Implications of this Research

Injurious on-field violence is extensive in Canadian football. However, league officials at the university and professional playing levels are doing little to prevent, curb, or punish these acts. Hazing continues at alarming rates, as each of the fifty-nine players I interviewed reported experiencing some form of initiation when they joined their current team. Performance-enhancing drug use among football players is similarly common, with each player stating that although he himself did not use illegal steroids, he knew at least one other Canadian football player who currently is. Despite the prevalence of violence, hazing, and performance-enhancing drug use in Canadian football, little is being done to address these issues at the junior, university, or professional playing levels.

I have argued in this book that these acts are tolerated by individuals in positions of power because they serve
the interests of capital accumulation and create precarious labour conditions for football players. Team owners and league officials are able to profit from selling tolerable violence, which in turn allows them to evade workplace health and safety regulations, deny paying injury compensation, and avoid providing adequate job security. The free and informed consent of Canadian football players to engage in these acts is constrained by these and other related factors.

The various personal issues faced by players in Canadian football include serious injuries, chronic physical pain, and psychological harm. They are complicated by the fact that players get little support from their teams or league, especially if they can no longer play. The friends and families of some Canadian football players must deal with their violent mood swings, addictions, and lack of emotional awareness, all lost on the gridiron.

Various legal and sport scholars have proposed a number of reforms to resolve some of the issues I have presented in this book. In conclusion, I consider the viability of eight of these legal and/or institutional reforms: (1) increasing social control, (2) encouraging self-regulation, (3) balancing legal reform, (4) creating federal commissions, (5) allowing sport to exist in a “state of exception” (6) developing networks of social support, (7) establishing prevention programs, and (8) furthering sports law in Canada.

The social control theory holds that the best way to deal with crime and deviance in sport is to increase criminal prosecution (Gulotta, 1980; Yates & Gillespie, 2002; Voicu, 2005). Proponents of this “tough on crime” approach advocate increasing crime control as a deterrent
to keep players from committing acts of on-field violence, hazing, and performance-enhancing drug use. It focuses on punishing individual football players who engaged in the acts, instead of those who promoted and tolerated them, such as the coaches, team owners, and league management officials. There is the risk that criminal responsibility will be placed on the individuals committing the acts, rather than those promoting and benefitting from them.

Another approach for dealing with issues of crime and deviance in sport is to promote the self-regulation of particular bodies of sport (Eugene & Gibson, 1980; Standen, 2008). Penalties provided by a sports league tend to be quick and certain. In contrast to this approach, the formal social control model is often long and drawn out, as court cases can take months, if not years, to be resolved. Standen (2008) argued that league penalties are often more severe than legal ones, and provide a better deterrent. For example, after choking his coach during practice, NBA basketball player Latrell Sprewell was suspended for the remainder of the season without pay, and his contract was terminated, which was valued at over $25 million. According to Standen (2008), this was likely the most severe penalty given to an individual for a common assault. But two issues plague this reform. First, it punishes the player while ignoring the individuals in positions of power who are promoting the deviant acts. Second, Canadian football is currently governed this way and yet, various problems relating to on-field violence, hazing, and performance-enhancing drug use continue to exist.

A third possibility is balanced legal reform (DiNicola & Mendeloff, 1983). The goal of this approach is not
increased social control and prosecution of crime, as proponents of this reform perspective see those options as being “as troublesome to apply as [they are] intrusive on play” (p. 845). Instead, the idea is to strike a balance between the need for social control in sport and the desire of athletes to compete in violent sports. Such reforms could include writing provisions into the Canadian Criminal Code that specifically address violence in sport, or tabling an act that clearly delineates what is considered consensual violence, hazing, and performance-enhancing drug use in sport. White (1986) proposed that laws be clarified through a variety of “bright-line tests” (p. 1048). The tests would set clear guidelines for acceptable and non-acceptable violence in sport. For example, acts of non-consensual violence become criminally prosecutable if they happen after a play has been whistled down, but those occurring during play are afforded leniency. Such legal reforms could have positive results in that increased legal attention will be paid to the intricacies of sport; however, the athlete still remains as the focus of attention. Such reforms should also develop provisions that denote the liabilities for others promoting and tolerating deviance in sport, such as coaches, team owners, and league management officials.

