Abuse in the NFL?
*The Illustrative Jonathan Martin Case*

Gary Namie, PhD, Workplace Bullying Institute

*Workplace Bullying is Distressful Abusive Conduct*

At the Workplace Bullying Institute, we have defined this particular form of misconduct as follows: repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators. It is abusive conduct that is threatening, humiliating, or intimidating, work interference and sabotage, or verbal abuse. Adult bullying is not misconduct unless adverse consequences result. Abusive conduct, as a psychosocial stressor, does trigger the human stress response in targeted individuals. Epidemiological, occupational health, social sciences and neurosciences research clearly documents deleterious effects on humans — those directly targeted for mistreatment as well as those witnessing the bullying. Health is harmed when exposure is prolonged and the individual cannot effect cessation. Health harm encompasses both physical stress-related diseases and emotional injuries.

Jeopardized employee health is the driving force behind the U.S. movement to eradicate workplace bullying. Targeted workers suffer cardiovascular diseases, gastrointestinal disorders, changes in neurological structures, cessation of DNA chromosomal replication and compromised immunological systems. A vast majority endure debilitating anxiety, nearly half are diagnosed with clinical depression and suffer symptoms of trauma.

Organizations experience both tangible and intangible losses. Undesirable turnover of the best and brightest talent leads the list with demonstrable fiscal impact followed closely by costs associated with absenteeism and litigation-related expenses. Among the intangibles are a tarnished reputation making it hard to recruit and retain the most skilled employees.

Rationally, both employees and employers have ample reasons to collaborate to end toxic work environment practices. Instead, abusive conduct is shrouded in shame and silence within organizations. Complainants are banished with impunity except when mistreatment is partially based on discrimination. Then, and only then, employers must deal with harassing incidents in good faith. When harassment is “status-blind,” employers are under no pressure to act in the best interests of aggrieved workers.

Thus, the United States is the last of the western industrialized nations to not treat workplace abusive conduct as seriously as they do its less frequent and less health-harming sister — illegal harassment. For this reason, we launched a national campaign in 2002 to enact an anti-bullying legislation in the states. The language of our Healthy
Workplace Bill was written by Suffolk University Law Professor David Yamada. To date, no state, of the 26 states and 2 territories where it has been introduced, have enacted the full version of the law. Employers demand the right to unfettered managerial prerogative.

It is obvious to most readers that bullying can occur in most workplaces. No story of bullying grabbed the level of national attention for bullying in the workplace as did the National Football League Miami Dolphins’ bullying scandal that spanned late 2013 and early 2014.

NFL Teams as Work Environments

American professional football is recognized as a violent game, not only by critics, but now by its own admission. The league, the NFL comprised of team owners settled a huge lawsuit for players who suffered concussions and committed funds to researching the effects of the sport on retired players’ health. The fact that retired players chose to die by suicide, a decision driven in large part by the brain damage they suffered, speaks volumes about the sport’s level of violence and its injurious consequences to players.

Players privileged to play at the professional level have groomed their playing skills from childhood through high school and college and endured years of boys’ locker room antics where social skills are honed. It’s one of the most masculine, aggressive environments of all workplaces.

Is it reasonable to expect respect to be part of that cutthroat competitive environment? The answer is necessarily twofold. On the field, probably no. The perfect illustration came in the immediate aftermath of a playoff game, Seattle defensive player Richard Sherman, was stopped by sideline TV reporter Erin Andrews to comment on a superlative play he had made at game’s end. He spewed mostly nonsense. The public response revealed ugly racism because he is a Black man.

It was his explanation during calmer times, away from the field in TV studios that informs us here. He spoke of the “barbarism” inherent in the sport during the game. For his personal success, he said he had to act that way and play out of control. However, a switch had to be flipped when not in the game environment. He has to slip into his civilized skin and be a good team member, a good family man, and a member of nonviolent society. His insight was profound. Modern players cannot afford to be neanderthals incapable of functioning successfully off the field.

The locker room is distinct from on-field activities. Rather than on-field anti-social conduct, requisite from Sherman’s perspective, cohesion and collaboration characterize all off-field activities in the NFL. After coaches finalize rosters for the season, important bonding among the finalists is emphasized. The best teams function as the proverbial band of brothers.
From a psychological perspective, the “Sherman switch” requires emotional maturity. Sherman’s college coach at Stanford, Jim Harbaugh, reportedly distinguished on-field toughness from mutual locker room respect for his players. Sherman learned well. Jonathan Martin, an All-American offensive lineman while at Stanford, was Sherman’s team mate who also absorbed Harbaugh’s message.

