign to crush the Palestine Liberation Organization.

Then, after more fighting and protracted negotiations, Israel forced the P.L.O. to leave Lebanon, departing for Tunisia. But the P.L.O. left behind women and

children in refugee camps at Sabra and Shatila, where Israeli officers allowed Israeli-supported Christian militia forces to massacre more than 700 and possibly thousands of Palestinian and Shiite civilians, one of the most shocking atrocities of the war.

Into this chaos, President Ronald Reagan dispatched a force of Marines as peacekeepers, but they gradually were pulled into the fighting on the side of Israel and its militia allies.

National Security Advisor Robert McFarlane, who often represented Israel's interests in the upper echelons of the Reagan administration, convinced the President to authorize the USS New Jersey to fire long-distance shells into Muslim villages, killing civilians and convincing Shiite militants that the United States had joined the conflict.

On Oct. 23, 1983, Shiite militants struck back, sending a suicide truck bomber through U.S. security positions, demolishing the high-rise Marine barracks in Beirut and killing 241 American servicemen. Reagan soon repositioned the surviving U.S. forces offshore.

Though the U.S. news media immediately labeled the Marine barracks bombing an act of "terrorism," Reagan administration insiders knew better, recognizing that McFarlane's "mission creep" had made the U.S. troops vulnerable to retaliation.

"When the shells started falling on the Shiites, they assumed the American 'referee' had taken sides," Gen. Colin Powell wrote in his memoir, *My American Journey*. In other words, Powell, who was then military adviser to Defense Secretary Caspar Weinberger, recognized that the actions of the U.S. military had altered the status of the Marines in the eyes of the Shiites.

Reagan's redeployment of the Marines offshore also didn't end U.S. intervention in Lebanon. The tit-for-tat violence in Beirut continued. CIA Director William Casey ordered secret counterterrorism operations against Islamic radicals and dispatched veteran CIA officer William Buckley. But on March 14, 1984, Buckley was spirited off the streets of Beirut to face torture and death.

In 1985, Casey targeted Hezbollah leader Sheikh Fadrallah in an operation that included hiring operatives who detonated a car bomb outside the Beirut apartment building where Fadrallah lived.

As described by Bob Woodward in *Veil*, "the car exploded, killing 80 people and wounding 200, leaving devastation, fires and collapsed buildings. Anyone who had happened to be in the immediate neighborhood was killed, hurt or terrorized, but Fadrallah escaped without injury. His followers strung a huge 'Made in the USA'

banner in front of a building that had been blown out.”

In other words, the U.S. government dove into the bloody swamp of terrorism even as it was condemning other parties of engaging in terrorism. But the moral morass that was Lebanon, circa 1982-85, is not what Friedman and other U.S. propagandists describe when they smear Iran as some particularly evil force. Nor does Friedman operate with an objective definition of terrorism.

As Colin Powell recognized, once the United States joined the Lebanese civil war as a belligerent, U.S. troops became legitimate targets for retaliation. As much as one may lament the deaths of 241 U.S. personnel (or any deaths for that matter), it was not an act of “terrorism.”

Investigative reporter Robert Parry broke many of the Iran-Contra stories for The Associated Press and Newsweek in the 1980s. You can buy his latest book, *America’s Stolen Narrative*, either in [print here](#) or as an e-book (from [Amazon](#) and [barnesandnoble.com](#)). You also can order Robert Parry’s trilogy on the Bush Family and its connections to various right-wing operatives for only \$34. The trilogy includes *America’s Stolen Narrative*. For details on this offer, [click here](#).