Another proposed institutional and legal reform is to create governing bodies that have the specific purpose of mediating sporting disputes (Blackshaw, 2002; DiNicola & Mendeloff, 1983; White, 1986). This would allow for increased specialized knowledge regarding sport cases, quicker responses and settlements than those provided by the legal system, and less intrusion on the sport. A commission to handle disputes in sport does currently exist,
called the Sport Dispute Resolution Centre of Canada (SDRCC). At present, however, it does not routinely deal with all sport disputes in Canada. The cases it handles tend to involve labour agreements, rather than incidences of injurious violence, hazing, and performance-enhancing drug use. Further developments of this federal commission could enable it to give specific attention to sport-related issues without burdening the Canadian legal system. One difficulty faced in prosecuting acts of deviance in sport is the challenge to understand both the rules and norms of a given sport, and the legal conventions surrounding the possible criminal incident. A federal commission could develop this specialized knowledge to effectively deal with these intricacies.

Rather than making specific attempts to deal with legal matters in sport, a fifth approach to reform advocated by some is to allow sport to exist in what Giorgio Agamben (2005) terms a “state of exception.” Agamben refers to the state of exception as one of lawlessness during wartime crises. Sport, already outside the jurisdiction of the law, could be treated as a state of exception existing beyond formal governmental control and regulation. This does not necessarily suggest there are no rules, but that the rules that do exist are beyond governmental regulation. Just as there are rules of engagement during a time of war, sport could have its own rules of engagement existing outside of Canadian law. This notion ties to the German legal notion of Sozialadäquanz, which requires that “society tolerate those injuries that are unavoidable concomitants of playing the game the way society desires it to be played” (Michigan Law Review Association, 1976, p. 177). But with few legal cases addressing
on-field violence, hazing, and performance-enhancing drug use, Canadian football already exists in a state of exception, and yet this only appears to exacerbate the issues. As such, this approach is not a viable solution.

In the National Football League, a number of services and support networks have been created to help athletes after their careers as professional football players have ended. For example, the National Football League Players’ Association (NFLPA) has a Retired Players’ Association to help those men tackle the issues they must face after leaving the sport. Recently, the Retired Players’ Association won a civil suit of $28.1 million in damages for contractual violations on behalf of 2,062 former NFL players (Johnson, 2008). Other organizations have emerged, such as the Fourth and Goal Foundation, which provide financial and social services to retired players and their families. Retired players in Canada do not have similar support services, which could help them and their families address many of the problems resulting from chronic pain, addictions, mental health issues, and health care costs.

Many of the strategies being used to deal with the social problems in football, and sport more broadly, are reactionary. They attempt to remedy the problem after it has occurred. We must make more attempts to prevent social problems in sport before they arise. One recent attempt to develop preventative programming is the Canadian Centre for Ethics in Sport’s requirement for all junior and university athletes to complete an online training seminar on the damaging effects of performance-enhancing drug use. Likewise, researchers have begun experimental studies on the use of team-building games and exercises with athletes to help prevent hazing in sport.
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(Johnson & Homan, 2004). More preventive strategies need to be inaugurated and developed along these lines.

A CFL contract consultant, or agent, whom I interviewed suggested that an important development in sport could be a concentrated area of sports law. Sports law is not recognized as a type of law in Canada or the United States, and no Canadian universities offer specialization in the topic. Several law schools offer a class in sport law, but none offer a concentration. An agent I interviewed, who is also a lawyer, suggested, “there is really no such thing as sports law in Canada. Even in the United States, where several universities do offer specializations in sports law, there is still no such thing as sports law.” Sports law falls into other categories: criminal law, administrative law, civil law, contract law, employment law, labour law, procedural law, and substantive law.

Developing a concentration in sports law could allow legal professionals with knowledge of the intricacies of sport and the law to specialize in that area. It could facilitate further research in law faculties and in other disciplines on issues related to sports law, crime, and justice. These developments could lead to important legal and institutional reforms, alleviating many of the issues related to on-field violence, hazing, and performance-enhancing drug use in Canadian football.