I had the pleasure of hearing Adolpho Birch, attorney and NFL Sr. VP of Labor Policy and Government Affairs, unequivocally state at the 2014 Sports Lawyers Association meeting that the Commissioner believes professional football teams are workplaces for employee-players. That is, despite the peculiarities of professional football, owners consider locker rooms workplaces subject to laws, policies and codes of conduct. Locker rooms need not be an unfettered bastion of abusive conduct.

**Jonathan Martin’s Experience - Public View**

Jonathan is a 6’5″ 312 lbs. offensive lineman drafted from Stanford by the Miami Dolphins in 2012. He was a starting player from the beginning of his professional career. That fact speaks to his technical proficiency and skill. He spent one full season and four games with the Dolphins, always a starter. At first glance to the public, he is not what a bullied person looks like.

On Monday Oct. 28, 2013, Martin voluntarily left the team. The team put him on the “non-football injury list,” claiming he was dealing with “emotional issues” and was suffering an “illness.” This employer’s initial portrayal made it sound like Martin was to blame and acting whiny. That day in the dining hall, Martin had hit his limit of taunting and humiliation. Imagine his personal shame in this very macho context. But abuse is abuse and he had had enough.

Dolphins team coaches and managers reported not knowing there were issues until after he left. Martin had told one coach that something was wrong with him in the late spring of 2013 during OTA (organized team activities that involved fitness preparations). Because Jonathan absorbed the blame (wrongly and unnecessarily) for his troubles with the team, management was content to refer him to an 85-yr. old psychiatrist who worked with the team who invited Jonathan to his home for dinners, not therapy. In fact, he had attempted suicide but told no one, including his family.

When Martin left the Dolphins in October, he told one coach that he had been subjected to what he, Martin, called “an abusive environment.” Martin’s attorney, David Cornwell of Gordon & Rees, LLP, would soon thereafter characterize Martin’s reactions as those of a person who was bullied. Martin named veteran fellow offensive lineman Richie Incognito and a specific incident of financial extortion for $15,000 by Incognito. Martin’s salary was a little over $1 million, while Incognito’s was $5.4 million per season.

A series of text exchanges between Incognito and Martin ensued. Martin confirmed by text that his relationship with Incognito was still good. Many of his teammates said what
Martin endured was “normal stuff.” Martin had been dubbed “Big Weirdo” by teammates.

The Dolphins suspended Incognito for “bullying.” That decision is never done in corporate America. Bullies are not punished following allegations. At first, it was unpaid leave, but in the end, he lost pay for only two games, despite a suspension that lasted the remainder of the entire season and may have effectively ended his professional career.

After Incognito was suspended, the media got hold of a text message he had sent to Martin around the time of the spring OTA containing a racial epithet. For months, the public excoriated Incognito for using the “N-word.” However, most players, sports “man up” pundits and Dolphins teammates defended Incognito. No single incident probably sounded outrageous to Martin’s teammates — it was “just locker room banter.” But the cumulative effect on him was not good, and he reached a breaking point that day he dropped his dining room tray and just walked away.

Jason Whitlock was the atypical pundit who said the NFL workplace has a “prison yard mentality” with which the educated Martin is a bad fit. To casual observers, the NFL workplace is too unique to be comparable to other workplaces. Many employers claim uniqueness as reason to be immune from social norms of decency and civility.

On Nov. 6, the NFL contracted with high profile attorney Ted Wells, of Paul, Weiss, Rifkind, Wharton & Garrison LLP to interview participants in the Martin case and to provide a report. The players union, the NFLPA, equivocated. They said they had to represent Incognito to assure his due process rights were honored by the Dolphins. The NFLPA did not conduct an investigation; it deferred to the league.

Jonathan Martin waited a long time before speaking publicly. There was a brief statement from his attorney on Nov. 7 describing Martin’s efforts to befriend his teammates only to be abused in return.

Incognito granted a TV interview that aired on Nov. 10 to repair his damaged reputation. He professed that his actions toward Martin came from a “place of love” and that he never meant to be malicious toward Martin or his family.

There was a positive profile of the “brainy, brawny nerd” Martin by the Miami Herald on Nov. 19. The league took responsibility for conducting an investigation in the immediate aftermath of Martin’s departure from the Dolphins in October, 2013.

For 3 and one-half months, the public knew only of the trouble between Incognito and Martin. Incognito dropped the veneer of civility and smeared Martin via social media just prior to the anticipated release of the Wells report. Martin did finally grant an interview with broadcaster and ex-head-coach Tony Dungy, and frankly a Martin supporter, on NBC on January 29, 2014 just before the Super Bowl. The goal of the interview was to send a message to other coaches that Jonathan Martin still wanted to play football.
Jonathan Martin’s Experience - Private View

I was retained in early December 2013 to provide expertise on workplace bullying for Jonathan. No lawsuit was planned or desired. His legal team and family wanted him to return to a football career, if possible. I advised strongly against a return to the Dolphins. An employer that had failed to provide a safe working environment is unlikely to be willing or able to make adequate adjustments to provide that safety in the future when the organization’s leadership remains intact. The Dolphins owner supported his head coach, Joe Philbin.

From the beginning, Martin had three abusers. Martin was African-American with both parents African-American. The press had sloppily referred to him as bi-racial. Incognito, a white player, had called him mulatto. However, the other two tormentors — Mike Pouncey and John Jerry — were Black. The four men comprised the corps of starting offensive lineman on the team.

Traditionally, in high school, college and professional football sub-units of teams bond closely. Offensive lineman, the “O-line,” is a group of boys and men who need to coordinate their tactics to be effective. Their off-field social relations typically mirror the on-field technical coordination linemen achieve. That was the tradition with which Martin was familiar. That was what he expected in Miami when he left college. He needed to be part of the close-knit “O-line” group.

Martin was spoiled by mature coaches who valued respect. By attending Stanford, he was part of an exclusive “O-line” that protected the top drafted college quarterback, Andrew Luck. Stanford, under Harbaugh’s coaching leadership, was no “prison yard.” Further, Jonathan explained to me that he was not “ghetto.” Both parents were Harvard educated lawyers, with his mother’s lineage dating back to scholar and activist W.E. B. Du Bois. Jonathan majored in Classics at Stanford. The “brainy nerd” was headed into a collision with a much different character when he joined the Dolphins as a pro player.

Richie Incognito arrived at the Miami Dolphins by a much different route. He was raised by a militaristic father who used physical aggression to express himself and taught his son to settle conflicts with fists. Incognito was thrown off two college football teams — Oregon and Nebraska — for misconduct. His football skills allowed him to become a pro player. Eventually, he was cut from the St. Louis Rams for the disruptions he created, and was picked up by the Dolphins, a team with a obvious greater tolerance of abusive conduct. He was in his eighth year and voted by peers as one of the “dirtiest” players in the NFL when Jonathan Martin was drafted and joined the team as a rookie.

Incognito was both informal and formal leader on the Dolphins. His style of play drew respect from peers and Dolphins coaches. Coach Philbin selected him to be one of the players on the “Leadership Council,” the players to whom the head coach delegated resolution of player disputes. Self-policing among players allowed Incognito to run roughshod over younger players.
Incognito kept a book, a ledger, of “fines” he arbitrarily imposed on other players. It was extortion. Younger players could not fight back like veterans. Incognito used the money to fund his hell-raising trips to Las Vegas. Though Martin felt the $15,000 fine leveled against him by Incognito was unfair, he paid rather than incur his wrath.

Incognito had two operating styles — a somewhat funny and friendly jerk when not drunk and “tornado” mode when drunk. The latter was captured on camera at a bar and ran on TV cementing his damaged reputation. And like an abuser in domestic violence situations, others had to adapt to which one of the two Richies they had to live with on any given day.

Martin wanted to be part of the “O-line” group just as he had been all his life. The trouble was that none of the other men had the same character of the players Martin had known at Stanford. There were sociological differences in their backgrounds coupled with the team tolerance, or active encouragement, of aggressive anti-social conduct, that led Martin to suspect it would be useless to complain. And since there were three of them, Martin also allowed for the possibility that something might be wrong with him. This is typical bullied target thinking.

My job was to explain the hidden truth about the ostensible “friendship” between Incognito and Martin to both attorneys — Cornwell and Wells. Both attorneys had sports backgrounds and did not readily see the power differential between the two players who were not equals. Incognito controlled all aspects of their time together. He considered Martin his “bitch.”

What could have been considered rookie hazing continued in the second year for Martin, despite his hopes that matters would change. When he reported for OTA in his second year, Incognito orchestrated a trip on a yacht and a drinking binge. The amount of humiliation Martin suffered on that afternoon was so great on the yacht, he locked himself into a lavatory and texted his mother. He was feeling self-loathing for not having the courage to stop the ranting Incognito and the others while at sea. The infamous TMZ video was filmed that day during Incognito’s “tornado” rage. That day led to a suicide attempt by Martin, his second since joining the team and being dominated by Incognito, Pouncey and Jerry — his teammates from whom he once naively expected to receive reciprocated respect and camaraderie.

The breakthrough for Ted Wells was to see the analogy of Jonathan’s helpless situation to that of a battered spouse with few exit alternatives. Indeed, he stopped blaming Jonathan during our conversation. He was able to see the three abusers as unprovoked perpetrators of unconscionable abuse that had positive effect on the team. In fact, they broke one of their brethren, Martin, until he no longer could function in his job.

It was also counterintuitive to explain how Jonathan, a big physical man in a physical sport, deliberately chose to not use force to quell Incognito, Pouncey and Jerry. Jonathan told me that he had fought before in games on the field, but never off the field.
It was part of his personal ethos shaped by his father and his coaches. He learned to restrict the use of force to the field. This was a level of self-control that Incognito and his teammates never learned, nor had to learn. Martin’s own attorney wondered why he had not chosen to fight to earn respect. It takes great bravery to hold onto non-violence when being violently abused by others. Jonathan baffled the non-believers in non-violence.

Of course, all of this restraint and enduring the constant barrage of insults, domination and humiliation took its toll on Martin’s well being. He reported feeling depressed, though he did not seek therapeutic help. Only after separation from the team did he seek counseling. He checked into a facility for “emotional issues” after leaving Dolphins before his family retrieved him, returning him home to California.

I readily recognized Jonathan as a bullied target. He fit the profile we crafted after our research and speaking directly with over 10,000 individuals. He is technically skilled and a people pleaser (high need for approval and likable), very ethical and honest (but naively expecting all others to be similar) and oriented toward cooperation (and thus victimized by cutthroat competitors). In other words, he is the prototypical bullied target, despite his outward appearance that fools the public into believing that physically strong people are somehow immune from psychological assault.

The Ted Wells Report

The report was released after the Super Bowl on Friday Feb. 14, 2014 and exonerated Jonathan Martin. Many of the key report conclusions (in bold) illustrate how this NFL story is one of workplace bullying:

• **The mistreatment of Martin is consistent with a case of Workplace Bullying.** The legal team recognized that bullying is abusive conduct and that Martin was the abused party.

• **Martin did not fabricate his allegations of harassment.** As is true with bullied targets, they are not the liars; it is most often the abusers, the bullies, who lie.

• **Repeated acts of harassment contributed to Martin’s departure.** Bullying involves repeated acts

• **Incognito knew that the harassment affected Martin.** Perpetrators are aware that they harm others. The most sadistic derive pleasure from it.

• **The harassment was humiliating and contributed to his mental health issues.** The investigator made the causal link. Humiliation causes mental distress.

• **The bullying trio harassed other Dolphins personnel.** Cruelty spreads like contagion when unchecked
• **It is unclear the extent to which the abuse resulted from racial animus.** Illegal harassment/discrimination can be part of bullying, but bullying often is not based on membership in a protected status group.

• **Culture of the Dolphins offensive line does not excuse the mistreatment.** Just because it’s the NFL doesn’t mean bullying is acceptable.

And a marvelous quote from the 148-page Wells report …

“… even the largest, strongest and fleetest person may be driven to despair by bullying, taunting and constant insults.”

In the aftermath, the Dolphins owner Steven Ross fired offensive line coach Jim Turner and a trainer. Turner was working in his first NFL job. He is a former Marine Corps infantry officer and reportedly told Incognito to “toughen up” Martin. The General Manager, Jeff Ireland, also left the organization shortly thereafter. It was said that Ireland said Martin should have just punched Incognito.

On March 11, 2014, Jonathan Martin was hired by the San Francisco 49ers. He rejoins his Stanford university coach, Jim Harbaugh. “It can be a very powerful opportunity and motivator for a player to say, ‘It wasn’t me, it was my situation,’ ” Harbaugh said. “Jonathan Martin is another player who will have a powerful opportunity.”

Despite the report about Pouncey’s conduct and his vehement discrediting of Martin as unwelcome, Miami Dolphins owner Stephen Ross declared Pouncey an “an outstanding young man” and an “excellent football player.” His 2014 season will get a late start because hip surgery will sideline the center for at least three months.

John Jerry, identified by Wells as the first man to taunt Martin in Miami, was hired by the New York Giants. Head Coach Tom Coughlin said “Whatever part he played in it, there was remorse, sincere remorse.”

On Feb. 28, 2014, Richie Incognito received treatment at a psychiatric-care unit in Scottsdale Arizona after reportedly admitting to police that he damaged his Ferrari with a baseball bat in a fit of rage. Incognito was hospitalized involuntarily. He reportedly accepted the care because of stress from the NFL investigation of his alleged bullying.

workplacebullying.org • 360.656.6630